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Thesis title:

**Cicero, *De Inventione*, Book 1:
Introduction and Commentary (1.19b-33; 1.97-109)**

**submitted
for the degree of**

Doctor of Philosophy in Classical Languages and Literature

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in Trinity Term 2015

Abstract:

The main body of this thesis is a commentary on sections 1.19b-33 and 1.97-109 of Cicero's *De Inuentione*. These sections treat *partes orationis* in general (1.19b), then *exordium* (1.20-26), *narratio* (1.27-30), *partitio* (1.31-33), *digressio* (1.97), and *conclusio* (1.98-109). Due to the imposed word limit, the sections on *confirmatio* (1.34-77) and *reprehensio* (1.78-96) could not be included in the thesis.

The structure of the commentary on each of these sections will be: introduction to the section, references to parallel passages in other Latin and Greek rhetorical texts, the most important general literature on the subject of the section, comparison of the passage in Cic.*Inu.* 1 with the corresponding one in *Rhet. Her.*, individual lemmata. The lemmata will cover various kinds of information, such as textual, grammatical, and linguistic issues, background information on persons, objects etc. mentioned, the young Cicero's position within the rhetorical tradition for a particular point (i.e. influence on and by Cic.*Inu.*).

To the commentary proper, a number of introduction chapters have been added. Due to the word limit, only a selection of these can be included in the thesis: the title '*De Inuentione*' and Cicero's intention to write on all five *partes artis*; the structure of Cic.*Inu.*; subdividing the art; rhythm and clausulae; the young Cicero's knowledge of Aristotle's works; the relationship between Cic.*Inu.* and *Rhet. Her.* (abbreviated version); the proems of Cic.*Inu.* (abbreviated version); preliminary comments on *Narratio*; the Orestes case in the rhetorical tradition; examples in Cic.*Inu.* (abbreviated version).

By Way of Preface: A Few Comments on the Commentary

Recent years and decades have seen several conferences, articles, and edited books (e.g. MOST (1999) and GIBSON/KRAUS (2002)) discussing the nature of scholarly commentaries on classical works. Hence, I would like to briefly justify and describe *quid fecerim* and *cur fecerim*.¹

Over the last century, Cicero's *De Inuentione* has received two major critical editions, the old *Teubner* by STRÖBEL (1915) and the more recent *Budé* by ACHARD (1994). To my knowledge, German classicist T. RIESENWEBER has quite recently been commissioned to make a critical edition of *De Inuentione* and *Rhetorica ad Herennium* for the *Oxford Classical Texts* series—both works have always been missing conspicuously from this series, meaning that in both cases the *Budé* editions by G. ACHARD (ACHARD (2003) for *Rhet.Her.*) are the most recent and reliable critical editions. For reviews of ACHARD's edition of *Cic.Inu.*, see e.g. CHEVALLIER (1995), CORNIL (1995), DESCHAMPS (1996), KNECHT (1996), MOUSSY (1999), OROSIO (1996), USHER (1996). I keep the Latin spelling found in the critical text editions of all the ancient texts consulted, only adapting *v* to *u* and *U* to *V*. For *Cic.Inu.* and *Rhet.Her.*, I keep ACHARD's spelling only for the sake of making references to his editions easier: indeed, spelling variants like '*adtribuere*' and '*attribuere*' as found in the manuscripts cannot tell us which spelling Cicero's original contained; therefore, it would have been desirable to have this harmonised in ACHARD's main text and not to have the critical apparatus overloaded with such information.

Cic.Inu. and its 'sister work' *Rhet.Her.* were the most influential Latin rhetorical texts during the Middle Ages and the Renaissance in Europe (see e.g. the volume by COX/WARD (2011)): as handbooks they were ideally suited for rhetorical teaching, something which cannot be claimed in the same way for the more philosophical

¹ I hope to cover the question '*an fecerim*' in the following pages.

approaches that are Aristotle's *Art of Rhetoric* and Cicero's *De Oratore*. This makes it quite surprising that over the last century *Rhet.Her.* has so far only received a commentary of medium length (ca. 230 pages of lemmata for ca. 107 pages of Latin text) by CALBOLI (1993), while *Cic.Inu.* has not seen any modern commentary published yet, except for SCHWAMEIS (2014) on *Inu.*1.1-9, a very welcome start. By contrast, many other Latin rhetorical texts were much more fortunate with commentaries: for example, DOUGLAS (1966) on *Cic.Brut.*, LEEMAN/PINKSTER/*ALII* (1981-2008) on *Cic.de Orat.*, REINHARDT (2003) on *Cic.Top.*, REINHARDT/WINTERBOTTOM (2006) on *Quint.Inst.*2, and MANKIN (2011) on *Cic.de Orat.*3—to mention but a few. Even rhetoricians much less influential than Cicero have received commentaries, like Fortunatianus by CALBOLI MONTEFUSCO (1979). Given the importance of *Cic.Inu.* for the entire Latin rhetorical tradition since antiquity (already Quintilian repeatedly relies on it, see the *Index locorum* in the *OCT* by WINTERBOTTOM (1970)), a commentary in *Cic.Inu.* has been a conspicuous gap in classical and rhetorical scholarship. Given the length of the two books of *Cic.Inu.* (see at 1.109 under 'huius uoluminis...processit'), my doctoral work had to be limited to one book only. Since Book 1 contains much essential information on rhetoric, it is more often consulted by students and scholars, so it seemed natural to give it priority over Book 2. During my work on *Cic.Inu.*1 I had wished to find more information in the lemmata in CALBOLI (1993) on parallel passages from *Rhet.Her.*, so I decided to grant my lemmata ampler space: much of the information I include is hopefully of use also for the reader of *Rhet.Her.* and of works dependent on *Cic.Inu.* Then came the imposed word limit of 100,000 words for doctoral theses in Classics at Oxford... Rather than decimating many of the lemmata to reduce the length of my commentary, I decided to submit only part of the whole commentary as my thesis. For my Oxford Master's dissertation I had commented on the theory of Issues in *Inu.* (1.10-17), and SCHWAMEIS (2014) had already published a commentary on *Inu.*1.1-9: therefore, I decided to let the submitted part of my commentary start with the treatment of

the *partes orationis* in 1.19b. With regard to the word limit, I decided to submit all my remaining lemmata except for those on the long middle block on Argumentation theory (1.34-96), which I did not want to cut up, since many cross-references are needed there. The submitted lemmata will thus be on the sections treating *partes orationis* in general, then *exordium*, *narratio*, *partitio*, *digressio*, and *conclusio*. Some lemmata will contain cross-references to introduction chapters or lemmata from sections that I could not include because of the word limit: in such cases I will indicate this in square brackets ('[n.i.]').

Again due to the word limit, I could include only a selection of introductory chapters that I have written, leaving out: Overview of Ancient Rhetorical Theory of Narrative, the Date of Composition of *Cic.Inu.*, the Greeks in *Cic.Inu.*, and How to Persuade One's Reader. Similarly, I could only include short versions of the introductory chapters: the Relationship between *Cic.Inu.* and *Rhet.Her.*, the Proems of *Cic.Inu.*, and Examples in *Cic.Inu.* Indeed, these issues are quite complex and hence need ampler space than provided here.

One terminological note: by 'rhetorician' I mean someone who wrote about rhetoric, without necessarily having taught rhetoric (like Cicero), while I use '*rhetor*' to refer only to someone whose profession it was to teach rhetoric and who might have written about it as well. Unless indicated otherwise, all translations in this thesis are mine.

Many questions will be raised in this commentary that must remain unanswered due to our lack of Greek rhetorical sources from the Hellenistic period. But as FOWLER (1999), 442, amusingly put it:

'The task of a commentary is to multiply problems, not to solve them.'

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Approximate number of words of the body of the thesis (Appendix excluded): ca. 100,000.

Abbreviations

Journal abbreviations used in the bibliography follow those in *L'année philologique*.

Greek authors are normally cited as in *LSJ*, Classical Latin ones as in *OLD*. For authors that are not included there or where I use a different abbreviation for the sake of clarity, see below.

Regarding the most important texts for this thesis, *Cic.Inu.* is quoted after ACHARD (1994) and *Rhet.Her.* after ACHARD (2003); NB: the ‘CORRIGENDA’ section mentioned in some lemmata is not included in the first, hardcover editions: the editions used here are the 2nd and 3rd respectively (see bibliography). ‘*Auctor*’ will refer to the author of *Rhet.Her.*

= identical phrasing

≈ similar phrasing

[Arist.]*Rh.Al.* Anaximenes, *Rhetorica ad Alexandrum* (FUHRMANN (2000)).

[August.]*Rhet.*9p.142,20 Pseudo-Augustinus, *De rhetorica*, cap.9 p.142 lin.20 (RLM HALM (1863)).

[Hermog.]*Inu.*2.1.2 Pseudo-Hermogenes, Τέχνη περὶ εὐρέσεως, lib.2 cap.1 §2 (PATILLON (2008-2014), iii.1).

[Hermog.]*Meth.*12.1.2 Pseudo-Hermogenes, Περὶ μεθόδου δεινότητος, cap.12 subcap.1 §2 (PATILLON (2008-2014), v).

[Hermog.]*Prog.*2.1 Pseudo-Hermogenes, Προγυμνάσματα, cap.2 §1 (PATILLON (2008-2014), i).

[Long.]*Subl.*12.5 Pseudo-Longinus, *De sublimitate*, cap.12 §5 (RUSSELL

	(1970)).
[Quint.] <i>Decl.mai.</i> 12	Pseudo-Quintilianus, <i>Declamationes maiores</i> , <i>declamatio</i> 12 (HÅKANSON (1982)).
[Quint.] <i>Decl.min.</i> 268	Pseudo-Quintilianus, <i>Declamationes minores</i> , <i>declamatio</i> 268 (WINTERBOTTOM (1984)).
Alb. <i>Rhet.</i> 7p.527,25	Albinus (=Alcuinus), <i>Disputatio de rhetorica et de uirtutibus sapientissimi regis Karli et Albini Magistri</i> , cap.7 p.527 lin.25 (<i>RLM HALM</i> (1863)).
Anon. <i>Exc.Rhet.</i> p.586,20	<i>Excerpta rhetorica e codice Parisino 7530 edita</i> , p.586 lin.20 (<i>RLM HALM</i> (1863)).
Anon. <i>Schem.Dian.</i> 13	Anonymus, <i>Schemata dianoecas quae ad rhetores pertinent</i> , §13 (<i>RLM HALM</i> (1863)).
Anon.Seg. 12	Anonymus Seguerianus, Τέχνη τοῦ πολιτικοῦ λόγου, §12 (DILTS/KENNEDY (1997)).
Aphth. <i>Prog.</i> 2.1	Aphthonius, Προγυμνάσματα, cap.2 §1 (PATILLON (2008-2014), i).
Aps. <i>Rh.</i> 1.7	Apsines, Τέχνη ῥητορικὴ, cap.1 §7 (DILTS/KENNEDY (1997)).
August. <i>Soliloq.</i> 2.29	Augustinus, <i>Soliloquia</i> , lib.2 §29 (HÖRMANN (1986)).
Cassiod. <i>Inst.</i> 2.2.5	Cassiodorus, <i>Institutiones</i> , lib.2 cap.2 §5 (MYNORS (1937)).
Cic. <i>Rep.</i> 3.9	Cicero, <i>De re publica</i> , lib.3 §9 (POWELL (2006)).

Cic. <i>Top.</i> 97	Cicero, <i>Topica</i> , §97 (REINHARDT (2003)).
Doxop.p.206,30	Doxopatres, Ῥητορικαὶ ὁμιλῖαι εἰς τὰ τοῦ Ἀφθονίου προγυμνάσματα, p.206 lin.30 (<i>RhGr</i> ii WALZ (1835)).
Fortun. <i>Rhet.</i> 1.12	Fortunatianus, <i>Ars rhetorica</i> , lib.1 cap.12 (CALBOLI MONTEFUSCO (1979)).
Grill.p.91,41	Grillius, <i>Commentariū in Cic. Inu. quae exstant</i> , p.91 lin.41 (JAKOBI (2002)).
Hermag.I.B.fr.22.a (MATTHES)	Hermagoras Temnites, fragm.22.a) (MATTHES (1962)).
Hermag.mai.T49 (WOERTHER)	Hermagoras Maior, testim.49 (WOERTHER (2012)).
Hermog. <i>Id.</i> 2.11.28	Hermogenes, Περὶ ἰδεῶν, lib.2 cap.11 §28 (PATILLON (2008-2014), iv).
Hermog. <i>Stat.</i> 1.27	Hermogenes, Περὶ τῶν στάσεων, cap.1 §27 (PATILLON (2008-2014), ii).
Isid. <i>Orig.</i> 2.5.3	Isidorus, <i>Origines</i> , lib.2 cap.5 §3 (LINDSAY (1911)).
Iul.Ruf. <i>Fig.</i> 13p.42,15	Iulius Rufinianus, <i>De figuris sententiarum et elocutionis liber</i> , cap.13 p.42 lin.15 (<i>RLM</i> HALM (1863)).
Iul.Sev. <i>Rhet.</i> 12p.361,11	Iulius Severianus, <i>Praecepta artis rhetoricae</i> , cap.12 p.361 lin.11 (<i>RLM</i> HALM (1863)).
Iul.Vict. <i>Rhet.</i> p.6,18	Iulius Victor, <i>Ars rhetorica</i> , p.6 lin.18 (GIOMINI/CELENTANO (1980)).

Iust. <i>Dig.</i> 24.1.7.5	<i>Iustiniani Augusti Digesta</i> , lib.24 cap.1 subcap.7 §5 (MOMMSEN/KRÜGER (1870)).
Long.Ap.I,190	Cassius Longinus, Τέχνη ῥητορική, Appendix I lin.190 (PATILLON (2002)).
Long.fr.48,141	Cassius Longinus, Τέχνη ῥητορική, fragm.48 lin.141 (PATILLON (2002)).
Long.fr.50.21	Cassius Longinus, Τέχνη ῥητορική, fragm.50 §21 (PATILLON (2002)).
Mar.Victorin. <i>Rhet.</i> 1,8p.49,75	Marius Victorinus, <i>Explanationes in rhetoricam Ciceronis</i> (i.e. Cic. <i>Inu.</i>), in Ciceronis lib.1 cap.8 (§1.10) p.49 lin.75 (IPPOLITO (2006)).
Mart.Cap.p.218,18	Martianus Capella, <i>De nuptiis Philologiae et Mercurii</i> , p.218 lin.18 (WILLIS (1983)).
Nicol. <i>Prog.</i> p.12,3	Nicolaus Sophistes, <i>Progymnasmata</i> , p.12 lin.3 (FELTEN (1913)).
<i>ORF</i> ,p.173,1	<i>Oratorum Romanorum Fragmenta</i> (MALCOVATI (1967)), p.173, lin.1.
<i>P.S.</i> 17p.270,22 (RABE)	<i>Prolegomenon Sylloge</i> (=RhGr xiv) cap.17 p.270 lin.22 (RABE (1935)).
Prisc. <i>Inst.Gram.</i> 10.55	Priscianus Grammaticus, <i>Institutiones grammaticae</i> , lib.10 §55 (HERTZ (1855)).
Prisc. <i>Praeexerc.</i> 2p.552,10	Priscianus Grammaticus, <i>Praeexercitamina ex Hermogene</i>

	<i>uersa</i> , cap.2 p.552 lin.10 (<i>RLM HALM</i> (1863)).
<i>RhGr</i> vii.1 p.62,4 (WALZ)	<i>Rhetores Graeci</i> , vol.7 pars 1 p.62 lin.4 (WALZ (1833)).
<i>RLM</i> ,p.305,1	<i>Rhetores Latini Minores</i> (HALM (1863)), p.305 lin.1.
Ruf. <i>Rh.</i> 17	Rufus Rhetor, Τέχνη ῥητορικὴ, §17 (PATILLON (2002)).
Sardian.p.50,12	Sardianus, Ἐξηγήσεις εἰς τὰ Ἀφθονίου Προγυμνάσματα, p.50 lin.12 (= <i>RhGr</i> xv, RABE (1928)).
Sulp.Vict. <i>Rhet.</i> 24p.325,6	Sulpitius Victor, <i>Institutiones oratoriae</i> , cap.24 p.325 lin.6 (<i>RLM HALM</i> (1863)).
<i>SVF</i> ii fr.296	<i>Stoicorum Veterum Fragmenta</i> , vol.2 fragm.296 (VON ARNIM/ADLER (1905-1924)).
Syrian. ii p.89,20	Syrianus, <i>In Hermogenem commentaria</i> , vol. 2 p.89 lin.20 (RABE (1892-1893)).
Theon <i>Prog.</i> 12p.98,33	Aelius Theon, <i>Progymnasmata</i> , cap.12 p.98 lin.33 (PATILLON/BOLOGNESI (2002); Armenian sequel of the text).
Theon <i>Prog.</i> p.130,35	Aelius Theon, <i>Progymnasmata</i> , p.130 lin. 35 (page and line citation after <i>RhGr</i> ii SPENGEL (1854); Greek text quoted as found in PATILLON/BOLOGNESI (2002)).
Thier.Chart. <i>Cic.Inu.</i> p.106,96	Thierry of Chartres (Theodoricus Brito), <i>Commentarius super libros De inuentione</i> , p.106 lin.96 (FREDBORG

(1988)).

- Var.fr.99 (*GRF*) *Grammaticae Romanae Fragmenta*, Varro fragm.99
(FUNAIOLI (1907)).
- Var.*L*.5.184 Varro, *De lingua latina*, lib.5 §184 (GÖTZ/SCHÖLL
(1910)).

Abbreviations used for grammars, handbooks, dictionaries, and encyclopaedias:

- BNP* EDER, W. / RENGGER, J. / HENKELMAN, W. /
CHENAULT, R.P. (eds.), (2007), *Brill's New Pauly.
Chronologies of the Ancient World: Names, Dates, and Dynasties*
(Leiden).
- EDRL* BERGER, A. (1953), *Encyclopedic Dictionary of Roman Law*
(TAPhS 43.2; Philadelphia, Penn.).
- H.-Sz.*§193 HOFMANN, J.B. / SZANTYR, A. (1972), *Lateinische Syntax
und Stilistik* (Handbuch der Altertumswissenschaft II.2.2;
Munich).
- HWPh* RITTER, J. / BIEN, G. (eds.), (1971-2007), *Historisches
Wörterbuch der Philosophie* (Basel).
- HWRh* UEDING, G. (ed.), (1992-2014), *Historisches Wörterbuch der
Rhetorik* (Tübingen).
- K.-St.*II,§126.2 Anmerk.1 KÜHNER, R. / STEGMANN, C. (1912-1914), *Ausführliche
Grammatik der lateinischen Sprache* (2nd edn.; Hannover), Part
II [Teil II: Satzlehre], §126.2 Anmerkung [= note] 1.
- LAUSBERG §431 LAUSBERG, H. (2008), *Handbuch der literarischen Rhetorik. Eine*

- Grundlegung der Literaturwissenschaft* (4th edn.; Stuttgart), §430; = in English: LAUSBERG, H. (1998), *Handbook of Literary Rhetoric. A Foundation for Literary Study*, trans. BLISS, M.T. / JANSEN, A. / ORTON, D.E. (Leiden / Boston / Cologne), §431.
- LSJ* LIDDELL, H.G. / SCOTT, R. (eds.), (1968), *A Greek-English Lexicon* (revised and augmented throughout by Henry Stuart Jones with the assistance of Roderick McKenzie) (Oxford).
- MGG* BLUME, F. / FINSCHER, L. (eds.), (1994-2008), *Die Musik in Geschichte und Gegenwart. Allgemeine Enzyklopädie der Musik* (2nd edn., Kassel / London / Stuttgart).
- OCD* HORNBLOWER, S. / SPAWFORTH, A. / EIDINOW, E. (eds.), (2012), *The Oxford Classical Dictionary* (4th edn.; Oxford).
- OED* PROFFITT, M. / SIMPSON, J. / WEINER, E. (eds.) (2000-), *The Oxford English Dictionary* (3rd edn.; Oxford).
- OLD* GLARE, P.G.W. / ALII (eds.), (2012), *The Oxford Latin Dictionary* (2nd edn.; Oxford).
- PHI* The Packard Humanities Institute Classical Latin Texts, <http://latin.packhum.org> .
- RE* VON PAULY, A.F. / WISSOWA, G. (eds.), (1893-1978), *Paulys Real-Encyclopädie der classischen Altertumswissenschaft* (Stuttgart / Munich).
- TLL* *Thesaurus Linguae Latinae* (Leipzig; 1900-).

INTRODUCTION

CHAPTER 1

The Title '*De Inuentione*'

and Cicero's Intention to Write on All Five *Partes Artis*

In comparison with *Rhet.Her.*, it becomes immediately clear that Cicero's youthful work covers a much smaller segment of the entire theory of rhetoric: while the *Auctor* treats *inuentio* (*Rhet.Her.* 1.4-3.15), *dispositio* (3.16-18), *pronuntiatio* (3.19-27), *memoria* (3.28-40), and *elocutio* (4.1-69), Cicero only deals with *inuentio* (*Inu.* 1.10-2.178) after the proem of Book 1 (1.1-5a) and after some initial definitions and subdivisions (1.5b-9).

This seems, however, not to have been his initial plan: he did indeed intend (or so he claims) to write about the other four *partes artis* as well. The traditional title '*De Inuentione*' is not an ancient one: Cicero does not mention any title of *Inu.* in his extant writings (in *de Orat.* 1.5. he only gives a negative description of his youthful work); Quintilian uses alternative versions like '*rhetorica*' (cf. e.g. *Inst.* 2.15.6) and '*libri rhetorici*' (cf. e.g. *Inst.* 3.6.50). The Greek loanword '*rhetorica/rhetorici*' is what Quint.*Inst.* 2.14.2 refers to: *denique cum M. Tullius etiam ipsis librorum quos hac de re primum scripserat titulis Graeco nomine utatur*; see REINHARDT/WINTERBOTTOM (2006), 223. TOLKIEHN (1918) takes this passage to mean that the original title used the root '*ῥητορ*'; in his opinion, Quintilian is often imprecise in his use of work titles, while the grammarian Priscian is more reliable: following Prisc.*Inst.Gram.* 9.32 ('*Cicero rhetoricon II*') and 9.54 and 10.55 ('*in I rhetoricon*'), he thinks that the original title was '*Rhetoricon Libri*', often abbreviated as '*Rhetorica*'. ACHARD (1994), 5 n.2, believes that the title '*De Inuentione*' must relate to Cicero's words in *Inu.* 2.178, but it could also simply relate to the content of this work in general.

Cicero suggests in several places that he wanted to treat the other *partes artis*, too. The first such instance (and at the same time the weakest one) is in 1.9:

Eum autem qui artem rhetoricam scribat de duabus reliquis rebus, materia artis ac partibus, scribere oportere existimamus. Ac mihi quidem uidetur coniuncte agendum de materia ac partibus. Quare inuentio quae princeps est omnium partium, potissimum in omni causarum genere, qualis debeat esse, consideretur.

‘*Partibus*’ in the first and second sentences refers to the *partes artis*, the different stages through which the orator has to go when composing his speech, i.e. *inuentio*, *dispositio* etc. The following sentence will mark the beginning of the treatment of the first *pars artis*. Although Cicero does not state it literally, the phrasing suggests that this would be the treatment of the first *pars artis* to be followed by the treatment of the remaining *partes artis*. Indeed, the structure of 1.9, about the *partes artis*, is similar to that of the end of 1.19, about the *partes orationis*: first Cicero lists all the *partes artis* and *partes orationis* respectively:

Cic. <i>Inu.</i> 1.9	Cic. <i>Inu.</i> 1.19
<i>partes autem eae quas plerique dixerunt: inuentio, dispositio, elocutio, memoria, pronuntiatio.</i>	<i>Eae partes sex esse omnino nobis uidentur: exordium, narratio, partitio, confirmatio, reprehensio, conclusio.</i>

before going over to the first *pars* in each case (note the use of a causal adverb and of ‘*princeps* [...] *omnium*’ in both instances, which reinforces the parallelism):

Cic. <i>Inu.</i> 1.9	Cic. <i>Inu.</i> 1.19
[Cicero adds some further thoughts here before continuing with:] <i>Quare inuentio quae princeps est omnium partium, potissimum in omni causarum genere, qualis debeat esse, consideretur.</i>	<i>Nunc quoniam exordium princeps omnium debet esse, nos quoque primum in rationem exordiendi praecepta dabimus.</i>

The parallelism between both passages (their structure could be summarised as follows: ‘*Its parts are A, B, C, D, and E. I will now start with A*’) shows that 1.9 indeed has the character of an opening of the treatment of the first *pars artis* that is to be followed by the treatment of the other four *partes artis* that Cicero listed earlier in 1.9.

Compared with this subtle echo, however, there is also much stronger evidence in *Cic.Inu.* for Cicero’s intention to write about all five *partes artis*. In four different passages, Cicero refers to a treatment of these that would follow in later books, but he does not fulfil these references within *Inu.*, so the references must be to some volume(s) that would have followed the two books on *inuentio*. These passages are:

- (i) 1.27 (reference to a later treatment of *elocutio*, i.e. Style): *Verum haec ex iis quae postea de elocutione praecipientur ornamenta sumuntur.*
- (ii) 1.30 (reference to a later treatment of *dispositio*, i.e. Arrangement): *quo de genere agemus tum cum de dispositione dicemus.*
- (iii) 1.49 (reference to a later treatment of *elocutio*, i.e. Style): *Horum exempla et descriptiones in praeceptis elocutionis cognoscentur.*
- (iv) 2.178 (reference to a later treatment of the remaining *partes orationis*): *Nunc quoniam omne in causae genus argumentandi ratio tradita est, de inuentione, prima ac maxima parte rhetoricae, satis dictum uidetur. Quare, quoniam et una pars ad exitum hoc ac superiore libro perducta est et hic liber non parum continet litterarum, quae restant in reliquis dicemus.*

Outside *Inu.* Cicero nowhere mentions that he had plans to write about the other *partes artis* as well when he was young. Cicero’s only reference to *Inu.* is found in *de Orat.* 1.5, where he calls his youthful work either ‘*commentariol[a] nostr[a]*’ or, more likely, that which came from these (‘*quae...ex commentariolis nostris incohata ac rudia exciderunt*’; see LEEMAN/PINKSTER/ALII (1981-2008), i 32): there is no clue that *Inu.* would be left incomplete, and Cicero nowhere states that *de Orat.* would fill any ‘gaps’ left by *Inu.*, which he could have criticised there in

addition to his criticism of *Inu.* (NB: Many scholars, even recent ones like GUÉRIN (2009), 297, call *Inu.* an ‘incomplete’ or ‘unfinished’ work; although they mean by this that Cicero did not write about the other *partes artis* and hence left a bigger plan unfinished, this could, however, give the wrong impression that there were several lacunae in the extant text of *Inu.*, which is *not* the case: therefore, calling *Inu.* ‘incomplete’ or ‘unfinished’ without specifying in what way this is meant, is misleading and should be avoided. To claim that *Inu.*1 and *Inu.*2 are the ‘the first two parts [!] of the [!] book that [Cicero] first planned to write’ [GUÉRIN (2007), 64] is downright wrong: at the end of 1.109 (cf. also 2.178) Cicero makes it clear that *Book* 1 is over and that *Book* 2 will follow, i.e. that Books 1 and 2 are clearly conceived as self-contained units.)

In fact, the reasons mentioned above cannot completely rule out the two following scenarios:

- A. Considering that Cicero took over much from other sources in *Inu.*, we cannot fully rule out that these references to later volumes were found in his source(s) and that he took them as well. One similarity with *Rhet.Her.* could support this view. The *elocutio* reference in *Inu.*1.27 ((i) above) immediately follows a section that shows a very high degree of identical content and phrasing with *Rhet.Her.*1.13, and the sentence containing the *elocutio* reference starts with the same words as the corresponding sentence in *Rhet.Her.*1.13: *Verum haec...* It could thus be that these words are taken from the shared source as well, raising the question of which author changed the rest of this sentence: the one referring to exercise (which is not part of such a rhetorical treatise) or the one referring to *elocutio* (which he will not treat in the end)? Even reference (iv) could have been found in a source of the young Cicero: similarly, at the end of Book 3, the *Auctor* makes a reference to the *pars artis* that he is going to treat in the subsequent book.

Nevertheless, one must admit that this scenario would presuppose that

Cicero was dependent on his source(s) to an extraordinarily high degree, not making the necessary adaptations here: indeed, this would seem surprising in comparison with the rest of *Inu.*

- B. Reference (iv) could be a commonplace, suggesting that there will be books to follow without the author ever having had the intention of publishing any further volumes. Indeed, such a scenario is not completely unknown in the history of arts: for example, some French baroque composers published a ‘Premier livre d’orgue’ [‘First book of organ music’], but never planned to publish or even write a second one; idem for the famous ‘op. 1’ in music. These became commonplaces that did not presuppose that there would ever be something to follow these references for real. Indeed, there are similar references in *Rhet. Her.* to works on grammar (4.17) and on the art of war or of governing a state (3.3, where he commits less to it: cf. ‘*si quando...uelimus*’) that the *Auctor* claims that he would write, but outside these claims there are no traces in any other ancient work that would prove that the *Auctor* had actually written such works. In fact, Cicero himself makes a similar statement in 1.86, where he states that he will write about Argumentation in greater detail elsewhere at another time if he can.

The only evidence from Cicero’s works that could be used against these two scenarios is the word ‘*incohata*’ in *de Orat.* 1.5. This word could be interpreted in two ways: it refers to a work that is ‘begun’, i.e. ‘unfinished’ and ‘unpolished’, with regard either a) to its content and style or b) to its scope. In the first case, one example of the ‘unpolished’ nature of *Inu.* would be the very fact that it contains unfulfilled predictions of later works on the other *partes artis*, which Cicero did not delete, for unclear reasons. In the second case, it would indeed mean that the two books of *Inu.* were the beginning of a multi-volume work on all five *partes artis*. But the combination of ‘*incohata*’ with ‘*rudia*’ in *de Orat.* 1.5 (*ex commentariolis*

nostris incohata ac rudia exciderunt) could suggest that both words apply to the two books of *Inu.* (‘*rudia*’ certainly applies to *Inu.* only, and not to works that have not been written) and hence to its content and style, not to its scope. That ‘*inchoata*’ would mean ‘unpolished’ here, could be further supported by the phrasing in ‘*aliquid eisdem de rebus politius a nobis perfectiusque*’ (*de Orat.* 1.5, referring to *de Orat.*), in which ‘*politius*’ contrasts with the earlier ‘*rudia*’ and ‘*perfectiusque*’ the earlier ‘*inchoata*’: ‘*inchoatum*’ would be something that is not ‘*perfectum*’; cf. also *Brut.* 294: [of Cato’s speeches:] *significant enim formam quandam ingeni, sed admodum impolitam et plane rudem*—contrast, however, *Brut.* 126: *Manus extrema non accessit operibus eius: praeclare incohata multa, perfecta non plane*; *Fin.* 3.59: *id autem est perfectum officium, erit etiam inchoatum* (similarly: 4.5; 4.15). LEEMAN/PINKSTER/*ALII* (1981-2008), i 33, also show some doubt about taking ‘*inchoata*’ to refer to the scope of *Inu.* (‘Vielleicht [my underlining] im Hinblick auf den unvollendeten Zustand von *De inv.* (2,178 in reliquis)’).

To conclude, scenarios A and B can be used against the traditional view that Cicero had intended to write on all five *partes artis*. The principle of parsimony suggests, however, that we should take Cicero’s references to future treatments of the remaining four *partes artis* at face value. Perhaps the young Cicero’s ‘failure’ to fulfil these references can be made tolerable if we suppose that Cicero did not intend to write on these four *partes immediately* after *Inu.*, but only in the *years* to come—which, in the end, political and professional circumstances prevented him from doing.

CHAPTER 2

The Structure of Cic.*Inu.*

Cicero begins both books of *Inu.* with proems: Book 1 (1.1-5a) with a proem on rhetoric and the early history of civilisation, Book 2 (2.1-10) with a proem on the benefit of relying on several sources.

After the first proem, Cicero gives in 1.5b-9 some of the most fundamental definitions and subdivisions of the subject, like the definition of what rhetoric is, and the subdivision of all speeches into the three Aristotelian *genera causarum* (*iudiciale*, *demonstratiuum*, *deliberatiuum*), as well as the five stages in the composition of a speech (the five *partes artis*: *inuentio*, *dispositio*, *elocutio*, *memoria*, *pronuntiatio*): his reader will need this information throughout the rest of *Inu.*

After this, most of *Inu.* is concerned with the *genus iudiciale* (1.10-109 and 2.14-154). Cicero first treats the theory of Issues (1.10-17), to which the *iudicatio* scheme (1.18-19a) is closely related.

The rest of Book 1 deals with the different Parts of the Speech, listed for the first time in 1.19b: *exordium* (1.20-26), *narratio* (1.27-30), *partitio* (1.31-33), *confirmatio* (1.34-77), *reprehensio* (1.78-96), *digressio* as recognised as a separate *pars orationis* by Hermagoras (1.97), and *conclusio* (1.98-109a). A very short epilogue follows.

After the proem of Book 2, Cicero summarises what he treated in Book 1 and explains what will follow in Book 2 (2.11-13): Book 2 will be devoted to Argumentation and *loci* (*communes*) in the *genus iudiciale* (2.14-154) and in the *genera deliberatiuum* and *demonstratiuum* (2.155-178a, with an individual treatment of the *genus deliberatiuum* in 2.157-176 and of the *genus demonstratiuum* in 2.177-178a). The work ends with a confident statement that *inuentio* has been treated sufficiently and that the remaining *partes artis* will be treated in subsequent books (which Cicero never actually wrote; see Chapter 1).

Overview of the content of Cic.*Inu.*:

BOOK 1

- 1.1-5a Proem 1.
- 1.5b-9 Preliminary definitions and subdivisions: *rhetorica*, *officium*, *finis*, *materia* (subdivided into *genera causarum*), *partes artis* (*inuentio*, *dispositio*, *elocutio*, *memoria*, *pronuntiatio*).
- 1.10-17 Theory of Issues:
- A) *Constitutiones*:
 - (i) *coniecturalis* (1.11a)
 - (ii) *definitiva* (1.11b)
 - (iii) *generalis* (1.12-15)
 - (iv) *translativa* (1.16)
 - B) *causa simplex / iuncta* (1.17a)
 - C) *genera descriptionis* (1.17b):
 - (a) *scriptum et sententia*
 - (b) *contrariae leges*
 - (c) *ambiguum*
 - (d) *ratiocinatio*
 - (e) *definitio*.
- 1.18-19a *Iudicatio* scheme: *quaestio*, *ratio*, *iudicatio*, *firmamentum*.
- 1.19b-109a The six Parts of the Speech:
- (1) *exordium* (1.20-26)
 - (2) *narratio* (1.27-30)
 - (3) *partitio* (1.31-33)
 - (4) *confirmatio* (1.34-77)
 - (5) *reprehensio* (1.78-96)

[*digressio* (1.97)]

(6) *conclusio* (1.98-109b).

1.109c Epilogue 1.

BOOK 2

2.1-10 Proem 2.

2.11-13 Brief overview of the content of Books 1 and 2.

2.14-154 Argumentation and the *genus iudiciale*:

- 2.14-115: argumentation and the four *constitutiones*:
 - (i) *constitutio coniecturalis* (2.14-51)
 - (ii) *constitutio definitiua* (2.52-56)
 - (iv) *constitutio translatiua* (2.57-61)
 - (iii) *constitutio generalis* (2.62-115)
- 2.116-154: argumentation and the five *genera scriptiois*:
 - (c) *ambiguum* (2.116-121a)
 - (a) *scriptum et sententia* (2.121b-143)
 - (b) *contrariae leges* (2.144-147)
 - (d) *ratiocinatio* (2.148-153a)
 - (e) *definitio* (2.153b-154).

2.155-178a Argumentation and the *genera deliberatiuum* and *demonstratiuum*:

- 2.155-156: principles applying to both *genera*
- 2.157-176: principles applying to the *genus deliberatiuum*
- 2.177-178a: principles applying to the *genus demonstratiuum*.

2.178b Epilogue 2.

There are two major principles according to which ancient rhetorical treatises were organised. These principles correspond to a division (see e.g. SOLMSEN (1941a); criticised, unconvincingly, by GUÉRIN (2009), 303-304):

- into *partes orationis* (i.e. *exordium*, *narratio*, etc.) which seems to have been the traditional method, but became especially influential through Isocrates, which led SOLMSEN (1941a) to call it the ‘Isocratean tradition’;
- into *partes artis* (i.e. *inuentio*, *dispositio*, etc.), which was introduced by Aristotle in *Rh.* (who disapproved of the other tradition) and became the Peripatetic tradition.

The macrostructure of Cic.*Inu.* and *Rhet.Her.* is the division into *partes artis*: in the case of *Inu.* this could easily be overlooked, given that its two books deal only with *inuentio*, the first *pars artis*. But several references in *Inu.* to other *partes artis* that Cicero announces that he will treat in subsequent books (see Chapter 1) make it clear that the macrostructure is indeed that based on the *partes artis*: just as *Rhet.Her.* reserves an entire book (Book 4) for the *pars artis* ‘*elocutio*’, so Cicero devotes two books to *inuentio* only.

But within this macrostructure the subdivision into *partes orationis* appears in the treatment of *inuentio*: what we have in *Inu.* and *Rhet.Her.* is hence a ‘contamination’ of the two traditions (see e.g. BARWICK (1922), 1-11; SOLMSEN (1941a); WISSE (1989), 83-93; LEEMAN/PINKSTER/*ALII* (1981-2008), iv 14-15; GUÉRIN (2007), 61-76). One major innovation must be added to this contamination: the introduction of the theory of Issues, which was systematised (though not invented) by Hermagoras of Temnos (see at 1.12 under ‘Hermagoras’ [n.i.]) and thereafter became very influential in rhetoric. For *Inu.*, this addition plays an important role in the structure of the entire treatise (see also SOLMSEN (1941b), 177): the theory of Issues is dealt with first separately in 1.10-17 (i.e. before the treatment of the individual *partes orationis*), but it is the organising principle of the structure

of 2.14-154, where Argumentation (Confirmation and Refutation) are discussed for each Issue individually.

The fact that this contamination and the addition of the theory of Issues are found in both *Inu.* and *Rhet.Her.* strongly suggests that they were already included in earlier, no longer extant, Hellenistic rhetorical sources.

As the above overview shows, it is surprising how little space is devoted to the *genera deliberatiuum* and *demonstratiuum*. SOLMSEN (1941b), 180-181, links this back to the huge influence of Hermagoras' system of Issues, which fits only the *genus iudiciale*.

For further aspects of the structure of *Inu.* see the excellent, in-depth discussion by FUHRMANN (1960), 58-69 and 159-161. One point that should be added here is the surprising high number of divisions of a concept into three elements found in a handbook like *Inu.*, e.g.: Aristotle's three *genera causarum* (1.7), *beniuolum/attentum/docilem facere* (1.20), *beniuolentia* derived from three *personae* and the *causa* (1.22), three *genera narrationis* (1.27), *narratio brevis/aperta/probabilis* (1.28), *partitio* and *brevitas/absolutio/paucitas* (1.32), *argumentatio necessaria per complexionem/enumerationem/simplicem conclusionem* (1.44), the threefold subdivision of *probabile* (1.46), *conclusio* and *enumeratio/indignatio/conquestio* (1.98), etc. Although it is not immediately clear why the number three proved so influential in the subdivision of rhetorical concepts, in many other domains its attraction can be explained by the fact that it is the first number to have a beginning, middle, and end, making it a well-rounded, perfect (or even divine) number.

CHAPTER 3

Subdividing the Art

In *Inu.* Cicero uses nine different expressions with '*partes*' to express '*X is divided into Y parts*', in decreasing frequency: *eius* (etc.) *partes sunt* (*Y*) (1.15, 1.27, 1.31, 1.41, 1.49, 1.57, 1.67, 2.62, 2.69, 2.71, 2.94, 2.158-159, 2.169; without '*sunt*': 2.160, 2.163-164); *Y partes habere* (1.14-15, 1.27, 1.67, 1.98, 2.61, 2.94, 2.159); in *Y partes tribui/tribuere* (1.15, 1.58, 1.61 / 1.47, 1.66); *Y partes subponere alicui rei* (1.8, 1.12); in *Y partes diuidi* (1.15, 1.20); *Y partes amplecti* (1.32, 1.42); in *Y partes distribui* (1.57, 2.112); in *Y partes distingui* (1.50); in *genus Y partes incidunt* (1.33). *Rhet. Her.* shows less variety in this: in *Y partes diuidi* (1.17, 1.19, 2.6, 3.3, 3.20, 3.23, 3.24, 4.46); in *Y partes distribui* (1.17, 2.3, 2.28, 3.24, 3.26); *eius* (etc.) *partes sunt Y* (1.24, 3.1); *Y partes habere* (1.13); *Y partes sub aliquid subici* (3.7); in *Y partes consumi* (1.4). See FUHRMANN (1960), 47-48.

The *Auctor* uses for subdivisions only the term '*pars*', never '*species*' (see FUHRMANN (1960), 48-51). For Cicero, this is also true in *Inu.*, with only one exception in 1.40: *Quare cum genere idem sit, fit aliud, quod parte quadam et specie, ut diximus, differat*. Since this is the only instance of a technical use of '*species*' in *Inu.* and since '*species*' seems not to have been used for subdivisions in earlier Latin literature, it is difficult to say what exactly it means in 1.40: although the context of '*genus*' and '*pars*' would suggest the meaning '*species*', this seems unlikely, given that '*species*' is already expressed by '*parte*' and that '*parte*' and '*specie*' are linked by '*et*'—'*aut*' or '*uel*' might have allowed for '*parte*' and '*specie*' to work like synonyms, but '*et*' would make a synonymous meaning of '*specie*' redundant. Interpreting '*species*' as a subdivision of '*pars*' here (so that there would be three levels: *genus*>*pars*>*species*) does not make much sense, as it would have been sufficient to say that there is a difference on the level of *pars*, for one would in a similar way not go down to the level of *partes* (e.g. a sports car and a cargo aircraft) if one saw that there is a difference on the level of *genera* (car and

plane); furthermore, Cicero uses ‘*pars*’ for any further subdivision of ‘*pars*’ (e.g. in 1.15, where he subdivides the *pars assumptiua* into four ‘*partes*’), and he sometimes refers back to a *pars* but then calls it a ‘*genus*’ (e.g. in 1.32, where ‘*Quae partitio*’ and ‘*in hoc genere [partitionis]*’ both refer to the second *pars partitionis*), an inconsistency that can confuse the reader—FUHRMANN (1960), 48-51, identifies the same problem for *Rhet.Her.*, so that this terminological imprecision and ‘overuse’ of ‘*pars*’ for several levels of subdivision seem to be due to a lack of suitable terms in Latin (at least for this period). I would suggest (against FUHRMANN (1960), 63) ‘*specie*’ to mean something like ‘specific nature’ or ‘aspect’ here, or to consider it as a possible interpolation from an explanatory gloss: ‘*specie*’ is directly followed by ‘*ut diximus*’, but so far Cicero has nowhere used ‘*species*’ before—he did, however, use ‘*pars*’ and ‘*genus*’, which would favour deletion of ‘*et specie*’ without any major loss in sense; furthermore, having to admit ‘*specie*’ to be a redundant synonym of ‘*parte*’ that has not yet been introduced before or having to consider it as a superfluous subdivision of ‘*parte*’ also support deletion. Cicero will give a special meaning to ‘*species*’ in *Top.*30 when he distinguishes between *partitio* (which presumably represents a subdivision of *genus* into ‘*partes*’, although this is not clearly stated at that point) and *diuisio* (a division into ‘*species*’ or ‘*formae*’, a more convenient term since Cicero rejects the plural forms ‘*specierum*’ and ‘*speciebus*’). The context there, though, is a dialectical/philosophical one, whereas here it is a rhetorical one, so that there is no ground for considering such a special meaning for ‘*species*’ here, all the more since this special use is not found elsewhere in Latin sources in or before the period of composition of *Inu.*

CHAPTER 4

Rhythm and Clausulae

De Inuentione is not completely arhythmic, but it is not rhythmic to the same degree as most of Cicero's speeches: it occupies an intermediary position (DOUGLAS (1973), 130, calculates a frequency of 8.6% of cretic forms for *Inu.* and an average of 18% for the speeches; for clausulae in *Rhet.Her.*, see DOUGLAS (1960)). The opening of the treatment of Narrative (1.27) can serve as an example.

The lengths indicated below are those of syllables, not vowels; ^ is used to represent a syllable that can be either short or long at the end of the rhythmic structure; in diphthongs the length is marked above the second vowel (with both letters underlined); | is used to mark a caesura after a clausula, † is used to indicate an overlap of two rhythmic structures. All five types of rhythm discussed by HUTCHINSON (1995) and which form extensions of *creticus* (˘ ˘ ˘) can be found in this passage:

		creticus	
1		˘ ˘ ˘	^
2		˘ ˘ ˘	˘ ^
3		˘ ˘ ˘	˘ ˘ ^
4	˘ ˘ ˘	˘ ˘ ˘	˘ ^
4a	˘ ˘ ˘	˘ ˘ ˘	˘ ^

NB: ˘ can be replaced by ˘˘ in all of these rhythms (underlined in the text).

Narratio est rerum gestarum aut ut gestarum ēxpōsitiō. | Narrationum gēnērā triā sūnt: | unum genus est in quo ipsa caūsā | et omnis ratiō cōtrōuērsiāē | cōtīnētūr; | alterum in quo digressio aliqua extra causam aut cīmīnātiōnīs | aūt sīmīlītūdīnīs | aut delectātiōnīs | non alienae ab eō nēgōtīō | quo de agitur aut amplificationis caūs(a) īntērpōnītūr. | Tertium genus est remotum a ciuīlībūs caūsīs, | quod delectationis causa non inutīlī cum exercitātiōnē | dīcītūr ēt scrībītūr. | Eiūs pārtēs sūnt dūāē | quarum alter(a) īn nēgōtīs, | altera in personis maxime uersatur. Ea quae in negotiorum expositiōnē pōsītā (e)st | trēs

hăbēt pārtēs: | fabulam, historiam, ārgŭmētŭm. | Fabula est in qua nec uerae nec ueri
similes res cōtīnēntŭr, | cūiŭsmōdī (e)st | (...). Hīstōriā (e)st gēstā rēs, | ab aetatis nostrae
memoriā rēmōtā; | quod genus (...). Argumentum est ficta res quae tamen fīcī pōtŭit. |
Huiusmodi apūd Tērēntiŭm | (...). Illa aŭtēm nārrātiō | quae uersatur in personis
eiusmodi est ut in ea simul cum rebus ipsis personarum sermonēs ēt ānīmī | pērspīcī
pōssint, | hōc mōdō (...). Hoc in genere narrātiōnīs | multa debet inesse festiuitas confecta
ex rerum uāriētātē; | animorum dīssimīlītūdīnē: | grauitate, lēnītātē, | spe, metu,
suspīciōnē, | desiderio, dissimulātiōnē, | errore, mīserīcōrdiā; | fortunae commutātiōnē: |
inspērāt(o) incōmmōdō, | subita laetitia, iucundo ēxitū rērŭm. | Verum haec ex iis quae
postea de elocutione praecipientur ornamētā sŭmēntŭr. |

As the list at the end of 1.27 shows, clausulae can create caesuras in places where no special intention of the author can be identified (e.g. *errore* and *miser cordia* do not form antonyms). Rather, certain clausulae just come about through the use of words with certain endings (e.g. *-atio*) in certain grammatical cases (e.g. ablative *-atiōnē*), which cannot be avoided unless a different case is used for the entire list.

CHAPTER 5

The Young Cicero's Knowledge of Aristotle's Works

The works by Aristotle that appear to be of interest here are the *Art of Rhetoric* and *Συναγωγή Τεχνῶν*, as well as *Topica*, *Analytica Priora*, and *Categoriae*.

There was at least one more work by Aristotle on rhetoric, his *On Rhetoric or Grylus* (listed among Aristotle's works in D.L.5.1.22), but Cicero seems not to mention it in any of his works, so he may not have known about its existence (in the works of rhetoricians writing in Latin, it is in fact mentioned only once, in Quint.*Inst.*2.17.14, on which see REINHARDT/WINTERBOTTOM (2006), 323-325). The work is lost so that it is impossible to say whether any of its content may somehow be in the background of Cicero's rhetorical works through one or several intermediary sources.

(i) Aristotle's *Art of Rhetoric* and *Συναγωγή Τεχνῶν*:

In *Inu.*, Cicero cites Aristotle's name in 1.7 and 1.9 (in connection with the three *genera causarum*), in 1.61 (in connection with the five-fold rhetorical deduction), in 2.6-7 (about Aristotle's *Συναγωγή Τεχνῶν*), and in 2.156 (in connection with the *genus deliberativum*). FORTENBAUGH (1989), 39-43, has shown that we should not suppose these passages in *Inu.* result from *direct* knowledge of Arist.*Rh.* in any way because the young Cicero's knowledge of Arist.*Rh.* (and of other works by Aristotle) is extremely limited and vague and hence seems rather to come from what was included in other rhetorical handbooks.

The division of all rhetorical material into *genus iudiciale*, *genus deliberativum*, and *genus demonstrativum* goes back to Arist.*Rh.*1358a36-1359a29 (=Arist.*Rh.*1.3; more precisely to 1358b6-13 for *Inu.*1.7 and 1.9, and to 1358b21-25 for 2.156): in other words, this information is found in the opening part of Aristotle's treatise. BARNES (1997), 53 (with n.222), points out that Cicero's references to Arist.*Rh.* in his rhetorical works are 'virtually

confined to the opening chapters of *Rhet.* 1 and the sections on prose rhythm in *Rhet.* 3', which he contrasts with 'the broad familiarity with *Rhet.* shown by, say, Quintilian' (*reason A*). He observes that '[Cicero's] citation of the opening sentence of *Rhet.* at [*Orat.* 114] can only have been lifted from a handbook', meaning that Cicero's knowledge of *Arist.Rh.* would come from a Hellenistic intermediary source.

As FORTENBAUGH (1989), 40, notes, Cicero's criticism in *Inu.* 2.156 is not fair since Aristotle in *Rh.* 1358b25 (cf. ἡ καλὸν ἡ αἰσχροτόν, where 'καλόν' could be translated as 'honestum') *does* include considerations of honour (although only at a secondary level) in the *genus deliberativum*: this is probably not due to Cicero's wish to compete with the great Aristotle (elsewhere in *Inu.* he speaks of him only in a positive way), but rather to a lack of knowledge of Aristotle's original text that led him to a mistaken judgment (*reason B*).

Concerning 1.61, FORTENBAUGH (1989), 40-42, points out that Aristotle in *Rh.* does not include the five-fold deductive argumentation as Cicero presents it, meaning that this argumentation would have to go back to Theophrastus (who is mentioned there with Aristotle) or, more likely, to later Peripatetics—Aristotle and Theophrastus would only be named since they were much more famous in the domain of rhetoric than later Peripatetics. Hence, this instance, too, shows that Cicero did not have close knowledge of the content of *Arist.Rh.* (*reason C*).

FORTENBAUGH (1989), 42-43, thinks it very improbable that Cicero had really read Aristotle's *Συναγωγὴ Τεχνῶν*, as he claims in *Inu.* 2.6-7 (see also SCHÖPSDAU (1994); NOËL (2002); NOËL (2003)). In this case, FORTENBAUGH might be too sceptical: BARNES (1997), 51-52, has a good point in that, even if M. Antonius himself might not have read this work (contrary to Cicero's claims in *de Orat.* 2.160), the very implication that a Roman *could* have read this work by 91 BC (the date of the fictive plot of *de Orat.*) 'strongly suggests that such works [the *Συναγωγὴ Τεχνῶν* and *Arist.Rh.*] were then available to the interested reader'. If both works were available, it would still be easy to explain why only

Συναγωγή Τεχνῶν would have been read: this work gave a useful overview (although a distorted one: see e.g. DOUGLAS (1955) and DOUGLAS (1966), xli-xlvii, on *Brut.*46-48, where Cicero seems to reproduce some of its content) of the history of rhetoric, while *Arist.Rh.* was much less user-friendly for (future) practitioners than a rhetorical handbook like that of Hermagoras, so that there would have been a use or need for Συναγωγή Τεχνῶν, but not for *Arist.Rh.*

In his analysis, FORTENBAUGH (1989) only considered passages from *Inu.* in which Aristotle is named to show that Cicero did not know *Arist.Rh.* when he wrote *Inu.* I want to add three arguments *e silentio* why Cicero seems not to have known *Arist.Rh.* by then: the first two are related to Aristotle's treatment of technical and non-technical proofs (πίστεις ἔντεχνοι and πίστεις ἄτεχνοι). This distinction seems to have been introduced for the first time by Aristotle (it is not yet found in [Arist.]*Rh.Al.*) and became quite influential in the domain of argumentation theory.

The first argument is that in *Inu.*2.46-47 Cicero criticises those who consider *quaestio*, *testimonium*, *rumor* etc. to be non-technical proofs (*hoc genus suspicionum artificum non putant indigere*; cf. also Quint.*Inst.*5.1.2; Anon.Seg.145), although he himself does not really treat non-technical proofs in *Inu.* either. He does not seem at all aware, however, that *quaestio* (interrogation of slaves under torture; βάσανοι, cf. *Arist.Rh.*1375a22-25 and 1376b31-1377a7) and *testimonium* (testimony by witnesses; μάρτυρες ('witnesses'), cf. *Rh.*1375a22-25 and 1375b26-1376a33) are considered two forms of πίστεις ἄτεχνοι by Aristotle. If Cicero had been aware of this, he would surely not have hesitated to name Aristotle in this criticism, as he does in *Inu.*2.156 when not agreeing with him (*reason D*; compare also his repeated harsh criticism of Hermagoras in *Inu.*).

The second argument is that in his treatment of argumentation theory in *Inu.*, Cicero seems entirely unaware of Aristotle's famous subdivision of technical proofs (πίστεις ἔντεχνοι) into rational argumentation (λόγος), manipulation of the audience's emotions

(πάθος), and good character or credibility of the orator (ἥθος; cf. Arist.*Rh.*1356a1-20). These technical proofs take up all of Book 2 of Arist.*Rh.* and were hence so prominent in the work that it seems reasonable to assume that Cicero would not have left them out in *Inu.* without further explanation, given that he linked the *genera causarum* back to Aristotle (1.7 and 1.9) and in the same passage (1.7) claimed that Aristotle *huic arti plurima adiumenta atque ornamenta subministravit*. The only possible explanation here seems to me that, again, Cicero did not have first-hand knowledge of Arist.*Rh.* (reason E). Similarly, *Rhet.Her.* does not show any awareness of the Aristotelian λόγος, ἥθος, πάθος either: this makes it quite likely that the source(s) available in Rome in the early 1st century BC did not contain this kind of proofs or that it was considered unimportant, unlike in Book 2 of Arist.*Rh.* Although *Rhet.Her.* does not show clear awareness of the Aristotelian subdivision of proofs into technical and non-technical either, it does discuss non-technical proofs in 2.9-12 (witnesses, testimony under torture, *argumenta*, rumours), in contrast to *Inu.* (see above).

SOLMSEN (1941b), 178, 186-7, and 189, provides further support for reasons D-E: in his opinion, the abandonment of the Aristotelian ἥθος and πάθος among Hellenistic rhetoricians goes back mainly to Hermagoras (who was influenced by the Stoics, who opposed arousing emotions; WISSE (1989), 81-82 rejects the idea that Hermagoras would not have granted any importance to emotional manipulation) and the theory of Issues which he systematised and which focuses on non-emotional argumentation; similarly, in *Inu.*2.47 Cicero rejects some of the πίστεις ἄτεχνοι in favour of *coniectura*, which is part of the *Hermagorean* theory of Issues, so that Hermagoras here, too, triumphs over Aristotle in *Inu.*; the idea of arousing emotions during the Exordium and the Peroration (as found in *Inu.*) is quite a natural one and not related to Aristotle's ἥθος and πάθος: in fact, as SOLMSEN puts it (p.189), '[Aristotle's] analysis of the emotions, though revived from time to time [e.g. in *de Orat.*], never secured a definite and undisputed place in the [rhetorical] system'. See also SOLMSEN (1938), esp. 394-396.

If Cicero had known *Arist.Rh.*, he could have used its ideas on ἦθος and πάθος to complement the Hermagorean system based on the theory of Issues, but he does not do so and makes no comment about leaving them out or rejecting them consciously, as he does with other concepts e.g. in 1.8, 1.33, 1.77, and 1.97.

The third argument is that Cicero in *Inu.* has a very different concept of Topics than that found in *Arist.Rh.*, and he shows no awareness of Aristotle's views (*reason F*): he nowhere links Aristotle's name to *loci* (see also RUBINELLI (2009), 101 and 105-106); see at 1.106 under 'locis communibus'.

Reasons A-F provide a basis that is strong enough to refute definitely the possibility that the young Cicero had read *Arist.Rh.* first-hand, i.e. without any Hellenistic intermediary source. This view is shared e.g. by ACHARD (2000), 9-17, and FORTENBAUGH (2005), 40-44.

(ii) Aristotle's *Categoriae*, *Analytica Priora*, and *Topica*:

Reason D (referring, without being aware of doing so, to something that originated in Aristotle) also applies to potentially three more works by Aristotle.

In *Inu.* 1.32b-33a, Cicero gives a detailed explanation of the difference between *genus* and *pars*, for which he gives *animal–equus–homo* as an example. It would be easy to claim that the choice of *homo* and *equus* would be a natural one for a Roman: man and (a Roman) man's most highly valued (military/transport) animal, the horse. However, Cicero would have had a multitude of choices for the *genus*: can it really be considered a coincidence that of all these choices he used the triad *animal–equus–homo*?

Isidore of Seville shows several similarities with *Inu.* in *Orig.* 2.2-23. In *Orig.* 2.26.6, he uses the same triad to explain the concept of *substantia*—as found in *Arist.Cat.* Indeed, this short treatise of Aristotle's contains several instances of the example contrasting man with

horse: cf. 1b4-5, 1b28, 2a13-14, 2a16-17, 2b24-26. In fact, one passage comes very close to Cicero's text in *Inu.* 1.32 (*Cat.* 2a13-17): compare Aristotle's

οἷον ὁ τις ἄνθρωπος ἢ ὁ τις ἵππος. δεύτεραι δὲ οὐσίαι λέγονται, ἐν οἷς εἶδεναι αἱ
 πρώτως οὐσίαι λεγόμεναι ὑπάρχουσι, ταῦτά τε καὶ τὰ τῶν εἰδῶν τούτων γένη· οἷον
 ὁ τις ἄνθρωπος ἐν εἶδει μὲν ὑπάρχει τῷ ἀνθρώπῳ, γένος δὲ τοῦ εἶδους ἐστὶ τὸ ζῶον

with Cicero's '*Nam genus est quod plures partes amplectitur, ut animal. Pars est quae subest generi, ut equus. Sed saepe eadem res alii genus, alii pars est. Nam homo animalis pars est*' (*Inu.* 1.32). Note that in both passages we have the exactly corresponding terms γένος—*genus*; 'εἶδος' here corresponds to '*pars*', but its more literal Latin translation would be '*forma*' or '*species*', which Cicero will give in *Top.* 30 (on the textual issue of 'εἶδη' there, see REINHARDT (2003), 268-269); see LSJ s.v. εἶδος (the words '*forma*' and '*species*' already existed in Latin at the time of *Inu.*, as is proven e.g. by *Inu.* 1.8 and 1.40). Cicero probably never read *Arist. Cat.*, as most of Aristotle's works may not have been available to him, see BARNES (1997). As RUSSELL (2001), ii 58 n.17 points out, *Quint. Inst.* 3.6.23-24 refers to *Arist. Cat.* 1b25-2a4; this appears to be the only reference in Quintilian to *Arist. Cat.*, making it difficult to say whether Quintilian had first-hand knowledge of this text or whether he found the information he relates in an intermediary source.

A very similar case is found in *Arist. APr.* This work contains a high number of examples of man–horse, cf. 25b5-10, 26a8-9, 28a31-36, 34b11-17, 37b3-10, 37b36-38, 39b4-6, 40a36-38, 54a31-33, 55b18-20, 68b20-21. Of these, 54a31-33 and 55b18-20 are the passages that are most strongly reminiscent of the passage in *Inu.* in question. *APr.* 54a31-33: οἷον ὅσα τοῦ αὐτοῦ γένους εἶδη μὴ ὑπ' ἄλληλα· τὸ γὰρ ζῶον καὶ ἵππῳ καὶ ἀνθρώπῳ ὑπάρχει, ἵππος δ' οὐδενὶ ἀνθρώπῳ. *APr.* 55b18-20: οἷον τὸ γένος τοῖς μὴ ὑπ' ἄλληλα εἶδεναι. τὸ γὰρ ζῶον καὶ ἵππῳ παντὶ καὶ ἀνθρώπῳ, καὶ οὐδεὶς

ἄνθρωπος ἵππος. Indeed, these passages include the triad *animal–equus–homo* (ζῷον–ἄνθρωπος–ἵππος) as well as the distinction between γένος (*genus*) and εἶδη (*partes*).

The subdivision of genus into species (found in 1.32b–33a and which is also significant in Cic.*Top.*26b–34) is also important in another treatise by Aristotle: his *Topica*, especially in Book 4 (=Arist.*Top.*120b10–128b10). Indeed, from our extant sources it appears that Aristotle was the first to discuss and systematize the relation between genus and species in the way he does in *Top.* Although he uses examples including man and animals other than the horse (e.g. the dog in 102a28 and 108a15–16—in both instances in combination with the horse—, or the bird in 133b8), the example including man and horse is the most common by far in Arist.*Top.* (cf. 102a28, 103a11–12, 108a15–16, 109b11, 117b18–19, 117b26–27, 117b34–39, 128b24–32, 129a8–10, 133b1–4). In some of these cases, the example man–horse is directly combined with the question of genus/species (cf. 102a28, 103a11–12, 108a15–16, 133b1–4). Furthermore, as RUBINELLI (2002) has stressed, the entire discussion in Cic.*Inu.*1.32b–33a about *genus* vs. *pars*, including the example *animal–equus–homo*, does not have any equivalent in *Rhet.Her.*, and Cicero emphasises in 1.33b (*Ac sunt...inueniebamus*, esp. *ex quibus...inueniebamus*) that the explanations he has given in 1.32b–33a: a) have a philosophical background, not a rhetorical one; and b) are not found in any other rhetorical treatise so far. Cicero's source for 1.32b–33a is thus a philosophical one. RUBINELLI (2002), 614, has shown that what Cicero calls '*paucitas*' in 1.32–33a comes very close to the idea stated in Arist.*Top.*141a15–22 (which is part of Book 6 of *Top.*), to which I would add *Top.*140b27–141a14 because of its examples, which are similar to the one used at the end of Cic.*Inu.*1.32.

So we have two different similarities between Cic.*Inu.*1.32b–33a and Arist.*Top.*: one similarity in the use of example (*animal–equus–homo*), and one in content. This makes it quite likely that the ultimate source for this passage in *Inu.* is Arist.*Top.* There are, however, two strong arguments against Cicero's first-hand knowledge of Arist.*Top.* (or *Cat.* or *APr.*—

although *APr.* is anyway not the kind of work that Cicero would have read and struggled through at a young age):

- 1) general argument: BARNES (1997), 54-57, has shown that we must conclude from the content of Cic.*Top.* (44 BC!) that Cicero had not read Arist.*Top.* and therefore most probably did not possess a copy of it, contrary to his own claims in Cic.*Top.* 1;
- 2) argument from Cic.*Inu.* 1.32b-33a: Cicero does not show any awareness that Aristotle seems to be the ultimate source for the content of this passage, since otherwise he would very probably have named him (cf. *reason D* above).

It again seems that Cicero must have had some Hellenistic intermediary source at hand (most likely a Greek one) that made use of Aristotelian ideas, but without naming Aristotle (possibly also through a lack of knowledge about the origins of these ideas); given that the source here is of a philosophical nature while Cicero's main source for his own *Topica* seems to have been a rhetorical one (REINHARDT (2003), 178-179, stresses Cicero's use of '*a doctissimo quodam rhetore*' in Cic.*Top.* 2), these two sources are not identical and seem not to be directly related. On Cicero's lack of knowledge of Arist.*Top.*, see e.g.: RABE (1890), 15-16; IMMISCH (1929), 116-118; BARNES (1997), 54-57; REINHARDT (2003), 177-181.

In Aristotle's extant works and outside *Cat.*, *APr.*, and *Top.*, examples including man and horse are found in: *Int.* 18a19-26; *APo.* 88a29-30, 98a8-9; *Ph.* 185a24, 185b23, 186a21, 220b11-12; *de An.* 402b7; *Sens.* 440b6-9; *Insomn.* 458b11; *Long.* 464b14, 465a5-9, 466a1-2; *HA.* 486a17-19, 489a30-35, 489b12. This shows how frequently this example is found in Aristotle's works and thus how 'Aristotelian' it is in character. See, however, BARNES (1997) on the (un-)availability of Aristotle's works in 1st-century-BC Rome.

NB: The extant version of Arist.*Rh.* does not include any example linking man and horse. For an assessment of Aristotle's examples in *Rh.*, see TREVETT (1996).

(iii) Conclusion:

As shown above, we cannot completely exclude the possibility that Aristotle's *Συναγωγή Τεχνῶν* was already available in Rome in the first decade of the 1st century BC and that Cicero might have read it himself or that his teacher of rhetoric at school read out from it. The case is, however, different for Arist.*Rh.*, *Cat.*, *APr.*, and *Top.*: as shown above, all the evidence speaks against the young Cicero having had first-hand knowledge of these works. D.A. RUSSELL points out to me that Cicero may have come across the *animal–equus–homo* example through his philosophical studies with Peripatetic teachers.

Thus, the question arises why Cicero named Aristotle at all in *Inu.* if he did not have access to Aristotle's original texts (apart from the *Συναγωγή Τεχνῶν* possibly). The most likely answer seems to be that the young author tried to show off his learning (in a dishonest way, according to modern standards) and thus to increase his own authority on rhetoric vis-à-vis his reader. Furthermore, the strong contrast in tone between the assessment in *Inu.* 1.7-9 of Aristotle and of Hermagoras helps Cicero diminish the authority of Hermagoras, who in Cicero's times seems to have been the biggest name in rhetoric since around 140-130 BC (that is at least the picture that our extant sources give us; for the date, see BRITTAIN (2001), 306-307), by siding with the other 'big name' in the field of rhetorical writings, Aristotle, the founder of one of the philosophical schools and author of *Συναγωγή Τεχνῶν* and of other rhetorical treatises.

(iv) Excursus: Did Cicero gain access to Arist.*Rh.* between writing *Inu.* and *de Orat.*?

As pointed out above under (i), Cicero in *Inu.* shows no awareness of Aristotle's distinction between πίστεις ἄτεχνοι and πίστεις ἔντεχνοι nor of his subdivision of πίστεις ἔντεχνοι into the famous triad λόγος/ῥῆθος/πάθος.

That this distinction and this subdivision became very influential will become apparent if we check which rhetorical treatises contain them (I indicate only one passage per work).

- (a) πίστεις ἄτεχνοι and πίστεις ἔντεχνοι: this distinction (or awareness of it) is found in [Arist.]*Rh.Al.*1428a15-25 (not yet the full dichotomy as found in Aristotle, but a similar awareness of the elements of both categories); Arist.*Rh.*1355b35-1356a1; Cic.*de Orat.*2.163; *Part.*5-6; *Orat.*122; *Top.*8 (cf. also 24); Quint.*Inst.*5.1; Aps.*Rh.*5.1 (cf. also 4.1-2); Iul.Vict.*Rhet.*p.32,11-13; Fortun.*Rhet.*2.23; Anon.Seg.145; Mart.Cap.p.166,14-18 (cf. also p.171,20-172,2). Interestingly in this context, Fortun.*Rhet.*2.23 presents Cicero's division of *argumentatio* into *confirmatio* and *reprehensio* and then immediately goes on to describe the two *genera argumentorum*: the *genus artificiale* (ἔντεχνον) and the *genus inartificiale* (ἄτεχνον).
- (b) λόγος/ῥῆθος/πάθος as forms of proof: the theory of ῥῆθος and πάθος (besides λόγος) as forms of proof is found in Arist.*Rh.*1356a1-20 (and 1377b21-1391b23); Cic.*de Orat.*2.178-216a; *Orat.*128-133 (cf. esp. the Greek words 'ῥηθικόν' and 'παθητικόν' in *Orat.*128); Quint.*Inst.*6.2; Anon.Seg.147 (ῥῆθος is omitted); Mart.Cap.p.172,15-174,16. Cf. also Cic.*Part.*9 (*in definita autem adhibenda sunt illa etiam quae ad motus animorum pertinent*); *Top.*86 (*ad motum animi uel gignendum uel sedandum planeue tollendum*).

To sum these findings up for Cicero's rhetorical works mentioned above:

	awareness/inclusion of (a)	awareness/inclusion of (b)
<i>Inu.</i> (80s BC)	no	no
<i>de Orat.</i> (55 BC)	yes	yes
<i>Orat.</i> (46 BC)	yes	yes
<i>Top.</i> (44 BC)	yes	(yes)
<i>Part.</i> (?? BC)	yes	(yes)

The above table leads to the conclusion that Cicero seems to have learned about this distinction and the theory of ἡθος and πάθος only after *Inu.* and before *de Orat.* This brings us to the question whether Cicero came across *Arist.Rh.* in between writing these two works. As shown under (i), he had not yet read *Arist.Rh.* by the time he wrote *Inu.*, and so one may wonder whether this work was at all available in Rome in the early decades of the 1st century BC. Although I accept the view in BARNES (1997), 51-52, that there is a case for believing that Aristotle's *Συναγωγή Τεχνῶν* was available in Rome by then (and that Cicero claims to report its content in *Brut.* 46-48), I doubt that this also applies to *Arist.Rh.*, as Cicero does not show any detailed knowledge of it in *Inu.* and does not say that he knows of it but could not find it (which he says of a rhetorical treatise by Isocrates in 2.7). The case is different for his later rhetorical works, where he shows better (though not perfect) knowledge of the content of *Arist.Rh.*, as the table above shows. BARNES (1997), 52-53, adds a couple of arguments that support that Cicero knew 'an Aristotelian *Art of Rhetoric*':

- (I) *Orat.* 114 seems to be a translation of the opening sentence of *Arist.Rh.* (one should, however, add here that this opening sentence could have been quoted in Hellenistic sources, so Cicero could have come across it without having access to *Arist.Rh.* itself; these sources could be rhetorical ones or not, since such an opening sentence could be inserted into a number of different 'agendas' and is hence detachable).

- (II) There are several allusions (without reference to any specific work) in *Orat.* to Aristotle's treatment of prose rhythm in *Rh.*: compare *Orat.* 172, 192, 214, and 228 with *Arist.Rh.* 1408b21-1409a23 (= *Arist.Rh.* 3.8). *De Orat.* 3.182 seems to refer to the same passage.
- (III) From (I) and (II) it appears that Cicero knew 'an Aristotelian *Art of Rhetoric*' that opened with the first sentence of the *Arist.Rh.* we know and that he knew some content of Book 3 of *Arist.Rh.* The principle of parsimony then tells us that the more reasonable assumption is that Cicero would have known the same *Arist.Rh.* as we do, not a different one with very similar content.

BARNES (1997), 53-54, admits that these arguments are not strong enough to refute definitely the view that Cicero did not have direct access to *Arist.Rh.* but only had second-hand knowledge through rhetorical handbooks as intermediary sources (see e.g. RABE (1890), 14-16), because his knowledge of *Arist.Rh.* is not as broad as Quintilian's, for instance. See also the analysis in WISSE (1989), 105-189.

Of what use is *Cic.Inu.* in this discussion? *If* (and this probably has to always remain at the stage of a hypothesis) Cicero had direct knowledge of *Arist.Rh.* later in his life, he would have got hold of this text after *Inu.* (80s BC), a *terminus post quem*, and before *de Orat.* (55 BC), a *terminus ante quem*. If he did not have direct knowledge of *Arist.Rh.*, then the same *termini* apply for Cicero coming across the intermediary source(s) from which he gained second-hand knowledge of some of the content of *Arist.Rh.* SOLMSEN (1941b), 189-190, considers *de Orat.* to be the greatest attempt to revive Aristotle's rhetorical ideas and concepts.

CHAPTER 6

The Relationship between *Cic.Inu.* and *Rhet.Her.*

The two earliest surviving works on rhetoric in Latin, *Cic.Inu.* and *Rhet.Her.*, show an extraordinary degree of similarity and therefore can rightly be called ‘sister works’ in the sense that they belong together—somehow. The exact nature of their relationship has been one of the great ‘mysteries’ of Latin literature ever since *Rhet.Her.* was declared for the first time by REGIUS (1492) *not* to be by Cicero, contrary to prior beliefs. As such, many scholars, mainly from German-speaking countries, have tried to solve this ‘mystery’ (the last major study is ADAMIETZ (1960)), coming up with different hypotheses. ADAMIETZ (1960), 1-7, gives an extensive overview of scholarship (see also *RE* IV 1 s.v. *Cornificius* 1, at 1612-1614; CAPLAN (1954), xxv-xxxii; CALBOLI (1993), 25-29), which he classifies into four categories (1-4; subdivisions 5-8 and I-II are mine):

I. one author directly relied on the other:

- (1) *Rhet.Her.* is based on *Cic.Inu.*;
- (2) *Cic.Inu.* is based on *Rhet.Her.*;

II. neither is directly based on the other:

- (3) Cicero and the *Auctor* studied with the same Latin *rhetor* (possibly in different years);
- (4) two Greek *rhetoires* (possibly in Rhodes) wrote a rhetorical treatise each; these two treatises were translated by two Latin *rhetoires* who passed them on to their students, the one to Cicero, the other to the *Auctor*, with neither the Roman *rhetoires* nor their students making any major changes to the content of their respective Greek source;
- (5) in passages with strong similarities in wording Cicero shares as a source a common Latin *ars* with the *Auctor*, in other passages he relies directly on Hermagoras;

- (6) both authors share as a source a Latin *ars*, but the *Auctor* did not use it directly: he used it only via his teacher whose lectures he faithfully wrote down, while Cicero added material from Greek sources (this hypothesis tries to combine elements from hypotheses (4) and (5));
- (7) Cicero and the *Auctor* share, via different Latin *rhetoires*, a common Latin written source which is mainly a translation from a Greek *rhetor* from Rhodes who mostly relied on Hermagoras (but also to some extent on Aristotle);
- (8) parallel passages go back to a shared *written* source in Latin that might be a translation of a Greek text by a Greek *rhetor* who was active after Hermagoras, to which especially Cicero added material from other sources.

Hypothesis (1): BURMANNUS (1761), XXVI-XXVII; OSANN (1857), 779-781; WEIDNER (1878), XIV-XVI.

Hypothesis (2): SCHÜTZ (1804), IX-XXII; KAYSER (1852) and KAYSER (1854), VI-XIII; SPENGEL (1863), 495; BADER (1869), 17; KRÖHNERT (1873), 35-40; JORDAN (1874), 75; BOCHMANN (1875), 5; FOWLER (1882), 198; HOFFMANN (1879), 8; WEBER (1886), 5; AMMON (1897), 409-10; LAURAND (1907), 64; BARWICK (1922), 7; SCHANZ/HOSIUS (1927), 587-88; *RE* IV 1 s.v. *Cornificius* 1, at 1617; ADAMIK (1998).

Hypothesis (3): BADIUS ASCENSIVS (1508) (who in *Disquisitio Ascensiana* says of the *Auctor*: ‘*et fortassis in eodem cum illo [sc. Cicerone] ludo instituti*’); ERSCH/GRUBER (1818-1889) XVII.1 s.v. *Cicero* at 208; THIELE (1889); similarly: KENNEDY (1972), 126-128; ACHARD (1994), 20-25, and ACHARD (2003), XLVI-XLVIII; CORBEILL (2002a), 31-34.

Hypothesis (4): MARX (1890) and MARX (1894), 75-162.

Hypothesis (5): HERBOLZHEIMER (1926); BARWICK (1928), 279.

Hypothesis (6): MEDVED (1940).

Hypothesis (7): MATTHES (1958), 81-100; BARWICK (1961), 309 n.1; CALBOLI (1993), 25-29, and GAINES (2007), 173 (who leave it open whether the Latin source would be an oral or written one, cf. hypothesis (8)).

Hypothesis (8): ADAMIETZ (1960).

So far, only three scholars have tried to show similarities by putting several passages from the two texts side by side: THIELE (1889), HERBOLZHEIMER (1926), ADAMIETZ (1960) [I have not seen MEDVED (1940)]. None of them, however, lists parallel passages exhaustively and gives a detailed discussion of each relevant section. Therefore, each thematic section of my commentary will provide such a discussion; parallel passages are listed in the Appendix, with similar or identical phrasing underlined.

From the sections that I analyse in this thesis, one can conclude that the relationship between *Cic.Inu.* and *Rhet.Her.* resembles complex patchwork: no simple solution like most of the hypotheses listed above can correctly represent it (however attractive this is). Furthermore, one should refrain from pseudo-identifying sources that are lost: bare names of authors of whom no work survives can neither be attributed with certainty nor is this helpful—of possibly dozens of Hellenistic rhetorical treatises and possibly hundreds or thousands of Greek and Latin *rhetoires* active in Greece and Rome in the late 2nd/early 1st century BC, we only know of a few (and of those we know little), so chances of tracking down the right ones are very low.

One point should be added to this discussion which has mostly been overlooked for this problem (BARWICK (1928), 279 n.1, briefly mentions it, but seems to have been mostly ignored). According to an otherwise lost letter by Cicero quoted in Suet.*Rhet.*26.1, Cicero received no rhetorical teaching in Latin, but only in Greek. If this letter is authentic (KASTER (1995), 294, raises no concerns), then hypotheses (3), (4), and (7) are immediately impossible and any solution implying a Latin teacher would mean that Cicero, contrary to the *Auctor* (cf. *Rhet.Her.*1.18: *noster doctor*, which certainly refers to a person, not a written source), cannot have had this information first-hand: he might have copied from a friend's class notes—which would be supported by the regret he expresses in this letter not to have been allowed to attend rhetorical teaching in Latin (cf. also *de Orat.*3.93-94; in *de Orat.*1.5 '*ex commentariolis nostris*' LEEMAN/PINKSTER/*ALII* (1981-2008), i 32, stress '*ex*', which would hence not contradict this hypothesis). Thus, in my analysis of the relationship between *Cic.Inu.* and *Rhet.Her.* I presuppose that any common Latin *oral* source means second-hand information for Cicero, most likely through a friend's class notes. Apart from this, my analysis will be conducted unbiased, i.e. independently from the above hypotheses. ADAMIETZ (1960) shows how hypotheses (1)-(6) are wrong or unsatisfactory. One observation that will repeatedly recur in my analysis and that calls for a modification of hypothesis (8) is that the common Latin source seems to oscillate between written and oral sources, which could be explained by having a Latin *rhetor* whose teaching was noted down in different years, with Cicero relying on someone else's (possibly a friend's) notes.

CHAPTER 7

The Proems of Cic.*Inu.*

A careful reader of Cic.*Inu.*1 will notice that there is an incongruity between its proem (1.1-5a; henceforth called Proem 1) and other passages, namely 1.8 and 1.77 (cf. also 1.33; 1.86). In Proem 1, Cicero addresses, and strongly supports, the link between *eloquentia* and *sapientia* (correctly interpreted here as ‘philosophical wisdom’ or ‘philosophy’ by FANTHAM (2004), 19), or, if we use the terms of the related disciplines, between rhetoric (cf. 1.1: *eloquentiae studium*; 1.6: *artificiosa eloquentia quam rhetoricam uocant*) and philosophy (similarly, WISSE (2002), 361-362 with n.57; against GAINES (2002), 446 n.1): *eloquentiam uero sine sapientia nimium obesse plerumque, prodesse numquam*. By contrast, Cicero rejects concepts pertaining to philosophy in 1.8 (the θέσις/*quaestio*: *Quas quaestiones procul ab oratoris officio remotas facile omnes intellegere existimamus*) and 1.77 (philosophical modes of argumentation: *illa nobis abhorreere ab usu oratorio uisa sunt*). The incongruity between Proem 1 and 1.8 is all the more striking given the close proximity of these passages. (CORBEILL (2002a), 37-38, and WISSE (2002), 361-362, unconvincingly try to explain away the incongruity. DUGAN (2013), 28, sees a more general discrepancy between the Proems and ‘the nitty-gritty of *status* theory’.)

This leads to the question whether Proem 1 (which LÉVY (1995), 156, compares to a θέσις/*quaestio*) on the one hand and 1.8 (especially) and 1.77 on the other (1.8 and 1.77 express the same attitude) are really part of one layer of composition.

The first thing to check is whether Proem 1 is completely detachable from the rest of *Inu.*1: indeed, 1.1-5a includes no cross-reference to later parts of *Inu.*1. (That the Gracchi appear in 1.5a but also in 1.48 and 1.91 does not establish any strong link: ‘*neque Gracchos Africani nepotes*’ in 1.5a does not clearly refer to these later passages at all and could indeed

be an interpolation, as suggested by FRIEDRICH (1884).) The same applies to Proem 2 (2.1-10). Hence, both proems are completely detachable.

Next, some later rhetorical works of Cicero show similarities to the Proems of *Inu.*

The opening of Proem 1 (*Saepe et multum hoc mecum cogitavi*) is closely echoed in later works by Cicero, like *de Orat.*1.1 (intentionally or not, as already LEEMAN/PINKSTER/*ALII* (1981-2008), i 27, wondered; see also SCHWAMEIS (2014), 56) and *Diu.*2.1; cf. also *Orat.*1. Hence this opening phrase cannot be called ‘youthful’ (similarly, LÉVY (1995), 158): the tone is the same as that in some of Cicero’s mature works.

Proem 1 shows striking similarities to “Crassus’ ” discussion of the original link between speech and wisdom/knowledge and of its destruction (*de Orat.*3.56-143; see also: LEEMAN/PINKSTER/*ALII* (1981-2008), iv 209-219; LÉVY (1995), 164-166). In fact, the ‘great and wise man’ of *Inu.*1.2 fulfils the two main criteria established in *de Orat.* for the ideal orator: he combines eloquence with wisdom/knowledge, he is the ideal philosopher-orator. In comparison with the account in *de Orat.*3.56-73, Cicero here almost suggests that one identify this ‘great and wise man’ with a Sophist, who would still unite in his own person several (or all) domains of knowledge (*de Orat.*3.126-131: the Sophists still combined rhetoric and philosophy). In fact, the description in *Inu.*1.2 (esp. *eos in unam quamque rem inducens utilem atque honestam*) bears a certain resemblance to a Sophist like Hippias, who was versed not only in things theoretical (like rhetoric, natural philosophy, ethics/psychology, political philosophy, mathematics, music, literature), but also in things practical (like making a ring, a cloak, or shoes), cf. *de Orat.*3.127; on the Sophists’ versatility see e.g. LEEMAN/PINKSTER/*ALII* (1981-2008), iv 216-217. Furthermore, Cicero in *Inu.*1.5a and *de Orat.*1.32-33 and 3.52 claims that it is the capacity of speaking, and of speaking *well* (from a technical point of view), that distinguishes humans from animals. Moreover, both *Inu.*1.4 and *de Orat.*3.56-58 picture intelligent/wise men who, instead of engaging in politics, embark on a life dedicated to the ‘quieter’ fields of knowledge (in *Inu.*1.4 they do so *after* the

split between rhetoric and philosophy because of the use of rhetoric by *several* immoral orators, in *de Orat.*3.56-58 they seem to have done so already *before* Socrates *alone* brings about this split). Further, in *Inu.*1.2-5a and *de Orat.*3.56-73 Cicero distinguishes two major temporal stages regarding the link between rhetoric and philosophy: a time when this link existed and one when it is destroyed (in *Inu.*1.2-5a the plot plays in an almost mythical past and in an unspecified place, while in *de Orat.*3.56-73 it takes place in Greece in Socrates' time).

While these passages agree in broad outline about the destruction of the link between rhetoric and philosophy, they differ, however, in some details (some of which are listed by LEEMAN/PINKSTER/*ALII* (1981-2008), iv 219; see also above). This idea in Proem 1 of rhetoric bringing about human civilisation etc. does not go back to Cicero: cf. *Isoc. Nic.*1-9; *Ant.*253-257 ($\approx$ *Nic.*5-9; cf. also *Ant.*293-294)—the name of Isocrates is indeed mentioned elsewhere in *Inu.* (2.7); see also KENNEDY (1994), 118-119; LEEMAN/PINKSTER/*ALII* (1981-2008), iv 218-219 (who stress also the differences to Isocrates, as does LÉVY (1995), 159-162). However, the similarities to passages from Isocrates cannot *prove* that the young Cicero based part of this proem on Isocrates: no rhetorical treatise from Hellenistic times survives, so we cannot know whether Isocrates' views were taken up by intermediary Hellenistic sources on which Cicero might rely or whether Isocrates' views were new or in fact commonly found in Greek literature and not original to him.

The story of the painter Zeuxis in Proem 2 closely resembles *Orat.*8-9 (46 BC), where Cicero makes a comparison between the perfection in the statues by the Greek sculptor Phidias and the perfection in eloquence of the ideal orator. Isocrates mentions *both* Phidias and Zeuxis in *Ant.*2 (a work already mentioned above), and one might wonder how independent Cicero really is from Isocrates in the proems of *Inu.*

So far we have seen that: 1) there is an incongruity between Proem 1 and 1.8/1.77; 2) Proems 1 and 2 are completely detachable; 3) the content of both Proems strongly resembles passages from later rhetorical works by Cicero. Although it does not immediately follow from this that the Proems were written later, it shows that at least the traditional view (viz. that the Proems were written together with the rest of *Inu.*) cannot be taken for granted.

Indeed, one could find some additional supporting arguments that do, however, not reach the status of decisive evidence. For example:

- 1) Some words that within *Inu.* are found only the Proems re-appear in *much later*, extant works of Cicero. ‘*Age uero*’ (1.3) is found elsewhere only in *Font.*43 (?69 BC); *Caec.*48 (?69 BC); *Man.*40; 46 (66 BC); *Clu.*172; 197 (66 BC); *de Orat.*1.32; 2.51 (55 BC); and *Mil.*60 (52 BC). ‘*Moderatrix*’ (1.5a) re-appears in *Flac.*57 (59 BC), *Orat.*24 (46 BC), *Tusc.*5.42 (45 BC), *N.D.*3.92 (45 BC), and *Phil.*5.50 (43 BC). ‘*Ars dicendi*’ (2.4) is found again in *Flac.*42 (59 BC), *de Orat.* (*passim*, e.g. 1.90; 55 BC), *Brut.*48 and 69 (46 BC), *Acad.*1.5 (45 BC), *Off.*2.66 (44 BC), *Part.*140 (year of composition unknown): this could look as if Cicero created or adopted this influential expression later in his career—*Rhet. Her.* does not have it. Of these three expressions, ‘*age uero*’ is relatively more significant when it comes to a later date of composition: while ‘*moderatrix*’ and ‘*ars dicendi*’ may be rare for pragmatic reasons, ‘*age uero*’ is a semantically weak expression that a writer might use without giving it much thought and only during a certain period of their life. This expression is not found in the comedies of Plautus and Terence: it appears for the first time in Cicero, with the early 60s BC being the most ‘dense’ period of use of this expression in his extant works. But one must bear in mind that it could have appeared in his (and others’) earlier, lost works.
- 2) Cicero in *Att.*16.6.4 (July 44 BC) says that he has an entire booklet of ready-for-use proems and that he mistakenly used as an opening for *Glor.* a proem already used in

*Ac.*3. Unfortunately, Cicero nowhere mentions for how long he has been keeping such a booklet of proems. It seems to make sense for him to have started such a booklet only once he knew that he would write a whole series of treatises (unless he kept one for literary enjoyment). If we exclude *Inu.* and treatises of unknown date (*Part.*, *Prot.*, *Tim.*, *Virt.*), Cicero wrote three treatises in the 50s BC (*de Orat.*, *Rep.*, *Leg.*) and all others in 46-44 BC: this makes 46-45 BC a likely period for the start of such a booklet. Since it is obvious that *Inu.* was not written or published after *de Orat.* (cf. *de Orat.*1.5), the Proems of *Inu.* certainly do not come from this booklet. But the existence of such a booklet tells us that Cicero would later on compose proems *separately* (at least sometimes—in his extant treatises, many proems are not interchangeable or detachable), which agrees with the detachability of the Proems of *Inu.*: Cicero could have composed already these Proems *separately* from the rest of the treatise (perhaps inspired by a collection of *separate* proems like that of Demosthenes?).

- 3) The content and tone of the two reflective Proems are very different from those of the epistolary prefaces in *Rhet.Her.* (on which see JANSON (1964), 27-32; unfortunately no Greek Hellenistic rhetorical treatises survive for comparison) and also somewhat different from the rest of *Inu.* (already noted by MARX (1894), 78). However, they are quite similar to those found in Cicero's rhetorical and philosophical treatises from the 50s and 40s BC.

These arguments fail to provide *decisive* evidence for a later date of composition (which would raise the question of later publication or 'second edition'). Indeed, the principle of parsimony would support that they were written at least at *about* the same time as the rest of *Inu.*, and neither Cicero nor any other writer suggests that *Inu.* would have been published

late after its composition or received a ‘second edition’ (whatever this would have meant in antiquity).

Still, as stated above, all these arguments (especially the close proximity of Proem 1 and 1.8) must prevent us from *taking it for granted* that the Proems of *Inu.* were written together with the rest of *Inu.*

CHAPTER 8

Preliminary Comments on *Narratio*

***Narratio* and narratology:**

LEVENE (2004), 117, stresses that the *pars orationis* ‘*narratio*’ is not completely identical to the modern sense of ‘narrative’ (for which he refers e.g. to the views of RICOEUR (1984), i 52-87; see also *OCD* s.v. *narrative, narration*), a main characteristic of which (in contrast to non-narrative literature) is the ‘presentation of chronologically sequenced events’ (117 n.2). As KNAPE notes in *HWRh* s.v. *Narratio*, a prose literature narratology that is independent from rhetoric was only developed (with the exception of a few predecessors) in the 18th century in connection with the genre of the modern novel, although ancient rhetorical theory made an important contribution to the history of systematic narratology. In ancient rhetoric, the theory of *narratio* was always seen in the context of the rhetorical function of Narrative instead of Narrative being treated as an independent genre: indeed, there was no such independent genre as ‘Narrative’, and even the novel, which could be considered as the genre of Narrative *par excellence*, was not recognised as a proper genre in antiquity—indeed, in ancient Greece and Rome there was not even a technical term referring to what we today call ‘the ancient novel’ (see e.g. GOLDHILL (2008), with further bibliography) and the novel was deemed to be quite a low form of writing, so that it was not a natural subject for theorising. The following considerations are therefore limited to the treatment of Narrative as found in ancient rhetorical treatises. In these, most of the information on Narrative is found in the section on the Parts of a Speech and in the treatments of the προγύμνασμα ‘διήγημα’.

Terminology and the problem of the *tertium genus narrationis* (1st part):

Authors writing in Latin seem to agree on the term '*narratio*' to refer to the Narrative as a *pars orationis* (cf. e.g. Cic.*Inu.*1.27; *Rhet.Her.*1.12; Cic.*de Orat.*2.80; *Part.*4; *Brut.*89; *Orat.*124; *Top.*97; Quint.*Inst.*4.2.1; Tac.*Dial.*19.3; [Quint.]*Decl.Min.*338.1; Sulp.Vict.*Rhet.*16p.322,4-7; Iul.Vict.*Rhet.*p.2,11; Fortun.*Rhet.*2.12; Iul.Sev.*Rhet.*6p.357,17; Mart.Cap.p.174,22; Cassiod.*Inst.*2.2.9; Isid.*Orig.*2.7.1; Alb.*Rhet.*19p.534,26).

In Greek rhetorical terminology, two terms are found that are used in slightly different ways: 'διήγησις' and 'διήγημα'. 'Διήγησις' is the traditional term referring to the Narrative as a Part of a Speech. By contrast, 'διήγημα' is found in the context of the προγυμνάσματα (cf. e.g. Theon *Prog.*p.78,15; Nicol.*Prog.*p.11,12), i.e. the rhetorical school exercises, where it refers to the account of a single episode, while 'διήγησις' there stands for a fuller, more complex narrative. [Hermog.]*Prog.*2.2 explains the difference between the two as follows:

Διαφέρει δὲ διήγημα διηγήσεως, ὡς ποίημα ποιήσεως· ποίημα μὲν γὰρ καὶ διήγημα περὶ πρᾶγμα ἓν, ποιήσις δὲ καὶ διήγησις περὶ πλείονα, οἷον ποιήσις ἢ Ἰλιάς καὶ ποιήσις ἢ Ὀδύσσεια, ποιήματα δὲ ἀσπιδοποιία, νεκυομαντεία, μνηστηροφονία. Καὶ πάλιν διήγησις μὲν ἢ ἱστορία Ἡροδότου, ἢ συγγραφή Θουκυδίδου, διήγημα δὲ τὸ κατὰ Ἀρίονα, τὸ κατὰ Ἀλκμαίωνα.

The much later (5th century AD) treatise on προγυμνάσματα by Nicolaus the Sophist knows of different traditions explaining the difference between 'διήγησις' and 'διήγημα' (p.11,16-12,6):

Διαφέρειν δὲ τὸ διήγημα τῆς διηγήσεως οἱ μὲν κατὰ τοῦτο ἔφασαν, ὅτι διήγησις μὲν φασὶν ἔστιν ἢ τῶν ἐν δικαστηρίοις ἀμφισβητήσεων ἔκθεσις πρὸς τὸ τοῦ λέγοντος συμφέρον γινόμενη, διήγημα δὲ ἢ τῶν ἱστορουμένων καὶ γεγονότων ἀπαγγελία. ἕτεροι δὲ διήγησιν μὲν τὴν τῶν ἀληθῶν πραγμάτων ἔκθεσιν ἐκάλεσαν, διήγημα δὲ τὴν τῶν ὡς γεγονότων. οἱ δὲ πλείονες διήγημα μὲν τὸ περὶ ἓν πρᾶγμα, διήγησιν δὲ τὴν τῶν πολλῶν περιληπτικὴν πραγμάτων, ὡς ποιήσιν καὶ ποίημα, ποιήσιν μὲν τυχὸν τὴν πᾶσαν Ὀμήρου πραγματείαν, ποίημα δὲ τὸ περὶ τὴν μῆνιν τοῦ Ἀχιλλέως ἢ ἄλλο τι τοιοῦτον.

Although ‘*narratio*’ corresponds to ‘διήγησις’ (as a Part of the Speech), the opening sentence on the ‘διήγημα’ (as a rhetorical exercise) in Aelius Theon, the author of the earliest extant treatise on προγυμνάσματα (?1st century AD, see below), seems to correspond literally to the definition of (the *pars orationis*) ‘*narratio*’ found in Cic.*Inu.* and *Rhet.Her.* and hence in their shared common Latin source: compare ‘Διήγημά ἐστι λόγος ἐκθετικὸς πραγμάτων γεγονότων ἢ ὡς γεγονότων’ (Theon *Prog.*p.78,15-16) with ‘*Narratio est rerum gestarum aut ut gestarum expositio*’ (Cic.*Inu.*1.27) and ‘*Narratio est rerum gestarum aut proinde ut gestarum expositio*’ (*Rhet.Her.*1.4). This suggests that all three of them go back to the same Greek source, which thus has to pre-date the common Latin source of Cic.*Inu.* and *Rhet.Her.* (the two Roman handbooks share indeed such a high degree of identical or very similar phrasing in their treatments of *narratio* that only a common Latin source can be the explanation for this). The Greek sentence found in Aelius Theon is quoted literally or almost literally in later treatises on προγυμνάσματα, cf. e.g.: [Hermog.]*Prog.*2.1 (Τὸ διήγημά βούλονται εἶναι ἔκθεσιν πράγματος γεγονότος ἢ ὡς γεγονότος); Aphth.*Prog.*2.1 (Διήγημα ἐστὶν ἔκθεσις πράγματος γεγονότος ἢ ὡς γεγονότος); Nicol.*Prog.*p.11,14-15 (Διήγημα δέ ἐστιν, ὡς εἴρηται καὶ μικρὸν ἔμπροσθεν, ἔκθεσις πραγμάτων γεγονότων ἢ ὡς γεγονότων). Although we cannot be certain that the sentence in [Hermog.]*Prog.* goes back to Aelius Theon, that in Aphth.*Prog.* to that in [Hermog.]*Prog.*, and that in Nicol.*Prog.* to that in Aphth.*Prog.*, they all seem to be part of the same tradition.

The διήγημα is found among the first rhetorical exercises in extant treatises on προγυμνάσματα and free-standing collections of model exercises of προγυμνάσματα:

- in second position: [Hermog.]*Prog.* (?3rd century AD, see PATILLON (2008-2014), i 165-168), Lib. (4th century AD; includes a collection of 41 examples of διήγημα), Aphth.*Prog.* (4th century AD), Nicol.*Prog.* (5th century AD);

- in third position: Theon *Prog.* (?1st century AD: date accepted e.g. by LANA (1951), esp.110-113; BUTTS (1986), 3-6; PATILLON/BOLOGNESI (2002), VII-XIV; REINHARDT/WINTERBOTTOM (2006), xxx-xxxiv and 76-77; by contrast, HEATH (2002), 141-158, dates Theon to the 5th century AD; the older literature up to 1934 is discussed in *RE V A 2* s.v. *Theon* 5), 2037-2039).

(On the order of the προγυμνάσματα in different authors, see e.g. REINHARDT/WINTERBOTTOM (2006), 76-77. HEATH (2002), 130-141, has a useful overview of attested progymnasmatic works.)

The fact that both *Cic.Inu.* and *Rhet.Her.* do not focus at all explicitly on προγυμνάσματα anywhere else could suggest that the Greek source which their common Latin source shares with Aelius Theon for the definition of *narratio* and διήγημα was not a treatise on προγυμνάσματα, but a passage from a rhetorical treatise that includes a treatment of the *partes orationis* (however, see below).

A passage by Quintilian raises important questions. In *Inst.*2.4.2, he uses ‘*narratio*’ to refer to the προγύμνασμα ‘διήγημα’, so it seems that no terminological distinction between the two concepts (διήγησις and διήγημα) was made in Latin rhetorical vocabulary (cf. also Suet.*Rhet.*25.4, who includes *narratio* in a list of the standard προγυμνάσματα—unfortunately without specifying the time when this list became more or less canonical). It is, however, when he deals with the προγύμνασμα ‘*narratio*’ (*Inst.*2.4.2) that Quintilian subdivides *narratio* into *fabula* (referring to Narratives that are neither true nor plausible, like tragedies and poems), *argumentum* (referring to Narratives that are not true, but plausible, like comedies), and *historia* (referring to true, historical facts)—he does *not* repeat this subdivision when treating the *pars orationis* ‘*narratio*’ in *Inst.*4.2. By contrast, both *Cic.Inu.*1.27 and *Rhet.Her.*1.13 make this same subdivision when dealing with the *pars orationis* ‘*narratio*’.

Two solutions seem possible to this paradox:

- a) This threefold subdivision comes from the domain of the *pars orationis* ‘*narratio*’, and Quintilian confusingly introduces it when speaking about the προγύμνασμα ‘*narratio*’. This would mean that the common source shared by Cic.*Inu.*, *Rhet.Her.*, and Aelius Theon (cf. their definitions of *narratio*/διήγημα) was a rhetorical treatise that included this subdivision in its treatment of the *partes orationis*; Aelius Theon (or an intermediary source) and Quintilian then took information from this domain of ‘real-life’ rhetorical theory over to that of the προγυμνάσματα.
- b) It comes from the domain of the προγυμνάσματα, and Cicero and the *Auctor* (or a Greek intermediary source of theirs) then took this subdivision from a treatise on προγυμνάσματα, which would be remarkable with regard to the rest of *Inu.* and *Rhet.Her.* (see also below).

In this context, we need to look back to the only two extant rhetorical treatises before Cic.*Inu.* and *Rhet.Her.*: [Arist.]*Rh.Al.* and Arist.*Rh.*, who both call the *pars orationis* Narrative ‘διήγησις’ ([Arist.]*Rh.Al.* only twice so, in 1438b28 and 1446a8-9; Arist.*Rh.* several times in 1354b18 and 1416b16-1417b20). Neither author uses ‘διήγημα’, suggesting that this term might have entered Greek rhetorical vocabulary at a later point; but it is already found before Cic.*Inu.* and *Rhet.Her.*, e.g. in Plb.1.14.6 (where it is used to refer to Narrative in historiography). Furthermore, the tripartite subdivision into *fabula*/μῦθος, *historia*/ἱστορία, and *argumentum*/πλάσμα (*uel sim.*) is not found either in these treatises. Hence, our lack of Hellenistic rhetorical sources makes it impossible to give final proof for which of the two solutions mentioned above is the right one. To this, two more points can be added.

First, rhetorical theory on the *partes orationis* is probably older than rhetorical exercises in general (and the προγυμνάσματα in particular): exercises typically follow, not *precede*

theory, since exercises constitute the first application of the theory learned to practice. There seem to be good reasons then to assume that the (earlier) theory of the *pars orationis* ‘*narratio*’/‘*διήγησις*’ influenced that of the (later) *προγύμνασμα* ‘*narratio*’/‘*διήγημα*’ and that either this definition of Narrative and this tripartite subdivision passed from the *pars orationis* to the *προγύμνασμα* as well, or that Quintilian might (possibly out of slight inattention) have introduced a subdivision in the discussion of the *προγύμνασμα* ‘*narratio*’ which in fact belonged to the *pars orationis* ‘*narratio*’.

Secondly, and arguing for the opposite view, both Cicero and the *Auctor* introduce the third type of Narrative, to whose action-based part the tripartite subdivision belongs, in an unusual way. They both state:

- (i) that this third type of Narrative is not related to the *ciuiles causae*, although Cicero in his definition of rhetoric in 1.6 had stated that rhetoric would be a part of *ciuilis quaedam ratio* (what exactly ‘*ciuiles causae*’ is to mean here should be left unanswered for the moment—see below);
- (ii) that it is nevertheless useful to *exercise* (Cic.*Inu.*1.27: *exercitatione*; *Rhet.Her.*1.12: *exerceri*; 1.13: *exercendo*) in this third type of Narrative.

With the problem of ‘*narratio*’/‘*διήγησις*’ vs. ‘*narratio*’/‘*διήγημα*’ and Quint.*Inst.*2.4.2 in mind, point (ii) could after all now be a clue that there might be some link to rhetorical exercises, i.e. to the *προγυμνάσματα*, in Cic.*Inu.*1.27 and *Rhet.Her.*1.12-13. Considering the nature of these *fabulae* (cf. tragedies), *historiae* (cf. history), and *argumenta* (cf. comedies) as indicated by both authors, and considering the kind of themes found for the rhetorical exercise of ‘*narratio*’/‘*διήγημα*’ in Theon *Prog.*p.78,15-96,17, [Hermog.]*Prog.*2, Aphth.*Prog.*2, Nicol.*Prog.*p.11,11-17,13, and in the 41 examples treated by Libanius (though we must be aware that, with the possible exception of Aelius Theon, all of these authors are much later)—most themes coming from mythology (cf. tragedies) and history, with only

very rare examples from Demosthenes' speeches, but also from Menander's comedies—, it appears that almost all examples (with the exception of those from Demosthenes' speeches) would not come under the category '*ciuiles causae*': they are not related to people as citizens (*ciues*) with their role in politics (cf. *genus deliberatiuum*, sometimes also *genus demonstratiuum* like in funeral orations of famous men) and in trials (cf. *genus iudiciale*); see also BARWICK (1928), 263 n.2. If this connection were correct, then it would show that rules for the προγύμνασμα '*narratio*'/'*διήγημα*' would actually have entered the domain of the *pars orationis* '*narratio*'/'*διήγησις*'.

The problem of the *tertium genus narrationis* (2nd part):

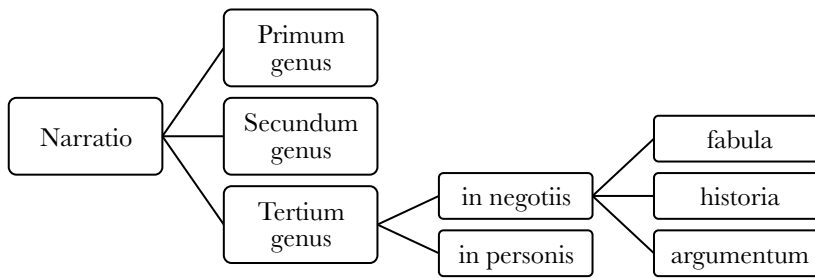
There remains another problem linked to the *tertium genus narrationis* found in Cic.*Inu.* and *Rhet.Her.*: that of its subdivision into a *pars quae in negotiis uersatur* and a *pars quae in personis uersatur*. This problem is treated in great detail by BARWICK (1928), who also discusses earlier views by THIELE (1890), REITZENSTEIN (1906), REICHEL (1909), SCHISSEL VON FLESCHENBERG (1913), ROHDE (1914), and SCHMID (1914). PFISTER (1933) in a short note added a potentially relevant passage from Isocrates to the discussion. MEIJERING (1987), 72-90, gives a good discussion of relevant (above all) Greek texts, especially of Asclepiades (cf. S.E.M.1.252-253 and 1.263-264), but without addressing the problems that BARWICK tried to solve. CALBOLI MONTEFUSCO (1988), at 44-62, comes to a conclusion similar to BARWICK's, although her reasons are slightly different. CALBOLI MONTEFUSCO (2006) is mostly an English translation of CALBOLI MONTEFUSCO (1988), 57-62, with only minor changes. (None of these scholars discusses the terminological difference between '*narratio*'/'*διήγησις*' and '*narratio*'/'*διήγημα*'.)

In the following, I will try to retrace BARWICK's and CALBOLI MONTEFUSCO's arguments; but although my treatment owes much to theirs, I will follow a slightly different approach for the sake of greater clarity and use graphical representations that should make

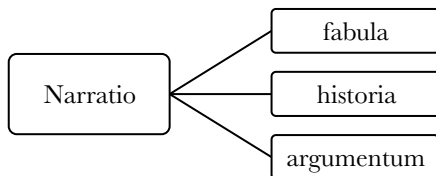
comprehension much easier (BARWICK's and CALBOLI MONTEFUSCO's treatments are not always easy to follow, given that the line of argumentation one has to make is quite a long one).

The problem becomes apparent if we again compare the treatment found in *Cic.Inu.*1.27 and *Rhet.Her.*1.12-13 with that in *Quint.Inst.*2.4.2. Their subdivisions of *narratio* are as follows:

Cic.Inu. and *Rhet.Her.*:



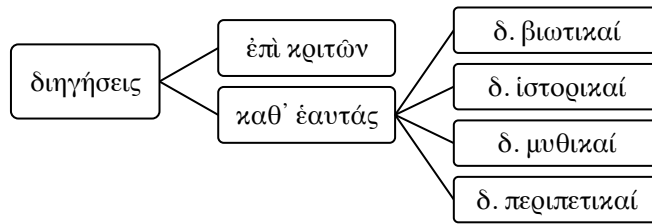
Quint.Inst.:



As becomes clear, Quintilian subdivides all of *narratio* into *fabula/historia/argumentum*, while Cicero and the *Auctor* list them as subdivisions of only a subdivision of the third kind of *narratio*. The question arises which version can be found in other sources and which might be the correct one. Since the subdivision into *fabula/historia/argumentum* is not found elsewhere in extant Latin sources before the so-called *Rhetores Latini Minores* (who depend heavily on Cicero and Quintilian), one must turn to Greek sources. The corresponding Greek terminology will mostly be μῦθος (διήγημα μυθικόν)/ἱστορία (διήγημα

ιστορικών)/πλάσμα (διήγημα πλασματικόν). On Quint.*Inst.*2.4.2, see also REINHARDT/WINTERBOTTOM (2006), 78-80.

The first author that BARWICK (1928), 263-264, turns to is Anon.Seg.53-55. This passage can be represented as follows (its first subdivision into true and fictitious Narratives can be left out here, since it is independent of the following hierarchy; δ. = διηγήσεις):



Concerning terminology, it is worth pointing out that, in contrast to other Greek rhetoricians, Anon.Seg. uses ‘διήγησις’, not ‘διήγημα’: this could show that Anon.Seg., who compiled different sources, is following a different, potentially older tradition than that of the treatises on προγυμνάσματα (only ‘διήγησις’ is found in [Arist.]*Rh.Al.* and Arist.*Rh.*).

In Anon.Seg.55 the διηγήσεις ἐπὶ κριτῶν are subdivided into two species: one species that focuses on the Cause itself, and one that aims at amplification, prejudice etc. These two species strongly resemble the first two *genera narrationis* found in Cic.*Inu.* and *Rhet.Her.*:

Anon.Seg.55	Cic. <i>Inu.</i> 1.27	<i>Rhet.Her.</i> 1.12
τῶν δὲ ἐπὶ κριτῶν αἱ μὲν κατὰ τὸ ἀμφισβητούμενον αὐτὸ συνίστανται, αἱ δὲ πρὸς ιδίας διηγήσεις τῆς ὑποθέσεως λέγονται,	<i>unum genus est in quo ipsa causa et omnis ratio controuersiae continetur;</i>	<i>Vnum est cum exponimus rem gestam et unum quidque trahimus ad utilitatem nostram vincendi causa, quod pertinet ad eas causas, de quibus iudicium futurum est.</i>
αἱ δὲ παρεμπίπτουσι πίστεως ἔνεκεν ἢ αὐξήσεως ἢ διαβολῆς ἢ ἄλλου τινὸς τοιούτου, ἄστινας καὶ παρὰ διηγήσεις τινὲς καλοῦσιν.	<i>alterum in quo digressio aliqua extra causam aut criminationis aut similitudinis aut delectationis non alienae ab eo negotio quo de agitur aut amplificationis causa interponitur.</i>	<i>Alterum genus est narrationis quod intercurrit nonnumquam aut fidei aut criminationis aut transitionis aut alicuius apparationis causa.</i>

This suggests that the διηγήσεις καθ' ἑαυτάς could correspond to the *tertium genus narrationis* in Cic.*Inu.* and *Rhet.Her.*, for the διηγήσεις ιστορικάι and the διηγήσεις μυθικάι correspond to the categories *historia* and *fabula*. However, this leads to two problems: (i) what about the category *argumentum* and (ii) what about the subdivisions *in negotiis* and *in personis* in Cic.*Inu.* and *Rhet.Her.*? The first question, applied to Anon.Seg., could be rephrased as: what about the διηγήσεις βιωτικάι and διηγήσεις περιπετικάι?

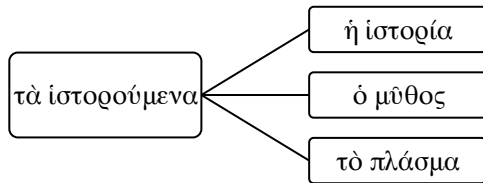
To answer these two questions, we must turn to other Greek sources that contain the equivalent of the tripartite division *fabula/historia/argumentum*: S.E.*M.* 1.252-253 and 1.263-264 (?late 2nd century AD, see BLANK (1998), xiv-xv), [Hermog.]*Prog.* 2.3 (?3rd century AD) with Prisc.*Praeexerc.* 2p.552,12-16 (ca. 500 AD), and Nicol.*Prog.* p.12,17-13,13 (5th century AD). Sextus Empiricus uses 'τὰ ιστορούμενα', which, however, is very close in meaning to historical *narrative* here (the context in his work here is not a rhetorical one, see below).

(i) What about the category *argumentum* in Cic.*Inu.* and *Rhet.Her.*? And what about the διηγήσεις βιωτικάι and διηγήσεις περιπετικάι in Anon.Seg.?

See: BARWICK (1928), 266-275; LA PENNA (1968), 316-320; CALBOLI MONTEFUSCO (1988), 44-56; CALBOLI (1993), 214-217 and 515 (where he dismisses WALBANK (1960), who at 227-228 n.53 criticises BARWICK); CALBOLI MONTEFUSCO (2006).

The corresponding subdivisions found in these authors can be represented as follows:

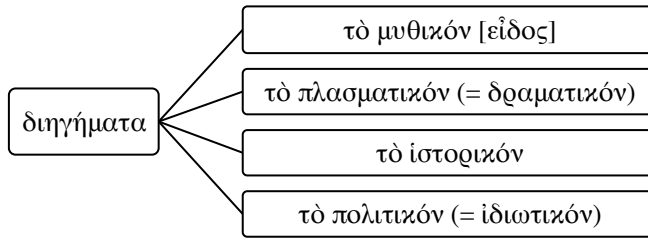
S.E.M.1.252-253; 1.263-264:



The subdivision that Sextus Empiricus presents here is that by the 1st-century-BC grammarian Asclepiades of Myrlea (M.1.252-253; on Asclepiades, see BLANK (1998), xlv-xlvi), who distinguished three primary parts of grammar: a technical, a historical, and a grammatical one. The subdivision in 1.263-264 is that of the historical part of grammar: ‘ἡ ἱστορία’ represents things that are true and have happened, ‘ὁ μῦθος’ things that are false and never happened, and ‘τὸ πλάσμα’ things that are not real but similar to real ones; he further comments on ‘τὸ πλάσμα’: ὥς αἱ κωμικαὶ ὑποθέσεις καὶ οἱ μῖμοι (‘like the hypothetical situations found in comedies and mimes’). This information is found in both 1.252 and 1.263-264. He does not specify what type of narratives would come under ‘ὁ μῦθος’, but the examples he mentions in 1.264 all come from mythology (gods, mythical beasts, and heroes) which are commonly found as material for tragedies—however, it is worth stressing that Sextus Empiricus does not state this expressly.

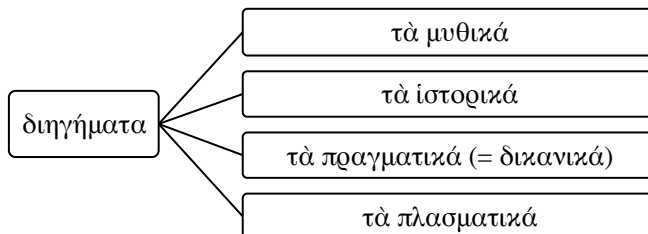
On these two passages, see also BLANK (1998), 264-270; 277-279.

[Hermog.] *Prog.* 2.3:



Similarly to the passage in S.E., τὸ μυθικόν and τὸ ιστορικόν correspond to *fabula* and *historia* respectively. The Latin translation of ‘πολιτικόν’ would be ‘*ciuilis*’: comparing this with Cic.*Inu.* and *Rhet.Her.*, the subdivision τὸ πολιτικόν would then correspond to the first two *genera narrationis*—the third one being *remotum a ciuilibus causis*. Hence, τὸ πλασματικόν would correspond to *argumentum*. Of τὸ πλασματικόν Pseudo-Hermogenes says: οἷα τὰ τῶν τραγικῶν (‘like those by the tragedians’). As BARWICK (1928), 271, points out, Priscian, who provides a Latin translation of Pseudo-Hermogenes’ text, here translates (*Praeexerc.* 2p.552,14-15): *fictilis ad tragoedias siue comoedias ficta*, so that one is probably right to complete the Greek text in this way: οἷα τὰ τῶν τραγικῶν <καὶ κωμικῶν>.

Nicol.*Prog.* p.12,17-13,13:



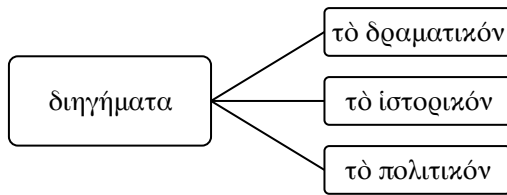
Again, τὰ μυθικά and τὰ ιστορικά correspond to *fabula* and *historia* respectively. Of τὰ πραγματικά Nicolaus says: ‘πραγματικά δὲ ἦτοι δικανικά τὰ ἐν τοῖς πολιτικοῖς ἀγῶσι λεγόμενα’ (‘πραγματικά or δικανικά are things said in debates of citizens’; p.13,1-2). This

is reminiscent of τὸ πολιτικόν in [Hermog.]*Prog.*2.3 (see above) and thus of the first two *genera narrationis* in Cic.*Inu.* and *Rhet.Her.* Of τὰ πλασματικά Nicolaus says: πλασματικά δὲ τὰ ἐν ταῖς κωμωδίαις καὶ ὅλως τὰ ἐν τοῖς ἄλλοις δράμασι (‘πλασματικά are things said in the comedies and altogether those said in the other dramas’; p.13,2-4), so Nicolaus seems to have included both Narratives from comedies and tragedies under ‘τὰ πλασματικά’, just like [Hermog.]*Prog.*2.3 completed by Prisc.*Praeexerc.*2p.552,14-15.

As BARWICK (1928), 286, only briefly notes, Aelius Theon does not have any explicit subdivision corresponding to *fabula/historia/argumentum* as found in the treatises mentioned so far. He does occasionally mention διηγήσεις ιστορικαί (=πραγματικά) and διηγήσεις μυθικά (*Prog.*p.65,21; p.66,17; p.66,22; p.67,4-5—this is the only one of these places where ‘διηγήματα’ is used instead of ‘διηγήσεις’; BARWICK does not seem to have noticed that Theon was using ‘διήγησις’ in the remaining cases, although he called the rhetorical exercise ‘διήγημα’, like the other authors on προγυμνάσματα, who *did* include this subdivision of ‘διήγημα’—; p.67,12; p.95,4). But he does not do so systematically, and a διήγησις πλασματική (*uel sim.*) does not appear anywhere. This is all the more remarkable since the wording of his definition of Narrative (διήγημα) seemed to come from the same source from which the Latin source shared here by Cic.*Inu.* and *Rhet.Her.* seemed to have translated its definition (see above). This raises the question of whether this definition and the tripartite subdivision actually come from the same Greek source. BARWICK (1928), 286-287, concludes that the διηγήσεις πλασματικά did not play a role in the ‘progymnasmatischen Lehrbetrieb’ (‘progymnasmatic teaching’) of Theon’s time or more generally of any time. However, considering that Theon is the only one among the authors of the extant treatises on προγυμνάσματα not to include any explicit subdivision corresponding to *fabula/historia/argumentum*, there are strong reasons to reject this generalisation, and considering that Theon shared the definition of Narrative with the

source from which the definition of *narratio* in *Cic.Inu.* and *Rhet.Her.* derives, one may wonder whether Theon did not actually leave out a subdivision that may well have been part of the ‘progymnasmatischen Lehrbetrieb’.

By contrast, Aphthonius—not included by BARWICK (1928) at this point in the discussion—does have this subdivision at *Prog.2.2*:



Aphthonius further explains: καὶ δραματικὸν μὲν τὸ πεπλασμένον, ἱστορικὸν δὲ τὸ παλαιὰν ἔχον ἀφήγησιν, πολιτικὸν δὲ ᾧ παρὰ τοὺς ἀγῶνας οἱ ῥήτορες κέχρηται (‘and δραματικὸν [dramatic] is the fictitious narrative, ἱστορικὸν [historical] the narrative that has a narration of old events, πολιτικὸν [relating to the citizens] the one that the orators use in the debates’). Thus, τὸ πολιτικὸν seems to refer to the first two *genera narrationis* in *Cic.Inu.* and *Rhet.Her.* Τὸ ἱστορικὸν obviously refers to *historia*, leaving only τὸ δραματικὸν with no further comments. Although one might be inclined immediately to identify τὸ δραματικὸν with the narratives of both tragedy and (new) comedy (which can be regrouped as ‘drama’), there is no straightforward justification for doing so. Only a comparison with [Hermog.]*Prog.2.3* completed by Prisc.*Praexerc.2p.552,14-15* (see above) could support this view—perhaps it was because of this uncertainty that BARWICK left Aphthonius out at this point in the discussion, since this uncertainty means Aphthonius’ subdivision is of no great help in identifying what *argumentum* is: Aphthonius’ ‘τὸ δραματικὸν’ could cover both *fabula* and *argumentum* or only one of them. Indeed, after τὸ πολιτικὸν only the third *genus narrationis* (with the tripartite subdivision

fabula/historia/argumentum) in *Cic.Inu.* and *Rhet.Her.* would be left, and after τὸ ἱστορικόν is equated with *historia*, only one element (τὸ δραματικόν) is left in Aphthonius while two (*fabula* and *argumentum*) are left in the two Roman treatises.

To sum up the findings so far: after comparing different treatments of Narrative with those in *Cic.Inu.* and *Rhet.Her.*, we seem to be able to establish the following correspondences (the order within a given treatise is changed for the sake of clarity, but is indicated by the numbers preceding each term):

century AD					linked to public debates
?late 2 nd	S.E.M.1.263	1. ἱστορία	2. μῦθος	3. πλάσμα	
?3 rd	[Hermog.] <i>Prog.</i> 2.3	3. ἱστορικόν	1. μυθικόν	2. πλασματικόν	4. πολιτικόν
4 th	Aphth. <i>Prog.</i> 2.2	2. ἱστορικόν	1. δραματικόν ?		3. πολιτικόν
5 th	Nicol. <i>Prog.</i> p.12,17-19	2. ἱστορικά	1. μυθικά	4. πλασματικά	3. πραγματικά

This shows that there is indeed a tradition in this subdivision of Narrative, with regard to both terminology and concept: differences are mostly differences of detail (cf. the definition of each of these terms for each author below). This supports the possibility mentioned above of Aphthonius' τὸ δραματικόν corresponding to both μῦθος and πλάσμα (*uel sim.*). Although different terms are used for Narratives linked to public debates, it is noteworthy that all three authors writing on προγυμνάσματα have this fourth category and that it is only Sextus Empiricus, writing on historical Narrative, who does not include it. *Cic.Inu.* and *Rhet.Her.* state that their third *genus narrationis* is a *ciuilibus causis remotum*: in other words, their first two *genera narrationis* are concerned with *ciuiles causae*: these two *genera* correspond to the fourth category listed above.

The definitions of the first three categories can be summarised as follows:

(*T*: true and (admitted to have) happened; *F*: false; *V*: as if true; *N/A*: not stated.)

century AD		ἱστορία	μῦθος	πλάσμα
?late 2 nd	S.E.M.	T	F ex. from mythology	F, sed V like comedies and mimes
?3 rd	[Hermog.] <i>Prog.</i>	N/A	N/A	N/A like tragedies <and comedies> (cf. Prisc.)
4 th	Aphth. <i>Prog.</i>	T	F (fictitious)	
5 th	Nicol. <i>Prog.</i>	T	F ex. from mythology	N/A like comedies and other dramas

Two observations:

First, Pseudo-Hermogenes seems to assume that the reader will know the meanings of these categories, since he does not explain these terms; the same is true for the category ‘τὰ πλασματικά’ in Nicolaus: it seems that both authors thought that their readers would understand through the reference to tragedy and comedy that this third category was meant to be *ueri similis*.

Second, Aphthonius does not distinguish between *ueri similis* and *non ueri similis* in his category ‘τὸ δραματικόν’.

To this, we can compare the three subdivisions found in Cic.*Inu.* and *Rhet.Her.*:

century		<i>historia</i>	<i>fabula</i>	<i>argumentum</i>
1 st BC	Cic. <i>Inu.</i> , <i>Rhet.Her.</i>	T	F, non V cf. tragedies	F, sed V cf. comedies

If we assume that Pseudo-Hermogenes and Nicolaus considered the third category to be *ueri similis*, then we can identify *argumentum* with τὸ πλάσμα (*uel sim.*), however with one caveat: both Roman handbooks clearly link the narratives of tragedies to the second category (*fabula*) while on the Greek side the case is different. Sextus Empiricus does not list tragedy explicitly; however, the examples he gives are taken from mythology, from which the plots and characters of tragedies were usually taken: hence, if one did not want to go as far as to say that he linked the narratives of tragedies to the second category like Cicero and the *Auctor*, at least he does not explicitly state the opposite view. The case is different for Pseudo-Hermogenes and Nicolaus: Pseudo-Hermogenes clearly links the narratives of tragedies to the third category, and the same seems to be true for Nicolaus—since he has just mentioned ‘comedies’, ‘other dramas’ is certainly meant to include tragedies. As BARWICK (1928), 273, correctly notes, there seems to have been a shift regarding the categorisation of tragic narratives and an enlargement of the domain of τὸ πλάσμα (*uel sim.*) between the time of the common source of Cic.*Inu.* and *Rhet.Her.* on the one hand and the Greek side from the time at least of Pseudo-Hermogenes onwards.

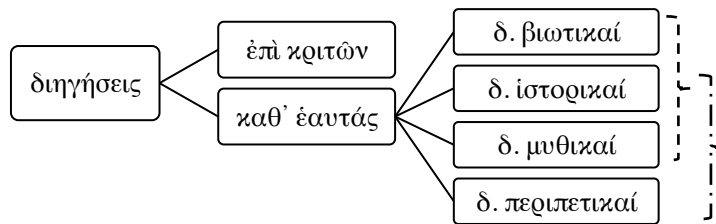
At this point, we must return to Anon.Seg. and the question of what διηγήσεις βιωτικάι and διηγήσεις περιπετυχαί represent: how are these categories linked to the narratives of tragedies and comedies? BARWICK (1928), 274-275, tries to solve this problem via etymology.

Comedies and mimes, which in S.E.M.1.252 and 1.263 are linked to τὸ πλάσμα, are indeed representations or imitations (even if fictitious ones) of normal, everyday life, i.e. βίος (cf. also Cic.*S.Rosc.*47; *Rep.fr.dub.*7; *Sen.*65: Cicero is interested in comedy because of

its character of *imago uitae*, see e.g. SCHULTHEISS (2007))—as opposed to tragedies, whose plots are not located in everyday life, but in the far removed world of gods and heroes. If BARWICK’s etymological reasoning is indeed correct, διηγήσεις βιωτικάί belong to the above category of ‘F, sed V’ (‘false, but as if true’), corresponding to *argumentum* as found in the two Roman handbooks, i.e. with *argumentum* not including narratives from tragedies.

‘Περιπετικάί’ in ‘διηγήσεις περιπετικάί’ is of course related to ‘ἡ περιπέτεια’ (‘the reversal’). Both tragedy and comedy see such reversals in circumstances from good to bad and bad to good. Hence, it seems that the concept of διηγήσεις περιπετικάί can be equated with the *argumentum* that includes narratives from both comedies and tragedies, i.e. with the later version of *argumentum*/τὸ πλάσμα.

BARWICK therefore concludes that διηγήσεις βιωτικάί and διηγήσεις περιπετικάί belong to two different versions of the subdivision *fabula/historia/argumentum*: διηγήσεις βιωτικάί to an earlier version, and διηγήσεις περιπετικάί to a later one. The system in Anon.Seg. would thus go back to a combination of at least two different sources:



Now that we have clarified what the meaning and the context of *argumentum* and of the triad *fabula/historia/argumentum* are in *Cic.Inu.* and *Rhet.Her.*, we must turn to the second question:

(ii) What about the subdivisions *in negotiis* and *in personis* in *Cic.Inu.* and *Rhet.Her.*?

See: BARWICK (1928), 275-281; CALBOLI MONTEFUSCO (1988), 57-62; CALBOLI MONTEFUSCO (2006).

For this question we are faced with a different problem: unlike the subdivision *fabula/historia/argumentum*, the subdivision *in negotiis/in personis* is found only in *Cic.Inu.* and *Rhet.Her.* This means that this subdivision must have been found already in their common source.

a) *in personis*:

BARWICK (1928), 277, tries to identify the meaning of ‘*in personis*’ by combining the definition found in *Cic.Inu.* (but not in *Rhet.Her.*) with the fact that Cicero uses an example from a comedy by Terence. Cicero’s definition in 1.27 is: *eiusmodi est ut in ea simul cum rebus ipsis personarum sermones et animi perspicui possint*. BARWICK identifies this with ‘eine Darstellung in dramatischer Form’ (‘a representation in dramatic form’)—Cicero’s readers would have had to know the context of this quote very well in order to understand any interpretation that goes beyond BARWICK’s (see SCHULTHEISS (2007), 166-167, on the quote from *Ter.Eu.*252-253 in *Cic.Amic.*93-94).

b) *in negotiis*:

As BARWICK (1928), 278-279, points out, considering *fabula/historia/argumentum* as a subdivision only of *in negotiis* does not make sense: for example, if narratives from comedies come under *argumentum* as a subdivision of *in negotiis*, how can Cicero use an example from comedy to explain *in personis*? Rather, the tripartite division *fabula/historia/argumentum* applies to the entire third *genus narrationis*, not only to part of it.

The next step must then consist in explaining how this subdivision into *in negotiis/in personis* was mistakenly inserted in the source shared by *Cic.Inu.* and *Rhet.Her.* between the level of the third *genus narrationis* and that of the tripartite division. BARWICK (1928), 279-280, gives

two passages that show striking resemblance with those in the two Roman handbooks:

Nicol.*Prog.*p.12,7-17 and Doxop.p.206,30-207,7. It is worth quoting both passages here:

Nicol.*Prog.*p.12,7-17:

Τῶν δὲ διηγημάτων εἰσὶ διαφοραὶ πρὸς ἄλληλα τρεῖς· τὰ μὲν γάρ ἐστιν ἀφηγηματικά, τὰ δὲ δραματικά, τὰ δὲ μικτά. ἀφηγηματικά μὲν οὖν ἐστίν, ὅσα ἀπὸ μόνου λέγεται τοῦ προσώπου τοῦ ἀπαγγέλλοντος αὐτά, οἷά ἐστι τὰ παρὰ Πινδάρῳ· δραματικά δέ, ὅσα οὐκ ἀπ’ αὐτοῦ τοῦ συντιθέντος, ἀπὸ δὲ τῶν ὑποκειμένων προσώπων λέγεται, οἷα τὰ ἐν τοῖς κωμικοῖς καὶ τραγικοῖς δράμασι· μικτὰ δὲ τὰ ἐξ ἀμφοτέρων συγκείμενα, οἷα τὰ Ὀμήρου καὶ Ἡροδότου καὶ εἴ τινα ἄλλα τοιαῦτα, πῇ μὲν ἀπ’ αὐτοῦ τοῦ ἀπαγγέλλοντος ἐκφερόμενα, πῇ δὲ ἐξ ἐτέρων προσώπων.

— There follows the *fabula* etc. subdivision (p.12,17-19): important in this context is the way in which the subdivision into ἀφηγηματικά/δραματικά/μικτά and the *fabula* etc. subdivision are put side by side: ἔτι τῶν διηγημάτων τὰ μὲν ἐστὶ μυθικά, τὰ δὲ ἱστορικά, τὰ δὲ πραγματικά, ἃ καὶ δικανικά καλοῦσι, τὰ δὲ πλασματικά.

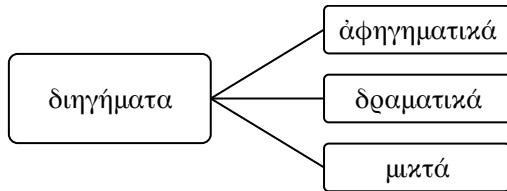
This subdivision is also found in Doxop.p.206,30-207,7 with a terminology that is even more striking in comparison with that in the Roman handbooks:

Ζητεῖται, διατί τῶν διηγημάτων καὶ κατὰ πρόσωπα διαφερόντων καὶ κατὰ πράγματα, κατὰ μὲν τὰ πρόσωπα, ὅτι τὰ μὲν αὐτῶν ἀφηγηματικά εἰσιν, ὅσα ἀπὸ μόνου τοῦ συντιθέντος προσώπου ἀπαγγέλλονται, τὰ δὲ δραματικά, ὅσα οὐκ ἀπὸ τοῦ συντιθέντος, ἀλλ’ ἀπὸ τῶν ὑποκειμένων· τὰ δὲ μικτά, ὅσα ἀπ’ ἀμφοτέρων, τοῦ τε συντιθέντος καὶ τῶν ὑποκειμένων· κατὰ δὲ τὰ πράγματα, ὅτι τὰ μὲν αὐτῶν ἀληθῆ εἰσι, τὰ δὲ ψευδῆ, τὰ δὲ ἀμφίδοξα (...).

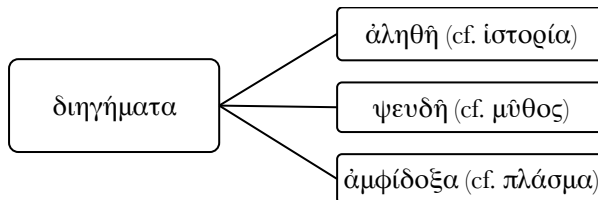
As we saw above, the categories ἀληθῆ/ψευδῆ/ἀμφίδοξα correspond to *historia/fabula/argumentum* (ἱστορία/μῦθος/πλάσμα). Doxopatres (11th century AD) uses the expressions ‘κατὰ πρόσωπα’ and ‘κατὰ πράγματα’ which correspond to Cicero’s and the *Auctor*’s ‘*in personis*’ and ‘*in negotiis*’. The subdivisions κατὰ πρόσωπα and κατὰ

πράγματα are found also in Nicolaus (5th century AD), but without these ‘headings’; thus, for our purposes a representation of Doxopatres’ system is more useful:

division *κατὰ πρόσωπα*:



division *κατὰ πράγματα*:



In both Nicolaus and Doxopatres these subdivisions of διηγήματα stand side by side: *κατὰ πρόσωπα* and *κατὰ πράγματα* are different (and completely unrelated) criteria by which Narratives can be classified. This is not the case in *Cic.Inu.* and *Rhet.Her.*: here, *in negotiis* and *in personis* are presented as the two different branches of (only) the *tertium genus narrationis*.

At this point, BARWICK (1928), 278-281, on the one hand and CALBOLI MONTEFUSCO (1988), 57-62, and CALBOLI MONTEFUSCO (2006) on the other give different interpretations.

BARWICK thinks that the division of Narratives *κατὰ πρόσωπα* and *κατὰ πράγματα* was already present in the Greek source on which the Latin source shared by Cicero and the *Auctor* relied and that the author of this common Latin source misinterpreted the (non-existent) relationship between *κατὰ πρόσωπα* and *κατὰ πράγματα* and considered them as two different branches of the *tertium genus narrationis*.

(MATTHES (1958), 196-201, who sums up many of BARWICK's findings, at 200 considers the possibility that the Greek source on which the common Latin source relied could have made this change intentionally). The rules for the *tertium genus narrationis* would thus advise on how to keep within the limits of the *πρόπειον* of persons and things in Narratives from tragedies or comedies.

CALBOLI MONTEFUSCO considers this to be 'a very narrow path' (CALBOLI MONTEFUSCO (2006), 26) and links the dichotomy *in negotiis* vs. *in personis* to the *στοιχεῖα* (elements) of Narrative, of which there are normally six: *πρόσωπον*, *πράγμα*, *τόπος*, *χρόνος*, *τρόπος*, *αἰτία* (person, thing, place, time, manner, cause; cf. Theon *Prog.*p.78,16-79,20; Anon.Seg.90; Aphth.*Prog.*2.3; Nicol.*Prog.*p.13,14-14,3). Any Narrative, even the shortest one, will include at least a person and an action—grammatically speaking, a subject and a verb (with or without object). Therefore, *πρόσωπον* and *πράγμα* are the two most important of these six *στοιχεῖα* and would thus be at the centre of focus. According to CALBOLI MONTEFUSCO, the common source of Cic.*Inu.* and *Rhet.Her.* misunderstood this and turned the two central *στοιχεῖα* into the two (distinct) parts of the *tertium genus narrationis*. Besides the subdivision *ἱστορία/μῦθος/πλάσμα*, this would be another element showing that the Greek source to which the content of Cic.*Inu.*1.27 and *Rhet.Her.*1.12-13 (perhaps even their entire treatment of *narratio*) refers was heavily influenced by the tradition of the *προγυμνάσματα* (or whatever preceded it in its final form).

Whether BARWICK or CALBOLI MONTEFUSCO is right here (it could even be that both of them are wrong) cannot be decided with irrefutable evidence due to our lack of Hellenistic rhetorical sources: our sources may be representative, but they could just as well be giving us a distorted picture if they all belonged to more or less the same branch of rhetorical tradition and if the source for *narratio* in Cic.*Inu.* and *Rhet.Her.* belonged to a different branch of it.

HOSE (1996) believes that the tripartite division into *fabula/historia/argumentum* (μῦθος/ἱστορία/πλάσμα) goes back to a Roman, not a Greek, rhetorical source, either to *Rhet.Her.* or to its own Latin source (268-271), and tries to show how it could have found its way into Greek rhetorical treatises (272-274). There seem to be four major objections to such a view:

First, it is very risky to see an original concept in one of the two earliest extant rhetorical sources that we have since *Arist.Rh.*: too much information from the Hellenistic period is lost which would have been essential in establishing the broader picture. Hence, this enormous hole in the transmission of Hellenistic rhetorical texts (mainly Greek, but possibly also some Latin ones) shakes the very foundation of such a claim.

Second, HOSE's argument ignores the problem caused by the interposition of the subdivision *in negotiis/in personis* found in *Rhet.Her.* and *Cic.Inu.*, but nowhere else in sources that are not clearly dependent on these two treatises. By contrast, BARWICK's and CALBOLI MONTEFUSCO's arguments provide possible explanations for how this interposition could have come about.

Third, the table below shows that this subdivision (or very similar ones that possibly constitute variants of this one) is found mostly in Greek rhetorical sources, to which one non-rhetorical one (S.E.M.1.252-253; 1.263-264: the context here is grammar) has to be added. Among four of these rhetorical sources, three clearly belong to the progymnasmatic tradition. On the Latin side, we have *Cic.Inu.*, *Rhet.Her.*, *Quint.Inst.*, and *Mart.Cap.* Quintilian repeatedly quotes from *Inu.*, but in this case introduces the tripartite subdivision in the context of *narratio* as a προγύμνασμα, making it very probable that his source here belongs to the progymnasmatic tradition. Martianus Capella, whose treatment of rhetoric is often based on *Cic.Inu.*, in this passage, however, does not rely on this work, as can be seen from his use of a fourfold subdivision and from his use of examples that are all different from the ones in Cicero; if he had any direct source for this, it seems to be lost.

Given that three of four Greek sources and most probably also Quintilian stand in the progymnasmatic tradition, and considering the conspicuous use of ‘*exerceri*’, ‘*exercendo*’, and ‘*exercitatione*’ in *Rhet.Her.* 1.12-13 and *Cic.Inu.* 1.27 respectively, the most likely explanation is that this tripartite subdivision was first found in a Greek rhetorical source from, or closely linked to, the progymnasmatic tradition that pre-dates both *Cic.Inu.* and *Rhet.Her.*, which is no longer extant, and cannot even be outlined in content or attributed to any name due to a lack of information in the sources mentioned above (see also REINHARDT/WINTERBOTTOM (2006), 75-76).

In the following table, ‘#’ refers to the number of elements of the subdivision found in a given author, ‘f’ stands for ‘*fabula*’, ‘μ’ for ‘μῦθος’, ‘h’ for ‘*historia*’, ‘i’ for ‘ἱστορία’, ‘a’ for ‘*argumentum*’, ‘π’ for ‘πλάσμα’, and ‘+’ for ‘additional elements’.

		#	f	μ	h	í	a	π	+	
Before Cicero	[Arist.] <i>Rh.Al.</i>									
	Arist. <i>Rh.</i>									
Cicero's time	Cic.<i>Inu.</i> 1.27	3	X		X		X			
	<i>Rhet.Her.</i> 1.13	3	X		X		X			
	Cic. <i>de Orat.</i>									
	Cic. <i>Orat.</i>									
	Cic. <i>Top.</i>									
	Cic. <i>Part.</i>									
After Cicero	Quint. <i>Inst.</i> 2.4.2	3	X		X		X			
	Theon <i>Prog.</i>									
	(Ruf. <i>Rh.</i> : not entirely extant)									
	[Hermog.] <i>Prog.</i> 2.3	4		X		X		X	πολιτικόν	
	[Hermog.] <i>Inu.</i>									
	Anon.Seg.54	4		X		X			βιωτικά, περιπετικάί	
	Aps. <i>Rh.</i>									
	Sulp.Vict. <i>Rhet.</i>									
	Iul.Vict. <i>Rhet.</i>									
	Fortun. <i>Rhet.</i>									
	Aphth. <i>Prog.</i> 2.2	3				X		(X)	(δραματικόν), πολιτικόν	
	Nicol. <i>Prog.</i> p.12,17-13,13	4		X		X		X	πραγματικά	
	Iul.Sev. <i>Rhet.</i>									
	Mart.Cap.p.193,9-14	4	X		X		X		<i>negotialis/iudicialis assertio</i>	
	Cassiod. <i>Inst.</i>									
	Isid. <i>Orig.</i> 1.44.5			X		X		X		
	Alb. <i>Rhet.</i>									
Total (L = Latin works; G = Greek works)			L	G	L	G	L	G	L	G
			5	3	5	4	5	2(3)	1	4
Total number of relevant works (out of 25 works analysed)			8		9		7 (8)		5	

It is worth pointing out that in contrast to the relevant Greek sources, all relevant Latin sources have the same terminology (*fabula*, *historia*, *argumentum*). See also MEIJERING (1987), 86: ‘[after referring to *Rhet.Her.*1.13:] All our other Latin sources [she previously listed *Cic.Inu.*1.27, *Quint.Inst.*2.4.2, *Schol.Ter.*167,33ff. on *Ter.An.*3] too agree on these four points; *argumentum* is the general term for the category, the definition contains a form of the verb *fingere* and a qualification with the meaning of ‘realistic, plausible, and, finally, comedy provides the example.’

Fourth, the tripartite division is also found in *S.E.M.*1.252-253 and 1.263-264, where the context is that of (NB: Greek) grammar, not rhetoric (in *M.*1.252-253 Sextus Empiricus states that Asclepiades included this division in his treatise on grammar). MEIJERING (1987), 76, has a good point: ‘So the evidently untrue can only play a part in the “genus remotum a civilibus causis”, which for orators is only useful as an exercise. Grammarians on the other hand study non-rhetorical narration for its own sake; hence it seems more likely that theories about that genre originated in their circles and were later adopted by rhetoric, than that it was the other way round.’ If this is true, then reports such as the ones in *Quint.Inst.*2.1 (with REINHARDT/WINTERBOTTOM (2006), 35-52) and *Suet.Gram.*4.4-6 and *Rhet.*25.4 (with KASTER (1995), 99-105; 270-271; 279-281) would support the hypothesis that this subdivision entered the domain of rhetoric by grammarians trespassing on the *rhetoires*’ domain by teaching some or even all *προγυμνάσματα*, among which is usually found the *narratio/διήγημα*. So in this case too, the common source of *Cic.Inu.* and *Rhet.Her.* on *narratio* would be dependent on a progymnasmatic tradition.

One question remains at the end: to what type of literature does the *tertium genus narrationis* refer, then? Given that the first and second *genera* of Narrative in *Cic.Inu.*1.27 and *Rhet.Her.*1.12 are said to pertain to the *ciuiles causae*, they refer to real-life oratory. Hence,

BARWICK (1928), 282, concludes that the *tertium genus narrationis* refers to all of literature (especially poetry), with the sole exception of real-life oratory.

PFISTER (1933) added to the discussion of this entire problem a passage by Isocrates (*Panath.* 1-2), where Isocrates divides literature into five categories (in brackets I indicate the identifications that PFISTER makes):

1. λόγοι μυθώδεις (mythography);
2. λόγοι τερατείας καὶ ψευδολογίας μεστοί (which Pfister identifies with what will later be called *argumentum*/πλάσμα/δραματικόν, although with a slightly different meaning);
3. λόγοι τὰς παλαιὰς πράξεις καὶ τοὺς πολέμους τοὺς Ἑλληνικοὺς ἐξηγούμενοι (historiography);
4. λόγοι ἀπλῶς δοκοῦντες εἰρῆσθαι καὶ μηδεμιᾶς κομψότητος μετέχοντες, οὓς οἱ δεινοὶ περὶ τοὺς ἀγῶνας παραινοῦσι τοῖς νεωτέροις μελετᾶν, εἶπερ βούλονται πλεον ἔχειν τῶν ἀντιδίκων (forensic speeches);
5. λόγοι περὶ τῶν συμφερόντων τῇ τε πόλει καὶ τοῖς ἄλλοις Ἑλλήσι συμβουλευόντες (political speeches).

PFISTER points out that categories Nr. 4 and 5 were later often taken together as one group (cf. e.g. Quint.*Inst.* 2.4.2). This group could be identified with the first two *genera narrationis*, and the first three categories closely resemble the later tripartite subdivision *fabula/argumentum/historia*. Because of our lack of Hellenistic rhetorical sources, it is impossible to prove any direct link between Isocrates and this later tripartite subdivision: indeed, as PFISTER also remarks, Plato in several of his works had already made similar subdivisions, e.g. in *R.* 376e (Λόγων δὲ διττὸν εἶδος, τὸ μὲν ἀληθές, ψεῦδος δ' ἕτερον) and 377a (where a third group is identified between ἀληθές and ψεῦδος: Οὐ μανθάνεις,

ἦν δ' ἐγώ, ὅτι πρῶτον τοῖς παιδίοις μύθους λέγομεν; τοῦτο δέ που ὡς τὸ ὅλον εἰπεῖν ψεῦδος, ἔνι δὲ καὶ ἀληθῆ), so that he has the tripartite division ἀληθές/μῦθος/ψεῦδος.

With regard to Isocrates, however, it is important to stress that despite these striking resemblances with the three *genera narrationis*, his fivefold subdivision is a subdivision of literature as a whole, and not only of Narratives.

CHAPTER 9

The Orestes Case in the Rhetorical Tradition

The double murder case of the Orestes myth (Clytaemestra kills her husband, Agamemnon; Orestes avenges his father, Agamemnon, by killing his mother, Clytaemestra) is ideally suited as an illustration in a rhetorical treatise since it involves two murderers who killed a close relative for a reason to which objections can be found that, from an argumentative point of view, place both murderers on a similar level. It hence offers the opportunity of explicating the different steps of the *iudicatio* scheme and the antipodes in perspective used in the first part of Partition (1.31b).

In *Inu.*, Cicero uses the case of Orestes-Clytaemestra-Agamemnon as an example in 1.18-19a (on the *iudicatio* scheme), 1.31 (on the first part of *partitio*), and 1.92 (on the *reprehensio*). In *Rhet.Her.*, it is found in 1.17 (on the *diuisio*, the Partition), 1.25 (on the *translatio criminis*), and 1.26 (on the *iudicatio* scheme). In *Inst.* 3.11.4, Quintilian, too, uses this case to explain the *iudicatio* scheme and introduces it with the words: ‘*Et cur non utamur eodem quo sunt usi omnes fere exemplo?*’ (for Cicero’s own comment in 1.18, see below), which seems to indicate that after Cicero and the *Auctor* many other writers on rhetoric used it, too. In fact, Cicero nowhere in his later rhetorical works uses this case again, so that in our extant rhetorical treatises from Cicero until Quintilian’s time it only appears in *Inu.* and *Rhet.Her.*

The fact that the same example appears in the treatment of the *iudicatio* scheme and of the Partition in both *Cic.Inu.* and *Rhet.Her.* suggests that for these subjects it goes back to a common source. Of special interest are the bits of direct speech from the Orestes case in both works:

Cic. <i>Inu.</i> :	<i>Rhet.Her.</i> :
1.18 (on the <i>iudicatio</i> scheme):	1.26 (on the <i>iudicatio</i> scheme):
1. <i>'Iure feci; illa enim patrem meum occiderat.'</i> 2. <i>'Illa enim meum', inquit, 'patrem occiderat.'</i> 3. <i>'At non', inquiet aduersarius, 'abs te filio matrem necari oportuit; potuit enim sine tuo scelere illius factum puniri.'</i>	I. <i>'Illa enim', inquit, 'patrem meum occiderat.'</i> II. <i>'Iure occidi; illa enim patrem meum occiderat.'</i> III. <i>utetur accusator firmamento, hoc modo: 'At non abs te occidi neque indamnatam poenas pendere oportuit.'</i>
1.31 (on the Partition)	1.17 (on the Partition):
4. <i>'Interfectam matrem esse a filio conuenit mihi cum aduersariis.'</i> 5. <i>'Interfectum esse a Clytaemestra Agamemnonem conuenit.'</i>	IV. <i>'Interfectam esse ab Oreste matrem conuenit mihi cum aduersariis: iurene fecerit et licueritne facere, id est in controuersia.'</i> V. <i>'Agamemnonem esse a Clytaemestra occisum confitentur; cum id ita sit, me ulcisci parentem negant oportuisse.'</i>

Both works have exactly the same number of direct quotations, and these show a high degree of identical wording, which suggests a common source. But the direct quotations appear in a different order in both works, with 1. corresponding to II. and 2. to I. This in turn suggests that at least one of the two authors (Cicero and/or the *Auctor*) changed what he found in the common source. For a common Latin source, one would have expected just a transposition of *identical* direct quotations, but the quotations themselves are not entirely identical: this excludes the possibility that these quotations are directly taken from a Latin source dealing with the Orestes theme (like Livius Andronicus' *Aegisthus*, Ennius' *Eumenides* [possibly inspired by Aeschylus' play, see JOCELYN (1967), 283-289; PETACCIA (2000), 88], Pacuvius' *Dulorestes*, and Accius' *Aegisthus*, *Agamemnonidae*, *Clytaemestra*—as GOLDBERG (2005), 120, points out, Orestes was among the most familiar figures in Roman tragedy; see also PODLECKI (1989), 23-26, on the reception of Aeschylus' *Oresteia* on Roman tragedy; cf. Cic.*Ac.*1.10 on Ennius, Pacuvius, and Accius basing their tragedies on Aeschylus, Sophocles, and Euripides, with JOCELYN (1967), 23-28). This points therefore to a common Greek source that was translated differently into Latin. The only difference between 1. and II. is *'feci'* versus *'occidi'*: it is easy to see how this difference could arise from

translation from Greek into Latin. The same applies to 2. and I., which use exactly the same words, but ‘*meum*’ is found in different positions, which can also be easily explained by translation from Greek into Latin, especially if the Greek text did not use any interposed verb of speaking like ‘*inquit*’. Indeed, this seems to have been the case in 3. and III., where the verb of speaking is found inside and outside the direct quotation respectively. But in 3. and III., the second part of the statement is not identical in content, so that at least one author seems to have altered what he found in the common source: this sudden change in content between *Inu.* and *Rhet.Her.* seems to me to be a strong argument, perhaps even a final proof, that neither work directly depends on the other, since there is no apparent reason why the second part of 3./III. would have called for any special change. It again seems to be due rather to a difference in translation from Greek into Latin, as passive ‘*puniri*’ and the synonymous active construction ‘*poenas pendere*’ strongly suggest. The same applies to the differences between quotations 4. and IV., and 5. and V. (ADAMIETZ (1960) does not comment on the Orestes case in the two texts.)

This leads to the question of what the common source for this passage on the *iudicatio* scheme was. MATTHES (1958), 201 (and with him CALBOLI (1993), 218), points to Hermagoras, and indeed the Orestes case appears several times in fragments linked to Hermagoras (cf. Hermag.I.B.fr.6.e; 15.b; 18.a (MATTHES), =[August.]*Rhet.*5-6p.139,23-141,7; Iul.Vict.*Rhet.*p.11,21-14,9; Quint.*Inst.*3.11.1-12, 3.11.18-19, 3.11.21-22). For the *iudicatio* scheme, there is indeed a good chance that the use of this example goes back to Hermagoras, who systematised the theory of Issues, to which the *iudicatio*/κρινόμενον scheme is closely related. But before introducing the Orestes case in 1.18, Cicero says: *ut docendi causa in facili et peruiulgato exemplo consistamus* (cf. also Quintilian’s similar comment in *Inst.*3.11.4 above). ‘*Peruiulgato*’ seems to indicate that many rhetoricians were using this example, making it unclear whether they all depended on Hermagoras or whether Hermagoras (fl. 140-130 B.C., see BRITTAIN (2001), 306-307) was just one of them using

an example that an earlier rhetorician had introduced (however, this does not mean that the example could not have become even more widely known with the success of Hermagoras' treatise). Indeed, our extant sources of Greek literature allow us to take one step much beyond Hermagoras. One caveat beforehand: no Hellenistic rhetorical texts nor any Greek tragedies up to Cicero's time have come down to us in their entirety apart from some by Aeschylus, Euripides, and Sophocles—indeed, the first entirely extant post-5th-century-BC tragedies to have survived are those by Seneca, see TARRANT (1976), 8—, so no definite proof can ever be given for the hypothesis below (although there are some strong reasons in favour of it); the only reference to Orestes in our extant rhetorical treatises before the 1st century B.C., i.e. in [Arist.]*Rh.Al.* and Arist.*Rh.*, is Arist.*Rh.* 1401a35, where Aristotle refers to the *Orestes* by Theodectes; for a list of lost plays that would have been of interest here, see PODLECKI (1989), 22-23. Indeed, one must also allow for the possibility that the Orestes case was chosen because it was one of the most famous Greek myths and since it was ideally suited to explain a concept like the *iudicatio* scheme. To my knowledge, no one has yet made the close comparison established below; KENNEDY (1963), 41 n.28, comes closest, but he does not make it clear whether by 'The trial of Orestes' he means the trial as found in Aeschylus.

Aeschylus' *Eumenides* was probably the most famous treatment of the question of Orestes' guilt. In his tripartite cycle *Oresteia*, Aeschylus treats the three main stages of the Orestes case: *Agamemnon* deals with Clytaemestra's murder of Agamemnon, *Choephoroi* shows Orestes confronting and killing his mother, *Eumenides* shows the Furies prosecuting Orestes, who is assisted by Apollo, in front of a tribunal chaired by Athena.

Indeed, the trial pictured in the *Eumenides* comprises all the essential elements of a real-life trial: first the prosecution makes its speech (415-435); then the defence speaks (443-69); next comes a (less essential) 'intermezzo' in which Athena, the sole judge until that point, decides to call in more judges to guarantee a fair trial, and asks both parties to collect

testimonies and proofs in the meantime (470-489); upon Athena's return with the additional judges, Apollo appears to assist Orestes (576-581), after which the prosecution and the defence engage in a verbal clash (585-680), before Athena and the other judges proceed to their vote with both parties' agreement (681-751); finally, Athena proclaims the outcome of the vote: as equal numbers of judges had voted for and against Orestes, Orestes is acquitted (752-753). With such a structure, this play was perfectly suited as an illustration of the *iudicatio* scheme. Indeed, in 468 Orestes himself clearly states what will be identified as the Point for Decision (τὸ κρινόμενον/*iudicatio*) in his case in the rhetorical tradition: σὺ δ' εἰ δικαίως εἴτε μή, κρίνον δίκην.

To analyse whether there are any strong resemblances between the rhetorical tradition of the *iudicatio* scheme and Aeschylus' *Eumenides*, it is worth turning to the direct quotations 4. from *Inu.* 1.31 (*Interfectam matrem esse a filio conuenit mihi cum aduersariis*) and IV. from *Rhet.Her.* 1.17 (*Interfectam esse ab Oreste matrem conuenit mihi cum aduersariis: iurene fecerit et licueritne facere, id est in controuersia*). What is striking about these quotations is that they are the only ones concerning the Orestes case in both *Inu.* and *Rhet.Her.* that are not made from the perspective of Orestes nor from that of the prosecuting party: who exactly is this '*mihi*'? In a normal Athenian trial, advocates were not allowed, so that professional ghost-writers (λογογράφοι) would write a 1st-person-singular speech for those litigants who needed rhetorical help in a trial. On the other hand, there is no strong reason to consider this an anachronistic intrusion into the domain of Greek mythology by the typical feature of the Roman law courts that the advocate was. So who could '*mihi*' be? As pointed out above, in Aeschylus' *Eumenides* Apollo assists Orestes in a role that oscillates between witness, someone who is in the know or who even instigated the killing of Clytaemestra through his oracle, and someone comparable to an advocate in the Roman sense (cf. 232 and 576-677, esp. 576-581 and 676-677). A possible explanation would thus be that Apollo is '*mihi*'. If this were correct, it would be quite likely that Aeschylus' *Eumenides* is indeed the source to

which the idea of the Orestes case presented in form of a trial goes back in the last instance. (As a comparison will show, although Euripides' *Orestes* has some parallels with the Orestes case in *Inu.* and *Rhet.Her.*, they are less strong than those in Aeschylus' *Eumenides*.)

Another detail from *Inu.* 1.31 and *Rhet.Her.* 1.17 in quotations 4., IV., and V., would support this hypothesis: in these quotations there appear to be *several* opponents (cf. plural in 'aduersariis' and 'confitentur'), while in *Rhet.Her.* 1.26 and *Cic.Inu.* 1.18 there seems to be only *one* opponent (cf. singular in 'inquiet aduersarius' and 'utetur accusator'). In the *Eumenides* it is an entire group or Chorus of Furies (we should probably take it that all of them join in the prosecution) that accuses Orestes, which agrees with the plural found in *Inu.* 1.31 and *Rhet.Her.* 1.17. The singular found in *Cic.Inu.* 1.18 and *Rhet.Her.* 1.26 does, however, not prove that Aeschylus' play could not be in the background here: it is possible that the two Roman authors or their Greek source(s) reduced to one the number of opponents who speak in the *iudicatio* scheme. Indeed, the *iudicatio* scheme is just a mental aid to picture, during the preparation of the speech, how the clash between prosecution and defence will most likely unfold during their confrontation in the trial later on. For the sake of this schematic abstraction, only one prosecutor and only one defendant as well as one judge will be required.

Furthermore, after rereading one crucial moment in Orestes' trial in the *Eumenides*, quotation IV. in *Rhet.Her.* 1.17 gets a slightly different emphasis, through which it gains additional meaning (since the phrasing in quotation 4. in *Inu.* 1.31 is different, no parallel with *Inu.* can be established here). In 421-429 the Chorus of the Furies focuses on the question of whether or not Orestes killed his mother, and tries to make him swear an oath that he killed his mother. If Orestes had chosen to take this oath, the Issue of the Cause would have been conjectural and the Point for Decision would have been: *did he kill his mother or not?* In that case, Orestes would have been found guilty, to the Furies' great delight. Athena (430-432), however, immediately understands the Furies' cunning plan and forces

the Point for Decision back to the original question: *was he justified in killing his mother or was he not?*, which corresponds to the Issue of Quality (see SOMMERSTEIN (2008), 408-409 n.104). The contrast between these two Issues is expressed in quotation IV., and the postposition of '*id est in controuersia*' after the two indirect questions gives a particularly strong emphasis to '*id*', as if the opponents (the Furies?) had just tried to make the court focus on the Conjectural Issue: *Interfectam esse ab Oreste matrem conuenit mihi cum aduersariis* [disagreement here would have led to the Conjectural Issue]: *iurene fecerit et licueritne facere, id est in controuersia* [Issue of Quality].

Moreover, Aeschylus' play gives an explanation of why Orestes as a son ought not to have killed his mother (cf. quotations 3. and V.; in comparison, the phrasing in quotation III. is much less harsh): Orestes and Clytaemestra are directly linked by blood. The Furies claim that this makes this murder much worse than Clytaemestra's murder of Agamemnon, given that wife and husband are not related by blood so that killing one's husband is not like killing a relative (211-212; 605-608). But Apollo objects, saying that the sacred institution of marriage is a very strong bond (211-223) and that the blood link to one's father is much more important than that to one's mother, given that some have even been born without a mother, like Athena (657-666), and that therefore Orestes was justified in avenging his father by killing his mother.

Given that Cicero and the *Auctor* share most of the content in the five quotes listed in the table above, this content must go back to a common source. The partial difference in phrasing points to a Greek source. The slight differences in content have to be explained by at least one author changing the text of the common source by bringing in original ideas or else by relying on at least one additional source. Since the Orestes case is not yet a stock example in [Arist.]*Rh.Al.* and Arist.*Rh.* (with only one brief reference to it), it seems reasonable to suppose that it only became so in Hellenistic rhetorical treatises. The nature of the Orestes case is of greater importance for the *iudicatio* scheme than for the Partition,

and it seems likely that this example entered the treatment of Partition because Partition makes use of the positions as clarified in the *iudicatio* scheme. If this is true, then the Orestes case would have become a stock example in rhetoric with (or after) the introduction of the *iudicatio*/κρινόμενον scheme. If the *iudicatio*/κρινόμενον scheme was indeed systematised by Hermagoras (cf. Hermag.I.B.fr.18.a and 18.c (MATTHES), Hermag.mai.T43-47 (WOERTHER), i.e. esp. Quint.Inst.3.11.1-22 and [August.]Rhet.13-14p.144,22-145,33; MATTHES (1958), 166-178), who also systematised the theory of Issues, to which the *iudicatio*/κρινόμενον scheme is closely linked, then there would be a good chance that the introduction to rhetoric of the Orestes case goes back to Hermagoras himself, probably after having come across Aeschylus' *Eumenides*, given the resemblances stated above.

Elsewhere in rhetorical treatises, this double-murder case is referred to in: Quint.Inst.2.17.4; 3.5.11; 3.11.4-6; 3.11.11-12; 3.11.20; 7.4.8; Iul.Vict.Rhet.p.12,26-28; p.13,5-7; p.64,27-65,1; Mart.Cap.p.158,18; Alb.Rhet.7p.528,7-10; 10p.529,21-29; [August.]Rhet.5p.140,11-14. In most of these instances, this case is used as an example of the *iudicatio* scheme and of the Partition, which shows a clear influence of *Inu.* (and, perhaps, of *Rhet.Her.*) on the later Latin rhetorical treatises—indeed, *Inu.* and *Rhet.Her.* are the earliest extant rhetorical sources to include this example.

In his speeches, Cicero will also once allude to Orestes' acquittal, in *Mil.*8:

Itaque hoc, iudices, non sine causa etiam fictis fabulis doctissimi homines memoriae prodiderunt, eum qui patris ulciscendi causa matrem necauisset uariatis hominum sententiis non solum diuina sed etiam sapientissimae deae sententia liberatum.

For references to the Orestes myth in Greek oratory before Cic.*Inu.* and *Rhet.Her.*, cf. Antipho 1.17 (where Clytaemestra is used metaphorically), And.1.129 (allusion to the larger myth around Orestes' family, viz. to Aegisthus, Agamemnon's uncle), D.23.66 (reference to Orestes' trial).

CHAPTER 10

Examples in Cic.*Inu.*

With only a few exceptions, all examples in Cic.*Inu.* are found in the sections on Argumentation (1.34-96 and 2.14-154) of the *genus iudiciale*.

Unlike the *Auctor*, who tries to Romanise most of the content of his treatise, Cicero includes examples that clearly come from both the Greek and the Roman world. Moreover, they come from a variety of backgrounds: (pseudo-)history/politics, philosophy, drama, mythology (possibly from epic literature), real court cases, and some themes are even reminiscent of later fictive declamation themes.

Examples related to the Greek world are especially intriguing since they raise the question of whether all of them go back in the last instance to now lost Greek Hellenistic rhetorical sources or whether some of them were introduced by the young Cicero from his private reading (since no such rhetorical source from Hellenistic Greece survives in its entirety, this question should remain open). In any case they show how Greek in character the beginnings of rhetoric in Rome were. Combining this with the fact that Cicero indicates no Greek technical terms in *Inu.* (unlike the *Auctor*, cf. e.g. *Rhet.Her.* 1.6, 1.26), it becomes clear that Cicero does not try to deny the Greek origins of rhetoric (his treatise is not entirely Roman in content): one of his main aims with *Inu.* seems to be to write a rhetorical treatise *entirely* in the language of the Romans, which sometimes leads to amusing cultural mismatches, such as the use of ‘*praetor*’ (a typically Roman political office) to refer to a Greek official in 1.55.

Moreover, while the *Auctor* claims that only examples of how *not* to do it come from different authors (cf. *Rhet.Her.* 4.1-10), Cicero self-confidently acknowledges that he is using, with the Orestes case, a *traditional* example (*Inu.* 1.18: *peruulgato exemplo*).

The following list gives up to three examples from each category: examples/themes from

- Latin drama (it is noteworthy that Cicero shows great fondness for Terence): 1.27 (Terence), 1.91 (Ennius), 1.95 (Plautus);
- philosophy: 1.8, 1.51-52, 1.58-59;
- Roman (pseudo-)history/politics: 1.48, 1.92, 2.52;
- Greek (pseudo-)history/politics: 1.55-56, 1.93, 2.176;
- possibly Greek tragedy in the last instance: 1.18-19a, 1.31, 1.92 (Orestes case);
- Greek mythology, possibly from epic literature: 1.11, 1.92 (Odysseus), 1.94 (Eriphyla);
- Roman mythology: 2.78 (Horatii/Curiatii);
- Greek drama: 1.94 (Euripides);
- speeches by Roman orators / Roman court cases: 1.80, 2.122;
- declamations or declamation-style exercises (see also at 1.102 under ‘tyrannicum’): 2.118 (NB: ‘*fictam* [sc. *legem*] *exempli loco ponere*’), 2.144, 2.153-154.

COMMENTARY

1.19b

COMMENTARY:

His omnibus...repertis: '*his omnibus*' refers to the previously treated *constitutiones*, *quaestiones*, *rationes*, *iudicationes*, and *firmamenta* of the Cause (1.18-19a). All these determine the nature of the Cause and are grouped under the single heading '*intellectio*', the 'understanding' of the Cause, in Sulp.Vict.*Rhet.* 4p.315,7-8. This technical sense of '*intellectio*' seems not to be found before Sulpicius Victor (a *rhetor* who possibly lived in the 4th century AD; *RE* IV A 1 s.v. *Sulpicius* 106) and is likely to be late, as its absence e.g. in Quint.*Inst.* suggests (Quintilian tends to indicate the views of as many rhetoricians as possible); the 'unspecified' use e.g. by LAUSBERG §§97 and 139 could give the wrong impression that '*intellectio*' was a standard term in rhetorical theory in Latin. Unless Sulpicius uses it as a translation of a term from a Greek source, the idea of regrouping *constitutiones*, *quaestiones*, ..., *firmamenta* under a single heading might be influenced by the *partes artis* and the *partes orationis*: indeed, in Cic.*Inu.* (as in many other rhetorical treatises) the *partes orationis* follow within the *pars artis* '*inuentio*' only after these preliminary points have been decided upon, so it would have been quite economical to introduce a term that regrouped these preliminary points.

singulae...causae: HUBBELL (1949), 38 n.a, thinks that the *partes causae* here are almost identical to the *partes orationis* (cf. also: Mar.Victorin.*Rhet.* 1,14p.72,21-73,32; Alb.*Rhet.* 19p.534,24-27). It is indeed difficult to differentiate the two. But '*singulae partes totius causae*' could also be understood as 'the single elements of the entire Cause', i.e. 'the details of the entire Cause'. In fact, when establishing the Issue and going through the

iudicatio scheme, the orator considers only the main points of the Cause in order to determine the strategy he is going to use in his speech. But when dealing with the different Parts of a Speech (*exordium*, *narratio*, etc.), the orator here has to take into account the details of the Cause for the first time.

Nam...animaduertendum uidetur: The orator obviously does not need to ‘consider’ (*animaduertere*) what he needs, or wants, to say in the order in which he has to say it. This concerns the content of the different Parts of the Speech as well as the internal order e.g. of the arguments used in the speech. Although this advice may seem superfluous (one could imagine that the orator thinks first about what he is going to say in the *exordium*, then what in the *narratio*, etc.), one must be aware that the orator needs to reflect first on what to include in his speech and only thereafter on what to say in what Part of the Speech.

Cf. also Cic.*de Orat.* 2.315 and 2.318:

Hisce omnibus rebus consideratis tum denique id, quod primum est dicendum, postremum soleo cogitare, quo utar exordio. Nam si quando id primum inuenire uolui, nullum mihi occurrit nisi aut exile aut nugatorium aut uulgare aut commune. (...) [2.318] tota causa pertemptata atque perspecta, locis omnibus inuentis atque instructis considerandum est quo principio sit utendum.

ideo...dicenda sunt: For the sake of the cohesion and unity of the entire speech, the *exordium* must be adapted to the content of the rest of the speech or may already include it *in nuce*. As shown by this sentence, PRILL (1986), 96, is wrong in claiming that Cicero introduces the idea of the *exordium* flowing from the content of the rest of the speech or Cause only in *de Orat.* (cf. 2.318: *Haec autem in dicendo non extrinsecus alicunde quaerenda, sed ex ipsis uisceribus causae sumenda sunt*). This principle of shaping the beginning according to the rest of the work will later also be applied in music, to overtures of operas: especially from the 18th century onwards, an overture often ‘summarises’ the music and hence the plot of

the entire opera by presenting its main themes within a very short time (cf. e.g. the overture to Mozart's *Don Giovanni*).

uehementer: a slightly surprising adverb with '*congruere et cohaerere*', as the adverb indicates active violence while both verbs describe a rather slow and 'peaceful' synergetic process.

In Cicero, '*uehementer*' is usually found with verbs of saying, (dis)agreeing, moving, feeling, desiring, fearing, erring, doing/acting, fighting, pertaining, and being important/of interest. Of the 361 instances of '*uehementer*' in Cicero's works (cf. *PHI*), only a few are striking, but its use here in Cic.*Inu.*1.19b remains the most extraordinary one of all. Other noteworthy instances are: Cic.*Phil.*4.12 (*numquam tam uehementer cum senatu consociati fuistis*), *Off.*2.73 (*in eo uehementer se moderatum praeiuit*); the somewhat surprising expression '*uehementer gratus/a/um*' is found only in his letters (*Fam.*13.20.1; 13.23.2; 13.37.1; 13.39.1; 13.67.2; 13.68.1; 13.70.1; *Att.*13.47a.1; *Q.fr.*2.3.6), hence this use of '*uehementer*' could be a colloquial one.

*Rhet.Her.*4.28 has a similarly striking use of '*uehementer*': *Haec duo genera (...) inter se uehementer conueniunt*. One may wonder whether this shared noticeable use of '*uehementer*' in Cic.*Inu.* and *Rhet.Her.* reflects an idiolect of a common Latin source. For other noteworthy uses of '*uehementer*' in *Rhet.Her.*, cf. 2.5; 2.12; 2.16; 3.32; 4.24; 4.26; 4.56; 4.65.

congruere...cohaerere: two consecutive steps, if taken literally: first, two things come together (*congruere*), then they stick together (*cohaerere*).

ducas: '*Ducere*' here has the meaning 'to derive' or 'to draw' (*OLD* s.v. *ducere* 27).

argumenta: In *Part.*5 Cicero defines '*argumentum*' as '*probabile inuentum ad faciendam fidem*'.

ceterae: This word seems problematic. The *partes orationis* refer to the Parts of the Speech, i.e. *exordium*, *narratio*, etc., while *iudicatio*, the discovery of *argumenta* etc. are not Parts of the

Speech, but, under the heading of *inuentio*, belong to the *partes artis* designating the different stages of composing a speech. If ‘*ceterae partes*’ here means ‘all the other parts’, it is not clear which *pars orationis* has already been referred to.

Eae partes...conclusio: The subdivision of a speech into several parts can already be found in the two oldest extant Greek rhetorical treatises, [Arist.]*Rh.Al.* and Arist.*Rh.* [Arist.]*Rh.Al.*1436a33-1445b23 considers that speeches of different types have different structures; for the speech of exhortation five parts are given (προοίμιον, πράξεις, βεβαίωσις, προκαταλήψις, παλλλλογία). Arist.*Rh.*1414b7-9 considers two different subdivisions: one into only two parts (πρόθεσις, πίστις) and one into four parts (προοίμιον, πρόθεσις, πίστις, ἐπίλογος). As COLE (1991), 82, notes, the four *partes orationis* προοίμιον, πρόθεσις, πίστις, and ἐπίλογος are already found in a Τέχνη by Theodectes, a contemporary of Aristotle’s (it is unlikely that Tisias had already made such an elaborate distinction, see at 1.97 under ‘Hermagoras...ponit’). A couple of decades after Cicero and *Rhet.Her.*, Dionysius of Halicarnassus writes (*Lys.*16-19) that Isocrates and his school identified four parts of a speech: προοίμιον, διήγησις, πίστεις, ἐπίλογος; see also: BARWICK (1922), esp. 12-13; SOLMSEN (1932), esp. 147-148; RAPP (2002), ii 954-955, 959. In fact, it seems easy to arrive at this quadripartite structure of a speech: a quite natural division into the beginning, middle, and end of the speech provides a tripartite frame, in which the middle part gets further subdivided into statement and proof of this statement—exactly the two subdivisions considered by Aristotle in his bipartite scheme (see above). This natural tri- or quadripartite division of a speech was certainly already found in older speeches now lost, and not just introduced by the theoretical treatises mentioned above. See, partially in contrast, COLE (1991), 130-136, who also discusses Pl.*Phdr.*266d5-267d4, where four *partes orationis* are already listed one generation before Aristotle and Theodectes. The idea of the *exordium* and the *conclusio/peroratio* forming a frame for the entire speech is

confirmed by the fact that both parts focus on the audience's emotions. Thierry of Chartres, in his commentary on *Cic.Inu.* (*Cic.Inu.*p.106,96-102), regroups the six *partes orationis* into pairs of two parts that have the same goal:

Quarum partium duae, prima scilicet et ultima, mouent auditores; nam prooemium animos auditorum ad audiendum commouet, peroratio uero uel ad memoriam uel ad indignationem uel ad misericordiam excitat. Duae uero aliae, narratio scilicet atque partitio, docent; nam his duabus tota summa causae aperitur. Reliquae uero duae, confirmatio scilicet et reprehensio, probant; nam ex utraque parte et propria argumenta confirmantur et contraria reprehenduntur.

Since both *Cic.Inu.* and *Rhet.Her.* present six *partes orationis*, one may suppose that their common source (whatever its nature) also included six Parts: this innovation is probably to be dated between the composition of [Arist.]*Rh.Al.* and *Arist.Rh.* (4th century BC) on the one hand and *Cic.Inu.* and *Rhet.Her.* (early 1st century BC) on the other. This sixfold scheme, too, can be easily explained by the tripartite division mentioned above: beginning, four *partes*, end; the four *partes* represent a more detailed subdivision of the middle part than that found in the tri- or quadripartite scheme.

The number and names of the *partes orationis* as found in Latin rhetorical treatises can be summarised as follows (the numbers in the rows with the treatises indicate the order of sequence of the Parts within one treatise):

	<i>exordium</i>	<i>principium/principia</i>	<i>prooemium</i>	<i>narratio(nes)</i>	<i>egressus</i>	<i>partitio</i>	<i>diuisio</i>	<i>propositio</i>	<i>confirmatio</i>	<i>fides (proof)</i>	<i>probatio</i>	<i>excessus, quaestiones</i>	<i>argumentatio</i>	<i>reprehensio</i>	<i>confutatio</i>	<i>refutatio</i>	<i>propositioni aduersarii respondere</i>	<i>conclusio</i>	<i>peroratio</i>	<i>epilogus/epilogi</i>	number of parts
Cic. <i>Inu.</i> 1.19b	1			2		3			4					5				6			6
<i>Rhet.Her.</i> 1.4	1			2			3		4						5			6			6
Cic. <i>de Orat.</i> 2.80-83	1a	1b		2			3a	3b	4							5		6	[6b]		6
2.315b-332		1		2				[3]	4									6			6
Cic. <i>Orat.</i> 122; 124		1		2					3					(ever- tere)					5		5
Cic. <i>Part.</i> 4		1		2					3										4		4
Cic. <i>Top.</i> 97-98		1		2						3									4		4
Quint. <i>Inst.</i> 3.9.1			1	2							3					4			5		5
Sulp. Vict. <i>Rhet.</i> 16p.322,4-9																					
A)	1			2									3					4b	4a		4
B)	1			2		3			4					5				6			6
Iul. Vict. <i>Rhet.</i> p.2,10-12		1		2	3	4			5					6						7	7
p.67,18-19		1		2							3, 4									5	5
Fortun. <i>Rhet.</i> 2.12		1		2									3						4		4
Iul. Sev. <i>Rhet.</i> 5-11p.357,13-361,9; 24p.370,1-8		1		2									[3]				4			5	5
Mart. Cap. p.192,2	1			2				3					4						5		5
Cassiod. <i>Inst.</i> 2.2.9	1			2		3			4					5				6			6
Isid. <i>Orig.</i> 2.7.1	1			2									3					4			4
Alb. <i>Rhet.</i> 19p.534,25- 27	1			2		3			4					5				6			6
Total:	9x	9x	1x	18x	1x	5x	2x	3x	10x	1x	1x	1x	5x	6x	1x	2x	1x	8x	9x	3x	
		19x		18x	1x	7x	3x		13x				5x		10x			20x			

(A similar table, from which the above is independent, can be found in CALBOLI MONTEFUSCO (1979), 364.)

Some observations:

1. Although Cic.*Inu.* and *Rhet.Her.* both include six *partes orationis*, this did not lead a majority of authors to copy them simply. From the authors listed in the above table, five authors indicate six *partes*, again five indicate only five, yet again five indicate

only four. This shows that ten later authors (the mature Cicero included) simplified this system—with some of the later rhetoricians’ fondness for ‘sophistical’ hypersubdivisions, one might have expected a different outcome. In the above table, the neighbouring columns of the same colour represent more or less synonymous terms, so adding up the total of such columns should lead to a number of about 14-15. But for the *partitio* (*uel simil.*) and for the *refutatio* (*uel simil.*), the total number is far inferior: these *partes* have been left out by some authors, which indicates a process of simplification in the subdivision or structure of a speech. Such a simplification is already noticeable within Cicero’s own works taken in chronological order, and in this reminds one of his simplification of the theory of Issues in his later works.

2. When *Cic.Inu.* and *Rhet.Her.* do not agree in their vocabulary, other authors who use their vocabulary follow *Cic.Inu.* exclusively, which can be explained by the fact that *Rhet.Her.* seems to have become accessible to readers only very late (cf. ACHARD (2003), v: *Rhet.Her.* seems to have been unknown to Roman readers and had to reappear twice, in the 4th and 9th centuries in circumstances that are difficult to make out).
3. For the first and the last *pars orationis*, it was the mature Cicero who, with ‘*principium*’/‘*principia*’ and ‘*peroratio*’, seems to have introduced the major alternative to ‘*exordium*’ and ‘*conclusio*’.
4. It is noticeable that no author rejects the use of ‘*narratio*’.
5. All authors agree on the sequence of the Parts. This is striking especially for the order of Confirmation of one’s own arguments and Refutation of the opponent’s: it could not have been foreseen that no author considered placing Refutation before Confirmation. This may have been influenced by [Arist.]*Rh.Al.* (or its tradition), which places βεβαίωσις (Confirmation of one’s own arguments; 1438b29-1439b2)

before προκατάληψις (anticipation of the opponent's arguments; 1439b3-11). In fact, that all authors listed in the table agree on the sequence of *confirmatio-refutatio* seems to indicate that rhetoricians follow the theory of other rhetoricians and that the actual oratorical practice is not reflected upon here: in Cic.*Arch.* (62 BC), for instance, the Refutation indeed precedes the Confirmation, which would violate the rhetoricians' 'rule'. Considering that *Arch.* is one of Cicero's widely-read speeches, it is surprising that rhetoricians after Cicero did not include the inverted sequence *refutatio-confirmatio* as a possible alternative and refer to this speech as an example. In fact, Cicero himself gives the inverted sequence in *de Orat.*2.331: *tum suggerenda sunt firmamenta causae coniuncte* [1.] *et infirmandis contrariis* [2.] *et tuis confirmandis*. Quintilian in *Inst.*5.13.53 recommends the inverted order when one is to reply to a preceding speech. Aphth.*Prog.*5-6 and [Hermog.]*Prog.*5 treat Refutation before Confirmation (however, these two treatises use examples only from literature, not from real-life speeches and do not show awareness of this inverted sequence in such speeches).

See also *HWRh* s.v. *Partes Orationis*.

Nunc...dabimus: Cf. Cic.*Inu.*2.178: *Nunc quoniam omne in causae genus argumentandi ratio tradita est, de inuentione, prima ac maxima parte rhetoricae, satis dictum uidetur.*

It is at this point that 'contamination' (see Chapter 2) between the two structuring principles (*partes artis* and *partes orationis*) begins.

Introduction to 1.20-26

*De principiis nihil putavi dicendum, quando quidem ad ea,
quae arte scrutanda sunt, natura duce saepius peruenitur.*
Iul.Sev.*Rhet.*5p.357,14-15

Cic.*Inu.*1.20-26 deals with the first Part of a Speech: the Exordium. The Exordium can be of crucial importance to the entire speech: just like in a musical performance, the first minutes can be decisive for the audience's approval and even for its attention, especially if the speech is long and deals with a difficult subject. This comparison with music (which in antiquity was often considered to have magical powers, cf. e.g. the singing of the Sirens in the *Odyssey*) is all the more legitimate as some ancient authors also make such a comparison in their treatment of the Exordium: Arist.*Rh.*1414b19-29 (comparison with the αὐλός-player), Quint.*Inst.*4.1.2 and Anon.Seg.4 (comparison with the κιθάρα-player); for the music-related etymology of 'προοίμιον' (the Greek term for Exordium), see *HWRh* s.v. *Prooemium* (cf. 'ἡ οἴμη', 'the song'; another ancient etymology derived it from 'ὁ οἶμος', 'the path', so 'προοίμιον' would be 'that which leads up to the path', cf. e.g. Quint.*Inst.*4.1.3); VOLKMANN (1885), 127-128. Again, just like in a musical performance, the last minutes can also be crucial for the effect a speech does or does not have, hence the importance of the Peroration (*conclusio*), which together with the Exordium forms the frame for the speech.

The importance accorded to Exordium and Peroration is reflected in the length of Cicero's respective treatments. Of the six Parts of the Speech, only the two argumentative Parts, *confirmatio* and *reprehensio*, are dealt with in more detail:

1.20-26: *exordium*;

1.27-30: *narratio*;

1.31-33: *partitio*;

1.34-77: *confirmatio*;

1.78-96: *reprehensio*;

1.98-109b: *conclusio*.

The crucial importance of the Exordium lies in its function to prepare the audience for the rest of the speech. Hence, the subsequent five Parts of the Speech can develop their full potential only if the listener's mind has been 'prepared' beforehand, i.e. put into the right mood and made attentive and thus receptive.

The structure of this thematic chapter in Cic.*Inu.* on the Exordium is as follows (see also CHRISTES (1978), 558-560):

- (i) definition and function of the Exordium (1.20a);
- (ii) the five Types of Causes (1.20b);
- (iii) the two forms of Exordium: *principium* and *insinuatio* (1.20c);
- (iv) which Type of Cause requires which form of Exordium (1.21);
- (v) treatment of *principium*: *loci* for how to make the listener *beniuolus*, *attentus*, and *docilis* (1.22-23a);
- (vi) treatment of *insinuatio*: *loci insinuationis* (1.23b-25a);
- (vii) stylistic precepts applying to both forms of Exordium (1.25b);
- (viii) *uitia* to avoid in the Exordium (1.26).

(CHRISTES (1978), 559, has an alternative, more complicated overview showing how these parts are interconnected in terms of content; he states (p.560) that Cicero seems to have chosen such a method of interconnection to avoid a simple dry listing of rules.)

That the discussion in 1.22-23a (v) concerning *beniuolum/attentum/docilem facere* is, in Cicero's opinion, in fact to be considered as a treatment of *principium* is not immediately clear: after all, he had declared these three to be the aims of the Exordium in general (1.20a), so they should apply to both *principium* and *insinuatio*, while in 1.20c they are only mentioned for the *principium*. But two later passages show that Cicero considers (v) to be about *principium*:

1. At the beginning of 1.23b, after he has finished dealing with *beniuolum/attentum/docilem facere*, Cicero says: *Nunc insinuationes quemadmodum tractari conueniat deinceps dicendum uidetur*. This shows that the preceding passage was *not* about *insinuatio*, therefore it must have been about *principium*, the only remaining form of Exordium.
2. At the beginning of 1.25b, after the section on *insinuatio*, Cicero says: *Ac separatim quidem quae de principio et de insinuatione dicenda uidebantur haec fere sunt*.

It follows from 1. and 2. that (v) must have been about *principium* (CHRISTES (1978), 560 n.5, draws the same conclusion), although Cicero does not make this clear anywhere within (v).

This does, however, *not* mean that *insinuatio* would *not* be concerned with *beniuolum/attentum/docilem facere*: it is concerned with these, but achieves these aims in such a way that the listener should not notice this at all. Cicero in 1.20 does not in fact link *beniuolum/attentum/docilem facere* directly to *insinuatio* when he defines this term: he only says that *insinuatio* would, 'through a certain dissimulation and detour, enter the listener's mind surreptitiously'. But three reasons show that *insinuatio* shares these three aims:

1. In 1.20 Cicero states that these three aims are the aims of the Exordium, of which *insinuatio* is a form, so they must be aims of *insinuatio* as well.
2. In 1.21 Cicero states that *insinuatio* is concerned with *pacem et beniuolentiam petere*.

3. The clearest proof is provided by a corresponding passage in *Rhet.Her.*1.11 about the difference between *principium* and *insinuatio* (*Inter insinuationem...uenire possimus*): *principium* openly aims at *beniuolum/attentum/docilem facere*, while *insinuatio*, which aims at exactly the same things (*eadem illa omnia*), does so surreptitiously (CLASSEN (1965), 125-126, interprets this as a difference between Cicero and the *Auctor*, but in my opinion point 1 above stands in the way of such an interpretation).

One must therefore conclude that the precepts in 1.22-23a (v) are in fact relevant, at least to some extent, for *insinuatio*, too, and that it is only through Cicero's statements in 1.23b and 1.25b (see above) that he confuses his reader by pointing out that he has finished speaking about something which he had not made clear back then.—The confusion in Cicero's text, viz. listing *beniuolum/attentum/docilem facere* for both *exordium* and *principium*, might result from the Latin translation of Greek terminology (possibly in Cicero's Latin source—he and the *Auctor* share this terminology): in Greek, both 'exordium' and its (Hellenistic) subdivision '*principium*' could be called 'προοίμιον', see at 1.20 under 'Exordium'.

The end of 1.21 (*Nunc...possit*) shows that Cicero thought that his treatment of Exordium fell into two major parts:

- I. comprising (i)-(iv) (i.e. 1.20-21), dealing with what the aims of the Exordium are
(1.21: *quas res exordio conficere oporteat dictum est*);
- II. comprising (v)-(viii) (i.e. 1.22-26), dealing with how these aims can be achieved
(1.21: *reliquum est ut ostendatur quibus quaeque rationibus res confici possit*).

While Cicero in *Inu.* treats the Exordium under the heading of *inuentio*, he deals with it in *de Orat.*2.315-325 under *dispositio*, as Aristotle does in *Rh.*1414b19-1416a3: like in Arist.*Rh.*, the structuring principle in *de Orat.* is the different stages of composing a speech (*partes artis*

or *officia oratoris*). Combining *partes orationis* and *partes artis* is a ‘contamination’ of two different structuring principles (see Chapter 2).

When we compare Cicero’s treatment of Exordium to that of the other extant ancient sources on rhetoric, we notice that there are quite a few not unimportant points that Cicero does not address here, e.g.: Exordium in the *genera deliberatiuum* and *demonstratiuum* (cf. e.g. *Rhet.Her.*3.7 and 3.11-12 respectively—Cicero does not deal with the Exordium in his treatment of these two *genera* in *Inu.*2.155-178a); the structure (beginning, middle, end) of the Exordium (cf. e.g. [Hermog.]*Inu.*1.5.1); how to link the Exordium to the rest of the speech (cf. e.g. *de Orat.*2.325; *Quint.Inst.*4.1.76-79); the *πρόεπον*/*aptum* defined by the Cause or by the circumstances under which the orator speaks (cf. e.g. *Quint.Inst.*4.1.52-53); the use of multiple Exordia throughout the speech (cf. e.g. *Anon.Seg.*37-39). One more question that might have been of interest to modern readers, viz. how to address the audience correctly (e.g. by ‘*iudices*’, ‘*patres conscripti*’ etc.), would probably have seemed straightforward to Roman orators or students of rhetoric: this is something that one would learn while observing experienced orators during one’s *tirocinium fori* (a kind of pupillage during which one would shadow an experienced orator).

Further treatments of *exordium*:

*Pl.Phdr.*266d; [Arist.]*Rh.Al.*1436a33-1438a2; *Arist.Rh.*1414a30-1416a3; [Cic.]*Rhet.Her.*1.4; 1.5-11; 1.16b; 3.7; 3.11-12; *Cic.de Orat.*2.80-82; 2.315-325; *Orat.*122; 124; *Top.*97; *Part.*4; 13-15; 28-30; *D.H.Lys.*17; *Quint.Inst.*4.1; *Ruf.Rh.*4-16; [Hermog.]*Inu.*1; *Long.fr.*48,120-140; *fr.*48,158-169; *fr.*49,6-9; *fr.*49,44-49; *fr.*50.21 [sic]; *Long.Ap.*I,185-190; *Anon.Seg.*1-39; *Aps.Rh.*1; *Mar.Victorin.Rhet.*1,14-17p.73,42-84,157; *Sulp.Vict.Rhet.*16-18p.322,11-35; *Iul.Vict.Rhet.*p.67,21-71,15; *Fortun.Rhet.*2.13-15; [August.]*Rhet.*17-21p.147,18-151,4; *Nicol.Prog.*p.4,7-11; p.39,20-42,2; *Iul.Sev.Rhet.*5p.357,13-15; *Mart.Cap.*p.192,3-193,8;

Cassiod.*Inst.*2.2.8-9; Grill.p.86,1-97,80; Isid.*Orig.*2.7; Alb.*Rhet.*20-21p.534,27-535,34; Anon.*Exc.Rhet.*p.586,37-587,9. The views of the followers of Apollodorus of Pergamum on Exordium are collected in T5-7 and T9 (WOERTHER; =Anon.Seg.26-31, *RhGr* vii.1 p.53,7-11 (WALZ) =*P.S.*26p.359,12-16 (RABE), Quint.*Inst.*4.1.50; Anon.Seg.124).

General literature:

HWRh s.v. *Exordium*; *Insinuatio*; *Prooemium* (with an overview of proems in other genres); *Vertretbarkeitsgrade*; LAUSBERG §§263-288; VOLKMANN (1885), 127-148; PETERS (1907), 22-44; MATTHES (1958), 192-195; HUNGER (1964), 19-35; KÖHLER (1968); MARTIN (1974), 60-75; CALBOLI MONTEFUSCO (1988), 1-32; LOUTSCH (1994), esp. 21-64 (LOUTSCH's treatment is the most comprehensive on the subject, investigating both Cicero's theory and practice; at 65-108 he discusses Cicero's views on Exordium in *de Orat.*); LEEMAN/PINKSTER/*ALII* (1981-2008), iv 13-18.

For an analysis of examples of Exordium from Cicero's speeches, see (besides the relevant commentaries) e.g. VON ALBRECHT (1969) (*Arch.*); PRILL (1986) (*S.Rosc., Clu., Mur., Cael., Mil.*); LOUTSCH (1994), 127-486 (*S.Rosc., Diu.Caec. and Ver., Man., Agr.2, Rab.Perd., Catil.1, Mur., Cael., Prou., Balb., Planc., Lig., Deiot., Phil.1 and 3-14*); VON ALBRECHT (2003), 174-180 (*Deiot.*; his conclusions at 180-181 that Cicero in the Exordium of *Deiot.* 'largely draws on his juvenile work, the *De Inventione*' and that he might have denigrated *Inu.* in *de Orat.*1.5 because 'it gave away too much' about 'the secrets of his workmanship' are unacceptable: Cicero certainly did not consult a beginner's guide to rhetoric like *Inu.* after decades of experience as a master-orator, and a work like *Inu.* includes the kind of rules that any young Roman would have learnt in the *rhetor*'s classroom, as the existence of the very similar treatise *Rhet.Her.* and information found in Quint.*Inst.* suggest. *Inu.* cannot in the slightest be said to contain any 'secrets').

Comparison of Cic.*Inu.*1.20-26 with *Rhet.Her.*1.5-11:

See also: THIELE (1889), 3-27; HERBOLZHEIMER (1926), 406-411; ADAMIETZ (1960), 21-33.

Both treatises structure the treatment of Exordium quite similarly, with only some passages occupying different places in each (cf. last column of the table):

section on	Cic. <i>Inu.</i>	order	<i>Rhet.Her.</i>	order as in Cic. <i>Inu.</i>
<i>beniuolum/attentum/docilem facere</i>	1.20a	1	1.6b	3
<i>genera causarum</i>	1.20b (5 <i>genera</i>)	2	1.5 (4 <i>genera</i>)	1
<i>principium/insinuatio</i>	1.20c	3	1.6a; 1.11a	2; 7.1
which <i>genus causae</i> requires which form of Exordium	1.21	4	1.6c	4
how to achieve <i>beniuolum/attentum/docilem facere</i>	1.22-23a (B/A/D)	5	1.7-8 (D/A/B)	5
<i>insinuatio</i>	1.23b-25a	6	1.9-10	6
style in the Exordium	1.25b	7	1.11b	7.2
<i>uitia exordii</i>	1.26	8	1.11c	8

Within each section, the order in which points are treated can differ slightly between the treatises (in these cases, numbers between square brackets in the table in the Appendix sub Exordium show the order in each treatise). Although this might be due to one or both authors relying on at least one additional source besides a shared one, it could also be that at least one of them changed the order found in the common source.

Similarities between the treatises can be noticed not only in structure, but also in content and even in wording throughout the treatment of Exordium.

As the number of similarities and differences varies, I will subdivide the treatment of Exordium in both treatises into ten sections (numbered i-x in the Appendix) and discuss each section separately. In the following, I will discuss mostly questions of wording and of

content; but very detailed questions of differences in content (like the three *causae* for *insinuatio* in *Inu.* 1.23 versus the three *tempora* for *insinuatio* in *Rhet.Her.* 1.9) I shall discuss in the relevant lemmata.

(i)

Cicero's definition of Exordium shows some similarities with the *Auctor's* definition of *principium*, i.e. of a subdivision of Exordium: a surprising combination of similarities in different contexts that seems difficult to explain through the sources, unless it is a Greek source using the ambiguous term 'προοίμιον', on which see at 1.20 under 'Exordium'.

The similarities between the subsequent transitional phrase in Cicero's text and *Rhet.Her.* 1.5a are of such a kind as would point towards independent translations from a common Greek source.

(ii)

This section contains one of the most notable differences between both texts in the treatment of Exordium: the different numbers and partly different names and definitions of *genera causarum*; for a detailed discussion of this, see at 1.20 under 'Genera causarum', 'quinque', and 'Honestum causae...(1.21) efficere oportebit'. Only Cicero recognises a fifth *genus*, the *genus obscurum*. The internal order is the same for the first two and different for the last two *genera* in *Rhet.Her.*

While all this suggests that both authors rely on different sources (see e.g. CHRISTES (1978), 570) or that at least one author must have significantly changed what he found in the common source (see e.g. CALBOLI (1971), 124-125), the same wording '*causa et honestatis et turpitudinis*' shows that there is *some* connection between the texts here (or else this must be considered a major coincidence), and the different constructions (*Inu.*: *particeps*; *Rhet.Her.*: *partem*) would point to different translations from a Greek source or an *oral* Latin source (a

Latin *rhetor* using slightly different wording in different years and perhaps having changed his views on the number and names of the *genera causarum*).

(iii)

The first part of this section shows only a loose connection between the two works. The *Auctor* surprises with his Greek translation of ‘*insinuatio*’ (not found in Cicero). Cicero subdivides the Exordium into two ‘*partes*’, the *Auctor* into two ‘*genera*’. This suggests a common Greek source, if there was any common source for this.

Different Latin translations from a common Greek source must be the conclusion for the second part of this section as both authors say almost exactly the same thing, but in different words (cf. *perspicue/apertis rationibus*, *protinus/statim*, *obscure/occulte*)—it is difficult to tell why one author would have changed this if copying from the other. While ‘*beniuolus*’ and ‘*attentus*’ are common enough in Latin for two authors to arrive independently at the same words while translating from Greek, the same is not true for ‘*principium*’, ‘*insinuatio*’, and ‘*docilis*’. But it could be that this was the commonly accepted Latin vocabulary in rhetorical schools in Rome at the time.

(iv)

This section is closely connected to (ii), with the same conclusions. There are only two points to make here: first, the surprising echoes for the *genus honestum* in both texts (see at 1.21 under ‘*uel praeteriri...aueatur*’ for further details); second, the phrasing of the end of this section seems rather similar, but not identical, in both texts, suggesting translations from a common Greek source.

(v)

This section shows a sudden, surprising degree of identical content (both treatises list exactly the same *loci benivolentiae* in exactly the same order) and phrasing, especially from ‘*Ab aduersariorum*’ onwards, which points to a common source. Small differences, like the use of 1st versus 3rd pers. pl., between the texts could point towards a common Greek source or a common *oral* Latin one. But the high degree of *identical* wording leads one to the conclusion that both treatises rely on a common *Latin* source, especially if *longer* passages are almost identical, like here (cf. Cic.*Inu.*1.22: *Ab rebus...deprimemus*, and *Rhet.Her.*1.8: *A rebus...deprimemus*). The conclusion that seems to impose itself for this passage is that both texts are based on a common oral Latin source (a Latin-speaking teacher who phrased his ideas slightly differently in different years), or on a common written source, and at least one treatise slightly paraphrased the text. The list of *loci* for *in inuidiam* is longer in *Rhet.Her.*1.8; as Cicero had no apparent reason for shortening the list, it is more likely that the *Auctor* made his longer by adding ideas of his own or from another (other) source(s) (against ADAMIETZ (1960), 23-24). By contrast, ‘*ut ne...significetur*’ is only found in Cicero’s text, with no apparent reason why the *Auctor* would have left it out, had it been in the common source: this strongly suggests that the *Auctor* cannot have been copying from *Inu.* here (see also at 1.22 *ad loc.*), or else the common oral source forgot to include this remark in the *Auctor*’s year.

As ADAMIETZ (1960), 22, has already noted, Cicero in 1.22-23a (B/A/D) and the *Auctor* in *Rhet.Her.*1.7-8 (D/A/B) give detailed treatments of *beniuolum* (B)/*attentum* (A)/*docilem* (D)/*facere* in opposite sequence. His view (p.24) concerning ‘*desidiam, luxuriam*’ in *Rhet.Her.*1.8 versus ‘*desidiosum studium et luxuriosum otium*’ in *Inu.*1.22 that Cicero would have made the version found in *Rhet.Her.* more elaborate (note the antithesis *studium/otium*) cannot be proven: what, e.g., if it goes back to a Latin *rhetor* who (intentionally or otherwise) made slight variations from year to year?

(vi)

This passage shows syntactical similarities, which points towards a common source: the content is almost the same. Only in the list of the people or similar concerned (*aut...aut...* etc.) do the texts show greater similarities in phrasing, which could point to a common Latin source, but given the common nature of the words in question a Greek source cannot be excluded. It is interesting to see that Cicero, possibly through the addition of his own ideas (see at 1.23 under ‘ad eos...rem publicam’), extends this list: it is unlikely that the *Auctor* would have shortened the list without any apparent reason (similarly, ADAMIETZ (1960), 25) while Cicero could already be showing here his later thoughts about the state representing the highest interests possible.

(vii)

The content of this section is exactly the same (apart from Cicero’s problematic ‘*hoc est in quo consistat controuersia*’, for which see at 1.23 under ‘hoc est...controuersia’), with some similarities in the phrasing, which could point to a common Greek source or an *oral* Latin one.

(viii)

The treatment of *insinuatio* is similar in content for 1.23b-24; there are only few similarities in wording between the texts here, like the shared use—for different precepts—of ‘*pedetemptim*’, as already noted by THIELE (1889), 21-22, HERBOLZHEIMER (1926), 409, and ADAMIETZ (1960), 29-30. But Cicero’s treatment is longer and more explicative, which suggests that he adds ideas that go back to himself or to one (or several) additional source(s). The details that both treatises provide for the first case requiring *insinuatio* (*Inu.* 1.24: *si causae turpitudine contrahit offensionem*) are very similar, but are organised in a different internal sequence:

	order in <i>Cic.Inu.</i>	order in <i>Rhet.Her.</i>
replace man/thing by man/thing	1	1
slowly go over to defence, and say that you are outraged by the same things as your opponents	<i>deinde</i> 2 3	<i>deinde</i> 6 2
show that it does not relate to you, and deny that you are going to speak about your opponents, although you will do it secretly, and add others' judgments about a similar matter or their advice worth of imitation	<i>deinde</i> 4 5 6	<i>deinde</i> 3 7 4
show that the same/a very similar/a greater/a smaller matter is at stake here	<i>deinde</i> 7	5

It is striking that, although the order is different, *Rhet.Her.* keeps two out of three '*deinde*' found in *Cic.Inu.* for exactly the same points: is this a mere coincidence or did the common source have '*deinde*' (or a Greek equivalent) in exactly those places?

The first part of 1.25a (*Sin oratio...confidere arbitratur*) shows such strong similarities in wording and syntax (even the syntactic parenthesis '*idque ei...erit cognitu*' and, in the *Auctor*'s wording, '*neque enim...feri soleat*', appears in both treatises in exactly the same place) that only a common *Latin* source can explain this (similarly, ADAMIETZ (1960), 30). But since the texts differ slightly—especially noteworthy are the use of 2nd person singular in *Inu.* versus 1st-person *pluralis humilitatis* in *Rhet.Her.*, the postposition of '*cum admiratione*' in both texts (already noted by BÜCHNER (1964), 65), as well as '*primum*' and '*potissimum*', which are found exchanged in both texts—the best explanation seems to be that this Latin source was an *oral* one, e.g. a teacher (against BÜCHNER (1964), 66, and CHRISTES (1978), 570-573, who think that the *Auctor* here copied from Cicero).

The second part of 1.25a (*Sin auditoris...*) includes a list that only partially overlaps with that in *Rhet.Her.*, and there are no major similarities in wording between the texts, which suggests that they go back to *different Greek* sources—this cannot be a matter of

different translations from the *same* Greek text—or that at least one author made significant changes to a common source (Greek or Latin). In fact, the *Auctor* gives a long list here of things that should produce laughter and which has been considered the oldest extant (brief) treatment of a theory of laughter (see at 1.25 under ‘ridicula...inrisionem’), for which he could have used an additional (rhetorical or philosophical) source—Cicero does not have it and there seems to be no plausible explanation for why he would have left this out, had he copied from *Rhet.Her.* (similarly, ADAMIETZ (1960), 30-31): in fact, this omission in *Inu.* can be taken as an almost certain proof that *Inu.* is *not* based on *Rhet.Her.* A distinctive Ciceronian mark is the use of a comparison at the end that might in fact go back to *Pl.Grg.* (see at 1.25 under ‘ut cibi...nouatur’) and hence point to Cicero’s broader literary and philosophical knowledge or interest. It seems unlikely that the *Auctor* would have left this literary enrichment out (against CHRISTES (1978), 569). Thus, 1.25a provides very strong grounds to believe that Cicero did *not* rely on *Rhet.Her.* and vice versa.

(ix)

Cicero’s passage on stylistic precepts for the Exordium has no real equivalent in *Rhet.Her.* 1.11: it is likely that, apart from a warning against showing the *ars*, these precepts were not found in a common source and thus go back to Cicero himself or to an additional source that he is using here.

(x)

The treatment of the *uitia exordii* shows some similarities between the texts, with Cicero again providing more information than the *Auctor*. Cicero lists seven *uitia*, all with a label; the *Auctor* lists only six, with only the first two clearly labelled. But it seems impossible to choose between different explanations for what exactly was going on source-wise here (see at 1.26 under ‘Vitia...uitare oportebit’). This passage is of great importance in one way: it

can be considered an almost *completely* certain *proof* that the *Auctor* did *not* copy from *Inu.*, for why would he have left out all of Cicero's helpful labels apart from the ones with the common Latin words '*uulgare*' and '*commune*'? (Similarly, ADAMIETZ (1960), 31-32.)

Conclusion:

As the observations for all ten sections show, the picture of the relationship between *Inu.* and *Rhet.Her.* is a very disparate one for the treatment of Exordium: some passages cannot come from a common Latin source, others have to, etc. This passage shows that this relationship is much more complex than any simple solution *à la* '*Inu.* is based on *Rhet.Her.*' or '*Rhet.Her.* is based on *Inu.*' or 'both go back to one common source' could explain: this relationship seems much more patchwork than homogeneous. (ADAMIETZ (1960), 32-33, in his conclusion for the treatment of Exordium seems not to have recognised this complex, patchwork character.)

Furthermore, the importance of the treatment of Exordium for the question of the relationship between *Inu.* and *Rhet.Her.* is further stressed by the fact that some of its parts show that it is highly unlikely—perhaps one can go even as far as to say: some parts from it *prove* that it is *impossible*—that *Inu.* relies on *Rhet.Her.* and vice versa (similarly, ADAMIETZ (1960), 33).

TESTIMONIA:

Exordium...dictionem: =Cassiod.*Inst.*2.2.9; Alb.*Rhet.*20p.534,27-28 (*Oratio...dictionem*).
Genera...implicata: =Alb.*Rhet.*21p.535,18-26 (*honestum...implicata*); ≈Cassiod.*Inst.*2.2.8;
 Isid.*Orig.*2.8.

COMMENTARY:

Exordium...confecerit: The idea is found in most rhetoricians. In their structure, partially also in their wording, the following passages are reminiscent of Cicero's opening of the Exordium section: Quint.*Inst.*4.1.5; Anon.Seg.9; Nicol.*Prog.*p.4,7-11; Mart.Cap.p.192,3-5. The close parallels in Anon.Seg.9 (which is earlier than Nicol.*Prog.*) are all the more striking, since this treatise is written in Greek and follows the doctrines of Greek rhetoricians: it is unlikely that the *Anonymus* is somehow dependent on Cic.*Inu.*, which in turn suggests that Anon.Seg. and Cic.*Inu.* here both depend on the same Greek tradition, of which Cicero's version is a more or less literal translation (his wording is closer to that of Anon.Seg. than the *Auctor's* in *Rhet.Her.*1.4 and 1.6). THIELE (1889), 3 (followed by PETERS (1907), 23), thinks that Cicero's '*comparare*' and the *Auctor's* corresponding '*constituere*' are different Latin translations of the same Greek term, 'παρασκευάζειν'—their definitions look very similar to that in Ruf.*Rh.*4: Προοίμιόν ἐστι λόγος παρασκευάζων τὸν ἀκροατὴν εἰς τὴν προκειμένην ὑπόθεσιν ἐπιτήδειον.

Although Cicero's treatment of the *partes orationis* focuses on the *genus iudiciale* (cf. 1.22: *ab iudicum persona*; the other two Aristotelian *genera* will receive further treatment only in 2.155-178a), the three *officia exordii* (*beniuolum/attentum/docilem facere*) most probably apply to all three *genera causarum*, even if Cicero does not discuss Exordium in 2.155-178a. In the Middle Ages the *captatio beniuolentiae* gains special importance for epistolography, in the

Renaissance it does so for prose literature in general; see *HWRh* s.v. *Captatio beneuolentiae*.

Exordium: The corresponding Greek term is ‘προοίμιον’. But, as MÄNNLEIN-ROBERT notes in *HWRh* s.v. *Prooemium*, in the Hellenistic subdivision of Exordium into *principium* and *insinuatio*, ‘προοίμιον’ refers to *principium* while ‘ἔφοδος’ corresponds to *insinuatio*. ‘Προοίμιον’ can thus be ambiguous. See also ERNESTI (1983a) s.v. Προοίμιον; CALBOLI MONTEFUSCO (1988), 1 n.2. Cicero in his later works will use ‘*principium*’ to refer to Exordium in general (he will no longer distinguish between *principium* and *insinuatio*). For an overview of the chronology of the terms for Exordium (*exordium*, *principium*, *pro(h)oemium*), see at 1.19b under ‘Eae partes...conclusio’. See also LOUTSCH (1994), 15-19. CASTRILLO FERNÁNDEZ (1995) compares different terms used to refer to the beginning of a speech or work (*prohoemium*, *exordium*, *initium*, *praefatio*, *ingressus*, *principium*, *insinuatio*) and for some gives the etymology and different senses.

In *Part.4* and *Top.97*, Cicero calls the Exordium ‘*principium*’, in *Part.27* also ‘*initi[um]*’; *Quint.Inst.4.1.1* gives both as synonyms. This shows that the distinction between ‘*principium*’ and ‘*exordium*’ through a subdivision of *exordium* into *principium* and *insinuatio* (Cic.*Inu.1.20*; *Rhet.Her.1.6*) faded and disappeared already during Cicero’s lifetime (the term for one of the two *partes exordii* hence came to metonymically replace ‘*exordium*’ itself). *Rhet.Her.*, which, like Cic.*Inu.1.20*, divides *exordium* into *principium* and *insinuatio* in 1.6., makes in this respect a slightly unhappy use of ‘*principium*’ in its definition of ‘*exordium*’ in 1.4: *Exordium est principium orationis...*

In its original sense, ‘*exordium*’ means: ‘[t]he warp set up on a loom before the web is started’ (*OLD* s.v. *exordium* 1). The verb ‘*exordiri*’ was originally also related to weaving: ‘[t]o lay the warp of, begin (a web); to lay the strands of (a rope, before twisting)’ (*OLD* s.v. *exordior* 1); *TLL* s.v. *exordior*: *originaria ui ut uid. de tela incipienda*, e.g. in Cato *Agr.135.4*: *funem exordiri oportet longum p. LXXII*; similarly, *TLL* s.v. *exordium*: *ui ut uid. primaria de initio telae texendae*, e.g. in *Quint.Inst.5.10.71*: *non possum togam praetextam sperare cum exordium pullum*

uideam. In connection with the two *TLL* entries, see LÖSCHHORN (1974) on *ordini*. See also ERNOUT/MEILLET (1979) s.v. *ordior*. Although not in the context of Exordium, Cicero shows awareness of this etymology of ‘*exordiri*’ when he extends the weaving metaphor in *de Orat.* 2.145 (*‘pertexe modo’, inquit, ‘Antoni, quod exorsus es (...)’*) and 2.158 (*reperiunt non modo ea, quae iam non possint ipsi dissolvere, sed etiam quibus ante exorsa et potius detexta prope retexantur*). See also LOUTSCH (1994), 17. The etymology and hence the picture associated with it is a different one for the Greek ‘*προοίμιον*’ (see Introduction to 1.20-26), so ‘*exordium*’ is not a literal translation of this term. Cf. also Quint.*Inst.* 4.1.1-3 for an explanation of the Latin and Greek terms. See also LAUSBERG §263; LOUTSCH (1994), 15-19.

Cicero does not discuss the possibility of leaving out the Exordium in a speech. Discussions about the superfluosity of the Exordium in certain cases are found in: Arist.*Rh.* 1415b6-8; Quint.*Inst.* 4.1.72-75; Iul.Vict.*Rhet.* p.68,4-12; Anon.Seg.21-35. See also LAUSBERG §§284-286.

oratio...dictionem: ‘*Oratio*’ here means not ‘speech’, but ‘part of the speech’ or ‘passage’, unless Cicero had considered it as a separate speech. This is, however, not the case, as he has just defined the *exordium* as one of the six *Parts* of a Speech. 1.20 is referred to in *TLL* s.v. *oratio* II.B.2.b: *technice α de rationibus quibusdam et figuris artis oratoriae*, but this does not really fit the sense that ‘*oratio*’ has here.

Originally, ‘*dictio*’ referred to ‘the action of speaking’ (the ending ‘-tio’ designates nouns of action). It then came also to mean ‘a speech’ (*OLD* s.v. *dictio* 1. and 4.), like here. See also at 1.33 under ‘in omni dictione’.

auditoris: Cicero does not further specify who exactly is meant by ‘the listener’ here: only the judge(s) (*iudex/iudices*) or everyone present, i.e. also the opposing party and the crowd standing around the judge(s) and the litigating parties (*corona*; for the position of all these people in a law court, see BABLITZ (2007), 51-70)? Indeed, in his speeches, Cicero makes clear whom exactly he is addressing by using vocatives like ‘*iudices*’. Most probably,

the audience referred to here is the judge(s). But one must be aware that the reaction of the opposing party and the *corona*, who were also ‘listening’, could in turn influence the opinion of the judge(s) and the smooth running of the trial (cf. e.g. Clodius’ angry supporters interrupting Cicero during his defence of Milo).

eum...confecerit: As all other instances with *beniuolus/attentus/docilis* in Cic.*Inu.*1.20-26 show, ‘*eum*’ here refers not to ‘*animus*’, but to ‘*auditoris*’ (cf. 1.20: *perficiens auditorem beniuolum aut docilem aut attentum*; 1.21: *necesse est attentum efficere auditorem; dociles auditores efficere oportebit*; 1.23: *attentos autem faciemus* and *Dociles auditores faciemus*; 1.26: *si qui docilem faciat auditorem; hoc est quod eum qui audit neque beniuolum neque attentum neque docilem efficit*).

beniuolum, attentum, docilem confecerit: the three functions (*officia*) of the Exordium. Latin authors mainly use the relevant adjectives (‘*beniuolentia*’ is the only relevant noun commonly found; ‘*docilitas*’ and ‘*attentio*’ are extremely rare in this context). The corresponding Greek adjectives are: εὖνους (cf. e.g. Arist.*Rh.*1415a34), προσεκτικός or προσεχής (cf. e.g. Arist.*Rh.*1415a35; Anon.Seg.162), εὐμαθής (cf. e.g. Anon.Seg.10); the corresponding Greek nouns are: εὐνοια, προσοχή, εὐμάθεια (cf. e.g. Anon.Seg.9). DE ROMILLY (1958), 92, writing on Isocrates, states that the Greek term ‘εὐνοια’ ‘is something more than good will [*sic*]: it means approval, sympathy and readiness to help’. An audience that is εὖνους/*beniuolus* would hence have an *active* good will (this connotation of action would have passed into Roman rhetoric with everything else that was transferred from Greek to Roman rhetoric; only once Latin authors began to rely only on Latin sources would the Greek background of the terms ‘*beniuolus*’ and ‘*beniuolentia*’ fade).

This is one of several examples for rhetorical concepts with three elements. For other such examples, see Chapter 2 and LAUSBERG §1244 s.v. *tres*. CALBOLI MONTEFUSCO (1988), 8, parallels this triad with the one of the *tria officia oratoris*: *docere* (cf. *docilem facere*), *delectare/conciliare* (cf. *attentum facere*), (*per-*)*mouere* (cf. *beniuolum facere*); see also CALBOLI MONTEFUSCO (1994), esp. 82-86. For the *tria officia oratoris*, cf. e.g. Cic.*de Orat.*2.310. One

must, however, keep in mind that the triad *docere/delectare* (or *conciliare*)/*mouere* is not yet found in *Inu.* and *Rhet.Her.*

Although no such link between the three functions of the Exordium is implied here, they are nevertheless logically and chronologically interconnected: first, in order to listen to the speech at all, the listener must be attentive (*attentus*); only when he pays attention can the listener in fact be receptive (*docilis*) with regard to the content of the orator's speech; finally, when he is paying attention and receives what the orator says in favour of his own aim, the listener can be well disposed (*beniuolus*) if the content of the orator's speech pleases him. In this sense, the sequence *attentus-docilis-beniuolus* (found e.g. in *Rhet.Her.* 1.6, see below) would be more logical. But, as CHRISTES (1978), 561-563, points out, these three factors are also interconnected in that they mutually influence each other: e.g., a listener who is already alienated before the start of the speech may not be willing to pay (full) attention and be (fully) receptive to what the orator is going to say, or, on the other hand, may be curious as to what the orator has to say that may challenge his views. Cicero is aware of this interdependence, as '*cum docilem uelis facere, simul attentum facias oportet. Nam is est maxime docilis qui attentissime est paratus audire*' (1.23) shows, and so is the *Auctor* (versus CHRISTES (1978), 566), cf. 1.7: *Dociles auditores habere poterimus, si (...) attentos eos faciemus; nam docilis est is qui adtente uult audire.*

Quintilian in *Inst.* 4.1.5 notes that most authors agree on the triad *beniuolum/attentum/docilem facere* with regard to how to better prepare the audience for the rest of the speech. Indeed, it is found in almost all extant sources. Making the listener *beniuolum* (B) and *attentum* (A) is already discussed in [Arist.] *Rh.Al.* 1436a40-1437b32 and *Arist.Rh.* 1415a34-1415b4 (in *Rh.* 1415a36-37, Aristotle warns that it is not always useful to make the listener attentive—a view criticised by *Quint.Inst.* 4.1.37-39, though without naming Aristotle; see also CHRISTES (1978), 562 n.14). *Docilem facere* (D) is also found in both treatises (cf. εὐμάθεια in *Arist.Rh.* 1415a37, with more details in *Rh.* 1415a8-24, esp.

1415a11-15), but is harder to discern in [Arist.]*Rh.* because no label like ‘εὐμάθεια’ or ‘εὐμαθής’ is used there (see DONNELLY (1912), 204-206), so that only the content makes clear what Anaximenes is actually talking about in [Arist.]*Rh.Al.*1436a34-36 (contrast e.g. Anon.Seg.10). The fact that both [Arist.]*Rh.Al.* and Arist.*Rh.* already treat B/A/D shows that the canonisation of *beniuolum/attentum/docilem facere* had already taken place by the time that these treatises were written or that it was just in progress. As NAVARRE (1900), 213, has already noted, it seems impossible to say who is the inventor of the triad B/A/D in connection with the Exordium, but he (or his theory) must precede Aristotle (and Anaximenes, not mentioned by NAVARRE here); similarly, CALBOLI MONTEFUSCO (1988), 8.

That Cicero’s sequence B-A-D might reflect an order of decreasing importance would be supported by the length of his detailed treatments of B (long), A (quite short), and D (very short) in 1.22-23a. The sequence B-A-D is the one most frequently found (only one passage per treatise is given here): Cic.*Inu.*1.20; *Rhet.Her.*1.11; Cic.*Orat.*122 (paraphrased); Quint.*Inst.*4.1.5; Iul.Vict.*Rhet.*p.68,13-14; Alb.*Rhet.*20p.534,29. Other sequences used are, in decreasing frequency: B-D-A (Cic.*Part.*28 [paraphrased]; *Top.*97; Sulp.Vict.*Rhet.*18p.322,19-20; Isid.*Orig.*2.7.2), A-D-B (*Rhet.Her.*1.6; Anon.Seg.9; Nicol.*Prog.*p.4,10-11; Mart.Cap.p.192,4-5), D-B-A (*Rhet.Her.*1.7-8), A-B-D (Fortun.*Rhet.*2.13). See also LAUSBERG §267. It is noteworthy that in most cases *beniuolum facere* comes first, showing its importance.

On *beniuolum/attentum/docilem* see also below under ‘beniuolum...attentum’. For references in ancient authors and further literature on all three functions of the Exordium, see at 1.22 under ‘Beniuolentia...a causa’ and at 1.23 under ‘Attentos...faciemus’ and ‘Dociles...faciemus’.

Quare qui...cognoscere: This makes the transition to the five *genera causarum*, which must be analysed by the orator in order to make the best choice to prepare the listener's mind ideally for the rest of the speech: the orator has to determine the *genus causae* first *before* deciding which of *beniuolum/attentum/docilem facere* he should try to achieve and *before* deciding whether to use a *principium* or *insinuatio* and which *loci* to use.

Determining the *genus causae* for the *exordium* follows in fact immediately after the theory of Issues and *iudicatio* scheme (in this respect, the order of sequence of these in *Inu.* makes much better sense than that in *Rhet.Her.*, where the theory of Issues and the *iudicatio* scheme are discussed in 3.18-27, i.e. in the section on Argumentation and after those on Exordium and Narrative).

exordiri: the verb to 'exordium'; it is a deponent verb (cf. accusative object 'causam'). For its etymology, see above under 'Exordium'.

Genera causarum: not to be confused with the three Aristotelian *genera causarum* (*genera iudiciale, deliberatiuum, demonstratiuum*), cf. e.g. Cic.*Inu.*1.7, 1.12. Indeed, Aristotle calls these three 'γένη τῶν λόγων τῶν ῥητορικῶν' (*Rh.*1358b7), while Pseudo-Augustine, who links them to Hermagoras, uses 'schemata [σχήματα] controuersiarum' (*Rhet.*17p.147,20-21). MATTHES (1958), 192, uses 'σχήματα ὑποθέσεων' as a Greek translation of '*figurae controuersiarum*', but, although this seems a good choice, no ancient evidence appears to be extant for 'ὑποθέσεων' here. If Pseudo-Augustine's Greek term 'σχήματα' is correct (Fortun.*Rhet.*2.13 supports this view: *in figuris materialium quae Graeci σχήματα appellant*), it becomes clear that the ambiguity of the expression '*genera causarum*' is only found in Latin and has no equivalent ambiguity in Greek, where '*genera*' corresponds to 'γένη' and 'σχήματα' respectively. One possible explanation for this might be that Latin rhetorical vocabulary was still very young (it had not yet been put to test over many decades or centuries) and was often considered too poor to render Greek technical terms; on Cicero's

use of ‘*genera*’, especially in the expression ‘*genera dicendi*’, in his later rhetorical works, see FANTHAM (1979). ‘*Genera causarum*’ is sometimes replaced by other expressions in much later Latin rhetoricians (see also CALBOLI MONTEFUSCO (1988), 8-9 n.23): *schemata/figurae controuersiarum* ([August.] *Rhet.* 17p.147,20-21), *figura(e) materialium* (Fortun. *Rhet.* 2.13, with CALBOLI MONTEFUSCO (1979), 366-368), *modi causarum* (Sulp. *Vict. Rhet.* 7p.316,24-27), *forma(e) materiae* (Mart. *Cap.* p.192,21-22). *Isid. Orig.* 2.8 uses three different expressions almost side by side without further comment: *modi causarum*, *species causarum*, *genera causarum*. The Greek expression found in several later Greek rhetoricians is ‘τρόποι τῶν προβλημάτων/ζητημάτων’ (cf. e.g. *RhGr* iv p.183,9-15 and p.188,6-7 (WALZ)). See also LAUSBERG §64; VOLKMANN (1885), 108-109; MARTIN (1974), 24-26.

In *Rhet. Her.* both meanings of ‘*genera causarum*’ are found in even quicker succession (1.2 for the three Aristotelian ones, 1.5 for the ones linked to Exordium) with the same label and, like in Cicero, with no justification for or other remark on this double use, which could demonstrate that both authors simply took an already established Latin technical expression without showing awareness of or concern about this double use. See also at 1.7 under ‘tribus...iudiciali’ [n.i.]. The confusing use of ‘*genera causarum*’ for both concepts in *Inu.* is already noted by Mar. Victorin. *Rhet.* 1,14p.74,70-p.75,109, who gives a rather obscure explanation in his attempt to solve the question why Cicero used the same expression for both concepts.

Here, the *genus causae* (singular of ‘*genera causarum*’) refers to the ‘Type of Cause’ defined by the *listener’s* attitude towards the orator and/or his Cause: it represents the ‘degree of acceptability/defensibility’ (‘Vertretbarkeitsgrad’; see *HWRh* s.v. *Vertretbarkeitsgrade*, although with caution: this article contains several errors), i.e. the degree to which the listener finds it acceptable that the orator holds or defends a certain view/action/person. The (non-Aristotelian) *genus causae* is thus a concept in which the orator looks at the Cause from the *listener’s* perspective. As WISSE (1989), 86, notes, this

focus on the Cause ties the Exordium closely to the Cause, i.e. the Exordium (as described in *Inu.* and *Rhet.Her.*) is not just any introduction with a loose connection to the matter at stake. THIELE (1889), 6-7, and ADAMIETZ (1960), 22, correctly observe that while Cicero's definitions of the different *genera causarum* focus on the *animus auditoris*, the *Auctor's* focus on the *res* (or: *causa*), which constitutes a major difference and might be a sign that they go back to different sources.

The group of five *genera causarum* presented by Cicero differs from the list in *Rhet.Her.* 1.5, which includes only four (*honestum*, *turpe*, *dubium*, *humile*; see below under 'quinque'), but recurs in many later Latin treatises.

The following table summarises where these *genera* are found; the numbers indicate the order in which they are listed. (See also the chart to LAUSBERG §262.)

	<i>honestum</i>	<i>admirabile</i>	<i>humile</i>	<i>anceps</i>	<i>obscurum</i>		<i>turpe</i>	<i>dubium</i>		number of <i>genera</i>
Cic. <i>Inu.</i> 1.20	1	2	3	4	5					5
<i>Rhet.Her.</i> 1.5	1		4				2	3		4
Quint. <i>Inst.</i> 4.1.40	1	4	2	3b	5		6	3a		6
Sulp.Vict. <i>Rhet.</i> 7p.316,24-27	1	2	4	3	5					5
Fortun. <i>Rhet.</i> 2.13	1	3	4	2	5					5
Mart.Cap.p.192,21-22	1		4		5		2	3		5
Cassiod. <i>Inst.</i> 2.2.8	1	2	3	4	5					5
Isid. <i>Orig.</i> 2.8.1	1	2	3	4	5					5
Alb. <i>Rhet.</i> 21p.535,18-19	1	2	3	4	5					5

Some observations:

1. Only Quint.*Inst.* 4.1.40 includes six *genera causarum*, apparently combining the *genera* found in Cic.*Inu.* and *Rhet.Her.* By indicating '*dubium uel anceps*', Quintilian shows that these two terms correspond (to a certain degree) to each other in Cic.*Inu.* 1.20 and *Rhet.Her.* 1.5. Indeed the wording in these two passages is very similar (see below under 'aut iudicatio...particeps'). CLASSEN (1965), 109 n.21, thinks that Quintilian's

‘*dubium*’ refers to Cicero’s ‘*iudicatio dubia*’ and ‘*anceps*’ to the second part of Cicero’s *genus anceps* (‘*aut causa et honestatis et turpitudinis particeps*’). While *Rhet.Her.* seems to have been more or less unknown to readers until the 4th century AD (see ACHARD (2003), v), which would support CLASSEN’s argument that ‘*dubium*’ here does not refer to the *genus dubium* listed by *Rhet.Her.*, he fails to explain how Quintilian came to include the *genus turpe*, found in *Rhet.Her.* but not in *Cic.Inu.*, as his sixth and last *genus causae*. If *Rhet.Her.* was unknown to Quintilian, the tradition found in *Rhet.Her.* here may well have been known to him.

2. Only *Rhet.Her.* and *Quint.Inst.* include fewer and more than five *genera* respectively: five became the canonical number for these *genera causarum*.
3. The *genera honestum* and *humile* are omnipresent, the *genus obscurum* is missing only in *Rhet.Her.* 1.5.
4. The *genus honestum* always comes in first position, the *genus obscurum* (missing in *Rhet.Her.* 1.5) always in fifth position.
5. *Cassiod.Inst.* 2.2.8, *Isid.Orig.* 2.8.1, and *Alb.Rhet.* 21p.535,18-19 present exactly the same *genera causarum* in exactly the same order as *Cic.Inu.* 1.20, which shows the influence of *Cic.Inu.* on these authors here. *Fortun.Rhet.* 2.13 and *Sulp.Vict.Rhet.* 7p.316,24-27 have exactly the same *genera causarum* as *Cic.Inu.* 1.20, but in a different order except for the *genera honestum*, *obscurum*, and (only *Fortun.Rhet.*) *admirabile*. By contrast, *Mart.Cap.* p.192,21-22 is identical in elements and order to *Rhet.Her.* 1.5, except that it includes the *genus obscurum* as a fifth element.

As becomes clear, *Cic.Inu.* 1.20 and, to a lesser extent, *Rhet.Her.* 1.5 initiated a tradition of *genera causarum* that would be followed by all subsequent extant Latin rhetorical treatises mentioning these *genera*. The table also shows that it is *Cic.Inu.* that coined the standard

Latin vocabulary for the *genera*—only Quint.*Inst.*4.1.40 and Mart.Cap.p.192,21-22 include the *genus* ‘*dubium*’ found in *Rhet.Her.*1.5.

Quint.*Inst.*4.1.40 provides the corresponding Greek terminology: (*genus*) *honestum* =(σχῆμα) ἔνδοξον, *humile* =ἄδοξον, *dubium uel anceps* =ἀμφίδοξον, *admirabile* =παράδοξον, *obscurum* =δυσπαρακολούθητον. Cf. also [August.]*Rhet.*17-21p.147,18-151,4, who uses the Greek terminology, but only has the first four *genera*. ‘Δυσπαρακολούθητον’ stands out, being the only of the five Greek terms that does not end in ‘-δοξον’ (referring to the audience’s opinion, ‘δόξα’), so one may wonder whether it goes back to the same author and was introduced to rhetorical theory at the same time as the other four or whether it was added later, perhaps by another rhetorician. According to CLASSEN (1965), 106 n.7 (similarly, THIELE (1889), 6), against COUSIN (1936), ii 68, this Greek term does not go back to Hermagoras, because the *genus obscurum* was introduced only after Hermagoras—[August.]*Rhet.*17-21p.147,18-151,4 uses only four *genera* (leaving out *δυσπαρακολούθητον/obscurum*) and mentions Hermagoras in *Rhet.*19p.148,30 in connection with one of these four *genera*, so that these four could go back to Hermagoras. CLASSEN (1965), 125, suspects that Cicero introduced the *genus obscurum* only in order to link *docilem facere* to one of the *genera causarum*. But one might question whether the *genus obscurum* is a Roman invention that was transferred to Greek rhetoric (under the label ‘δυσπαρακολούθητον’): since the transfer of rhetorical theory, especially in the early days of Roman rhetoric, seems to have been one-way from Greece to Rome, it seems more likely that here, too, Cicero borrows a concept from Greek rhetorical theory.

On these Greek terms, see also BOWER (1958), 225-226. Of the translations Quintilian gives, only the pairs *honestum*–ἔνδοξον and *dubium uel anceps*–ἀμφίδοξον are straightforward. *Humile*–ἄδοξον is problematic in that ‘ἄδοξον’ can also mean ‘obscure’ and could hence also have been used as the translation for ‘*obscurum*’ instead of ‘δυσπαρακολούθητον’. ‘Δυσπαρακολούθητον’ (well rendered by Cicero’s ‘*in quo...tardi*

auditores sunt’, as CHRISTES (1978), 567 has noted) narrows down the sense of ‘*obscurum*’ to the meaning ‘obscure to understanding’, while ‘*obscurum*’ could also mean ‘unclear’, ‘imprecise’ etc. While ‘*admiratio*’ (and hence ‘*admirabile*’) usually expresses a *positive* surprise, ‘παράδοξον’ in the first place refers to something that is ‘against expectation/belief’ *neutrally*, i.e. without indicating whether the author judges the surprise to be a positive or a negative one.

See also: LAUSBERG §§64; 264-265; *HWRh* s.v. *Vertretbarkeitsgrade*; VOLKMANN (1885), 108-109; 137-139; MARTIN (1974), 24-26; 70-72; CALBOLI MONTEFUSCO (1988), 8-18.

quinque: By contrast, *Rhet.Her.* 1.5 only includes four *genera causarum*: *honestum*, *turpe*, *dubium*, and *humile*. These four correspond more or less to Cicero’s *genera honestum*, *admirabile*, *anceps*, and *humile*.

Despite the apparent correspondence between Cicero’s *anceps* and the *Auctor*’s *dubium*, the *genus dubium* corresponds only to the second part of the *genus anceps* (the table in BOWER (1958), 225, can be misleading here): Cicero in 1.21 subdivides the *genus anceps* into 1) the situation where the *iudicatio* (‘Point for Decision’) is *dubia* and 2) the case where the Cause is partly honourable, partly shameful. It seems striking that the *Auctor*’s *genus dubium* does not include Cicero’s *iudicatio dubia*. One possible explanation for this (already mentioned by ADAMIETZ (1960), 26) could be that Cicero has already treated *iudicatio* by this point (in 1.18-19a), while the *Auctor* will do so only later (in *Rhet.Her.* 1.26-27a): one may wonder whether this led the *Auctor* (who includes the theory of Issues and the related *iudicatio* scheme in his treatment of Confirmation and Refutation later) to adapt the content of the *genus dubium* to the structure of his treatise by leaving out the part on *iudicatio dubia*—because his reader would not yet know what ‘*iudicatio*’ meant—while keeping ‘*dubium*’ in the

label of the *genus* in question (but one could also explain ‘*dubium*’ by the fact that the Cause here includes conflicting elements of both honour and shame).

Furthermore, while Cicero’s *genus admirabile* in 1.21 (but not in 1.20 and 1.23) distinguishes two degrees of hostility in the audience (not entirely hostile listeners versus entirely hostile ones), the *Auctor*’s *genus turpe* does not do so. As BOWER (1958), 225-226, notes, there is a nuance in both authors’ translations of the corresponding Greek term ‘(σχῆμα) παρόδοξον’: ‘*admirabile*’ points to the reaction of the audience to the orator’s speech (which ‘surprises’ the audience) while ‘*turpe*’ judges the ‘inherent characteristics’ of the Cause.

Rhet.Her. does not include any *genus* corresponding to Cicero’s fifth *genus causae*, the *genus obscurum*. As shown below under ‘Honestum causae...(1.21) efficere oportebit’, Cicero’s and the *Auctor*’s systems are not identical (in the sense that the *Auctor* would just have left out a fifth *genus*), but most probably go back to different sources. Various scholars (including BOWER (1958), 228, CLASSEN (1965), 106 n.7, CALBOLI (1971), 123, CALBOLI MONTEFUSCO (1988), 9 [with further earlier secondary literature listed in n.24], and LA BUA (2005), 265 n.8, who all refer to [August.]*Rhet.* 17-21p.147,18-151,4; CHRISTES (1978), 567, without such reference) attribute the *Auctor*’s fourfold system to Hermagoras (cf. [August.]*Rhet.* 19p.148,30-31: *Iam primum in endoxo genere materiae Hermagoras negat esse praefandum*; on Hermagoras, see at 1.12 under ‘Hermagoras’ [n.i.]). Note that the *genus obscurum* is the only *genus* which requires the listener to be made *docilis* (see also below under ‘Honestum causae...(1.21) efficere oportebit’) and which in Greek does not end in -δοξον (‘δυσπαρακολούθητον’), see above under ‘Genera causarum’.

honestum...obscurum: Although Cicero does not do so, these five *genera* can be classified into two subgroups according to the nature of their relation to the audience: indeed, all five *genera* are defined with regard to the listener and his mind.

As becomes clear from Cicero's description, one group can be formed of the *genera honestum, admirabile, and anceps*: these three *genera* are related to the listener's attitude to the Cause. In the *genus honestum*, the listener is in a favourable mood towards the orator's Cause, whereas in the *genus admirabile* he is not so. The *genus anceps* seems to be located somewhere between these two *genera*: the nature of the Cause is not clear enough to make the listener immediately take sides for or against the orator's Cause, as there are both *pros* and *cons*. The proximity of the *genus anceps* to the *genus honestum* at least is made clear in 1.21: *Sin autem partem turpitudinis, partem honestatis habebit* [one of the two subdivisions of the *genus anceps*], *beniuolentiam captare oportebit, ut in genus honestum causa translata uideatur*.

By contrast, the *genera humile* and *obscurum* do not provoke the listener's favour or disapproval, but are related to his attention and/or understanding. In the *genus humile*, the matter seems of so little interest to the listener that the orator must try hard to retain the former's attention or even to gain it in the first place. In the *genus obscurum*, the orator needs to make the audience pay special attention since the matter is difficult to grasp or since the audience is slow in following or understanding.

This classification into two subgroups is confirmed by the aim in each *genus*: the first subgroup aims at *beniuolentia*, the second at attention and understanding respectively, see at 1.21 under 'In admirabili...efficere oportebit'.

Cicero links some of these *genera* to the state of mind of the listener (*auditor*), others to both the listener and the Cause (*causa*) [the Latin wording is partially mine]:

genus	auditor (or: animus auditoris)		causa
honestum	fauet		
admirabile	alienatus est		
anceps	a) (ø); <i>aut</i> b) et beniuolus et offensus	<i>et</i>	a) iudicatio dubia; <i>aut</i> b) et honestatis et turpitudinis particeps
humile	neglegit	<i>et</i>	non magno opere attendenda
obscurum	tardus	<i>aut</i>	difficilioribus ad cognoscendum negotiis implicata

One must keep in mind, however, that all five *genera* (i.e. also the *genera honestum* and *admirabile*) express the listener's attitude towards the Cause and/or the orator: they are based on the link between the listener on the one hand and the orator with his Cause on the other (this applies to how Cicero defines these *genera*; the *Auctor* does not base his *genera* on the listener, but on the Cause, as already noted by THIELE (1889), 6-7, and ADAMIETZ (1960), 22).

Grillius gives examples from Cicero's speeches for four of these *genera causarum*: *Ver.* for the *genus honestum* (Grill.p.87,23); *S.Rosc.*, *Mil.*, *Corn.*, and *Cael.* for the *genus admirabile* (Grill.p.87,31; p.90,7-12); *Clu.*, *Scaur.*, and *Lig.* for the *genus anceps* (Grill.p.87,38; p.88,1; 93,99); *Tul.* for the *genus obscurum* (Grill.p.93,96).

***admirabile*:** This designation could be explained in two different ways:

- (i) it results from the fact that the orator tries to bring about a U-turn in the audience's attitude towards him and/or his Cause: having initially been hostile, the audience is to hear 'with stupefying surprise' (*cum admiratione*, cf. 1.25; *TLL* s.v. *admiratio* II: *affectus obstupescantis*) that the matter the orator undertook is actually very different from what they thought it to be. Cf. also Quint.*Inst.*4.1.41: *Admirabile autem uocant quod est praeter opinionem hominum constitutum*;

- (ii) the audience shows ‘stupefying surprise’ at the fact that anyone dares to side with a Cause they think is highly shameful and/or cannot be defended at all, cf. Sulp.Vict.*Rhet.* 7p.316,32-35: *Admirabilis enim causa est (quare est a ‘mirari’ dicta), quae talis facie ipsa uidetur talisque apud opinionem iudicum coepit esse, ut admirentur quemquam ad defensionem eius accedere.*

Honestum causae...(1.21) efficere oportebit: In 1.20-21, Cicero states the characteristics of each *genus causae* and then lists the orator’s aim for each *genus*:

genus	characteristics (A: auditor; R: res; C: causa)	aim of the orator: facere...
honestum	A: beniuolus	(principium <i>optional</i> : A beniuolentiolem)
admirabile	A: non beniuolus: i) non omnino infestus (→ principium) ii) uehementer abalienatus (→ insinuatio)	A beniuolum
humile	A: non attentus et R: “non attendenda”	A attentum
anceps	C: iudicatio dubia aut C: et honestatis (→ A beniuolus) et turpitudinis (→ A non beniuolus) particeps	iudicationem certam aut A beniuolum
obscurum	A: tardus (i.e. non ualde docilis) aut C: implicata difficilioribus ad cognoscendum negotiis (i.e. non ualde “docibilis”)	A docilem (aut C “docibilem”)

The corresponding passage in *Rhet.Her.* 1.5-6 states:

genus	characteristics (A: auditor; R: res; C: causa)	aim of the orator:
honestum	C supported by A	(<i>principium optional</i>)
turpe	C rejected by A	use <i>insinuatio</i> for <i>beniuolentia</i> or use something which can be said against one's opponent and hence procure <i>beniuolentia</i>
dubium	C: habet et honestatis et turpitudinis partem	use <i>principium</i> for <i>beniuolentia</i> to neutralize the <i>turpitude</i> part
humile	R: contempta	A attentum facere

Rhet. Her. only distinguishes four *genera causarum*, not five like *Cic. Inu.* Another striking peculiarity in *Rhet. Her.* 1.5-8 is that, although the *Auctor* (like Cicero) lists the triad of *beniuolum/attentum/docilem facere* in 1.6 and 1.7-8, *docilem facere* is not included among the aims stated for each *genus causae* in 1.5-6 (NB: it is not put down in relation to any *genus causae*). This is strange, given that *beniuolum* and *attentum facere* are included in 1.6 and that the full triad is listed by Cicero in 1.20-1.21 in relation to the *genera causarum*, with *docilem facere* as the orator's aim in the *genus obscurum*. Since Cicero's *genus obscurum* has no equivalent in *Rhet. Her.*'s list of *genera causarum* and since *docilem facere* is mentioned in 1.6 and 1.7, but not in relation to the *genera causarum*, it seems highly probable that the *Auctor* either changed the system found in *Cic. Inu.* (or a similar system) or combined two different sources without eliminating logical gaps or contradictions in the resulting system. CHRISTES (1978), 572, also noticed that *docilem facere* was missing in relation to the *genera causarum*; he concludes that the list of four *genera causarum* and the triad including *docilem facere*, which is not related to any of the four *genera causarum*, must come from different sources (with the four *genera causarum* going back to Hermagoras), and that the system described in *Cic. Inu.*, where each of *beniuolum/attentum/docilem facere* is matched with at least one of the five *genera causarum*—only such a system makes good sense—, must be earlier

than *Rhet.Her.*'s defective system. In CHRISTES's opinion, *Rhet.Her.*'s system presupposes a system like the one in *Cic.Inu.* By contrast, CALBOLI (1971), 124, supposes that Cicero reworked 'a fundamentally Hermagorean doctrine' (my translation). Given our lack of Hellenistic rhetorical treatises, it seems impossible to definitely prove or refute either view.

Another difference between the two treatises here is that Cicero's description focuses on the *beniuolus/attentus/docilis* status of the listener before the beginning of the speech or on the *causa/res*, while *Rhet.Her.*1.5 does not include the word '*auditor*' (the audience is only included under '*ab omnibus*' here) but rather analyses the four *genera* from the viewpoint of the *causa/res*, as already noted by THIELE (1889), 6-7, and ADAMIETZ (1960), 22.

cui...auditoris animus: The *genera causarum* represent different states of audience prejudice towards the orator and his Cause; only in the latter case is the definition of the theory of the five (or four) *genera causarum* as 'the classification of cases on a moral basis' by BOWER (1958), 225, correct—prejudice against the orator does not need to be founded on a moral basis.

audituri sunt: They 'are about to listen'. Cicero and the *Auctor* have three main ways to refer to the audience (both the singular and the plural are found): 1. *auditor*; 2. (*is*) *qui audi(e)t*; 3. (*is*) *qui auditurus est*.

The most common way in which the audience is referred to is by use of '*auditor(es)*'. The plural '*auditores*' is found in *Cic.Inu.*1.20, 1.21 (2x), 1.22, 1.23, 1.24, 1.25, and 1.106, i.e. 8 times in Book 1 (with no instance in Book 2), while the singular '*auditor*' is found 23 times: 1.20 (5x), 1.21, 1.23 (3x), 1.24 (2x), 1.25 (3x), 1.26, 1.31 (2x), 1.32, 1.48, 1.75, 1.99 (2x), 1.106, and 2.49. It is surprising to see that, with the exception of 1.106, the plural is found only in 1.20-25, i.e. in the Exordium section, and that it is much rarer (8 times vs. 23

times) than the singular in Book 1; by contrast, the singular is found throughout Book 1. But there seems to be no clear reason for this: that the distinction between ‘*auditor*’ and ‘*auditores*’ (*uel simil.*) is not intended to refer to different groups of audience in a trial (e.g. presiding judge, jury members, the spectators making up the *corona*) becomes clear through the use of both for the same concept (cf. 1.21: *si non omnino infesti auditores erunt*; 1.23: *cum animus auditoris infestus est*). In *Rhet.Her.*, the plural is found 15 times (throughout Books 1-3), the singular 35 times (throughout Books 1-4).

The *coniugatio periphrastica* (3.), formed here by the active future participle of *audire* plus *esse* in the present indicative (see *K.-St.II*, §40.2-3), occurs only once (1.20) in *Inu.* to describe the listener. In *Rhet.Her.*, too, it is found only once (4.49).

Both authors use the normal future tense (2.) more often in this context (singular ‘*qui audiet*’ in *Cic.Inu.* 1.24; 2.25; no such singular in *Rhet.Her.*; plural ‘*qui audient*’ in *Cic.Inu.* 1.23; 1.25; 1.29; *Rhet.Her.* 1.7; 1.8; 2.22; 3.11; 4.49; 4.63). Contrary to what one could have expected, there is no apparent difference in meaning that would explain the use of the *coniugatio periphrastica*. Thus, it may just be a form of rhetorical *uariatio*. While in *Rhet.Her.* future tense is more commonly found in this expression (‘*qui audit*’ is found only in 4.38, ‘*qui audiunt*’ only in 2.43 and 4.49), the present is more common than the future in *Cic.Inu.* (‘*qui audit*’ is found in 1.26 and 1.107, ‘*qui audiunt*’ in 1.30, 1.92 (2x), 1.93, 1.98, 1.105, 1.108, 1.109 (2x), and 2.78).

Cic.Inu. has a fourth way (iv) to refer to the audience, the present participle ‘*audientes*’ (1.2).

Combining (i)-(iv), it appears that the audience is referred to in one of these four ways 47 times in *Cic.Inu.* 1, but only three times in *Inu.* 2. Thus, the rhetorical and oratorical factor ‘audience’ is a theme much more central to Book 1 than to Book 2.

aut iudicatio...particeps: This subdivision is maintained in 1.21 when details are provided about how to handle the *genus anceps*.

iudicatio dubia: This expression is among the most difficult to interpret in all of *Inu.* It is found only in Cic.*Inu.* and in authors relying on this treatise, as CLASSEN (1965), 107-108, notes. It is not found in *Rhet.Her.* ADAMIETZ (1960), 26 with regard to ‘*iudicationem aut iudicationes*’ in *Inu.*1.23a (without counterpart in *Rhet.Her.*1.7), suspects that the *Auctor* does not yet include the concept of *iudicatio* in his treatment of Exordium because, unlike Cicero, he has not yet treated the *iudicatio* scheme at this point, so his reader would not be familiar with it: the same might (or might not) apply to *iudicatio dubia*. Different interpretations of this expression were given by Grill.p.91,41-92,60 and Mar.Victorin.*Rhet.*1,14p.76,134-147, and more recently by CLASSEN (1965), 107-112, and LOUTSCH (1983), reworked in LOUTSCH (1994), 27-30, and criticised by CALBOLI MONTEFUSCO (2002), 133.

The first question is: does ‘*iudicatio*’ have the same meaning as in 1.18-19a, i.e. ‘τὸ κρινόμενον’ (‘Point for Decision’)? Marius Victorinus, CLASSEN (1965), and CALBOLI MONTEFUSCO (2002) think so (*view A*); Grillius, LOUTSCH (1983) and LOUTSCH (1994) do not (*view B*). Grillius interprets ‘*iudicatio*’ here as the general ‘*actio iudicandi*’ (p.91,45: *id est si nesciunt iudices, unde iudicaturi sint*; see *TLL* s.v. *iudicatio* I). LOUTSCH follows him in this and takes ‘*iudicatio dubia*’ to mean ‘*actio iudicandi controuersa*’, which he considers to be for the *apud-iudicem* stage what the *constitutio translatiua* is for the *in-iure* stage of a trial (since competence, applicable law etc. would be dealt with during the *in-iure* stage at Rome—in contrast to the Athenian judicial system—the orator could no longer question these through the *constitutio translatiua* in the *apud-iudicem* stage: he could only deplore the decisions made by the praetor and point out the inconvenience resulting from them, as LOUTSCH notes). CALBOLI MONTEFUSCO objects to this, making a strong point about the use and meaning of ‘*iudicatio*’ in Cicero’s extant *œuvre*: it is found 43 times in total, 40 times in *Inu.* and three

times elsewhere (*Tusc.*4.26, *Fam.*3.9.2 [CALBOLI MONTEFUSCO mistakenly gives 3.9.11], and *Rep.*4.9; in the first two cases, its meaning is ‘*actio iudicandi*’, in the last one that of ‘τὸ κρινόμενον’); of the 40 times in *Inu.*, it is found three times in the context of *genus anceps*: in the remaining 37 instances in *Inu.*, ‘*iudicatio*’ *always* refers to ‘τὸ κρινόμενον’. This makes it very likely that ‘*iudicatio*’, in the context of *genus anceps*, too, means ‘τὸ κρινόμενον’. This is further supported by the use of ‘*iudicatio*’ in *Rhet.Her.*, where it *always* refers to ‘τὸ κρινόμενον’ (in *Rhet.Her.*1.5-6 ‘*dubium*’ is used with ‘*genus*’, not with ‘*iudicatio*’). This strongly opposes view B.

Marius Victorinus (*Rhet.*1,14p.76,138-139: *quia non una ratio est, iudicatio quoque fit dubia*) thinks that the *iudicatio* would be *dubia* because there would be several *rationes*—THE *ratio* would therefore be *dubia* or there would therefore be several *iudicationes*, making THE *iudicatio* ‘*dubia*’, cf. *iudicatio* scheme in *Inu.*1.18); LOUTSCH (1983), 150 (repeated in LOUTSCH (1994), 27-28), rejects this with reference to *Inu.*2.63-64, where Cicero admits the possibility of more than one *ratio* in a given Cause (with the *constitutio* staying the same)—in fact, Cicero gives the possibility of several *iudicationes* explicitly in 1.23: *exponemus iudicationem aut iudicationes, si plures erunt*. CLASSEN (1965), 108-109, notes that Grillius gives two different reasons why the *iudicatio* would be *dubia*: a) several heads of accusation are possible and the judges are unsure which one to adjudicate on first; b) the judges do not really know what *exactly* the accusation is—which CLASSEN refutes by showing that this comes too close to the *genus obscurum*); LOUTSCH (1994), 28-29 (contra CLASSEN (1965), 109 n.20), thinks that *both* reasons are too similar to the *genus obscurum*.

As the above shows, the problem of the meaning of ‘*iudicatio dubia*’ has not been solved to satisfaction yet, since every solution proposed so far met with objections. Two major options seem possible to me:

- I. Cicero here introduces material from a different source without giving sufficient explanations to his reader as to what ‘*iudicatio dubia*’ is supposed to mean; in this

case, we hit a wall that we can never pass, i.e. the precise meaning of ‘*iudicatio dubia*’ can never be determined because the information included in *Inu.* is no sufficient key;

- II. Cicero does not introduce external material, i.e. the key to the precise meaning of ‘*iudicatio dubia*’ can be deduced from the text.

The choice between I and II is a difficult one, perhaps even an impossible one due to our lack of Hellenistic rhetorical sources: the treatments of the *genera causarum* in *Inu.*1.20 and *Rhet.Her.*1.5 show some similarities, but also some significant differences, and we cannot say with complete certainty whether at least one author used additional sources or changed what the common source had. If I is true, then the investigation must stop here; if II is true, we must proceed as follows:

The first question is indeed (see above) whether ‘*iudicatio*’ here means ‘τὸ κρινόμενον’. I see three strong reasons why this should indeed be the case:

- (i) as CALBOLI MONTEFUSCO has noted (see above), ‘*iudicatio*’ outside the discussion of *genus anceps* in *Inu.* always means ‘τὸ κρινόμενον’, and it always does so in *Rhet.Her.*;
- (ii) Cicero treated *iudicatio* = τὸ κρινόμενον in 1.18-19, i.e. just in the paragraphs preceding this one: if ‘*iudicatio*’ in 1.20 were to mean something different, the reader could not have guessed this at all and Cicero would have needed to make this explicitly clear—therefore, if he had wanted to say ‘*actio iudicandi*’, he would probably have used this very expression or a synonym like ‘*iudicium*’, but not a term to which he gave a technical meaning through a definition only two paragraphs earlier (1.18);
- (iii) Cicero’s text (*anceps, in quo aut iudicatio dubia est aut causa et honestatis et turpitudinis particeps...*) is very close here to the *Auctor*’s (*Rhet.Her.*1.5: *Dubium genus est cum habet in se causa et honestatis et turpitudinis partem*); but the *Auctor* does not use ‘*iudicatio*’

here at all and his text is clear in meaning, so: if both were relying on the same source, and if Cicero had introduced ‘*iudicatio*’ here, and if ‘*iudicatio*’ meant ‘*actio iudicandi*’ here, then it seems that this ‘*iudicatio dubia*’ would be the result of the Cause that includes or leads to both honour and shame because the audience would have had doubts as to which part of the Cause (the honourable or the shameful one) should be given more weight, in which case Cicero’s text would rather have read something like: *anceps, in quo causa et honestatis et turpitudinis particeps, qua re iudicatio dubia est.*

All three arguments should sufficiently prove that ‘*iudicatio*’ here, like everywhere else in *Inu.* and *Rhet.Her.*, means ‘τὸ κρινόμενον’. This forces us to go back to Cicero’s definition of ‘*iudicatio*’ in 1.18: *Iudicatio est quae ex infirmatione rationis nascitur controuersia*, which he rephrases as: *Ex hac deductione rationis illa summa nascitur controuersia quam iudicationem appellamus* (see at 1.18 under ‘Ac tum...causae sit’ [n.i.]). This means that the *iudicatio* is inherently dependent on the prosecution’s *infirmatio rationis*, which itself depends on what the defence says in its *ratio*. If the *iudicatio* is *dubia* and if we keep in mind the distinction between the *genera anceps* and *obscurum*, it seems that in the orator’s mind—the *iudicatio* scheme is used only during the mental preparation, i.e. before the delivery, of the speech—the judges *do* grasp what both parties are saying at this stage (it is in the *genus obscurum* where they have problems in doing so), but they seem to have their doubts about the *infirmatio rationis* (from which the *iudicatio* directly depends in Cicero’s definition), and perhaps also about the *ratio*, e.g. by being hesitant as to whether the *infirmatio rationis* (and perhaps the *ratio*) is actually strong enough a ground, morally acceptable, etc.: in such a case, one might well call their *iudicatio* ‘*dubia*’.

causa...particeps: The wording in *Rhet.Her.* 1.5 is strikingly similar: *cum habet in se causa et honestatis et turpitudinis partem*. ‘*Honestas*’ and ‘*turpitude*’ here probably refer less to what seems honourable or shameful to one’s *own* conscience (which would be entirely a matter of

moral philosophy) than to what seems so to *others*, as this matter will bring honour or shame to the orator *within his social environment*.

tardi: ‘slow to understand’, ‘slow-witted’ (*OLD* s.v. *tardus* 5). [The *TLL* has not yet reached ‘*tardus*’.]

Quare quom...insinuationem: Although Cicero here claims that the five *genera causarum* are very different and are hence treated in different ways, *insinuatio* is only used in the case of *genus admirabile* (which can, however, also take a *principium* instead), whereas the other four *genera* all use either *principium* or nothing at all (cf. 1.21).

quom: archaic form of ‘*cum*’ (‘CORRIGENDA’ after p.244 in ACHARD (1994): ‘*quom*’, not ‘*quum*’).

in duas partes diuiditur: Since *principium* and *insinuatio* are mutually exclusive (see their definitions, and below under ‘Principium...auditoris animum’), ‘*partes*’ cannot mean ‘parts’ here, but must refer to different ‘species’ or ‘forms’. *Rhet.Her.*1.6 speaks of ‘*exordiorum...genera*’. The different use of ‘*partes*’ (Cicero) and ‘*genera*’ (*Auctor*) could point to different translations from a common *Greek* source. On *insinuatio* doctrine, see below under ‘Insinuatio’.

Principium...auditoris animum: This subdivision is also found in: *Rhet.Her.*1.6; 1.11; Quint.*Inst.*4.1.42-50a; Sulp.Vict.*Rhet.*17p.322,11-18 (with ‘*principia*’, i.e. plural); Fortun.*Rhet.*2.13-15; Mart.Cap.p.192,14-20.

As can be seen from 1.20 and 1.21 (*genus admirabile*), both *principium* and *insinuatio* aim at the listener’s *beniuolentia*. Cicero nowhere *explicitly* states whether *insinuatio* can also aim at making the listener *attentum* and *docilem* (contrast *Rhet.Her.*1.11: ...*at insinuatio eiusmodi debet esse, ut occulte per dissimulationem eadem illa omnia conficiamus*), but the nature of the *insinuatio*

defines *beniuolentia* as its primary aim, as it is used when the listener is strongly opposed to the orator's Cause; if one considers that the three functions of Exordium are *beniuolum/attentum/docilem facere* (1.20) and that *insinuatio* is a form of Exordium, then it should follow that Cicero in fact considers these three functions to be the functions of *insinuatio*, too (and not only of *principium*). The main difference between *principium* and *insinuatio* hence lies not in its *aim*, but in the *way in which* this aim is reached. As explained above, *insinuatio* is to be used when the listener is hostile to the orator's Cause, for in this case the orator must *hide* that he is manipulating the listener in order to put him in a favourable mood. By contrast, he uses *principium* when there is no unfavourable disposition from the audience, so that he can *openly* and without the risk of failure 'access' the listener's mind.

See also LAUSBERG §265, who stresses that the difference between *principium* and *insinuatio* is one of *perspicuitas* (cf. the language of lightness/darkness in the definitions of these terms in 1.20: *perspicue, dissimulatione, obscure*).

Principium: In Cic.*Part.4* and *Top.*97, the Exordium is called '*principium*': the technical meaning of '*principium*' will change in Cicero's later rhetorical works; see also above under 'Exordium'.

Cicero here indicates that *principium* is used to make the listener *beniuolum, attentum, or docilem*. But in 1.21, where he states that the *genus admirabile* and the *genus honestum* make or can make use of *principium*, *principium* is described to aim only at *beniuolentia: facere attentum and docilem* are no longer mentioned.

It is noteworthy that in contrast to Cicero, *Rhet. Her.* 1.6 provides a Greek translation for *principium* (προοίμιον) and *insinuatio* (ἔφοδος, on which see BOWER (1958), 226-230), suggesting that the *Auctor* relied on a Greek source for this—importantly, almost everywhere else he tries to keep quiet about his dependence from the Greeks or even claims his independence from them—, or that a common Latin source included the Greek

translations, but that Cicero deliberately left them out—either because he (Cicero) thought it unnecessary to provide them or because he wanted to write a treatise *entirely* in Latin; for Cicero’s and the *Auctor*’s attitude towards and acknowledgment of the use of Greek sources, see The Greeks in *Cic.Inu.* [n.i.]. The *Auctor*’s use of these Greek words shows that his treatment of Exordium could not be completely dependent on Cicero’s without adding knowledge from rhetorical education or from a Greek source.

oratio: again, not ‘speech’, but ‘part of the speech’ or ‘passage’, see above under ‘oratio...dictionem’.

beniuolum...attentum: ‘*Aut*’, the exclusive ‘or’ (instead of the inclusive ‘*uel*’) seems to be used here only for categorisation and hence educational and professional purposes: a rhetorical handbook like *Cic.Inu.* and *Rhet.Her.* aims to train an orator in pigeonholing, so that he can learn the system of rhetoric and treat a Cause, both as quickly as possible. A perfect Exordium will, however, make the audience well disposed *and* receptive *and* attentive: cf. 1.20 (...*idonee comparans...*: *quod eueniet si eum beniuolum* [no *aut*], *attentum* [no *aut*], *docilem confecerit*; in Latin *A, B, C* is a structure equivalent to (*et*) *A et B et C*, see *K.-St.II*,§154.11). Especially *docilem* and *attentum facere* are considered to be closely related, cf. 1.23: *Nam et, cum docilem uelis facere, simul attentum facias oportet. Nam is est maxime docilis qui attentissime est paratus audire.*

Insinuatio: [August.]*Rhet.*21p.150,18 uses ‘*longius principium*’ instead of ‘*insinuatio*’. The Greek term for ‘*insinuatio*’ is ‘*ἔφοδος*’ (cf. *Rhet.Her.*1.6).

As ZINSMAIER notes in *HWRh* s.v. *Insinuatio*, examples of *insinuatio* are found in much earlier speeches (e.g. Antipho *Or.*5.1-7, 5th century BC), before *ἔφοδος/insinuatio* is treated in rhetorical theory; although Anaximenes and Aristotle do not yet have a term corresponding to Latin ‘*insinuatio*’, the concept of *insinuatio* can already be sensed in passages like [Arist.]*Rh.AL*.1437b37-1438a2; 1440b5-8; 1441b36-1442a6; Arist.*Rh.*1416a4-1416b15. The case of *ἔφοδος* might therefore be similar to that of the theory of Issues, viz.

that it was already ‘unconsciously’ used by Greek orators before Anaximenes and Aristotle, then partially appears in [Arist.]*Rh.Al.* and Arist.*Rh.* without a label and further systematisation, which in turn seem to date to the Hellenistic period: the first proper appearance of *insinuatio* in our extant rhetorical sources is in Cic.*Inu.* and *Rhet.Her.*, but as their treatments of it are very similar in content and phrasing, they must go back to Hellenistic *Greek* rhetoric, as is pointed out by the fact that *Rhet.Her.*1.6 immediately provides its Greek term (ἔφοδος; similarly, CALBOLI MONTEFUSCO (1988), 12): at that stage in the history of rhetorical theory, the very young Roman rhetorical theory would not yet have left major traces in Greek rhetorical theory.

BOWER (1958) has convincingly shown that the concept of ἔφοδος (with the sense of *insinuatio* that it has in *Rhet.Her.*) was most probably introduced as a distinct concept to rhetorical theory by a Greek rhetorician (though probably not Hermagoras) in the decades preceding *Rhet.Her.* and *Inu.*, and that with these two works (or at least at the time of these; my addition) it then passed into Latin rhetorical theory under the name of ‘*insinuatio*’ before seeming to disappear from Greek rhetorical theory, perhaps because of the different meanings that ἔφοδος has besides this rare technical sense as a special form of Exordium; by contrast, it lived on in Latin rhetorical theory at least from Quintilian (*Inst.*4.1.42-50a) onwards (‘*insinuatio*’ is not found in Cicero’s later rhetorical works), so that an initially Greek concept became a typical feature of Latin rhetorical treatises, most probably through the great influence that *Inu.* (and also *Rhet.Her.* from its re-emergence in late antiquity onwards) had in the following centuries.

Passages from Latin rhetoricians treating *insinuatio* after Cicero are listed at 1.23 under ‘insinuationes’. For passages from much later Greek rhetorical treatises dealing with ἔφοδος, see CALBOLI MONTEFUSCO (1988), 12 n.30. [Hermog.]*Prog.*6.2 (προοίμια γὰρ οὐκ ἔσται καθαρῶς ἐν τόπῳ, ἀλλὰ μέχρι τύπου του σωθήσεται) might also be a hidden reference to the concept of ἔφοδος.

On *insinuatio*, see: *HWRh* s.v. *Insinuatio* (with an overview of the history of the concept from antiquity to modern times); BOWER (1958); CALBOLI (1971), 122-128; CHRISTES (1978); LOUTSCH (1994), 49-54.

CLASSEN (1965), 138, identifies the Exordium of *Cic.Clu.* as an example of *insinuatio*, PRILL (1986), 105, that of *Cael.* LOUTSCH (1994), 542, at the end of his extensive investigation of Cicero's Exordia concludes that 'the majority of Cicero's Exordia [in the forensic speeches] show all the features of *insinuatio*, and the fact that this notion is given up [by Cicero] in the rhetorical treatises after the *De Inuentione* is all the more surprising' (my translation).

quadam dissimulatione...subiens: This three- or even fourfold expression clearly pictures the *insinuatio* as a surreptitious, dark way of entering and then manipulating the listener's mind, thus working almost like a spell of dark magic. Indeed, one could suspect the words '*dissimulatio*', '*circumitio*', and '*obscure*' to be found also in a magical context. But the *TLL* records no meaning of '*dissimulatio*' and '*circumitio*' from the domain of magic; for '*obscure*', it is more difficult to establish whether or not it should refer to any special 'magical' darkness.

Cf. *Rhet.Her.*1.11: *ut occulte per dissimulationem eadem illa omnia conficiamus.*

'*Dissimulatio*' in a rhetorical context is also found in: *Cic.Inu.*1.27; *Rhet.Her.*3.3; *Cic.de Orat.*2.289; *Quint.Inst.*5.14.35. It designates a rhetorical figure (εἰρωνεία, 'irony') in: *Cic.de Orat.*2.269-272; 3.203; *Luc.*15; *Quint.Inst.*6.3.85; 9.2.14; 9.2.44; 9.2.95. See also LA BUA (2005) on *dissimulatio*, *obscuritas*, and *Cic.Tul.*

In *Rhet.Her.*4.43, '*circumitio*' refers to a rhetorical figure (περίφρασις): *Circumitio est oratio rem simplicem adsumpta circumscribens elocutione.* Cf. also *Quint.Inst.*8.6.59b-61.

Grill.p.89,70 distinguishes *dissimulatio* and *circumitio* as two different *modi insinuationis*, of which he says: *Dissimulatione, quando te benivolentiam fingis non petere et in ipso mereris, quia non*

potest (p.89,70-72), and *Circuitione* [sic] *autem fit insinuatio, cum beniuolentiam per ambages, ut magis proprie dicamus, non petis, sed colligis* (p.89,77-79).

COMMENTARY:

In admirabili...efficere oportebit: Cicero connects the three concepts he has explained before: *beniuolum/attentum/docilem facere*, *principium/insinuatio*, and the five *genera causarum*, by stating what needs to be done for each *genus causae*. Cf. *Rhet.Her.*1.6; Quint.*Inst.*4.1.41-42; Sulp.Vict.*Rhet.*16-18p.322,11-24; Fortun.*Rhet.*2.13; Mart.Cap.p.192,22-25; Alb.*Rhet.*21p.535,26-30.

The content of this passage can be represented as follows:

<i>genus causae</i>	<i>form of exordium</i>	<i>facere auditorem</i>
<i>admirabile</i>	<i>principium</i> or <i>insinuatio</i>	<i>beniuolum</i>
<i>humile</i>		<i>attentum</i>
<i>anceps</i>		<i>beniuolum</i>
<i>honestum</i>	<i>principium</i> or none	<i>beniuolum</i>
<i>obscurum</i>		<i>docilem</i>

It appears that most of the time (in three out of five *genera causarum*) the Exordium aims at making the listener *beniuolum*: the *captatio beniuolentiae* is the main function among the functions of the Exordium. The above table shows that Cicero does not specify for three *genera causarum* (*humile*, *anceps*, *obscurum*) which form of Exordium is to be used; but since he will only point to the *genus admirabile* in his treatment of *insinuatio* in 1.23b-25a, it seems that *principium* would apply to those three *genera*—it is only for the *genus honestum* that he *explicitly* considers the option of leaving out the Exordium. But see also at 1.24 under ‘Si causae...offensionem’.

See LAUSBERG §§264-265; CHRISTES (1978), 563 (with a table).

In admirabili...odium: Sulp.Vict.*Rhet.*7p.316,35-317,3 mentions not only *beniuolentia* as the orator's aim in the *genus admirabile*, but also *attentio* (and *patientia* and *misericordia*). Fortun.*Rhet.*2.13 excludes *principium* here by saying that the listener must be made *beniuolum per insinuationem*. Mart.Cap.p.192,23-24 also demands the use of *insinuatio* for the *genus turpe* (corresponding to the *genus admirabile*).

licebit...necesse erit: These words are to be emphasised, because—as 1.23 shows, where *insinuatio* is applied to *any* hostile audience—in the first case (audience not completely hostile) *insinuatio* could be used *as well*, while *principium* is *no* option in the second case (audience entirely hostile), see at 1.23 under ‘cum admirabile...infestus est’. [August.]*Rhet.*19p.148,30-31 claims that omitting the *exordium/principium* in the *genus honestum* (Greek: ἔνδοξον) was a precept by Hermagoras.

confugere: the right word in reaction to ‘*uehementer*’.

si perspicue...petitur: i.e. if one makes use of *principium* instead of *insinuatio* (cf. 1.20: *Principium est oratio perspicue et protinus perficiens...*).

In humili...auditorem: The same is demanded by Quint.*Inst.*4.1.41; Sulp.Vict.*Rhet.*8p.317,17-23; Fortun.*Rhet.*2.13; Mart.Cap.p.192,24-25.

contemptionis tollendae causa: cf. *Rhet.Her.*1.5: *Humile genus est cum contempta res affertur*. With regard to this *genus causae*, ‘*contemnere*’ (and ‘*contemptio*’) means not only ‘to regard with contempt, to look down on’, but more specifically ‘to treat as of no importance’ (*OLD* s.v. *contemno* 1; 2; *TLL* s.v. *contemno* I: *parui pendere*), as is confirmed by Sulp.Vict.*Rhet.*8p.317,16-17: *Haec [sc. causa] non de turpi, sed de re paruula et humili est*.

Anceps...uideatur: The same opinion is expressed by: Quint.*Inst.*4.1.41; Fortun.*Rhet.*2.13; Mart.Cap.p.192,24 (who uses ‘*genus dubium*’). Since the *pars turpitudinis* makes the listener unfavourable, the orator must probably use *insinuatio*; note, however,

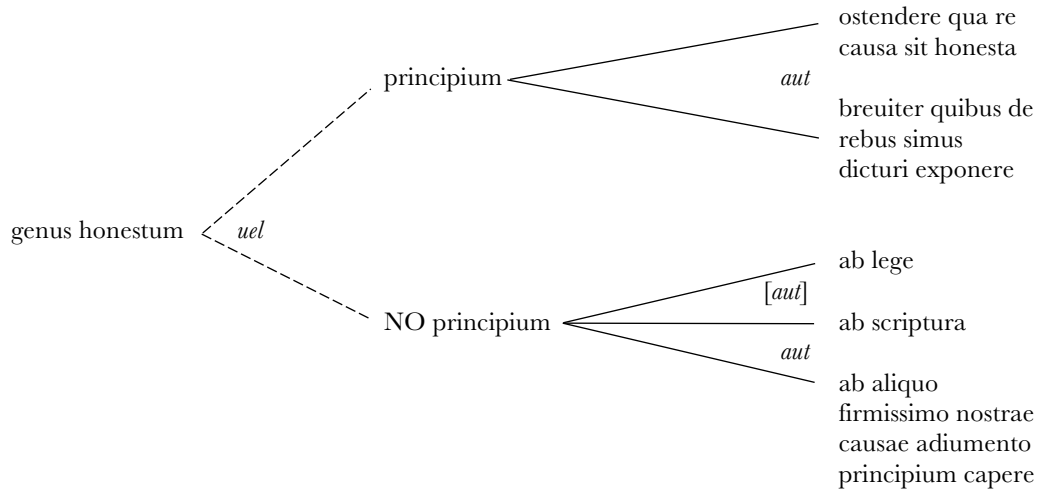
that Cicero does not state this clearly. The aim of *beniuolentia* is not mentioned by Sulp.Vict.*Rhet.*8p.317,7-14 for this *genus*.

Cum...augeatur: Quint.*Inst.*4.1.41 thinks that a Cause belonging to the *genus honestum* needs no additional means to create *beniuolentia*, as the Cause itself creates it already: *Nam honestum quidem ad conciliationem satis per se ualet*. Fortun.*Rhet.*2.13 also makes *beniuolentia* the aim in the *genus honestum*, while Sulp.Vict.*Rhet.*7p.316,29-30 does not mention it. Mart.Cap.p.192,22-23, too, considers the possibility of leaving out or not the *principium* in the *genus honestum* and states that in the latter case the aim of the Exordium will be amplification.

uel praeteriri...augeatur: The logic in Cicero's text is problematic. His connectives 'uel'/'aut' make it impossible to represent this sentence e.g. in a diagram. Indeed, the second 'uel' introduces an alternative which should be *inclusive* ('uel', contrary to 'aut'), but which is actually *exclusive*. 'Praeterire' is found in three different senses in *Inu.*: (i) 'to walk by, to pass by' (literal sense; found only in 1.80); (ii) only in past tense (*praeterita*): that which 'is over', which 'has passed' (found only in 1.39); (iii) in all other cases, 'to omit' (1.12; 1.28-29; 1.39; 1.70-72; 1.84-85; 2.9; 2.18; 2.34; 2.135; 2.151). In 1.21 'praeteriri principium poterit' thus means 'that the Introduction can be omitted'. So 'uel praeteriri principium poterit uel...' could be summed up as 'no Introduction and/or Introduction'. But after the second 'uel' Cicero states that 'we will begin our speech either with the Narrative or... or...'. By saying in 1.19b that *exordium princeps omnium* [sc. *partium orationis*] *debet esse*, he excludes the possibility that the Exordium could come after the Narrative. Therefore, if the orator begins the 'speech either with the Narrative or... or...', there will be no *principium*. Thus, the second 'uel' alternative is in fact exclusive, and the use of 'uel... uel...' seems to be a logical error, which might be due either to textual transmission (there is, however, no variance in the manuscripts here, so the error would have had to enter the textual

transmission before or with the archetype) or to Cicero himself.

By contrast, the corresponding passage in *Rhet.Her.*1.6, which is very similar in content and phrasing, presents no difficulty at all. It can be easily represented as follows:



These passages do have several things in common: both use the term ‘*honestum*’; both state that *principium* can be used or be omitted: in both the beginning of this subdivision is introduced by ‘*uel...*’; the second situation (no *principium* in *Rhet.Her.* vs. *principium* in *Inu.*) is introduced by ‘*sin*’ in both. This strongly suggests that both authors rely on the same source; but, since there are also differences, at least one of them must have changed the source (by introducing original views or views taken from one or several other sources). Indeed, the order of *principium* vs. no *principium* is different in both treatises; the ‘*aut*’-list of three elements is found for the *principium* situation in *Rhet.Her.* while it is included in the problematic passage in Cicero, and only ‘*a lege*’ is found in both, the other two elements being different, although the last one shows similarities between the two texts. If both do indeed rely on the same *Latin* source, the question is: whose text is closer to this source and who made the bigger changes? As noted above, the text in *Rhet.Her.* is unproblematic and very clear in structure, Cicero’s is not. The principle of parsimony suggests that the easier solution is hence that *Rhet.Her.* is closer to the original and that Cicero for some reason (perhaps he unsuccessfully combined several sources?) changed the text rather than that the

text was logically incorrect and that the *Auctor* changed it in such a way as to make perfect sense of it. But another explanation could be that the source was a Greek one and was mistranslated by Cicero or (more likely) by a Latin source that he was using (see also Introduction to 1.20-26 sub ‘Comparison of Cic.*Inu.*1.20-26 with *Rhet.Her.*1.5-11’, section (iv)).

This passage could thus be taken as a strong argument showing that *Rhet.Her.* is not based on *Inu.* Perhaps, if the common source were a Latin one, Cicero’s confusion could be explained if we accept the hypothesis here that he was relying on someone else’s notes from a Latin class on rhetoric (see Chapter 6) which were confused while the *Auctor* had correctly written down what his *doctor* (cf. *Rhet.Her.*1.18) had said. See also below under ‘beniuolentiae partibus’.

beniuolentiae partibus: literally taken, the ‘parts’ of goodwill, which here refer to the four ‘*loci*’ *beniuolentiae* as Cicero will call and explain them in 1.22 (*Beniuolentia quattuor ex locis comparatur*). Indeed, there are very few instances in *Inu.* and *Rhet.Her.* (the only two works indicated by *TLL* s.v. *pars* III.B.b.β.¶.ⓑ: *magis respicitur sedes argumentorum*) where ‘*partes*’ has the meaning of ‘*loci*’: *Inu.*2.147 (*Locos autem communes et quos ipsa causa det uidere oportebit et ex utilitatis et ex honestatis amplissimis partibus sumere...oporteat*), *Rhet.Her.*3.4-5 (*prudentialiae/iustitiae/modestiae partes*). There is no apparent reason why Cicero here uses ‘*partibus*’ instead of ‘*locis*’ (which he will use in 1.22).

Cicero refers here to a subdivision that will follow only *later*, in such a way as if he had *already* explained it to the reader. There is no parallel for this nor for the use of ‘*partes*’ in the sense of ‘*loci*’ in the corresponding passage in *Rhet.Her.*1.6. One may wonder therefore whether both oddities could come from an additional source that Cicero would have used here besides the source shared with *Rhet.Her.*

In obscuro...oportebit: Making the listener *docilem* is also stated as the aim of the *genus*

obscurum by Quint.*Inst.*4.1.41; Sulp.Vict.*Rhet.*8p.317,25-29; 18p.322,24 (*'docendus'*); Fortun.*Rhet.*2.13; Mart.Cap.p.192,25. Cf. also the explanation in Grill.p.88,48-56 about how *obscuritas* can come about:

Obscuritas autem tribus modis fit, a iudice, ab oratore aut ab ipsa causa. A iudice, si tarde colligat dictam rem; ab oratore, si aut minus dicat aut multa dicendo se inuoluat (...); ab ipsa causa, si obscurissima sint argumenta, quae uix intellegat iudex, sicut *** nunc Tullius dicit a iudice et causa fieri genus, ab oratore autem non, quia praecepta dat, ut orator debeat esse plenissimus.

Nunc...dictum est: This summarises the content of 1.20-21, and refers to the function of the Exordium (*beniuolum/attentum/docilem facere*) applied to the five *genera causarum*.

quibus...possit: This refers to 1.22-26.

COMMENTARY:

Beniuolentia...a causa: These are the four *loci* of *principium* (or of Exordium in general, see Introduction to 1.20-26) to secure the listener's goodwill. The use of the preposition 'a(b)' (contrast the preceding '*ex locis*') here strengthens the sense of *loci* as *places from which* an argument is taken, see PERNOT (1986), 260. The last two *loci* are phrased slightly differently when Cicero provides further details on them: '*ab auditorum persona*' (instead of '*ab iudicum persona*') and '*ab rebus*' (instead of '*a causa*')—the meaning is certainly the same, and this *uariatio* is not strong enough to prove completely that Cicero was using different sources here. *Rhet.Her.*1.8 provides almost the same phrasing for the four *loci*, which are listed in exactly the same order. These *loci* seem to go back (through an intermediary source) to *Arist.Rh.*1415a25-27, or Aristotle himself already relied on someone else's teachings or writings or drew them from existing speeches. The order found in Aristotle is indicated in square brackets:

Cic. <i>Inu.</i> 1.22	<i>Rhet.Her.</i> 1.8	Arist. <i>Rh.</i> 1415a25-27
<i>ab nostra (persona)</i>	<i>a nostra persona</i>	[1] ἐκ τοῦ λέγοντος
<i>ab aduersariorum (persona)</i>	<i>ab aduersariorum (nostrorum) persona</i>	[4] ἐκ τοῦ ἐναντίου
<i>ab iudicum persona / ab auditorum persona</i>	<i>ab auditorum persona</i>	[2] ἐκ τοῦ ἀκροατοῦ
<i>a causa / ab rebus</i>	<i>a(b) rebus ipsis</i>	[3] ἐκ τοῦ πράγματος

The same sequence in *Cic.Inu.* and *Rhet.Her.*, as well as the striking correspondences in the phrasing as shown above, lead to the conclusion that this passage, too, must go back to a common source, and the similar or identical phrasing strongly suggests a common *Latin* source.

The four *loci* mentioned form two groups: the people involved (*loci a persona*), and the matter itself (*loci a re*); cf. Cic.*Part.*28; Quint.*Inst.*4.1.6; Aps.*Rh.*1.1. The dichotomy *persona—res/negotium* is found elsewhere in *Inu.*, e.g. in 1.29 (see *ad loc.* under ‘Ac uerbis...utendum est’) and 1.34. The three people (or groups of people) referred to here represent all the parties involved at a trial: the orator himself (either the litigator or his advocate, see below under ‘ab nostra (persona)’), his opponents, and the audience (on this last party, see below under ‘ab iudicum persona’). In other words, the audience’s goodwill can be derived from everyone involved in the trial. On the theory of the *tres personae* (found e.g. in Arist.*Rh.*1415a25-27; Cic.*Inu.*1.22; *Rhet.Her.*1.8; Cic.*de Orat.*2.321—the concept of accusation, defence, and judge is a straightforward one and hence presupposed in passages like Arist.*Rh.*1358a36-1358b12 and 1391b12-16), see e.g. FRANCHET D'ESPÈREY (2006), esp. 168-171. In Rome, one could in fact identify not three, but four (groups of) *personae*: to the ones listed above, the advocate could be added (if one takes ‘*nostra*’ to refer to the defendant, see below under ‘ab nostra (persona)’).

As WISSE (1989), 97-98, notes, these *loci* based on the three *personae* are concerned with ἡθος and πάθος, with ἡθος applying particularly to *ab nostra persona* (cf. *facta, officia*) and πάθος to *ab aduersariorum persona* (cf. *odium, inuidia, contemptio*). He also stresses (p.209 n.65) that in *Inu.*1.22, *Rhet.Her.*1.8, and Quint.*Inst.*4.1.5-7 the *personae* (plus ‘*a causa*’) are subordinated to the triad *beniuolum/attentum/docilem facere* (more precisely to *beniuolum facere*) while the contrary is true for Arist.*Rh.*1415a25-1415b4; in Anon.Seg.7 and 9-18 they appear to be divisions that are put side by side on a same level.

On *beniuolum facere* and the *loci beniuolentiae*, cf. also: [Arist.]*Rh.AL.*1436b15-1437b32; Arist.*Rh.*1415a26-1415b1; *Rhet.Her.*1.8; Cic.*de Orat.*2.80-82; 2.321-322; 2.324; *Top.*97; *Part.*28; Quint.*Inst.*4.1.5-33a; 10.1.48; Iul.Vict.*Rhet.*p.68,16-69,25; cf. Fortun.*Rhet.*2.14; Anon.Seg.7; 16-18; Mart.Cap.p.192,7-14; Isid.*Orig.*2.7.2; Alb.*Rhet.*20p.534,32-535,10. The

four *loci beniuolentiae* even found their way into the progymnasmatic tradition, cf. e.g. Nicol.*Prog.*p.41,21-42,2.

See also LAUSBERG §§273-279; *HWRh* s.v. *Captatio beniuolentiae*; LOUTSCH (1994), 30-40. VOLKMANN (1885), 129-134, explains the four *loci* related to *beniuolum facere* and gives examples from speeches by Greek orators and by Cicero. PRILL (1986) shows how Cicero uses these four *loci beniuolentiae* in *S.Rosc.*, *Clu.*, *Mur.*, *Cael.*, and *Mil.*, making clear that Cicero does not use all four of them in every Cause but rather needs to make a careful selection of them that is well adapted to the Cause in question.

ab nostra (persona): Compared with Arist.*Rh.*1415a25-27, this would correspond to ‘ἐκ τοῦ λέγοντος’. For Greece (especially Athens), this would clearly have referred to the litigant (in this case: the defendant), who normally pleads his own Cause (although he may have hired a λογόγραφος, i.e. a ghost-writer) or (rarely) have called in a συνήγορος (a ‘with-speaker’, see CROOK (1995), 32-35): defendant and defence orator were normally one, which is also suggested by Greek rhetorical treatises (see KENNEDY (1968), 419-426). At Rome, however, a defendant (*reus* or, socially speaking, often *cliens*) is normally represented by his advocate (*orator/actor* or, in social terms, often *patronus*), so the question arises: who is meant here? All the *loci* listed for *ab nostra persona (facta, officia, etc.)* easily fit the defendant. But in the Exordia of so many of his speeches, Cicero as an advocate justifies himself regarding these points (cf. e.g. the Exordium of *S.Rosc.*), many of which could be used by the opposing party as elements of invective to blacken the advocate’s ἥθος and the authority that comes with it. So Cicero’s text here could support both interpretations and is thus inconclusive on its own.

The parallel passage in *Rhet.Her.*1.8 includes the following phrase which strongly points into the direction of the *reus*: *quales fuerimus aut in parentes aut in amicos*. Even if an advocate can refer to the friendship that links him to his client, any reference to the advocate’s parents would seem irrelevant and even out of place. (But at *Rhet.Her.*4.34 the

Auctor seems to use ‘*nostra persona*’ to refer to the defendant: *Ex eodem genere, ut ad nostram quoque personam referamus subiectionem*, after which follows a sentence in the 1st pers. sing. from the perspective of the defendant.)

In *de Orat.*2.321 Cicero again lists the first three of these four *loci benivolentiae*; this time, however, he does not use the ambiguous ‘*nostra persona*’, but ‘*reus*’. (In this context, it seems strange that Cicero adds the advocate to the *personae* triad of the Exordium when discussing ἡθός in *de Orat.*2.182, but does not include him in his discussion of Exordium.)

Confirmation is provided by Quintilian: in *Inst.*4.1.6 he complains that in the rhetorical tradition it was the litigator, not the advocate at whom this *locus* was aimed. In other words, Quintilian here criticises a three-*personae* model (as found in *Inu.* and *Rhet.*) and opts for a four-*personae* one: *Sed personarum non est, ut plerique crediderunt, triplex ratio, ex litigatore et aduersario et iudice: nam exordium duci nonnumquam etiam ab actore causae solet*. Who these ‘*plerique*’ are is unknown, but Quintilian would probably have mentioned Cicero if Cicero were *not* among them.

Hence, ‘*ab nostra persona*’ here and in *Rhet.Her.*1.8 means ‘*ab rei persona*’; KENNEDY (1968), 433-434, and LOUTSCH (1994), 32-33, arrive at the same conclusion (see also WISSE (1989), 100-103), which is partially rejected, unconvincingly, by GUÉRIN (2009), 303, 343-366, 405-406. Given the differences between Athens and Rome concerning advocacy, a rhetorical theory taking into account only three (groups of) *personae* with the exclusion of the client (*or* the advocate), like in *Inu.* and *Rhet.*, does not reflect the practice of the Roman law courts well, and therefore seems Greek in character.

This leaves the question of why ‘*nostra*’ (plural) is found in the Latin text. Three explanations seem possible: (i) ‘*nostra*’ is a true plural and could include both the defendant and the advocate; (ii) ‘*nostra*’ is a *pluralis humilitatis* referring to the defendant, who in the Greek tradition himself speaks; (iii) ‘*nostra*’ is a *pluralis humilitatis* that the advocate uses when speaking as his client in ἡθοποιία. Quint.*Inst.*4.1.6 opposes (i): Quintilian stresses that this

normally referred to the defendant (add: *only*); if Cicero had meant it to refer to both defendant and advocate, Quintilian would probably have excluded Cicero from '*plerique*'. (iii) can be rejected on the grounds that Cicero and the *Auctor* would in that case have needed to specify that this was a special use (through a rhetorical figure) of '*nostra*'. Thus, (ii) must be the correct interpretation. This is even more striking if one considers that Anaximenes with his discussion on exordial *loci* for use by someone speaking on someone else's behalf ([Arist.] *Rh.AL.1442b12-16*, which refers to a συνήγορος) had already shown the direction that Roman rhetoricians could have taken for the exordial *loci ab oratoris/actoris/patroni persona*.

Since Cicero referred to his own person in so many speeches (even shortly before and after *de Orat.*), it becomes clear that he had already put into practice what Quintilian demanded in rhetorical theory more than a century later: this is a clear instance of oratorical practice diverging from rhetorical theory (taken over from a different culture without the necessary changes) and then influencing it.

For the different meanings of '*persona*', see FUHRMANN (1979), who notes (p.88) that not only the term '*persona*' (original meaning: 'mask', hence 'character', 'role', 'person') was shared by the theatre and the law court, but also the words '*agere*', '*actio*', and '*actor*'; on this see also FANTHAM (2002). In a trial, an advocate can put on a different 'mask' through ἡθοποιία and προσωποποιία, where he 'plays' the 'role' of a different person or of a personified thing. In fact, Cicero thinks that orators can learn from actors regarding *pronuntiatio* (cf. e.g. *de Orat.* 1.128), which further strengthens this link; orators (who enjoyed high social standing) had to be careful, however, not to imitate actors (who had a low social standing, see e.g. EDWARDS (1997)) too closely. On Cicero and 'theatrical' behaviour in the Roman courts, see now HALL (2014) (with a sub-chapter on oratory and acting at 27-30). The most extensive treatment of *persona* in rhetoric is GUÉRIN (2009) (295-426 on *Cic.Inu.* and *Rhet.Her.*) and GUÉRIN (2011).

In *Off.*1.107-125 (which is reminiscent of the proem of *Inu.*1, compare *Off.*1.107 with *Inu.*1.5) Cicero attributes four *personae* ('characters') to every human: one *persona* common to all humans; one related to one's physical appearance and strength, mind, character qualities etc.; one imposed by chance and circumstances (like family and ancestors); one depending on one's own choice.

See also LAUSBERG §275. On advocacy and the rhetoric of advocacy, see KENNEDY (1968); MAY (1981); CROOK (1995).

ab aduersariorum (persona): Although Cicero separates *in odium/in inuidiam/in contemptum* with exclusive '*aut*' ('either... or... or...'), these negative dispositions are not mutually exclusive: ideally, the orator can ignite all three simultaneously in the audience, which will have the most powerful effect. *Rhet.Her.*1.8 in the parallel passage does not have '*aut*' and instead lists all three dispositions asyndetically, making it hard to decide whether or not the common Latin source for this had the exclusive conjunction. The *Auctor* has a much longer list of *loci* for *in inuidiam* (without correspondence in *Inu.*1.22 are: *factionem, incontinentiam, nobilitatem, clientelas, hospitium, sodalitatem*): these could be seen as *loci* of a *popularis* against a *uir optimus*, see ACHARD (2003), 8 n.34. Quintilian (*Inst.*4.1.15) says about *odium/inuidia/contemptio*: *Neque haec dicere sat est, quod datur etiam imperitis; pleraque augenda ac minuenda ut expediet: hoc enim oratoris est, illa causae*. Quint.*Inst.*4.1.11 confirms that *ab aduersariorum persona* is aimed at the litigants on the opposing side, but sometimes also at their advocate(s), since they, too, can provide the orator with material for the Exordium.

Closely linked to the person of the opponent is of course the domain of invective, on which see e.g. NISBET (1961), 192-197; CORBEILL (2002b); ARENA (2007); the volume by SMITH/COVINO (2011).

See also LAUSBERG §276; LOUTSCH (1994), 35-37.

ab iudicum persona: Cicero is more specific here than later in 1.22 (where '*iudicum*' is replaced by '*auditorum*') about who exactly these listeners are. Since *Rhet.Her.*1.8

in the parallel passage has ‘*ab auditorum persona*’ twice, one may wonder whether ‘*iudicum*’ is actually an explanatory gloss that later entered the text; if this were so, this must have happened at an early stage in the transmission of the text, since no ms. reads ‘*auditorum*’ at this point in *Inu.*1.22, and for the later one in 1.22 only a second hand put ‘*iudicum*’ in the margin of ms. *S*.

There were indeed different groups present at a Roman trial that could be called ‘audience’: the presiding judge/magistrate, the members of the jury (or ‘judges’, the ‘*iudices*’ in Cicero’s speeches), supporters of both litigating parties sitting on the benches behind their party, and the ‘general’ audience made up of people interested in a specific case or in hearing a specific advocate plead and of people who just happened to pass by and stopped—this ‘general’ audience seems to have formed a (probably half-)circle around the judges and litigating parties and was therefore called ‘*corona*’ (‘wreath’). For a good attempt at the difficult reconstruction of a Roman court ‘room’ and the people present at a Roman trial, see BABLITZ (2007), 51-70.

Only the judges cast votes, so the advocates would focus on them, although the *corona* could obviously affect the judges’ emotions with cheers, jeers, and hisses. Hence, it would be clear to a Roman reader that ‘*ab auditorum persona*’ in this context refers to the judges *only*, so that it is in fact unambiguous and interchangeable with ‘*ab iudicum persona*’.

Quint.*Inst.*4.1.16-22 provides more details on this *locus*. See also LAUSBERG §277; LOUTSCH (1994), 38-39.

a causa: Neither Cicero nor the *Auctor* (*Rhet.Her.*1.8) provides much detail here, in contrast to Cic.*de Orat.*2.322 and especially Quint.*Inst.*4.1.23-32. In *Part.*28 Cicero states that every Exordium must start either *ex personis* or (which corresponds to *a causa*) *ex rebus ipsis*; in *Part.*29 (*Intellegenter autem ut audiamur et item attente, ab ipsis rebus ordiendum est*) he then links *ex rebus ipsis* to *docilem facere* and *attentum facere*, not (like here) to *beniuolum facere*.

See also LAUSBERG §278; LOUTSCH (1994), 39-40.

prece et obsecratione: can be taken as a hendiadys ('very strong imploring').

in odium...contemptionem: an *anticlimax*. *Odium* ('hatred') and *invidia* ('jealousy', leading to hatred), which can be quite synonymous (*TLL* s.v. 1. *odium*: *ui primaria fere i.q. taedium, fastidium, indignatio, invidia*) and are often found in a pair (cf. e.g. *Cic.Inu.*1.4; *de Orat.*1.228; *Ver.*2.5.181; *TLL* s.v. 1. *odium* and *invidia* has further references), are stronger than *contemptio* ('scorn'). On the meanings and uses of '*odium*' and '*invidia*', see HELLEGOUARC'H (1972), 191-198, who concludes (p.196 with n.12) with reference to *Inu.*1.22 that '*invidia*' is more closely linked to social or political standing (cf. *uis eorum, potentia, diuitiae, cognatio*) while '*odium*' refers to a more personal and instinctive emotion (cf. *spurge, superbe, crudeliter, malitiose*); he sees (n.12) no difference in degree of the intensity of the feeling of hatred/jealousy between both terms. On the meaning and use of '*invidia*', see also: PÖSCHL (1961); SCHAUPP (1962); WEISCHE (1966), 92-102 (critically building on WISTRAND (1946), ODELSTIERNA (1949), and ALT/STIEWE (1959), 162-165); KASTER (2005), 84-103 (on the different cultural-psychological forms *invidia* can take).

si quod: The mss. of *Rhet.Her.*1.8 read '*si quid*' in the corresponding passage that shows a strikingly high degree of identical phrasing. Substantive '*quid*' is indeed better than adjectival '*quod*' (found in the mss. of *Inu.* here), as the adverbs going with '*factum*' indicate that '*factum*' is to be taken as an adjective here rather than as a noun, with which one would have expected adjectives instead of adverbs (similarly, because of the adverbs one would have expected '*ab iis*' instead of '*eorum*'). In fact, with '*factum*' taken as a noun, the adverbs would *strictly speaking* complement the verb '*proferetur*'. Given the easy corruption from '*quid*' to '*quod*' (before or with the archetype) through the use of an abbreviation and since '*quid*' is found in the mss. of *Rhet.Her.*1.8, it seems reasonable to read '*quid*' here instead of the unanimously transmitted '*quod*'.

superbe: This could be used when attacking members of the *nobilitas* in political speeches (judges in trials would often come from the upper class), see PINA POLO (1996), 74-75 n.45; see also at 1.105 under ‘superbiam...arrogantiam’.

uis...potentia: ‘uis’ does not refer to political power or influence here, since this would hardly differ from ‘*potentia*’. That ‘*diuitiae*’ and ‘*cognatio*’ refer to two additional ways of exerting pressure on the political decision-makers supports that ‘uis’ and ‘*potentia*’ are not intended to carry the same idea. Hence, Cicero here describes four different means of exerting such pressure: physical violence, power/influence through social status or connections, bribery (money), and kinship.

On *potentia*, cf. the definition in 2.169: *potentia est ad sua conseruanda et alterius adtenuanda idonearum rerum facultas*. See also HELLEGOUARC'H (1972), 238-242.

[pecuniae]: STRÖBEL (1915) deletes this word. Indeed, as genitive singular it does not make sense with ‘*cognatio*’ and as nominative plural it would add nothing new after ‘*diuitiae*’. It is probably a gloss to ‘*diuitiae*’ written above the line and later inserted into the text in the wrong place (as ‘*diuitiae*’ and ‘*pecuniae*’ in immediate sequence would have looked like a doublet, ‘*pecuniae*’ was probably moved after ‘*cognatio*’ and then considered as a genitive singular or nominative plural). Political manipulation with *diuitiae* refers to bribery. In the technical Latin vocabulary, however, bribery is carried out not with ‘*diuitiae*’, but with ‘*pecunia*’ (cf. e.g. *alqm. pecuniā emere, alqm. pecuniā sollicitare, pecuniam accipere*).

WEIDNER (1878) deletes ‘*diuitiae*’ instead of ‘*pecuniae*’. But keeping the first term and deleting the second one seems preferable. It is more likely that ‘*pecuniae*’ (as the more common word) started as a marginal gloss of ‘*diuitiae*’ and that the gloss then entered the main text possibly at the end of a line.

si eorum...proferetur: ‘*Et*’ here is striking: *A, B, C, D et E*. The normal usages in Classical Latin are ‘*A, B, C, D, E*’ and ‘(*et*) *A et B et C et D et E*’. See *K.-St.II*,§154.11. ‘*Et*’ here creates a link between the last two terms (*D et E*) and turns *A, B, C* into a tricolon.

Ab auditorum persona: Earlier in 1.22 Cicero called this *locus* ‘*ab iudicum persona*’. Indeed, ‘*auditorum*’ here refers to the judges (who would sit there and *listen*), not to the general audience or spectators (forming the *corona*), see above under ‘*ab iudicum persona*’.

ut ne...significetur: This caveat against excessive flattery is not found in *Rhet.Her.*1.8 and may thus have been introduced by Cicero as an original idea or one coming from a different source: there is no apparent reason why the *Auctor* would have left it out, had it come from a common source. This strongly suggests that *Rhet.Her.* cannot be based on *Inu.* here, or else the common source must have been an oral Latin one which neglected to mention this in the *Auctor*’s year.

expectatio: the expectation that the general public will have towards the judges.

1.23

TESTIMONIA:

in ipsa...datur. =Fortun.*Rhet.*2.15.

COMMENTARY:

Attentos...faciemus: Cicero lists four different *loci* for *attentum facere*: (i) special character of what the orator is going to say; (ii) its relevance to certain groups; (iii) promise of being brief; (iv) exposition of the Point for Decision. In contrast to the *Auctor* (*Rhet.Her.*1.7: *et si rogabimus ut attente audiant*), Cicero does not include that the orator should directly ask for attention, which Anaximenes states that orators were already doing in his day ([Arist.]*Rh.Al.*1436b11-12).

The reason why a judge might not always be very interested in a given case is related to the fact that sitting as a judge was part of the citizen duties of members of the upper classes (senators and equestrians), so that in low-profile cases having to sit as a judge (especially if not as an *unus iudex*) would mostly *not* have been perceived by the person in question as an honour, but purely as a duty (from which one could not be dispensed without good reason); on this question and on the selection process of judges, see e.g. GREENIDGE (1901), 263-269; 433-456; KASER (1966), 34-44; 138-145; BABLITZ (2007), 91-116 (up to Imperial times). In *Brut.*200, Cicero paints an evocative picture of bored judges doing their duty (or not...).

On *attentum facere*, cf. 1.23a. Cf. also: [Arist.]*Rh.Al.*1436a40-1436b15; 1437b32-1438a2; Arist.*Rh.*1415a35-1415b17 (in *Rh.*1415a36-37 Aristotle states that it is not always in the orator's interest to make the audience attentive; this is criticised by Quint.*Inst.*4.1.37-39; see also VOLKMANN (1885), 136-137); *Rhet.Her.*1.7; Cic.*de Orat.*2.80; 2.323-324; *Orat.*122; *Top.*97; *Part.*28-30; Quint.*Inst.*4.1.33b-34a; 4.1.37-39; 10.1.48;

Iul.Vict.*Rhet.*p.69,26-70,5; Anon.Seg.14-15; Mart.Cap.p.192,5-6; Isid.*Orig.*2.7.2; Alb.*Rhet.*20p.535,10-15.

See also LAUSBERG §§269-271; LOUTSCH (1994), 40-44. VOLKMANN (1885), 134-135, explains the *loci* related to *attentum facere* and gives examples from speeches by Greek orators and Cicero. MÖLLER (2013) discusses Ciceronian rhetoric and oratory with regard to *attentum facere*.

dicturi erimus: See at 1.20 under ‘auditori sunt’ and at 1.31 under ‘erimus dicturi’.

noua: ‘*Noua*’ might have richer connotations here than English ‘new’: in as conservative circles as many of the Roman political (i.e. upper-class) ones, ‘new’ often meant ‘shockingly new’, ‘unprecedented’, ‘sensational’. Similarly, ‘*res nouae*’ in a political context does not just mean ‘new things’, but ‘revolution’.

ad eos...rem publicam: an interesting climax providing insight into the young Cicero’s views on the hierarchy in the Roman state.

Apparently, he does not count the audience among the *inlustri homines*, as he would otherwise have written ‘*aut ad alios inlustri homines*’ (notice also ‘*aut*’, i.e. exclusive ‘or’, between ‘*ad eos qui audient*’ and ‘*ad aliquos inlustri homines*’); nor does it seem possible to interpret ‘*ad eos qui audient*’ as referring to the spectators forming the *corona* and ‘*inlustri homines*’ to the upper-class members of the jury, because in this case ‘*quosdam*’ (‘certain’) would be needed instead of ‘*aliquos*’ (‘some’) to refer to a *specific* group of people. So if in a law court or in the senate, where the most distinguished members of Roman society passed judgment or deliberated over political issues, the audience was not made of *inlustri homines*, whom does Cicero here actually refer to? He may have in mind individual members from

this upper class, some of whom he later portrayed as spiritual ancestors, like Scipio Aemilianus Africanus (see e.g. VAN DER BLOM (2010)).

The gradation starting with *inlustris homines* reveals that Cicero as a young man already considered that the *summa res publica*, the highest interest of the state, was of the highest importance: the immortal gods are more important than illustrious men, but the supreme interest of the state is more important than the immortal gods—a hierarchy that could show that Cicero already at this early stage of his life considered the Roman gods more as a part of mythology or of cultural heritage than as *supreme* beings interfering in people’s lives. In fact, one could have expected the climax to end with the immortal gods; hence, this additional last element is all the more striking. Putting the interest of the *res publica* first is something that will characterise Cicero for the rest of his life, and this could be seen as the very first instance where this *Weltanschauung* of his is expressed: a subtle detail easy to overlook, but very meaningful, all the more since the parallel passage in *Rhet.Her.1.7* puts *res publica* before the audience and the immortal gods, who come in the last place of the *crescendo*. Indeed, it seems that Cicero added the *inlustris homines* and the *summa res publica* to what was found in the common source, see Introduction to 1.20-26 sub ‘Comparison of Cic.*Inu.*1.20-26 with *Rhet.Her.*1.5-11’, section (vi).

si pollicebimur...erunt: Mar.Victorin.*Rhet.*1,16p.79,55-58 correctly stresses a link between these two *loci*: *Et ne mentiri nos iudices putent quod breuiter nos dicturos esse promittimus, EXPONERE, inquit, DEBEMVS IVDICATIONEM AVT IVDICATIONES, SI PLVRES ERVNT.*

nos...demonstraturos: accusative with infinitive in future tense after a verb of promising (*pollicebimur*) with an event taking place in the future (see *K.-St.*II,§126.2 Anmerk.1).

Dociles...faciemus: For *docilem facere*, Cicero gives only two brief rules without much detail ((i) give a clear and brief summary; (ii) make the listener attentive), in contrast to *beniuolum* and *attentum facere*, which strongly suggests that he (and similarly the *Auctor*, cf. *Rhet.Her.*1.7) considers this to be the least important or the most easily achievable aim of *exordium/principium* (which thus needs less theory). LOUTSCH (1994), 48, notes that the intellectual preparation of the judges would be less important because two-stage structure of Roman judicial procedure would inform the judges about the point(s) at issue before the start of the second stage, in which the advocates would give their speeches—listing the *already-known* point(s) at issue would probably bore the audience; but one cannot accept this as a reason why *docilem facere* gets such a short treatment if one supposes that Cicero's and the *Auctor's* precepts here go back (in the last instance) to *Greek* rhetorical theory.

A good passage for determining the exact meaning of '*docilis*' (from '*docere*', 'to teach', 'to show') here is *Cic.Part.*28: *ut amice* [cf. *beniuolum facere*], *ut intellegenter*, *ut attente* [cf. *attentum facere*] *audiamur*. This is followed in *Part.*29 by: *Intellegenter autem ut audiamur et item attente, ab ipsis rebus ordiendum est. Sed facillime discit auditor et quid agatur intellegit, si...* (Similarly: *Orat.*122: *auditor (...) paret se ad discendum.*) Comparing the use of '*discere*' in *Part.*29 with that of '*docere*' in '*docilis*' here, it becomes clear that '*intellegenter*' in *Part.*28-29 refers to what '*docilis*' expresses in *Inu.*: the capacity and willingness of the audience to take in and understand information provided by the orator (see HUS (1965), 340: 'who has the will to be informed', 'who is in a good disposition to be informed', hence 'whom one can influence'; my translations). For the meaning of '*docilis*' in this context, see *TLL* s.v. *docilis* A *notione passiva*: 1. *i.q. ad discendum promptus, qui facile docetur*; β. *speciatim t.t. rhet. de auditore uel iudice, qui narratione doceri se patitur, εὐμαθής*. As DONNELLY (1912), 204, notes in a useful article focusing on the meaning and history of *docilem facere*, English 'docile' is not suitable as a translation of Latin '*docilis*' here since the English term has associations (e.g. 'submissive') that the Latin does not. *OLD* s.v. *docilis* 1.b. ('attentive, ready to listen') misinterprets the

meaning of ‘*docilis*’ in this rhetorical context. The semantic history of ‘*docilis*’ is traced in great detail by HUS (1965), 335-352, with a short complement in HUS (1980), 211-212.

On *docilem facere*, cf. also: [Arist.]*Rh.Al.*1436a34-36; Arist.*Rh.*1415a8-24, esp.1415a11-15; *Rhet.Her.*1.7; Cic.*de Orat.*2.80; 2.323-324; *Orat.*122; *Top.*97; *Part.*28-29; Quint.*Inst.*4.1.34b-39; 10.1.48; Iul.Vict.*Rhet.*p.70,6-11; Anon.Seg.10-13; Mart.Cap.p.192,6-7; Isid.*Orig.*2.7.2; Alb.*Rhet.*20p.535,15-17. See also LAUSBERG §272; LOUTSCH (1994), 44-49.

VOLKMANN (1885), 135-136, explains the *loci* related to *docilem facere* and gives examples from speeches by Greek orators and Cicero.

summam causae: the main, i.e. most important points of the Cause (see below under ‘hoc est...controuersia’ for CLASSEN’s view). This idea of the Exordium preparing the listener for what will follow by listing the main points of the matter at stake is already found in [Arist.]*Rh.Al.*1436a33-36. Aristotle in *Rh.*1415a8-24 compares the beginnings of speeches with those of dramas (both tragedies and comedies) and of epic poems, and shows that all of them aim to inform the audience briefly about what the whole work will be about, so as to guide their thoughts; if the plot or situation is already known to them, there will be no need for such an introduction.

CLASSEN (1965), 128-132, compares this to *πρόθεσις/propositio* (on which see Overview of Ancient Rhetorical Theory of Narrative [n.i.] on Arist.*Rh.*), so that Cicero would here be including something that would actually belong to the Narrative or Partition. But this obviously depends on the degree of detail provided in the *summa causa*, which would be much higher for the Narrative and the Partition. Moreover, the *aim* of stating the most important points of the Cause varies for the Exordium, Narrative, and Partition: in the Exordium, the aim is to introduce the matter at stake to the audience *briefly* (‘*summam*’, cf. ‘summary’) and *for the first time* so that they have a *general* idea of what the

orator is going to say; in the Narrative, much more detail is needed to give the audience an *elaborate* picture of what happened; when the orator comes to the Partition, the audience will already have knowledge of these points, mainly through the Narrative, so the orator can briefly refer to what they now know.

hoc est...controuersia: That ‘in which the dispute lies’ is where the *constitutio* (cf. ‘*consistat*’) is found. CLASSEN (1965), 105 n.6 and 131, notes that Cicero is wrong in equating ‘*summam causae*’ with this (CLASSEN, 131, translates ‘*summam causae*’ with ‘Angabe der Sache’, i.e. ‘stating of the matter’). See also above under ‘*summam causae*’.

docilem...attentum: It is not entirely clear what the unexpressed noun going with these two adjectives is: the listener? Or an indefinite ‘him whom’, like in the following *is...qui...*? The problem arises from the sudden switch from the preceding plural ‘*Dociles auditores*’ to singular ‘*docilem*’ and ‘*attentum*’.

Nam is...audire: This shows how closely related (or even how interdependent) *attentum* and *docilem facere* are for Cicero. See also at 1.20 under ‘*beniuolum, attentum, docilem confecerit*’.

insinuationes: *Insinuatio* is treated elsewhere in: *Rhet.Her.*1.9-10; *Quint.Inst.*4.1.42-50a; *Sulp.Vict.Rhet.*7p.316,36-317,6; 16p.322,15-18; *Fortun.Rhet.*2.13-15; *Mart.Cap.*p.192,16-193,2; *Alb.Rhet.*21p.535,26-30 (without use of ‘*insinuatio*’). Cf. also *Iul.Ruf.Fig.*13p.42,13-26 (his treatment of the figure ἀποπλάνησις shows some close similarities to that of *insinuatio*).

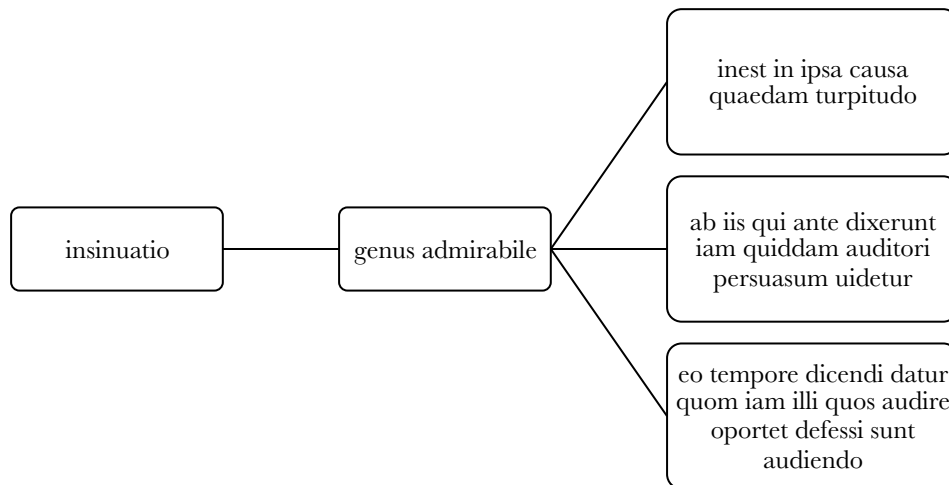
See also LAUSBERG §§280-281.

cum admirabile...infestus est: This does not exactly match what Cicero said in 1.21: there he distinguished between listeners who are not entirely hostile—in which case the orator *can* use a *principium*—and listeners who are completely hostile (*‘infesti’* and *‘abalienati’* are used synonymously in this case)—in which case the orator *must* use an *insinuatio*. By contrast, Cicero now suggests that *insinuatio* applies to *any* hostile listeners, i.e. to both groups of hostile listeners that he distinguished in 1.21. CHRISTES (1978), 560, considers this to be an error by Cicero (similarly, CALBOLI (1971), 124-126). But it seems possible to explain away such an inconsistency by Cicero by stressing his use of *‘licebit’* in 1.21: *si non omnino infesti auditores erunt, principio benivolentiam comparare licebit*—the orator *will be allowed* to use a *principium*: but he can *just as well* use an *insinuatio*. This interpretation is indeed supported by the subsequent use of *‘necesse erit’*—here *principium* is *not an option*: *Sin erunt uehementer abalienati, confugere necesse erit ad insinuationem*. Thus, *‘licebit’* and *‘necesse erit’* are to be emphasised in 1.21 and the choice of these words is intentional, calling for a very precise reading.

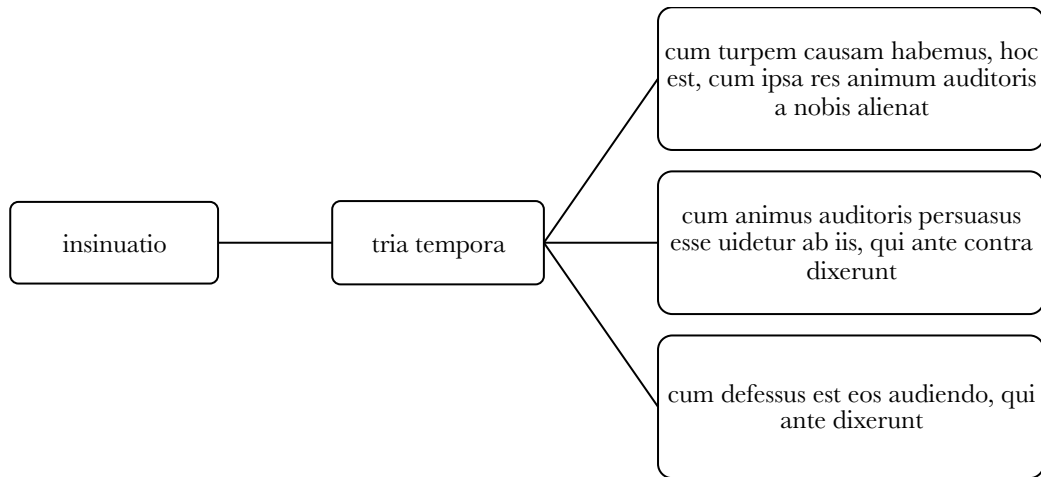
Another explanation could even be given here to defend Cicero. All scholars accusing Cicero of inconsistency here (e.g. CALBOLI (1971), 124-126; CHRISTES (1978), 560) link *‘ut ante diximus’* back to 1.21. In 1.20, however, Cicero defines the *genus admirabile* as follows: *admirabile, a quo est alienatus* [which has the same meaning here as *‘infestus’* in 1.21 and 1.23] *animus eorum qui audituri sunt*. So in both 1.20 and 1.23 Cicero does not further subdivide the *genus admirabile*, but does so only in 1.21. In other words: 1.20 and 1.23 are consistent with each other, only 1.21 is different. Furthermore, the *genus admirabile* in 1.20 and 1.23 (but not 1.21) seems very similar to the *genus turpe* in *Rhet.Her.1.5* (*Turpe genus intellegitur cum aut honesta res oppugnatur aut defenditur turpis*: as will be pointed out in *Rhet.Her.1.9*, this makes the listener hostile) and 1.9 (*cum turpem causam habemus, hoc est, cum ipsa res animum auditoris a nobis alienat*). With regard to the use of *insinuatio*, it is also the *genus admirabile* as described in 1.23 (but not 1.21) that corresponds to the *genus turpe* in

*Rhet.Her.*1.9. All this suggests that Cicero introduces a new idea (either one of his own or one from a different source) to the *genus admirabile* in 1.21 (not in 1.20 and 1.23) by distinguishing two degrees of hostility of the audience. At this point, the question of Cicero's striving for *Realitätsnähe* ('proximity to reality', introduced by CHRISTES (1978), 560) seems to provide a plausible answer: indeed, the orator will have to proceed more carefully, the more hostile his audience is. In this sense, Cicero's treatment of *genus admirabile* and *principium/insinuatio* in 1.21 is much closer to oratorical reality than the *Auctor's* in *Rhet.Her.*1.9.

tribus ex causis: There is a difference between Cicero's and the *Auctor's* treatment here. Cicero states that *insinuatio* is used for the *genus admirabile*, i.e. when the audience is hostile, which happens for three reasons (*tribus ex causis*). This can be represented as follows:



The *Auctor* in *Rhet.Her.*1.9 identifies the following three situations (*tria tempora*) in which the orator should use *insinuatio*:



The *Auctor* uses ‘*turpem causam*’ here, not ‘*turpe genus*’—in 1.5 he defined the *genus turpe* as ‘*cum aut honesta res oppugnatur aut defenditur turpis*’. Since in this definition ‘*res*’ could be replaced by ‘*causa*’, it is not clear whether in 1.9 the *Auctor* identifies the first point with the entire *genus turpe* or literally with a *causa turpis*, which would represent only the second case of *genus turpe* (‘*aut defenditur turpis*’). Some scholars (e.g. CHRISTES (1978), 565) take it to refer to *genus turpe*, but this and its consequence (viz. that the *genus turpe/admirabile* would have sunk down one level here) cannot be definitively proved.

A problem is created by a statement in *Rhet.Her.* 1.16:

Adhuc quae dicta sunt arbitror mihi constare cum ceteris artis scriptoribus, nisi quia de insinuationibus noua excogitauimus, quod eam soli praeter ceteros in tria tempora diuisimus, ut plane certam uiam et perspicuam rationem exordiorum haberemus.

What is so novel about the introduction of these *tria tempora* that the *Auctor* makes this proud claim? If the first *tempus* were the (entire) *genus turpe*, this would indeed form a major difference (in the level at which the *genus turpe/admirabile* appears in this subdivision) from Cicero’s account, and the claim of novelty could stand (see CHRISTES (1978), 565), although its importance might be exaggerated. But if the novelty referred to the *insinuatio* being used in the three different situations mentioned by both Cicero and the *Auctor* (shameful Cause; audience already won over by one’s opponent; audience exhausted

through the opponent's speech), then the *Auctor's* claim raises questions: is he lying, i.e. does this subdivision not go back to him? Or did Cicero rely on *Rhet.Her.* here? (This must be rejected with regard to other passages in *Inu.* and *Rhet.Her.*) Or had the *Auctor's* innovation spread in Roman rhetorical circles? Different views on this are held e.g. by WEIDNER (1878), XV; THIELE (1889), 18-20; MARX (1894), 119-122; BOWER (1958), 226; MATTHES (1958), 195; ADAMIETZ (1960), 26-27; CALBOLI (1971), 122-126. THIELE (and, following him mostly, CALBOLI) thinks that the *Auctor* introduced a subdivision of *insinuatio* into three *tempora* (rather than linking, like Cicero, *insinuatio* only to the *genus admirabile*, of which three *causae* are then given) in order to create a balance with *principium*: *principium* would in this way be linked to three *genera* (*honestum*, *dubium*, *humile*) and *insinuatio* to these three *tempora*. (One minor objection could be made to this: in 1.6 the *Auctor* considers the possibility of using a *principium* under special circumstances for the *genus turpe* as well: *nisi quid nacti erimus qua re aduersarios criminando beniuolentiam capere possimus*.) BOWER (1958), 226, thinks that Cicero and the *Auctor* 'are expounding the same doctrine here, but in different forms'. Which of these views is correct seems impossible to decide definitively, mainly because of our lack of Hellenistic rhetorical sources.

As MATTHES (1958), 195, notes, it is mainly on the *Auctor's* claim in *Rhet.Her.* 1.16 and on the similarities between Cicero's and the *Auctor's* tripartite treatment of *insinuatio* that scholars have founded their hypothesis that *Inu.* was based on *Rhet.Her.* (see Chapter 6, hypothesis (2)). As shown above, there are, however, good alternative explanations to resolve this problem, which shake the very foundations of this argument and thus also of this entire hypothesis. ADAMIETZ (1960), 27, arrives at the same conclusion and rightly notes that this also refutes the views taken by MARX (1894), 119-122 (the *Auctor's* claim for innovation would only mean that he was the first one to translate this tripartite subdivision from a Greek source), and HERBOLZHEIMER (1926), 409 (the *Auctor's* innovation would only have been to replace the word '*causae*' by '*tempora*').

aut inest...audiendo: On this, cf. also: Quint.*Inst.*4.1.44-50a; Mart.Cap.p.192,17-20. In fact, these three points echo the triad *beniuolum/attentum/docilem facere*: (i) *inest...turpitude*: this makes the listener *infestus/abalienatus*, i.e. *non beniuolus*; (ii) *ab iis... persuasum uidetur*: in this case, the listener is no longer as *docilis*, because he has accepted the opponents' view or interpretation of the Cause; (iii) *eo tempore...audiendo*: an exhausted audience will obviously have trouble paying attention. Similarly, CHRISTES (1978), 562-563.

The second of these three reasons (*ab iis...persuasum uidetur*) depends on the content of the opponents' speech, so the orator cannot know it before the start of the trial and therefore cannot fully prepare it in advance (he can only guess what his opponents might say): spontaneity and quick-wittedness paired with eloquence are required qualities for this. Such spontaneous reaction to his opponents' speech of course makes the orator look as if he had not carefully elaborated his own speech in advance and thus as if he had not carefully prepared rhetorical weapons to manipulate the audience: this will win him much favour, since the obvious use of *ars* causes the audience's suspicions; on hiding the *ars*, see also at 1.25 under 'propterea...nascitur'.

See also VOLKMANN (1885), 140-141; MARTIN (1974), 72.

quiddam auditori persuasum est: In Classical Latin '*persuadere*' is followed by the dative, not accusative, of the person who is persuaded/convinced ('*persuadere*' can mean both), and by the accusative of the topic of persuasion only if it is a neutral pronoun (like '*quiddam*' here; otherwise the construction is: *persuadere alicui de aliqua re*). Hence, the passive construction here requires '*quiddam*' to be in the nominative as the subject, and '*auditori*' to remain in the dative: dative objects (in contrast to accusative objects) are not affected by the transition from active to passive voice. See *K.-St.*II,§76.2. A striking counterexample to this 'rule' is found in the parallel passage in *Rhet.Her.*1.9: *cum animus auditoris persuasus esse uidetur*. If the similar phrasing goes back to a common Latin source, one may wonder whether this source included '*animus (...) persuasus esse*'. *K.-St.*II,§27.4 explain that some intransitive verbs

(including *persuadere*) can be found in the personal passive (*persuadeor, persuasus sum* etc.) since their construction was still oscillating between the accusative and dative construction before the stylistic period of Classical Latin, i.e. before authors like Cicero (who uses personal passive ‘*persuasus est*’ only once, in *Fam.*6.7.2) and Caesar, through whose influence the dative construction and the impersonal passive (*alicui persuadetur, persuasum est* etc.) became the norm (cf. the switch from the old accusative object to ablative object with verbs like *uti, frui, fungi, uesci*, and *potiri* in Classical Latin; see *K.-St.*II,§27.4 Anmerk. and II,§81.5 Anmerk.3).

locus (dicendi): missing in the main text of ACHARD (1994), as noted in ‘CORRIGENDA’ (after p.244).

quom: archaic form of ‘*cum*’.

COMMENTARY:

Si causae...offensionem: This refers to the *genus admirabile*, which corresponds to the *genus turpe* in *Rhet.Her.*1.5. The listener's mind is *offensus* and hence *alienatus* (cf. *Cic.Inu.*1.20). The wording here is also reminiscent of the *genus anceps* (cf. 1.20), so perhaps this applies to this *genus* as well; on *genus anceps* and *insinuatio*, see at 1.21 under 'Anceps...uideatur'.

pro homine...homine rem: similarly, *Mart.Cap.*p.192,26-193,2. *Rhet.Her.*1.9 only considers replacing the person by the thing or the thing by the person, not a person by another person or a thing by another thing; similarly, *Quint.Inst.*4.1.44.

ut ab eo: 'ut' can be considered consecutive ('so that') or final ('in order to') here.

ad id...traducatur: cf. 1.21: *ut in genus honestum causa translata uideatur*. Rhetoric is used to 'lead' from one thing 'over to' another.

dissimulare...obscure: cf. 1.20: *Insinuatio est oratio quadam dissimulatione et circumitione obscure subiens auditoris animum*.

te: sudden change from 3rd to 2nd pers. sing., creating a more direct, conversational tone, as found e.g. in *Cic.Part.* One may wonder whether this is a simple stylistic change or whether there is in fact more to it: addressing another person directly could be a sign that the source for this passage is an oral one, like a teacher telling his student (a future orator) how to handle Insinuations.

mitior...auditor: Cf. *Isoc.Paneg.*13: τοὺς μὲν γὰρ ἄλλους ἐν τοῖς προοιμίοις ὁρῶ καταπραΰνοντας τοὺς ἀκροατάς.

ingredi pedetemptim: a very visual phrase: both ‘*ingredi*’ (from ‘*gradus*’, ‘a step’) and ‘*pedetemptim*’ (from ‘*pes*’, ‘foot’, and ‘*temptare*’, ‘try’; thus ‘trying with one’s foot’) refer to feet and walking. *Rhet.Her.*1.9 provides a synonymous phrase: *ad nostram causam pedetemptim accedemus*. It is hence possible that this visual expression goes back to a common (Latin?) source. In earlier and contemporary extant Latin literature, very similar expressions are found in: Cato *Orat.*45.1 (*pedetemptim temptabam*); Lucr.5.533 and 5.1453 (both: *pedetemptim progredientis*); Cic.*Tusc.*3.54 (*pedetemptim progrediens*); *Fam.*9.14.7/*Att.*14.17a.7 (*pedetemptim et gradatim tum accessus...*). In the context of *insinuatio*, cf. also *Inu.*1.20: *circumitione...subiens*.

uoluntatem: here not simply ‘will’, but ‘favourable disposition, goodwill, sympathy’ (*OLD* s.v. *uoluntas* 8.b.).

TESTIMONIA:

Exordium...auctoritatem: ≈ *Alb.Rhet.* 21p.535,30-34.

COMMENTARY:

idque: This is the mss. reading. STRÖBEL (1915) has ‘*id quod*’ (with no further comments in his apparatus—according to ACHARD (1994), *app. crit.*, it is a conjecture by STRÖBEL). Although the transmitted reading makes sense from a grammatical point of view, STRÖBEL’s conjecture rightly points out that ‘*ei qui...cognitu*’ is not on the same level as ‘*Sin oratio...fecisse*’ and ‘*oportet aut...*’, as might be suggested by *-que*, but rather forms a parenthetical statement: to indicate this parenthetical character, ‘*id quod*’ (‘..., which...’) would indeed be the right expression, and the corruption from an abbreviated form of ‘*id quod ei*’ to ‘*id que ei*’ could easily be explained; given the agreement in the mss., this corruption would have appeared before or with the archetype. For such a corruption from ‘*quod*’ to ‘*que*’ in proximity to this passage, see later in 1.25: ‘*propterea quod*’ (*P²S²fh*) versus ‘*praeterea que*’ (*HVP¹S¹?m*).

cognitu: the rare supine II in *-ū*, dependent on ‘*facile*’; see *K.-St.* II, §128.3. ‘*Cognitu*’ is thus a form of the verb ‘*cognoscere*’, not of the noun ‘*cognitus*’.

aduersarii...aduersarii: switch from (nominative) plural to (genitive) singular of the same word in one sentence.

primum te dicturum: After ‘*primum*’, one would expect at least one ‘*deinde*’ (*uel sim.*) as repeatedly found in 1.24, but there is none here: for the case in which the audience has already been convinced by the opponent’s preceding speech, Cicero provides a strategy

in only one step: the one introduced by *primum*. Another possibility is to take *primum* to mean ‘as the first thing’ here.

quid...respondeas: indirect form of the deliberative question *quid primum dicam aut cui potissimum loco respondeam?*⁹.

cum admiratione: These words stand in quite loose connection to the rest of the sentence and hence appear emphasised (note also the clausula *admirātōnē*) and almost like a ‘late’ thought about the audience’s reaction. They seem to be a short form e.g. of *quod fit cum admiratione*: indeed, *cum admiratione* cannot be taken with *respondeas*, as it is not the orator who will be surprised, but the audience, as is shown by the sentence that follows after these words.

Exactly the same applies to *Rhet.Her.* 1.10, which displays many similarities with this passage in Cicero. It is hence very likely that the loose *cum admiratione* was found in a common source, probably a Latin one, though it is possible that both authors translated a Greek phrase in exactly the same way, since *cum* is needed grammatically (*K.-St.* II, §81.19) and since *admiratio* in this sense does not have many Latin synonyms.

contra dicere: ‘to contradict’. The one party ‘replies’ to the other party and ‘denies’ (‘speaks against’) what the latter said. The expression is quite common in Cicero (cf. e.g. *Cic.Inu.* 1.78; *Phil.* 2.18).

ab aliqua re noua: cf. *Arist.Rh.* 1415a7-8: δεῖ δὲ ἢ ξένα ἢ οἰκεία εἶναι τὰ ἐνδόσιμα τῷ λόγῳ.

noua...parata: The use of ‘...aut...aut...aut...’ could easily suggest that these four alternatives are all situated at the same level (*either A or B or C or D*). There are, however, several reasons to break this up into two pairs (*either A or B | either C or D*): (i) the position of ‘incipere’ marks a strong pause before the second ‘aut’; (ii) there is no true contrast between *B* (cf. ‘*ridicula*’) and *D* (cf. ‘*inrisionem*’); (iii) there is a syntactical difference between the two ‘*quae*’: the first one must be taken with both ‘(*ex tempore*) *nata*’ and ‘*iam parata*’, since these form an antithetical pair, while the second one further specifies ‘*iam parata*’ only. For the sake of clarity, one could thus rearrange the word order hypothetically as follows: *ab aliqua re noua aut ridicula incipere: quae₁ sit aut nata ex tempore (...) aut iam parata quae₂...* ACHARD (1994) thus seems right to regroup *A/B* on the one hand and *C/D* on the other through punctuation (contrast STRÖBEL (1915), who has: *A aut B aut C; aut D*).

ridicula...inrisionem: *Rhet.Her.*1.10 in the corresponding passage lists 18 different means of making the audience laugh:

Si defessi erunt audiendo, ab aliqua re quae risum mouere possit: [colon introduced by me, given that a list of means of how to achieve laughter follows, which is introduced by another ‘*ab*’; MARX (1894), CALBOLI (1993), and ACHARD (2003) all put a comma here] ab apologo, fabula ueri simili, imitatione deprauata, inuersione, ambiguo, suspicione, inrisione, stultitia, exsuperatione, collatione, litterarum mutatione, praeter expectationem, similitudine, nouitate, historia, uersu, ab alicuius interpellatione aut adrisione.

This passage shows that Cicero (like the *Auctor*) is here dealing with what one could call the ‘theory of laughter’, and that *apologum* and *fabula* are means of achieving laughter. Hence, one could translate Cicero’s ‘*quae uel apologum uel fabulam uel aliquam contineat inrisionem*’ with ‘that contains a story, a fable or some *other* mockery’. As LOUSCH (1994), 52-53 n.168, notes, the fact that Cicero and the *Auctor* include the theory of laughter *here* shows that this theory aims at *beniuolum facere* (cf. *Sin auditoris studium defatigatio abalienauit a causa*; see also: LEEMAN/PINKSTER/ALII (1981-2008), iii 210), while Aristotle (*Rh.*1415a36-37) sees its use in deflecting attention. Cicero will treat the theory of laughter in greater detail in *de*

*Orat.*2.216b-290 (on which see LEEMAN/PINKSTER/*ALII* (1981-2008), iii 172-212 [introduction] and 212-333 [commentary]; WISSE (1989), 305-312) and again in *Orat.*87-90; for Cicero on laughter in a philosophical context, cf. *Off.*1.103-104. BARWICK (1963), 78-79, suspects that Cicero's sources for the theory of laughter may mainly have been Peripatetics (who almost held a 'monopoly' on this, according to SOLMSEN (1931), 263). While we only have very brief notes on laughter in *Arist.Rh.*1415a36-37, 1371b33-1372a2 and 1419b2-9 (both with references to a lost passage from *Po.*; on Aristotle and Theophrastus on laughter, see FORTENBAUGH (2000)) and a list of 18 means of making someone laugh in *Rhet.Her.*1.10, Cicero's and Quintilian's treatments of this theory are the only extensive ones from Graeco-Roman antiquity to survive. On laughter in rhetorical theory, cf. also: *Quint.Inst.*6.3 (with MONACO (1970); VIJAMAA (1994); DESBORDES (1998)); *HWRh* s.v. *Lachen, das Lächerliche*; VOLKMANN (1885), 284-293. Two early studies on laughter and rhetoric are ARNDT (1904) and GRANT (1924). Studies on laughter in Rome include: DE SAINT-DENIS (1965); CORBEILL (1996); GRAF (1997); RABBIE (2007) (212-215, on the sources of *Cic.de Orat.*2.216b-290, is less speculative than his treatment in LEEMAN/PINKSTER/*ALII* (1981-2008), iii 190-204); BEARD (2014) (at 99-127 has a useful discussion of Cicero as a jokester and of the theories of laughter in *de Orat.*2.216b-290 and *Quint.Inst.*6.3).

According to *Cic.Fam.*15.21.2 and *Quint.Inst.*6.3.5, Trebonius and/or Tiro, Cicero's freedman, collected Cicero's jokes and *bons mots*. For Cicero and jokes/*bons mots*/witticisms (many of which contemporary Romans attributed to him, although they were not actually by him), cf. *Planc.*35, *Att.*1.16.10, *Fam.*7.32.1, 9.16.4.

quod genus strepitu, acclamatione: '*quod genus*' is an appositional, adverbial use of the accusative; its meaning is equivalent to '*cuius generis*' ('of this type', i.e. 'for example'; see *K.-St.*II,§74.b). See also *H.-Sz.*§49.a)β); LÖFSTEDT (1956), ii 31.

Thus, ‘*strepitu, acclamatione*’ takes up ablative ‘*tempore*’: ‘uproar’ (*strepitus*) and ‘shouts’ (*acclamatio*) are given as examples of ‘circumstances’ (*tempora*) to which the orator can spontaneously (‘*ex tempore*’, ‘from/in reaction to a circumstance’) respond in his Exordium so as to ‘pick the audience up’. This interpretation is shared by ACHARD (1994) (‘tiré d’une circonstance inopinée—par exemple le bruit de la foule ou des cris’) and LOUTSCH (1994), 52 n.166, against HUBBELL (1949) (‘one which is extemporaneous—a kind which meets with uproarious applause and shouts of approval’). Indeed, HUBBELL’s interpretation would suppose that Cicero left out a verb like ‘*fit*’ (such an omission would be quite hard to spot here because of the not uncommon adverbial use of ‘*quod genus*’), and general grammatical usage (see *K.-St.* II, §81.19) would require the addition of ‘*cum*’ (i.e. ‘*quod [sc. fit] cum strepitu, (cum) acclamatione*’; cf. ‘*cum admiratione*’ earlier in 1.25); moreover, a conjunction like ‘*et*’ would be usual between ‘*strepitu*’ and ‘*acclamatio*’ in such a case, but not if these terms refer to two different examples (cf. ‘*quod genus*’) of the same thing.

acclamatione: This noun is found only six times in Cicero’s extant works: *Inu.* 1.25, *Rab. Perd.* 18, *Att.* 1.16.4, *Q. fr.* 2.1.2, 2.3.2, *de Orat.* 2.339. Since in these five other passages Cicero always uses ‘*acclamatio*’ in the negative sense of ‘shouts of protest’ (already noted by PIACENTE (1986/87), 232-233 with n.15), it is likely that this is also the meaning here—another argument against HUBBELL’s interpretation of ‘*quod genus strepitu, acclamatione*’ (see above under ‘*quod genus strepitu, acclamatione*’).

apologum: ‘a tale, story, fable’ (*OLD* s.v. *apologus*); ‘story, tale’, ‘fable, apologue, allegory’ (*LSJ* s.v. ἀπόλογος I-II). *Iul. Vict. Rhet.* p.38,16 sees no difference between *apologus* and *fabula*: *ab apologo autem, id est fabula...* Cf. also *Fortun. Rhet.* 2.23 (≈ *Mart. Cap.* p.197,2-3): *addunt quidam et apologos, ut sunt Aesopi fabulae.*

fabulam: a ‘fictitious story or report, tale, fiction’ or a ‘story told for entertainment,

instruction, etc., tale' (*OLD* s.v. *fabula* 3; 4), rather than the technical sense as a specific form of *narratio* (where *fabula* is opposed to *historia* and *argumentum*) that this term has in 1.27 and *Rhet.Her.* 1.13; see at 1.27 under 'fabulam, historiam, argumentum'.

si rei...inicere: The case in which mockery is inappropriate is not separately considered by *Rhet.Her.* Thus, it must either have been added by Cicero (as an idea of his own or taken from some other source) or *Rhet.Her.* did not take it from the common source.

ut cibi...nouatur: The comparison between rhetoric and cookery is already found in *Pl.Grg.* 462d-465e. In 465c, Socrates states that the comparison between rhetoric and the administration of justice finds its parallel in the comparison between cookery and medicine with regard to healing. Rhetoric and cookery are types of flattery (464e; 467a); rhetoric is to the mind what cookery is to the body (465e).

Considering that Cicero compares rhetoric to cookery and to medicine (see at 1.6 under 'medici' [n.i.]), as Plato did in his *Gorgias* (which is very hostile to rhetoric, unlike his *Phaedrus*), and given that he also mentions Gorgias in 1.7, there is a good chance that the young Cicero was already familiar with Plato's main dialogue on rhetoric, either by reading it (or other treatises including these comparisons) himself or through his teacher or a source on which he relied for *Inu.*; an alternative 'route' could have led via Cicero's mentor L. Licinius Crassus, who in *de Orat.* 1.47 claims to have read *Pl.Grg.* in Athens with the sceptical Academic Charmadas (if we are to accept this as a historical truth, not a literary fiction of Cicero's). As the references to *Pl.Grg.* and *Phdr.* (see at 1.26 under 'sicut...orationi') are very subtle—compared to the treatment in Plato, they are very short and hence easy to miss—, they could suggest that Cicero read these dialogues himself. He even refers to Socrates and to his disciples in 1.53 and 1.61, which may also point to the reading of Plato, if we suppose that Cicero did not find this information *apud Socraticum*

Aeschinen (1.51) or similar. *Rhet.Her.*, however, does not make any of these comparisons that can refer back to Plato, which leads to the conclusion that either their common source (a teacher or a rhetorical treatise) did not include these Platonic comparisons or *Rhet.Her.* deliberately left them out. However that may be, it shows that the young Cicero had a keener interest in philosophy than the *Auctor* (who emphasises his interest in philosophy in *Rhet.Her.* 1.1), an interest which, apart from the proem of *Inu.* 1 partly concerned with *sapientia*, is shown in subtle ways like these comparisons.

It is noteworthy that Cicero borrows from a Greek author without mentioning it and without using Greek terminology throughout *Inu.* (one of his main concerns is to write a rhetorical handbook using, or creating, a technical Latin vocabulary), whereas the *Auctor* sometimes presents Greek terminology or translations, hence obviously relying on Greek material (from Greek sources or found in a Latin source), but without indicating his sources. While Cicero does not mention the source for his comparisons of rhetoric with medicine and cookery, he does mention the names of some Greek authors, namely Gorgias (1.7), Aristotle (1.7; 1.9; 1.61; 2.6-7; 2.156), and Hermagoras (1.8; 1.12; 1.16; 1.97).

aut admiratione...nouatur: These two options go back to the division found earlier in 1.25 between situations or subjects to which mockery is suited and those to which it is not: in the latter case, the aim to achieve is the listener's surprise (*admiratio*).

Ac separatim...fere sunt: This sentence, like the opening sentence of 1.23b (*Nunc...dicendum uidetur*), gives the impression that Cicero has just treated *principium* and *insinuat* in clearly identifiable passages. Still, this is only true for *insinuat*: it is not immediately clear whether 1.22-23a, where *beniuolum/attentum/docilem facere* is discussed, is only about *principium*. See also Introduction to 1.20-26.

communiter de utroque: By looking at the *two partes* ('species' or 'forms'; see at 1.20 under 'in duas partes diuiditur') of the Exordium, Cicero in fact moves up from the *partes* back to the Exordium itself, as is proven by the beginning of the next sentence: *Exordium...*

Exordium...auctoritatem: The precepts given here are all about style in the Exordium. The shortness of the 'parallel' treatment in *Rhet.Her.*1.11 (*In exordienda...uideatur esse*) suggests that the common source of *Rhet.Her.* and *Inu.* at this point also contained only a brief treatment (which Cicero extended) whose main concern was not to provide a theory of *elocutio* for the Exordium, but to warn the orator of using too many stylistic ornaments that would make the *ars* too visible (on this, see below under 'propterea...nascitur'), see LOUTSCH (1994), 55-56.

On Exordium and style, cf. also: *Rhet.Her.*1.11 (*In exordienda...uideatur esse*); *Cic.de Orat.*2.315-317; *Quint.Inst.*4.1.56-60; [Hermog.]*Inu.*1.5.2-10; *Iul.Vict.Rhet.*p.70,22-71,7. See also: MARTIN (1974), 73-74; CALBOLI MONTEFUSCO (1988), 23-25; LOUTSCH (1994), 54-56.

sententiarum: As far as we can judge from our extant sources on Roman rhetoric and oratory, the sententious style (i.e. a style including many *sententiae*, 'maxims'; *OLD* s.v. *sententia* 6.b) became fashionable only late in or after Cicero's day and became an important feature of declamation (cf. e.g. *Sen.Con.*). Hence, '*sententiae*' here most probably means 'ideas', not 'maxims'; cf. *Rhet.Her.*4.25; *Quint.Inst.*12.10.46-48. See GÜNGERICH (1980), 96 (*sententia* = 'maxim' is not yet found in Cicero's rhetorical works; Cicero did not strive after maxims in his speeches); WINTERBOTTOM (1982), 260-261. For maxims in the context of προοίμιον, cf. e.g. Theon *Prog.*p.120,31-121,3 (progymnasmatic tradition). The combination of *sententiae* and *gravitas* is also found in 1.106 for the *conquestio* in the Peroration.

grauitatis: ‘seriousness’, ‘weight’. The beginning of a speech especially must be serious and carry weight in order to avoid a situation in which the audience does not take the orator and hence his speech seriously and stops paying attention. The tone of the Exordium sets the tone for the entire speech. On *grauitas* and its complexity, see HELLEGOUARC'H (1972), 279-290.

splendoris: ‘Vividness, brilliance (of style or language)’ (*OLD* s.v. *splendor* 4).

festiuitatis: in the oratorical and rhetorical sense ‘liveliness, humour, wit’ (*OLD* s.v. *fesitiuitas* 3). See at 1.27 under ‘festiuitas’.

concinnitudinis: ‘*Concinnitudo*’ is found only here; it is synonymous with the form ‘*concinnitas*’ common in later rhetorical works and could be a noun that the young Cicero invented but would never use again, unless our extant sources distort the picture. Both nouns are related to the adjective ‘*concinnus*’, which means ‘briefly and neatly put’ (*TLL* s.v. *concinnus*: *breuiter ornateque positum*). The *exact* meaning of ‘*concinnitudo*’/‘*concinnitas*’ in the context of rhetoric (regarding style and/or rhythm, ...?) is hard to grasp through our sources. KÖNIG in *HWRh* s.v. *Concinnitas* interprets both terms as referring to ‘stylistic elegance and rhythmic evenness, going beyond simple grammatical correctness (...), of syntactically equal or corresponding clauses or thoughts (*ornata sententiarum c.*) or cola (*c. uerborum*) for the sake of *bene dicere* (...). It thus refers to syntactic-compositional elements of arrangement like parallel structures in clauses or thoughts, period-building, or figures of speech’ (my translation). Cf. e.g. Cic.*Orat.*83: *Illam autem concinnitatem, quae uerborum conlocationem inluminat eis luminibus quae Graeci quasi aliquos gestus orationis σχήματα appellant*. The complexity of the concept makes it difficult to translate it with one word unless one wants to use ‘concinnity’. On *concinnitudo*/*concinnitas*, see also: LAUSBERG §911; CHÈNERIE (1966); LÓPEZ MOREDA (2000) (73: ‘*concinnitas* is associated with the rhythm, the symmetry, and the sound effects of the *compositio* as a part of *elocutio*’; my translation).

propterea...nascitur: The problem addressed here (and in *Rhet.Her.*1.11: *ut non*

adparata oratio uideatur esse) is that of the *ars* becoming (too) apparent through stylistic excess, which ought not to be the case, especially in the Exordium, as Quint.*Inst.*4.1.56-57a notes:

Nec minus [RUSSELL (2001), ii 206, conjectures ‘magis’] diligenter ne suspecti simus ulla parte uitandum est, propter quod minime ostentari debet in principiis cura, quia uidetur ars omnis dicentis contra iudicem adhiberi. Sed ipsum istud euitare summae artis.

In *Inst.*4.1.57b-58 he states that this was the traditional rule, but that judges in his day have started to expect to get polished and thus entertaining speeches. On hiding the *ars*, cf. also: Arist.*Rh.*1404b18-26; *Rhet.Her.*1.17; 4.10; 4.32; Quint.*Inst.*1.11.3; 4.2.127; 9.3.102; 12.9.5. See also NEUMEISTER (1964), 130-155. The famous saying ‘*ars est celare artem*’, wrongly ascribed to Ovid (cf. *Met.*10.252: *ars adeo latet arte sua*), is not found in ancient literature and is thus probably medieval.

quae maxime...auctoritatem: a statement about meta-rhetorical properties of speech. Many (or even most) listeners, both in the past and nowadays, may react with boredom or suspicion to a speech if its careful preparation is too apparent. Indeed, careful preparation of a speech stresses how important it is for the speaker to persuade his audience, hence the audience can quickly feel like an object of manipulation: ‘*Someone who takes the time and pain to prepare their speech very carefully must have a precise aim in mind...*’. On the other hand, if a speech is too ‘constructed’ (and hence difficult to follow), it may be suitable as a text for reading, but not for delivery and listening. The ideal speech, both in ancient Rome and in modern times, especially one delivered to a large audience (as is the case for most political speeches) gives the listener the impression that it is not a prepared speech at all, but an improvisation or a soliloquy in a conversational tone. It is the audience’s loss of interest or its suspicion of manipulation by the orator that destroys the effect and credibility of the speech and hence the orator’s authority. ‘Improvisation’ played a much more important role in speeches in ancient Rome, as it was a *manque d’étiquette* of an orator to

read out his speeches; hence orators used to prepare and memorise their speeches in content, structure, and perhaps also in the exact wording of some very important passages, but they would normally not recite it word for word like a poem, which is a major difference from most modern speeches. A good example of such partial ‘improvisation’ and the difficulties attached to it when the orator is very nervous or troubled is the speech that Cicero actually delivered in defence of Milo—not to be confused with the still extant speech he wrote later.

COMMENTARY:

Vitia...uitare oportebit: Cicero gives no positive list of *uirtutes exordii* (neither does the *Auctor*), but, as LAUSBERG §282 notes, the list of *uitia* is so exhaustive for the Exordium that the list of *uirtutes* can be established *ex negatiuo*. On *uitia exordii*, cf. also: *Rhet.Her.*1.11; *Quint.Inst.*4.1.52-71; 4.1.77-79; *Sulp.Vict.Rhet.*18p.322,24-35; *Iul.Vict.Rhet.*p.70,19-71,15; *Fortun.Rhet.*2.15; *Mart.Cap.*p.193,3-8. Cf. also *Cic.de Orat.*2.315; 2.319-320; 2.325; *Anon.Seg.*19-20; 36.

In *Rhet.Her.*1.11, like in *Cic.Inu.*1.26, the *uitia* form the last part of the treatment of the Exordium. For a discussion of the relationship between these texts, see below.

The following table provides an overview of the *uitia exordii* found in Latin rhetorical treatises. Numbers indicate the order within the list provided by the respective author; numbers in brackets indicate that a certain *uitium* is only paraphrased, i.e. lacks a name label.

	<i>uulgare</i>	<i>commune</i>	<i>commutabile</i>	<i>longum</i>	<i>separatum</i>	<i>translatum</i>	<i>contra praecepta</i>	other	number of <i>uitia</i> listed by author
Cic. <i>Inu.</i> 1.26	1	2	3	4	5	6	7		7
<i>Rhet.Her.</i> 1.11	1	2	(3)	4 (and <i>nimum apparatis uerbis compositum</i>)	(5)		(6)		6
Cic. <i>de Orat.</i> 2.315, 2.319	3	4						1: 'exile'; 2: 'nugatorium' (both remind one of <i>humile</i>)	4
Quint. <i>Inst.</i> 4.1.71	1	2	3	6	4	5 (but different sense)	7	cf. 4.1.52-70	7 (plus others)
Sulp.Vict. <i>Rhet.</i> 18p.322,26	2		3	1			4		4
Sulp.Vict. <i>Rhet.</i> 18p.322,27-35	2	3	4	1			5		5
Iul.Vict. <i>Rhet.</i> p.71,12-15	1				(2: 'alienum')				2
Fortun. <i>Rhet.</i> 2.15	1	2	3	4	5	6	7	(+ 6 Greek ones)	7 (13)
Mart.Cap. p.193,3-8	1	2		6			(5: 'super-uacuum')	3: 'contrarium' (~ <i>commutabile</i>) 4: 'affectatum': rare words and ~ <i>separatum</i> 7: 'obscurum'	7
Total:	9x	7x	5x (6x)	7x	3x (5x)	3x	5x (7x)		

Conclusions:

1. *uulgare*, *commune*, *longum*, and *contra praecepta* are the *uitia* most commonly found, while *separatum* and especially *translatum* occur only rarely. This shows that over the centuries a 'core' of *uitia* established itself. With the exception of Fortun.*Rhet.*, all authors writing after Cic.*Inu.* and *Rhet.Her.* discuss a smaller number of *uitia*. Both factors indicate a simplification of the theory. It is interesting to see that *separatum* and *translatum* dropped out. 'Translatus' is indeed already comprised in the precepts given in 1.21 about matching the *genus causae* with the right function of the Exordium (*beniuolum/attentum/docilem facere*). *Separatum* cannot be deduced from 1.20-25, but the orator may not need to be told *expressis uerbis* that he must not talk about anything irrelevant: this *uitium* applies in fact to the entire speech (except *digressio*).

Of the seven *uitia* listed by Cicero, the two least commonly found are indeed those with the smallest need for extra specification.

2. Regarding nomenclature, it is *Cic.Inu.*, not *Rhet.Her.*, which was influential: *commutabile*, *separatum*, and *contra praecepta* are only paraphrased in *Rhet.Her.*, while these terms recur in later treatises.
3. In most cases, *Cic.Inu.* and *Rhet.Her.*’s opening sequence of *uulgare-commune* is maintained. *Fortun.Rhet.* follows the Ciceronian sequence exactly. *Quint.Inst.4.1.70* slightly changes the order, but includes all seven *uitia* found in *Cic.Inu.* and uses the same labels as *Cic.Inu.* (but with a change in meaning for *tra(ns)latum*).
4. *Fortun.Rhet.* indicates also an existing Greek tradition not found in any other Latin treatise.

As points 1.-3. show, *Cic.Inu.* (and, to a lesser extent, also *Rhet.Her.*) must be considered the main source for the treatment of the *uitia exordii* in later treatises.

LOUTSCH (1994), 58, states that no Greek rhetorician knew such a classification of *uitia exordii* (with a possible exception of *Aps.Rh.1.84*; similarly, VOLKMANN (1885), 144-145) and that it could well be that it originated with Latin rhetoricians. Given, however, that no Hellenistic rhetorical treatises survive, one cannot prove whether this classification was indeed unknown to Greek rhetorical theory. Our two earliest Latin sources, *Inu.* and *Rhet.Her.*, share all the *uitia*, except for *translatum*, which is found only in *Inu.* Moreover, Cicero uses labels (‘*uulgare*’, ‘*commune*’, ‘*commutabile*’, etc.) for all seven *uitia*, while the *Auctor* uses only two such labels (‘*uulgare*’ and ‘*commune*’; ‘*longum*’ does not stand out as a label in his treatment). Considering that both authors strive to put labels on almost all concepts included in their treatises, it seems unlikely that the *Auctor* would have left out such handy labels—which makes it most improbable that he copied from *Inu.* here. Only the rather easy labels ‘*uulgare*’ and ‘*commune*’ seem to have been included as labels in the common source: the much less common word used as a label to the third *uitium* (‘*commutabile*’) is the

first one *not* to be found in *Rhet.Her.* and was hence most likely not found in a common Latin source. Three equally possible explanations arise: (i) did Cicero invent the remaining five labels himself? (ii) did he copy them from a different Latin source? (iii) do they come from a Greek source, which only he used or using which only he tried to create new Latin labels out of the corresponding Greek labels? Furthermore, the six Greek labels for *uitia* extant in Fortun.*Rhet.*2.15 could form another argument against LOUTSCH's view (he addresses this at 58-59 n.194), provided that they do indeed come from Greek rhetoricians (in which case the question would arise when they were introduced by these Greek rhetoricians).

Cicero will use two of these *uitia* labels again in 1.89-90 for *genera argumentationis uitiosa: commune, uulgare*; cf. also *contrarium* there.

See also LAUSBERG §§282-283; VOLKMANN (1885), 144-145; MARTIN (1974), 74-75; CALBOLI MONTEFUSCO (1988), 25-27; LOUTSCH (1994), 56-58.

Vulgare est...uideatur: '*Vulgare*' is used here in the sense of 'common, general' (*OLD* s.v. *uulgaris* 4.a); 'common' here means 'commonly found', not 'in common with the opposing side' (which is the *uitium* of *commune*). The *uitium* of *exordium uulgare* is also described in Theon *Prog.*p.105,28-32 (progymnasmatic tradition).

As NAVARRE (1900), 125 and 166-169, notes, Greek orators seemed less worried about using an Exordium that could be fixed to different speeches (cf. also Quint.*Inst.*4.1.71: *magnis saepe oratoribus non euitatum*), and there appear to have been several collections of Exordia, e.g. by Antiphon, Thrasyarchos, and Lysias. One such collection with 55 or 56 Exordia is extant (the number depends on how editors divide some of them up): that of Demosthenes, which seems to have been compiled after his death (the most important discussions are by RUPPRECHT (1927), who also assesses earlier scholarship, and CLAUAUD (1974), esp. 5-55; see also: GOLDSTEIN (1968), 13-25; YUNIS (1996), 247-257;

WORTHINGTON (2004); WORTHINGTON (2015)). NAVARRE (1900), 170-174, even shows how one such Exordium (originally perhaps by Antiphon), or at least the *loci* it used, can be traced in works spanning almost one century: in Cratinus' comedy Πυτίνη (fr.185 KOCK; 423 BC), Andocides' Περί τῶν μυστηρίων (§§1, 6-7, 9; 399 BC), Lysias' Περί τῶν Ἀριστοφάνους χρημάτων (§§2-6, 11; ca. 388-387 BC), Isocrates' Περί ἀντιδόσεως (§§17-19; 353 BC), as well as Aeschines' Περί τῆς παραπροσβείας (§§1-2; 343 BC) and Κατὰ Κτησιφώντος (§1; 330 BC). A passage in Asconius (Asc.Tog.78, p.87,10-12 CLARK: *Praeterea mouet me quod, cum sint commentarii Ciceronis causarum, eius tamen defensionis nullum est commentarium aut principium*; on this see also the commentaries by MARSHALL (1985), 298-299, and LEWIS (2006), 295) could suggest that there was such a collection of Exordia by Cicero, too. See also LOUTSCH (1994), 56-57 n.185.

When it came to *philosophical* treatises (NB: the precepts in *Inu.* are about *speeches*), Cicero himself later on did not adhere to the precept of avoiding an *exordium uulgare*, a precept found here and repeated some decades later in *de Orat.*2.315 and 2.319: as he admits in *Att.*16.6.4 (July 44 BC), he had an entire booklet with *prooemia* (i.e. Exordia) ready for use. But his statement there is not easily reconcilable with the proems of the extant treatises, which are not easily interchangeable.

Longum...producitur: At least in subsequent decades, some rhetoricians seem to have taken an extreme view advocating the opposite: the Exordium should be no longer than four sentences. Quintilian criticises this view in *Inst.*4.1.62. Nicol.Prog.p.24,4-7 (progymnasmatic tradition) also warns against the *uitium* of *exordium longum*.

sententiis: here probably in the normal sense of 'ideas', like in 1.25 (see *ad loc.* under 'sententiarum'). The meaning 'sentences' would set 'sententiis' less clearly apart from 'uerbis', as this would refer twice to the number of words used, while 'ideas' would add something new by creating a contrast between *res* and *uerba*. The parallel passage in

*Rhet.Her.*1.11 (*Item uitiosum est, quod nimium apparatis uerbis compositum est aut nimium longum est*) is not helpful for this question since the faults addressed there are bad choice of vocabulary and excessive length (without further specification as to what exactly ‘length’ applies).

sicut...orationi: This is closely echoed in *Cic.de Orat.*2.325: *Conexum autem ita sit principium consequenti orationi, ut non tamquam citharoedi prooemium adfictum aliquid, sed cohaerens cum omni corpore membrum esse uideatur*. The comparison of a speech with a body is already found in *Pl.Phdr.*264c, which might imply that the young Cicero had already read this Platonic dialogue. It will also appear in the form of body metaphors (including clothing metaphors) in the rhetorical tradition. It is found elsewhere e.g. in: [Arist.]*Rh.AL*.1436a29; 1442b31-32; *Cic.de Orat.*1.142 (cf. *uestire*); *Brut.*208; *Quint.Inst.*5.8.2; 5.12.6; 7.pr.2; 8.pr.20; 8.6.41; similarly in the context of poetics: *Arist.Po.*1450b34; 1459a20. See also: SÜSS (1910), 75 (who attributes the body metaphor in the rhetorical context to Gorgias: if this is true, the speech-body link would correspond to the rhetoric-medicine link, which in turn would have been natural to Gorgias, whose brother was a doctor, see at 1.6 under ‘medici’ [n.i.]); SICKING (1963); NEUMEISTER (1964), 77-82, esp. 79; FANTHAM (1972), 163-175; IODICE DI MARTINO (1986); LOUTSCH (1994), 82 with n.81; VALENTI (1998). *Rhet.Her.*1.11 does not have this comparison, but only reads: *ut proprie cohaereat cum narratione*. On the difference between *Cic.Inu.* and *Rhet.Her.* regarding the inclusion of Platonic comparisons, see also at 1.25 under ‘ut cibi...nouatur’.

Translatum...res postulet: The orator identifies the wrong *genus causae*, or identifies the right *genus causae* but does not follow the precepts given in 1.21 about what the aim is for the *genus causae* in question: he mismatches *genus causae* and the function relevant here of the Exordium (*beniuolum* or *attentum* or *docilem facere*), or, in a related error, uses *principium* where *insinuatio* is needed (or vice versa).

The *uitium* of *translatum* is also listed in Quint.*Inst.*4.1.71, but with a different sense: for Quintilian it refers to an Exordium *quod aliunde trahitur*, where it is unclear what exactly is meant by ‘*aliunde*’: a different context (thus RUSSELL (2001), ii 215, in his translation) or a different speech; in fact, a different context could be covered by Quintilian’s definition of *separatum* (*quod causae non cohaeret*), and a different speech by *vulgare* (*quod in pluris causas accommodari potest*). As can be seen from the table above under ‘*Vitia...uitare oportebit*’, *translatum* is found elsewhere in Fortun.*Rhet.*2.15, without further details, but since exactly the same list of *uitia* is found there, ‘*translatum*’ there probably has the same sense as in Cic.*Inu.*

Contra praecepta...traduntur: As Cicero explains in the following sentence, this refers to all three functions of the *exordium*: such an Exordium makes the listener neither *beniuolus* nor *attentus* nor *docilis*.

Ac...dictum est: Cicero gives no precepts on the transition between *exordium* and *narratio*, as found e.g. in Quint.*Inst.*4.1.76-79. See also LAUSBERG §288.

Introduction to 1.27-30

The *narratio*, the statement of the ‘facts’ (see below), is listed as the second *pars orationis* after the Exordium and before the Argumentation section (or before the Partition, if there is one) in almost all rhetorical treatises. Quint.*Inst.*4.2.86 gives the rationale for doing so: *Narrationem ideo ante probationes ponere est institutum ne iudex qua de re quaeratur ignoret.*

Compared with the treatment of *exordium* and *conclusio* and, above all, of *confirmatio* and *reprehensio*, Cicero’s treatment of *narratio* is rather short. The stated function of the *narratio* is to relate the facts without significant rhetorical embellishment (cf. the three *uirtutes narrationis*: *brevitas*, *claritas*, and *probabilitas*), which is reserved for other *partes orationis*.

The structure of the *narratio* section is:

- (i) definition of ‘*narratio*’ (1.27);
- (ii) the three *genera narrationis* (1.27):
 - 1. a *genus* dealing with the Cause itself and the reason for the dispute;
 - 2. a *genus* comprising a Digression outside the Cause;
 - 3. a *genus* unrelated to *ciuiles causae*, written and delivered for pleasure; this *genus* is subdivided into 2 *partes*:
 - a. a *pars* focusing on actions; it is further subdivided into 3 *partes*:
fabula, *historia*, *argumentum*;
 - b. a *pars* focusing on people;
- (iii) further details on the first *genus narrationis* (1.28-29): this type of *narratio* must be (*uirtutes narrationis*):
 - 1. *breuis*;
 - 2. *aperta*;
 - 3. *probabilis*;

(iv) four *uitia narrationis* (1.30; expression not used by Cicero): a Narrative is faulty if it is:

1. counterproductive (*obest*);
2. not helpful, i.e. inefficient (*non prodest*);
3. not in the right place (*non loco narratur*);
4. not told as required by the Cause (*non quemadmodum causa postulat narratur*).

In other rhetorical works (see Overview of Ancient Rhetorical Theory of Narrative [n.i.]), one finds points concerning the Narrative that Cicero does not treat in *Inu.*, e.g.: structure of the Narrative (beginning, end, etc.); the exact relationship between *narratio* and *elocutio* (briefly referred to in 1.29), and the stylistic *ornatus narrationis*; *narratio* in the different *genera causarum*.

As LAUSBERG §289 notes, the statement of the facts is a ‘biased’ one: every party presents their own *version* of the facts supporting their Cause, cf. *Rhet.Her.*1.12:

Vnum [*sc.* genus narrationis] est cum exponimus rem gestam et unum quidque trahimus ad utilitatem nostram uincendi causa, quod pertinet ad eas causas, de quibus iudicium futurum est.

The biased *narratio* is *probabilis* rather than *uera* (for ‘*probabilis*’, see at 1.29 under ‘*Probabilis erit narratio*’). Cf. also Quint.*Inst.*4.2.21: *Neque enim narratio in hoc reperta est, ut tantum cognoscat iudex, sed aliquanto magis ut consentiat* (similarly, Iul.Vict.*Rhet.*p.74,27-29); 4.2.31: *Narratio est rei factae aut ut factae utilis ad persuadendum expositio*; 4.2.67: *Neque infitias eo in narratione ut aliqua neganda, aliqua adicienda, aliqua mutanda, sic aliqua etiam tacenda*; 4.2.79: *Aut quid inter probationem et narrationem interest nisi quod narratio est probationis continua propositio, rursus probatio narrationi congruens confirmatio?*

The *narratio* is crucial for the *confirmatio* and *reprehensio*, as it must shape or distort the facts in such a way as to lay the foundations of the subsequent, equally biased Argumentation in favour of one's own Cause (*confirmatio*) and against that of the opponent (*reprehensio*), cf. Cic.*Part.*31: *narratio est rerum explicatio et quaedam quasi sedes et fundamentum constituendae fidei*. An excellent example for this is Cicero's distortive Narrative in *Mil.* (24-29). The more plausible (*probabilis*) the *narratio* is, the more easily the audience will believe it and be persuaded by it, and thus the easier it will be subsequently to win the listener over completely in the *confirmatio* and *reprehensio* (see LAUSBERG §324). Distortion of what actually happened is not necessarily reached by telling lies: it is often sufficient to overstate certain aspects while leaving others out completely. A speech in which such Narrative distortion becomes apparent is Cic.*Mil.* when compared with the 'alternative account' found in *Asc.Mil.* (on which, see e.g. LINTOTT (1974); DYCK (2002); and especially DYCK (1998)). But the orator is also free to make up some facts (one may say: to lie), but obviously he has to be careful that nobody notices this, cf. *Rhet.Her.*1.16.

Iul.Sev.*Rhet.*7p.358,28-359,1 (*Narratio insinuatio est totius causae, quem ad modum facta est*) addresses the manipulative power of *narratio* by using 'insinuatio', a rhetorical technical term referring to the secretly manipulative version of *exordium* (cf. Cic.*Inu.*1.20: *Insinuatio est oratio quadam dissimulatione et circumitione obscure subiens auditoris animum*) that the orator employs if his audience is clearly hostile to his position or the subject (cf. 1.21, 1.23). The Narrative does indeed share with *exordium-insinuatio* this secretly manipulative character. But in the case of the Narrative it is always used, no matter what the audience's attitude is towards the orator's Cause: being a biased statement of the facts, the Narrative manipulates the audience's perception of what happened, but the audience must not notice the manipulation.

For the *narratio* in the *genus iudiciale*, the difference between the Athenian law court system, where advocates were not normally allowed (meaning that a male defendant would

have to speak for himself), and the Roman one, of which the advocate was a typical feature (the advocate would speak in the defendant's stead), leads to a difference in perspective: for the Athenian courts, the Narrative will often be told from a 1st-person perspective (although it need not be confined to things that the speaker has actually witnessed himself: he can also relate things in the 3rd person that he knows from others), while in the Roman courts, with their advocates, it will normally be presented in the 3rd person. Although he has no first-hand knowledge, the Roman advocate (like the defendant in Athens) will also be an omniscient narrator for his Narrative and usually will exclude himself as a 1st person from its plot like the narrator in a documentary (on 3rd person in *παράδειγμα* narration, see e.g. MCGUIRE (1987), 166-169), so that the audience becomes immersed in what they think is objective, 'visual evidence' of something that is not actually before their eyes (such a Narrative can even be used within the Argumentation section in a counter-accusation, cf. e.g. Cic.*S.Rosc.*98).

Further treatments of *narratio*:

Pl.*Phdr.*266e; [Arist.]*Rh.Al.*1438a3-1438b28; Arist.*Rh.*1414a30-1414b18; 1416b16-1417b20; [Cic.]*Rhet.Her.*1.4; 1.12-16a; 3.7; 3.13; Cic.*de Orat.*2.80; 2.83; 2.326-330; *Orat.*122; 124; *Top.*97; *Part.*4; 13-15; 27; 31-32; D.H.*Is.*14-18; *Lys.*18; Quint.*Inst.*2.4.2-17; 4.2; Theon *Prog.*p.78,14-96,17; Ruf.*Rh.*17-25; [Hermog.]*Prog.*2 with its Latin translation in Prisc.*Praeexerc.*2p.552,10-34; [Hermog.]*Inu.*2; Long.fr.48,141-147 and Ap.I,190-193; Anon.Seg.40-142; Aps.*Rh.*3; Mar.Victorin.*Rhet.*1,19-21p.85,1-97,97; Sulp.Vict.*Rhet.*19-20p.322,36-323,33; Iul.Vict.*Rhet.*p.71,16-76,27; Fortun.*Rhet.*2.16-20a; Aphth.*Prog.*2; Nicol.*Prog.*p.11,11-17,13; Iul.Sev.*Rhet.*6-7p.357,16-359,4; Mart.Cap.p.193,9-194,7; Cassiod.*Inst.*2.2.9; Isid.*Orig.*1.44.5; 2.7; Alb.*Rhet.*22p.535,35-536,17. The views of Apollodorus of Pergama, Theodorus of Gadara, and of their followers are collected by WOERTHER (2013) (Apollodorus: T16 =Quint.*Inst.*4.2.31; F2 =Anon.Seg.50; Apollodorus

and Theodorus: T17 =Sen.*Con.*2.1.36; followers of Apollodorus: T8 =Anon.Seg.113-115; T9 =Anon.Seg.124; Theodorus: T21 =Anon.Seg.103; F2 =Anon.Seg.49; T22 =Anon.Seg.134).

For a summary of these, see Overview of Ancient Rhetorical Theory of Narrative [n.i.].

General literature:

HWRh s.v. *Narratio*; LAUSBERG §§289-347; VOLKMANN (1885), 148-164; PETERS (1907), 44-68; MATTHES (1958), 196-201; MARTIN (1974), 75-89; LEEMAN/PINKSTER/*ALII* (1981-2008), iv 18-22; CALBOLI MONTEFUSCO (1988), 33-77; ARWEILER (2003), 118-122.

Comparison of Cic.*Inu.*1.27-30 with *Rhet.Her.*1.4, 1.12-16a:

See also: THIELE (1889), 27-35; HERBOLZHEIMER (1926), 411-413; ADAMIETZ (1960), 33-36.

The definitions of ‘*narratio*’ found in both treatises are almost identical, although they are found in different places (Cicero’s at the beginning of the *narratio* section, the *Auctor*’s in the list of *partes orationis*), see Appendix sub Narratio (i).

Thereafter, the structure and internal order of the treatments of *narratio* in Cic.*Inu.*1.27-30 (see above) and *Rhet.Her.*1.12-16a are exactly the same; the only exception is that *Rhet.Her.* does not have a section on the *uitia narrationis* at the end of its discussion (cf. Cic.*Inu.*1.30).

The subdivision of *narratio* into *genera* also follows exactly the same order in Cic.*Inu.* and *Rhet.Her.*, using very similar or identical vocabulary, and providing a long list with a surprisingly high number of identical elements, see Appendix sub Narratio (ii).

The subsequent treatment of the three *uirtutes narrationis* (*breuitas*, *claritas*, and *probabilitas*) in some places also shows striking similarities in phrasing, content, and order, but, on the other hand, in other places the texts differ slightly, especially in the length of the treatment of certain points, see Appendix sub Narratio (iii).

Observations and Conclusions:

1. The passage on the *narratio* shows many striking similarities between the texts, in phrasing, content, and order. The only major difference is that Cic.*Inu.*1.30 does not have any equivalent passage in *Rhet.Her.*
2. The wording is identical or strikingly similar in many places, which points to the conclusion that Cic.*Inu.* and *Rhet.Her.* rely on a common *Latin* source for the treatment of *narratio*. Indeed, if the common source for this section had been a Greek one, many passages could have been translated with synonymous variants in Latin, but instead both treatises often use exactly the same words here. Minor differences can be found here and there. But the only major one is the difference in terminology between *breuis/aperta/probabilis* in Cic.*Inu.* and *breuis/dilucidus/ueri similis* in *Rhet.Her.*; however, this could easily be explained by having (at least) one author change the terminology of the common source and introduce the Latin technical terms that he is familiar with, or by having synonymous variants ('Autorenvarianten') included in the common Latin source in such a way: 'it needs to be *A*, *B* or *X*, *C* or *Z*', and having Cicero and the *Auctor* choose different variants (against STROUX (1912), 50 n.1, who thinks that both authors independently translated a common Greek source here). In this sense, the completely identical terminology for *fabula/historia/argumentum* is truly striking and can only be explained through a common Latin source (this also applies to the entire *tertium genus narrationis* in Cic.*Inu.* and *Rhet.Her.*).
3. A major difference is found in the examples illustrating the theory. Cicero presents five examples, four of which are taken from Roman tragedy (1x) and comedy (3x); he names

the author of only one of the four passages: Terence. In contrast, *Rhet.Her.* includes only one example (possibly from the genre of *fabula palliata*, i.e. Roman comedy in a Greek setting; cf. this example in *Rhet.Her.* 1.14 with Pl.Mil.439) and parallels Cicero's examples for *fabula* (an example from tragedy) and *argumentum* (an example from comedy) only with a general reference to tragedy (*ut eae sunt quae tragoediis traditae sunt*) and comedy (*uelut argumenta comoediarum*). The only two possible explanations here seem to be that either these examples were found in the common source and that the *Auctor* left most of them out, or that they were not found in the common source and that both authors added their own examples (with the possible exception of case E, see below). It is worth comparing where these examples appear in the text:

	Cic. <i>Inu.</i>	<i>Rhet.Her.</i>
A)	1.27: <i>Angues ingentes...</i> (on the <i>fabula</i>)	1.13: comment on the <i>fabula</i> : <i>ut eae sunt quae tragoediis traditae sunt</i>
B)	1.27: <i>Appius...</i> (on the <i>historia</i>)	(no comment on the <i>historia</i>)
C)	1.27: Terence: <i>Nam is...</i> (on the <i>argumentum</i>)	1.13: comment on the <i>argumentum</i> : <i>uelut argumenta comoediarum</i>
D)	1.27: [Terence:] <i>Venit ad me...</i> (on the <i>narratio</i> focusing on persons)	(no corresponding example for or comment on the <i>narratio</i> focusing on persons)
E)	1.28: <i>Accessi ad aedis...</i> (on <i>brevitas</i>)	1.14: [?Plautus:] <i>Athenis Megaram...</i> (on <i>brevitas</i>)

It is noteworthy that both authors give an example or make a comment in cases A, C, and E. Case E is especially surprising, since both authors give an example only for *brevitas*, but not for the other two *uirtutes narrationis* (Clarity and Plausibility). This suggests that the common source included an example in case E and that at least one author replaced it by a different example.

In cases A and C, two scenarios are possible: either the common source included

the examples and the *Auctor* replaced them by brief comments on the genre to which these examples belong (tragedy and comedy respectively), or the source only included such brief comments and Cicero added his examples. The latter scenario can better explain case B (Cicero has an example; the *Auctor* does not even make an additional comment): it would seem straightforward to the reader that such an example must come from history (with the concession that an example or a corresponding comment is helpful to further specify how far back in the past this example must be located: only Cicero's text provides guidance here). It thus seems more likely that the source did not contain examples in this place but (in A and C) only comments as found in *Rhet.Her.*, and that Cicero replaced these comments in A and C and, for the sake of clarity and of symmetry with A and C, added an example in B. An argument supporting this hypothesis is a similarity between the wording in *Rhet.Her.* about comedy and that in S.E.M.1.263 (in a passage that treats a division of history that corresponds to our *fabula/historia/argumentum*), which could go back to a common Greek source or tradition:

<i>Rhet.Her.</i> 1.13	S.E.M.1.263
Argumentum est ficta res, quae tamen fieri potuit, uelut argumenta comoediarum.	πλάσμα δὲ πραγμάτων μὴ γενομένων μὲν ὁμοίως δὲ τοῖς γενομένοις λεγομένων, ὥς αἱ κωμικαὶ ὑποθέσεις καὶ οἱ μῖμοι.

If they did indeed go back to a common Greek source or tradition, this would strongly suggest that this Greek text did not include examples either. This would be a strong alternative explanation to the one given by ADAMIETZ (1960), 34 (who on the basis of *Rhet.Her.*4.1-10 and 4.18 says that the *Auctor* would not have included any example by another author here due to the *Auctor*'s statement that he would only include such examples in cases where he would like to show how *not* to do it).

This hypothesis would be further supported by D: both authors have very similar

passages on the Narrative focusing on persons, but it seems that Cicero here, too, inserted an example—if this example is left out, the passages become even more similar, see Appendix sub Narratio (iv).

Two points are striking:

First, having just used an example by Terence to illustrate the *argumentum* (case C), Cicero uses yet another example by Terence (case D); the *Auctor* has no example by Terence in C and no example at all (or a comment that would fill the ‘gap’) in D. Cicero seems not to have been alone in considering Terence a master of character portrayal, cf. e.g. Var.fr.99 (*GRF*): *in quibus partibus in argumentis Caecilius poscit palmam, in ethesin Terentius, in sermonibus Plautus*.

Second, Cicero gives a long example without providing even a brief analysis of it, as he will do in case E (contrary to the *Auctor*): his example in D can easily be detached from the surrounding text. Indeed, it is linked to the surrounding text only by the two words ‘*hoc modo*’ that are a standard way of introducing examples in *Inu.* and *Rhet.Her.*

For this discussion, it becomes crucial at this point that Cicero quotes from Terence several times in *Inu.*, even naming him in 1.27 and 1.33 as his source, while the *Auctor* does not mention Terence’s name anywhere—nor does he include any quotes from his works at all, whereas he uses quotes from other playwrights like Plautus (and names him in *Rhet.Her.* 2.35 as his source): a difference in preference for or against Terence seems to emerge between Cicero and the *Auctor* here. If the Terence quotes from C and D in Cicero’s text had been found in the common source and if the *Auctor*’s reason for leaving out these quotes had been his dislike of Terence’s works, one would have expected him to replace them by suitable quotes e.g. from Plautus. He does not do so: in C he only makes a general reference to the genre of comedy and in D does not have anything corresponding to

Cicero's (detachable) example from Terence. Cicero will remain appreciative of Terence during his life as is shown by quotes from Terence in his later works (cf. e.g. *de Orat.* 2.326-327) and statements such as the one in *Att.* 7.3.10. ZILLINGER (1911), 151-155, lists quotes in Cicero arranged according to which of Terence's comedies they come from. MANUWALD (2014) includes further bibliography on Cicero and Terence and gives a useful overview, cf. esp. 180: 'According to existing statistics, Cicero quotes 67 lines by Terence, consisting of 16 lines from *Andria*, 22 from *Eunuchus*, 10 from *Heautontimorumenos*, 11 from *Phormio*, 8 from *Adelphoe* and none from *Hecyra*. Reference to or quotations from Terence's comedies can be found in works of all major literary genres produced by Cicero, in rhetorical treatises, philosophical writings, letters and speeches, and also throughout his entire life, from [*Inu.*] to [*Phil.*]. There are more instances in the treatises and the letters than in the speeches, and references to particular comedies cluster in some types of works or during particular periods.' The overview of the performance and reception of Roman comedy in the Late Republic in BLÄNSDORF (1974) is still useful; see now also MANUWALD (2011), esp. 41-125.

This, together with the observations made for A-C and E, strongly suggests that the common Latin source did not include any examples in cases A-D and that Cicero inserted them, showing (intentionally or not) his learning and capacity to provide examples from literature and Roman history in order to illustrate rhetorical concepts. As mentioned above, in case E the presence of different examples in each work suggests that the common source did include an example there, which at least one of the authors would then replace in his treatise. There is no reason to believe that Cicero would have taken his examples from another rhetorical source: Terence might already have been studied in the grammarian's classroom in Cicero's youth and was still performed quite regularly and was hence well-known to an educated Roman (BLÄNSDORF (1974), esp. 143-146, notes that many of Cicero's quotes or comments related to Terence presuppose this)—so Cicero

could have been familiar with Terence through reading his works and/or through being present at performances of them—, and if they had come from another rhetorical source the use of his examples would have called for an additional rhetorical source *written in Latin*; however, from what we can reconstruct, not many Latin treatises on rhetoric seem to have existed when *Inu.* (and *Rhet.Her.*) was written.

4. ADAMIETZ (1960), 35-36, states that in *Cic.Inu.*1.29 (cf. *Rhet.Her.*1.15) the words ‘*ut ita narrentur*’ and ‘*omnino*’—both only found in Cicero—are indispensable for the logic of the passage. I do not share his view on ‘*ut ita narrentur*’. The passages are again:

<i>Cic.Inu.</i> 1.29	<i>Rhet.Her.</i> 1.15
et rerum ac temporum ordo seruabitur, ut ita narrentur , ut gestae res erunt aut ut potuisse geri uidebuntur.	exponemus et rerum ac temporum ordinem conseruabimus, ut gestae res erunt aut ut potuisse geri uidebuntur:

In Cicero’s text everything after the first ‘*ut*’ would belong to a consecutive clause in the subjunctive, but only ‘*narrentur*’ has subjunctive mood: the remaining two verbs are in the future indicative —like ‘*seruabitur*’ (and the verbs of the preceding clauses). In my opinion, it is impossible to explain this away by saying that the comparative *ut*-clauses are parenthetical remarks by the author (Cicero), which could indeed be in the indicative: these clauses are closely tied to ‘*ita*’ and thus would need to be an intrinsic part of the consecutive clause and to be in the subjunctive. One could represent the situation as follows:

ut [*ita narrentur ut* (...)comparative]consecutive → subjunctive.

By contrast, this problem does not appear in the *Auctor*’s text, where we find future indicative throughout and where the *ut*-clause can be taken as a comparative clause (‘like’) with a temporal connotation (‘when’/‘in which’). I would hence conclude that ‘*ut ita narrentur*’ is an addition by Cicero.

ADAMIETZ's point about '*omnino*' seems better: Cicero (and the *Auctor*) has indeed just listed four rules of *breuitas*, which would be nicely taken up by '*omnino*'. Nevertheless, it is not impossible to imagine that the source could have read '*... praetereatur; et quae praecepta de breuitate sunt*' with the meaning 'be omitted; and what (else) has been given as precept on brevity'. I do, however, agree that the *Auctor*'s phrasing would hardly allow for such an 'enriched' meaning, since the position of '*ea*' cuts the following off quite strongly from what preceded it: *et si sequemur ea quae de breuitate praecepta sunt*.

5. It is noteworthy that Cicero's section on the *uitia narrationis* (*Inu.*1.30) does not have any corresponding passage in *Rhet.Her.* Again two possibilities can be envisaged: either the common source included this section and the *Auctor* left it out, or Cicero introduced original thoughts or (more probably) took these ideas from one (or several) additional source(s) (similarly, ADAMIETZ (1960), 36). Since no example or other hint is included (and given our major lack of Hellenistic rhetorical sources), it cannot be determined with complete certainty whether this source was a Latin or a Greek one, although the much larger number of Greek treatises that existed in Hellenistic times would support the latter hypothesis.

TESTIMONIA:

Narratio...expositio: =Cassiod.*Inst.*2.2.9; Alb.*Rhet.*22p.535,36-37; ≈Quint.*Inst.*4.2.31; Theon *Prog.*p.78,15-16; [Hermog.]*Prog.*2.1 and Prisc.*Praeexerc.*2p.552,11; Aphth.*Prog.*2.1; Nicol.*Prog.*p.11,14-15 (noted also by HEATH (1989), 90).

COMMENTARY:

Narratio...expositio: Cf. *Rhet.Her.*1.4: *Narratio est rerum gestarum aut proinde ut gestarum expositio*. Cicero and the *Auctor*'s definitions seem to be translations of a Greek definition found also in Theon *Prog.*p.78,15-16: Διήγημά ἐστι λόγος ἐκθετικὸς πραγμάτων γεγονότων ἢ ὡς γεγονότων (which in turn resembles definitions found in later Greek treatises, cf.: [Hermog.]*Prog.*2.1 and Prisc.*Praeexerc.*2p.552,11; Aphth.*Prog.*2.1; Nicol.*Prog.*p.11,14-15). Cf. also: Cic.*Part.*31; Quint.*Inst.*4.2.31; [Hermog.]*Inu.*2.1.1; Anon.Seg.46-52; Cassiod.*Inst.*2.2.9; Isid.*Orig.*2.7.1. See also Chapter 8; LAUSBERG §289; VOLKMANN (1885), 150-151. MARTIN (1974), 75-76, has a useful juxtaposition of the definitions of Narrative by several ancient authors. Cicero's and the *Auctor*'s definitions here also remind one of the definition of 'inuentio' in *Inu.*1.9 (almost identical in *Rhet.Her.*1.3): *Inuentio est excogitatio rerum uerarum aut ueri similitum quae causam probabilem reddant*, on which see GLUCKER (1995), 125-126.

Just like the passage on the *exordium*, the *narratio* section starts with a definition of the *pars orationis* in question. As MARTIN (1974), 76, has already noted, Cicero and the *Auctor* have the first extant definition of Narrative that includes not only *res gestae* (things that have actually taken place), but also *res ut gestae* (things that can look to the audience *as if* they had taken place).

LEVENE (2004), considering the views of HUMBERT (1925) and STROH (1975) on the delivered and published versions of Cicero's speeches, discusses consequences for the *narratio* linked to the (lack of) knowledge that readers have in comparison to the original audience of the delivered speeches, and shows this for *Cic.Balb.*, *S.Rosc.*, and *Sest.*

Cicero uses 'exponere' (sometimes with the addition 'breuiter', one of the three *uirtutes narrationis*) and/or 'res gesta(e)' as signposts in some of his speeches to mark the beginning or end of the Narrative part: cf. e.g. *Quinct.*11; *S.Rosc.*14; *Catil.*3.3; *Clu.*10; *Mil.*23; 30; *Phil.*1.1.

rerum gestarum aut ut gestarum: This refers to the question of truth as opposed to seeming truth, which will return in the discussion (later in 1.27) of three subdivisions of *narratio quae in negotiis uersatur: fabula, historia, and argumentum* (on which see also below under 'fabulam, historiam, argumentum'). A Narrative can be either true (cf. 'rerum gestarum' and the subdivision 'historia'; the 'historical' report submitted by magistrates at the end of their term of office is also called 'res gestae') or false—the opposition of true and false statements may be derived from philosophy (of which logic is a part to the Stoics, but an instrument to Aristotle, see IERODIAKONOU (1998)), but could also be based on 'normal', non-philosophical reasoning. The category 'false' can be further subdivided into Narratives that the listener can immediately identify as false (cf. the subdivision *fabula*) and Narratives that are false but could seem true (cf. 'ut gestarum' and the subdivision *argumentum*). For an orator, the ideal situation is obviously to have the truth on his side, in which case his Narrative can be an *expositio rerum gestarum* (with some room for interpretation of facts, cf. e.g. the case in *S.Rosc.*). If this is not the case, he will have to use a Narrative that is an *expositio rerum ut gestarum* (cf. e.g. the case in *Mil.*). The orator must obviously not use a Narrative that is *clearly* false, as this would completely undermine his Cause and the rest of his speech. But he might prefer to use an *expositio rerum ut gestarum* if the truth does not look plausible, since the aim of his speech is to persuade his audience—as Aristotle put it already in *Po.*1460a26-29 (cf. *Quint.Inst.*4.2.34):

προαιρεῖσθαι τε δεῖ ἀδύνατα εἰκότα μᾶλλον ἢ δυνατὰ ἀπίθανα· τοὺς τε λόγους μὴ συνίστασθαι ἐκ μερῶν ἀλόγων, ἀλλὰ μάλιστα μὲν μηδὲν ἔχειν ἄλογον, εἰ δὲ μή, ἔξω τοῦ μυθεύματος.

Cicero's expression here is a short version of '*ut gestae res erunt [=rerum gestarum] aut ut potuisse geri uidebuntur [=ut gestarum]*' (1.29). In this short version, '*ut*' plus participle seems to function like Greek 'ὥς' plus participle (*LSJ* s.v. ὥς C.I.; *K.-St.* II, §140.9 Anmerk.6), thus constituting a Hellenism, as becomes clear from the equivalent phrasing in Theon *Prog.* p.78,15-16: πραγμάτων γεγονότων ἢ ὥς γεγονότων (for a discussion of a Greek common source to which both definitions could go back, see Chapter 8). For '*ut*' in the sense of 'as though', see *OLD* s.v. *ut* 8.a.

Narrationum genera tria sunt: Cf. *Rhet.Her.* 1.12. This is another instance of a subdivision into three elements, which is commonly found elsewhere in *Inu.* and other rhetorical treatises, see Chapter 2.

These three kinds of *narratio* differ in the degree in which they keep to the *ciuilis causa* (see below *ad loc.*) in question:

- the first kind is entirely concerned with the facts of the case and thus constitutes a subjective version of the facts that supports the orator's cause;
- the second kind departs from focusing on the central facts of the case in the form of a Digression (contrary to Hermagoras, Cicero in 1.97 will not accept *digressio* between *reprehensio* and *conclusio* as a separate *pars orationis*);
- the third kind is not closely related to the *causa* anymore.

The same distinction of three *genera narrationis* is found in *Rhet.Her.* 1.12. Quintilian in *Inst.* 4.2.11 only distinguishes the first two and calls them '*narrationum species*', not '*genera*'—other Greek and Latin authors understand different subdivisions by 'species' or 'εἶδη' of

Narrative (see Overview of Ancient Rhetorical Theory of Narrative [n.i.]). See also LAUSBERG §290.

The third kind gets a surprisingly long treatment (all of the remaining part of 1.27), though it is the only *genus narrationis* not directly concerned with judicial speeches, but rather with literary genres. Indeed, it is surprising that Cicero and the *Auctor* (*Rhet.Her.* 1.13) include this third kind at all, since, strictly speaking, it does not belong in a treatment of the *genus iudiciale* (at which almost all of *Cic.Inu.* is aimed, with the clear exception of 2.155-178a). This makes it quite suspect, as does the subdivision *in negotiis* and *in personis*, which could in fact be applied to *narratio* as a whole; for the problem of the *tertium genus narrationis* in *Cic.Inu.* and *Rhet.Her.*, see Chapter 8. Cicero will deal with the subdivision into *personae/negotia* in greater detail at 1.34-43, where they will be *loci* of Argumentation: see at 1.106 under ‘locis communibus’ and also: Hermog.*Stat.* 1.4-12 with SCHOULER (1990) and HEATH (1995), 63-66; LEFF (1983).

See also LAUSBERG §§290-292; MARTIN (1974), 76-79.

ratio controuersiae: ‘the reason for the dispute’. ‘*Ratio*’ here does not refer to the ‘reason’ stated by the defendant in support of his initial statement (see at 1.18 under ‘Introduction to the *iudicatio* scheme as found in *Cic.Inu.* 1.18-19a’ [n.i.]), but to the reason for undertaking the legal dispute in question.

alterum...interponitur: Although *Inu.* and *Rhet.Her.* 1.12 list different elements here (only *criminatio* is found in both), they include the same number of elements, all preceded by ‘*aut*’, which might suggest that a common source had a list of four elements preceded by ‘*aut*’ at this point. But the other three terms found in *Rhet.Her.* (*fides*, *transitio*, and *apparitio*) do not constitute synonyms of Cicero’s *similitudo*, *delectatio*, and *amplificatio*, but refer to entirely different things: it is difficult to imagine that these three pairs could be different translations

of three Greek terms found in a common Greek source. Hence, it must either be pure coincidence that both authors list four items all preceded by ‘*aut*’, or at least one author must have changed what the common source had by introducing his own ideas or ideas found in one or several additional source(s). The surrounding sentences are only partially similar in both works, so that they are not helpful for deciding why the lists of four elements are different—this question must remain unanswered.

***digressio*:** the first word of a series of words related to the semantic field of ‘walking’ found in the *narratio* section; cf. verbs like *procedere*, *transire*, *praeterire*, and *prodire* in 1.28-30. But it is only at the clustering of *procedetur/transibitur/praeteribitur* in 1.28 and of *transeatur/prodeatur/praetereatur* in 1.29 that Cicero’s exposition could be said to become more literary.

‘*digressio*’ is composed of the separative prefix ‘*di-*’ and ‘*gressio*’ (from ‘*gradi*’, ‘to walk’).

Cicero will discuss Hermagoras’ decision to include *digressio* as a separate *pars orationis* between Argumentation and Peroration in 1.97.

See also LAUSBERG §314.

***extra causam*:** Although Cicero does not clearly restrict *narratio* to the *genus iudiciale* as e.g. Arist.*Rh.*1414a36-37 does, the use here of ‘*causa*’ and of many other judicial expressions in 1.27-30 stresses that Cicero’s main interest here is indeed in the *genus iudiciale*.

***quo de*:** Such inverted word order is quite commonly found with ‘*cum*’ and relative pronouns (often written as one word: *quocum*, *quacum*, *quibuscum*). ‘*Quo de*’ is certainly to be preferred to *V*’s ‘*de quo*’ here because it is less common than ‘*de quo*’ (the addition of a noun as in ‘*quo de genere*’ in 1.29 makes the inversion of ‘*de*’ and ‘*quo*’ less striking) and because of the corruption into ‘*quod*’ in *H*² (probably from ‘QVODE’, from which ‘E’ had fallen out). Indeed, there are several instances in *Inu.* of the relative pronoun (singular and plural) preceding ‘*de*’ without the addition of any noun: 1.27, 1.41, 1.81-82, 1.92, 1.104, 2.37,

2.70, 2.94, 2.131, 2.141 (only example with plural ‘*quibus*’), 2.150. In most cases, ‘*quo/qua de*’ is found in the expression ‘*quo/qua de agitur*’.

1.28 contains the only example of a relative pronoun (masc. sing. ‘*quo*’) preceding ‘*in*’ without the addition of a noun; as in cases with ‘*quo de*’, both ‘*in quo*’ and ‘*quo in*’ are found in the mss. there. Using the same argument as above, I would prefer (against ACHARD (1994)) the less common word order ‘*quo in*’ found in *P^lm²h* and Mar.Victorin.*Rhet.*1,20p.91,103; indeed, the doublet ‘*in quo in*’ (*S*²) is not likely to have appeared with the ‘normal’ word order ‘*in quo*’, and the same applies to the corruption of -o to -i in ‘*qui in*’ (*H^lV*); furthermore, it is supported by the corrupted reading ‘*quod in*’ found in *H²S^lm^l*, Prisc.*Inst.Gram.*10.55, and Mar.Victorin.*Rhet.*1,19p.91,103. (in mss. β, ed. IPPOLITO), and by the fact that it is the only instance of all cases of ‘*in + quo/qua*’ for which the less usual order (‘*quo in*’) is found in the mss. according to ACHARD’s apparatus.

The same inverted word order of ‘*de*’ preceded by a relative pronoun without the addition of any noun is found in *Rhet.Her.* (1.8; 2.18; 2.46; 4.17; only ‘*qua de*’ is found) and also in Cicero’s speeches (only in *Ver.*2.2.31; *Caec.*55; *Man.*47) and letters (*Att.*5.7.1), but nowhere else in his rhetorical and philosophical treatises (NEUE/WAGENER (1892-1905), ii 943, list individual readings that would be relevant for some of Cicero’s works other than *Inu.*). The high frequency with which it is found in *Inu.* as compared with the rest of his works suggests that Cicero changed his stylistic tastes: VON ALBRECHT (2003), 116, rightly calls ‘*qua/quo de*’ typical of *Inu.* Among contemporary prose literature, no instance is found in Varro, Caesar, Vitruvius, and Livy; only one example is found in Sallust (*Jug.*73.3). For self-explanatory reasons of metrical demands, it does not make sense to consider examples from poetry. Thus it appears that in extant Latin prose literature of Cicero’s time this inverted word order is quite characteristic of Cicero and of *Inu.* in particular.

See also *K.-St.II*,§113.e); NEUE/WAGENER (1892-1905), ii 942-943 (with extensive references, including examples with *per*, *ab*, *pro*, *ex*, *in*, and *post*, most of which come from Plautus); THIELMANN (1879), 79-80.

ciuilibus...causa: As becomes clear from Mar.Victorin.*Rhet.*1,19p.86,43-45 (*quod ait remotum a ciuilibus causis—est autem poetarum uel historiographorum—, dat tamen cursim etiam in hanc narrationem praecepta*), this *genus narrationis* leaves the orator's domain: it does not pertain to the field of the citizen (*ciuis*). 'Ciuilibus causis' refers to both politics (political Causes) and law courts (legal Causes), as both deal with 'civil' matters; indeed it reminds one of the '*ciuilis quaedam ratio*' of 1.6, of which rhetoric is a large subdomain. See at 1.6 under 'ciuilis...ratio' [n.i.]. Since '*causa*' has a strong judicial colour, '*ciuilis*' here possibly just refers to the law and to trials; this interpretation of '*ciuilibus causis*' here is given in *TLL* s.v. *ciuilis* D: *ad ius et iudicia <pertinet>*.

It seems strange that Cicero and the *Auctor* (cf. *Rhet.Her.*1.12-13) would include this discussion although the rest of their treatises strongly focus on the rhetoric of *ciuiles causae* (cf. Cicero's definition of rhetoric in 1.6). The similarities between their passages show that the section on this third apparently 'irrelevant' *genus narrationis* must go back to a common Latin source. As shown in Chapter 8, this *genus* might go back to a progymnasmatic tradition (cf. '*exercitatione*' in *Inu.*1.27, and '*exerceri*' and '*exercendo*' in *Rhet.Her.*1.12 and 1.13 respectively) and this preliminary exercise in Narrative might not yet have focused on the relevance for *ciuiles causae*, but only on training in Narrative techniques.

non inutili...scribitur: Cicero does not specify what exactly this oral and written *exercitatio* is designed for: training for the other two *genera narrationis* or rhetorical training in general? *Rhet.Her.*1.12 states in the corresponding passage: *Tertium genus est id quod a causa ciuili remotum est, in quo tamen exerceri conuenit quo commodius illas superiores narrationes in causis*

tractare possimus (where ‘*in causis*’ refers to the *ciuiles causae* as mentioned by Cicero): Cicero’s and the *Auctor*’s texts might go back to a common source here, and this *exercitatio* would indeed be useful for the two other *genera narrationis*. ‘*Exercitatione*’ here as well as ‘*exerceri*’ and ‘*exercendo*’ in *Rhet.Her.* 1.12 and 1.13 respectively could point to a progymnasmatic tradition (see Chapter 8).

Eius partes...uersatur: It is not entirely clear what ‘*Eius*’ is referring to: the entire *pars orationis* ‘*narratio*’ or only the third *genus narrationis* mentioned just before? ACHARD (1994), 83 (‘La narration comporte deux types’), opts for the first interpretation, Mar.Victorin.*Rhet.* 1, 19p.86, 45-46 (*Haec, inquit, narratio remota a ciuilibus causis duo membra habet*) for the latter, while HUBBELL (1949), 55 (‘It is subdivided into two classes’) circumvents the issue entirely. Three reasons support Marius Victorinus’ interpretation:

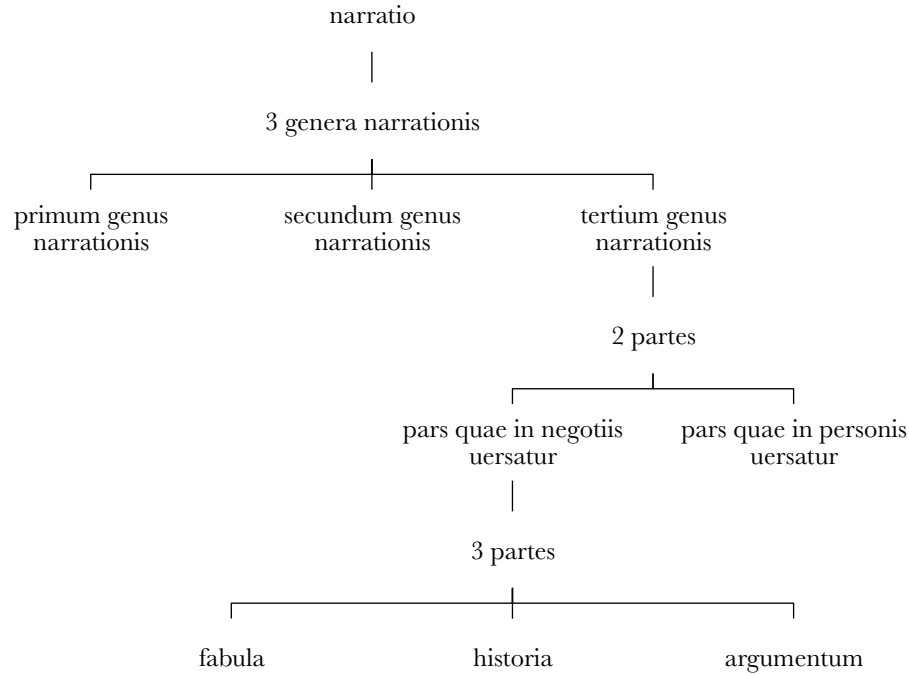
1. Cicero has just presented three different kinds of Narrative. If he had wanted to refer back to the entire *pars orationis* ‘*narratio*’ and not only to the third *genus*, he would have had to put ‘*Narrationis partes*’ to make this very clear, since ‘*Eius*’ refers to what just precedes, i.e. to the last *genus narrationis* mentioned.
2. Cicero has just given a division into *genera* and now gives one into *partes*. In 1.32 he clearly states that *partes* are subdivisions of a *genus*: *Nam genus est quod plures partes amplectitur*. Hence, ‘*Eius partes*’ are *partes* of the last *genus narrationis* mentioned. (But as the following subdivision of the first *pars* into the three *partes fabula, historia, and argumentum* shows, a *pars* can also be further subdivided into *partes*). *Rhet.Her.* 1.13 has ‘*genera*’ instead of ‘*partes*’ in the corresponding passage, making it impossible to know with certainty what the common source read in this place; either Cicero improved an ambiguity or the *Auctor* created an additional one by promoting these two elements from the level of *partes* to that of *genera*. It is noteworthy that Cicero is not entirely consistent in his nomenclature here, using ‘*quod genus*’ to designate the

historia, i.e. the second of the three *partes* of the first of the two *partes* of the third *genus narrationis* (*Ea quae in negotiorum expositione posita est*), see the diagram below. This inconsistency could support the view that the common source had ‘*genera*’ instead of ‘*partes*’. Cicero’s inconsistent use of *pars* as opposed to *genus* is found elsewhere in *Inu.*, e.g. in 1.32, where ‘*Quae partitio*’ and ‘*in hoc genere* [sc. *partitionis*]’ refer to exactly the same thing, viz. the second *pars partitionis*; in 1.42, ‘*hoc in genere*’ seems to refer also to a subdivision (i.e. a *pars* or *species*), see at 1.42 under ‘*hoc in genere*’ [n.i.]. On this problem, see also ARWEILER (2003), 42-44 (with further bibliography).

3. At the beginning of 1.28, Cicero clearly returns to the first *genus narrationis* (*Nunc de narratione ea quae causae continet expositionem dicendum uidetur*), thus indicating that he had, up to that point, been speaking about another *genus narrationis*: the last of the three *genera narrationis*.

ACHARD’s erroneous interpretation probably goes back to a passage later in 1.27, where ‘*narratio*’ is mentioned, instead of ‘*pars tertii generis narrationis*’: *Illa autem narratio quae uersatur in personis...* As ‘*Illa*’ and the relative clause ‘*quae uersatur in personis*’ clearly indicate, what is meant here is a specific *narratio* (the second of the two *partes* of the third *genus narrationis* described earlier in 1.27), not the entire *pars orationis* ‘*narratio*’.

The subdivision of *narratio* as found in *Cic.Inu.* and *Rhet.Her.* can be represented as follows:



With regard to Greek rhetorical sources including a subdivision comparable to that into *fabula/historia/argumentum* ([Hermog.]*Prog.*2.3; Anon.Seg.54; Aphth.*Prog.*2.2; Nicol.*Prog.*p.12,17-13,13; see the table towards the end of Chapter 8), only Pseudo-Hermogenes uses a label comparable to *pars/genus*: he speaks of ‘ἐξδη διηγήματος’ which in Latin corresponds to *partes narrationis* (NB: in Cicero’s treatment, *fabula/historia/argumentum* are *partes* of a subdivision of the third *genus narrationis*).

in negotiis: more specific than just ‘*in rebus*’. People (‘*in personis*’) are opposed here to acts (perhaps plots), not only to things. But when describing *fabula/historia/argumentum*, Cicero uses ‘*res*’ (‘things’) instead of ‘*negotia*’ (‘acts’).

in personis: On *narratio in personis posita*, see GUÉRIN (2009), 329-336; on declamation and its link to *narratio in personis posita*, see BLOOMER (1997).

fabulam, historiam, argumentum: The distinction between these three forms of *narratio* is one of degree of truth versus verisimilitude (it is not found in Cicero’s later works). The decreasing order in truth or verisimilitude is:

1. *Historia*: it describes something that really happened (i.e. something true), but that lies in the remote past, so that the audience may not necessarily remember it and know that it is true. Cicero seems to have changed his mind about *historia* and veracity, cf. *Brut.*42: *quoniam quidem concessum est rhetoribus ementiri in historiis, ut aliquid dicere possint argutius*. ‘*Historia*’ is the only Greek loanword among the labels of these three forms of Narrative.

2. *Argumentum*: something is invented that could really have happened, so the audience does not immediately know that it is not actually true or real. For the different meanings this word can have, cf. *Quint.Inst.*5.10.9-10: ‘*argumentum*’ can refer to: 1) the plot for the stage; 2) the theme of a speech; 3) the theme of a philosophical treatise; and hence more generally 4) any material intended for writing; 5) an argument in the context of proof. For sense 1, it is worth noting that at the beginning of many comedies by Plautus and Terence a character states in a speech what the current situation is: this is called ‘*argumentum*’; see *TLL* s.v. *argumentum* II.A.1. *de materia comoediarum et tragoediarum*, and e.g. *Pl.Am.*95-96: *...nunc <uos> animum aduortite, | dum huius argumentum eloquar comoediae* (the *argumentum* then follows in 97-152, after which Act I begins). *Isid.Orig.*18.15.5 gives the following etymology: *Causa aut argumento aut probatione constat. Argumentum numquam testibus, numquam tabulis dat probationem, sed sola inuestigatione inuenit ueritatem; unde et dictum argumentum, id est argutum inuentum*. ERNOUT/MEILLET (1979) s.v. *arguo* indeed link both ‘*argumentum*’ and ‘*argutus*’ to ‘*arguere*’ in the sense of ‘to make shine, to make clear’.

3. *Fabula*: something is invented which the audience immediately recognises as unreal. *Var.L.*6.55 gives as etymology: *ab eodem uerbo fari fabulae ut tragoediae et comoediae dictae* (supported by ERNOUT/MEILLET (1979) s.v. *fari*). Cf. also *Cic.Rep.*2.4: *ut iam a fabulis ad facta ueniamus*.

This rhetorical use of ‘*fabula*’ seems to be connected via its etymology (*fari*,

‘to speak’) to its use in the dramatic genres *fabula crepidata/tragoedia*, *fabula palliata/comoedia*, *fabula togata/tabernaria*, *fabula praetexta(ta)*, and *fabula atellana* on which see e.g. MANUWALD (2011), 129-177. Under the influence of Isid.*Orig.*, *fabula* passed from the Roman tradition into the Middle Ages as the opposite of *historia*: then, *fabula* designates fictional plots from tragedy, comedy, and pastoral. Angelo Poliziano used the word in this sense in his mythological-pastoral hybrid drama *Fabula di Orfeo* (ca. 1480), the first secular play in the Italian language. The first major opera, Claudio Monteverdi’s *L’Orfeo* (first published in 1609), carried the subtitle *Favola in musica*, showing what this new musical genre would be about; this *Favola* had a tragico-pastoral (non-Aesopic) plot. From 1637 (the beginning of commercial opera in Venice) onwards, *favola (in musica)* would mostly be replaced by the new *dramma per musica*. See MGG s.v. *Favola*.

For an overview of where else this subdivision is found, see Chapter 8.

Although Cicero’s example of *fabula* involves animals, it comes from the domain of tragedy and is hence of a nature very different from that of the προγύμνασμα ‘μῦθος’ found e.g. in Theon *Prog.*p.72,27-78,13, [Hermog.]*Prog.*1, Aphth.*Prog.*1, and Nicol.*Prog.*p.6,8-11,10: indeed, in these progymnasmatic treatises ‘fable’ refers to the type to which Aesop’s fables also belong and which often include animal characters (cf. also the examples in Lib.*Fab.*). MARX (1894), 110-111 with reference to *Rhet.Her.*1.13, is thus mistaken in identifying *fabula* with the προγύμνασμα ‘μῦθος’ (error already noted by REICHEL (1909), 12-13) and to regroup *historia* and *argumentum* and identify them with the προγύμνασμα ‘διήγημα’ (MARX has plural ‘διηγήματα’): see Chapter 8.

See also LAUSBERG §§290-291. On *fabula/historia/argumentum* and the examples that Cicero gives, see also FORMICOLA (1992).

‘Angues...iugo’: Cicero does not provide any information about the origin of this quotation. The parallel passage in *Rhet.Her.*1.13 (*ut eae sunt quae tragoediis traditae sunt*) suggests that this example is taken from a tragedy (see Introduction to 1.27-30). Cf. *Cic.Rep.*3.9: *Nunc autem, si quis illo Pacuviano inuehens alitum anguium curru multas et uarias gentes et urbes despicere et oculis collustrare possit*. This passage takes up two words from the passage in *Inu.* and could hence provide some further important information: the author of the tragedy quoted in *Inu.* might be Pacuvius, and the combination of these two words with ‘*curru*’ could point to a play treating the Medea myth and including such a description of Medea’s dragon wagon: Pacuvius’ *Medus* (*Pac.Trag.*397 in RIBBECK (1871), 130; cf. *August.Soliloq.*2.29, whose source is probably *Cic.Inu.*1.27, with SCHIERL (2006), 367; see also WARMINGTON (1935-1940), ii 254-255). SCHIERL (2006), 366-367, also identifies this verse (a iambic senarius) as coming from Pacuvius’ *Medus*, possibly from a messenger’s speech about Medea’s arrival (cf. also *Hygin.Fab.*27.3, where Medea is said to get to Colchis on such a wagon). [Hermog.]*Prog.*2.4-8 (and *Prisc.Praeexerc.*2p.552,22-31) also uses the Medea myth in the passage on the *narratio*, but without mentioning the dragon wagon. *E.Med.*1317-1414 (i.e. at the very end of the play) pictures Medea on the dragon wagon (on Aristotle’s criticism of this scene in *Po.*1454a37-1454b2, see WORTHINGTON (1990)).

Cf. also *Verg.A.*2.204: *immensis orbibus angues* (of the two snakes attacking Laocoon and his sons). See also below under ‘apud Terentium’.

BARWICK (1928), 271 n.2, stresses the difference in phrasing in the corresponding passage in *Rhet.Her.*1.13 between *fabula* (*ut eae sunt quae tragoediis traditae sunt*) and *argumentum* (*uelut argumenta comoediarum*): this phrasing would suggest that *fabula* must not be equated with tragedy (neither in its entirety nor for a major part) but rather that impossible things, such as those occurring in tragedy, characterise a *fabula* (however, tragedy must not be made up *only* of impossible things).

quod genus: See at 1.25 under ‘quod genus strepitu, acclamatione’.

‘Appius...bellum’: Enn.*Ann.*223 (VAHLEN). This refers to Appius Claudius Caudex, who, as consul of 264 BC, declared war upon Carthage in the First Punic War (264-241 BC); cf. Plb.1.10-12; 1.16; Liv.31.1.4; *RE* III s.v. *Claudius* 102). For the historical background, see e.g. SCULLARD (1989), esp. 537-554. SKUTSCH (1985), 385-388 at 385, writes, of the two examples used here by Cicero to illustrate *fabula* and *argumentum*, that they ‘do not themselves constitute the examples but are meant to remind the reader of the passages which they introduce. These therefore must have been very well known. Similarly the line quoted for historical narrative not only must have belonged to a poem known to all and sundry—and what historical poem other than the *Annals* meets this condition?—but must have introduced a piece of narrative; and this can only have been a skeleton history of the First Punic War.’

This example provides the only guidance for what amount of time is to be understood by ‘*ab aetatis nostrae memoria remota*’. If we date *Inu.* to the 80s BC, the start of the first Punic War would go back some 180 years, i.e. more than five generations at the least: there would indeed be no one alive who could have passed on an account of this that they themselves had received from someone living in those times, so this declaration of war would indeed be ‘remote from the recollection of our age’.

This example taken from Ennius shows one more thing: *historia* refers to the veracity of the content, not to a specific genre like historiography; similarly: REINHARDT/WINTERBOTTOM (2006), 79.

Argumentum...potuit: Cf. Arist.*Po.*1451a36-1451b33, esp.1451a36-38: Φανερόν δὲ ἐκ τῶν εἰρημένων καὶ ὅτι οὐ τὸ τὰ γενόμενα λέγειν, τοῦτο ποιητοῦ ἔργον ἐστίν, ἀλλ’ οἷα ἂν γένοιτο καὶ τὰ δυνατὰ κατὰ τὸ εἰκὸς ἢ τὸ ἀναγκαῖον.

potuit: expresses an *irrealis* (i.e. an unfulfilled possibility) of the past; for the indicative expressing such an *irrealis* with verbs and expressions like *posse*, *debere*, *necesse est*, etc., see *K.-St.II*, §44.2.a).

apud Terentium: This is the first of the two references, with quotation, to Terence in *Inu.* (the second one is found in 1.33). The only other early Roman poet whose name is mentioned in *Inu.* (1.95, with quotation) is Plautus. ACHARD (1994) seems right to delete the reference to Pacuvius in 1.94 (see my note *ad loc.* [n.i.]).

In *Rhet.Her.*, Terence is never mentioned nor clearly quoted—the corresponding passage (*Rhet.Her.* 1.13) only reads: *uelut argumenta comoediarum*; it seems unlikely that the common source included the quote found in Cicero here, see Introduction to 1.27-30. The *Auctor*, however, names or quotes the following early Roman poets (underlining refers to quotes; underlined italics refers to quotes where the author is named in the text; ‘?’ indicates that the authorship of a quote is uncertain, see ACHARD (2003) *ad loc.*): Accius (*Rhet.Her.* 2.19; 2.42?), Ennius (2.34; 2.38?; 2.39?; 2.39; 4.2; 4.7; 4.18; 4.18?), Lucilius (2.19), Pacuvius (2.36; 2.37; 2.40?; 2.42?; 2.43; 4.7), and Plautus (1.14?; 2.35).

In comparison with *Rhet.Her.*, it is noteworthy that Cicero, who seems to quote fewer early Roman poets, does not mention their names when quoting their works, except for the three cases mentioned above. As he carefully mentioned the names of Greek rhetoricians when talking about their concepts (cf. e.g. Aristotle in 1.7 and Hermagoras in 1.8), it is likely that Cicero expected his Roman reader to immediately recognise the verses and poets he was quoting, just as it would probably not be necessary to point out to any educated modern English reader who the author of ‘To be or not to be’ was.

It is possible that Cicero had to study the comedies of Terence in the classroom of his *grammaticus* and was hence closely familiar with them, although there seems to be no firm evidence that Terence was yet included in school syllabi in Cicero’s time: it is only for

later centuries that Terence is attested to have a firm place in school syllabi as the Roman Menander (Quintilian has nothing on this subject, except for a dismissive comment on Roman comedy in *Inst.* 10.1.99-100), see e.g. MARROU (1956), 278; BONNER (1977), 216; 261 (he claims that the inclusion of examples from Terence in 1.27 and the reference to rhetorical *exercitatio* would show that Terence was already ‘utilized for rhetorical teaching in Cicero’s youth’; however, *Rhet. Her.* in the parallel passage has no quotation from Terence, and Gel. 15.24 gives a late second-century BC ‘ranking’ of ten Latin dramatic poets by Volcarius Sedigitus where Terence is listed only in sixth position, Plautus in second—it seems more likely that he only became a central school author under the Empire); RAWSON (1985), 267; 271-272; 275-279.

Even at a later age, Cicero seems to still have rated Terence’s language highly, cf. *Att.* 7.3.10 (50 BC): *secutusque sum non dico Caecilium (...) (malus enim auctor Latinitatis est), sed Terentium (cuius fabellae propter elegantiam sermonis putabantur a C. Laelio scribi)*. On rhetoric and comedy in Rome, see e.g. HUGHES (1997). See also WRIGHT (1931); JOCELYN (1973); FANTHAM (2004), 138-146.

‘Nam...ephebis [Sosia]’: Cicero uses exactly the same example again in *de Orat.* 2.326:

Videant illa

nam is postquam excessit ex ephebis...

quam longa est narratio! Mores adulescentis ipsius et seruilis percontatio, mors Chrysidis, uultus et forma et lamentatio sororis, reliqua peruarie iucundeque narrantur.

It is noteworthy that Cicero takes up the very example he used some 30 years earlier in the work that he criticises in *de Orat.* 1.5 (see also FANTHAM (2004), 138-146).

As the name ‘*Chrysis*’ in the above quote indicates, this verse is from Ter. *An.* 51 (on ‘*ephebis*’, see SHIPP (1960), 124). Iul. Vict. *Rhet.* p. 72, 10-12 mentions this name in the passage on the *brevitas narrationis*; the following ‘*effertur, imus, uenimus, in ignem imposita est*’, also found

in Cic.*de Orat.*2.327, shows that Iulius Victor's source here is *de Orat.*, not *Inu.*, which influenced his work in many other places. On the use of quotations from Ter.*An.* in Roman rhetoric, see ANDERSON (2003/04).

For expressions similar to '*excessit ex ephebis*', LEEMAN/PINKSTER/*ALII* (1981-2008), iv 37, refer to Pl.*Mer.*61 (*ex ephebis postquam excesserit*), Cic.*Arch.*4 (*ex pueris excessit*), and Xen.*Cyr.*1.2.9 and 1.2.13 (Ἀφ' οὗ δ' ἂν ἐξέλθωσι χρόνου ἐκ τῶν ἐφήβων, where the text is uncertain).

[Sosia]: Cf. Ter.*An.*51: |*nam is postquam excessit ex ephebis, Sosia, et*|. The mss. all include '*Sosia*'; LINSMAYER (1853), 7 and 9, deleted it. There are indeed two reasons in support of deletion:

1. the mss. do not include the entire verse: '*et*' is missing;
2. '*Sosia*' is vocative and thus neither part of the clause '*nam...ephebis*' nor really needed in the quote; in fact it is as superfluous as '*et*' and is not necessary for identification of the origin of the quote, as Cicero clearly states that the quote is to be found '*apud Terentium*'. Perhaps scribes added '*Sosia*' to make the passage easier to identify for readers of their time.

In 1.33, the same quote returns, with indication of both the author and his work. This time, there is good reason to include '*Sosia*', as Cicero goes on to talk about this character: *Deinde quid Sosiam uelit facere...*

ut in ea...hoc modo: This definition is not found in *Rhet.Her.*1.13, nor is the example that follows in Cicero's text: one may wonder whether it was not found in the common Latin source, but introduced by Cicero. As BARWICK (1928), 277, notes, the only information that can be gathered from the definition and example is that this type of *narratio* comes in the form of drama, which is in agreement with the call, found in both treatises, for *festiuitas* (produced through *rerum uarietas*) and *animorum dissimilitudo*.

‘Venit...bonum’: another passage from Terence (*Ad.*60-64, on which see MARTIN (1976), 109-110), although not clearly marked as such; see above under ‘apud Terentium’. *Rhet.Her.*1.13 has no examples in its corresponding passage.

Bentley reads ‘*clamans*’ against the reading of the mss. ‘*clamitans*’ (mss. of both *Cic.Inu.* and *Ter.Ad.*; similarly, *Mar.Victor.Rhet.*1,19p.87,76): ‘*clamitans*’ creates rhythmical problems and would call for the exceptional short scansion of the traditionally long syllable *-ans*; KAUER/LINDSAY/SKUTSCH (1926), *app. crit.*, ask: *an rhythmus abnormis trepidationem exprimit?* Given the agreement between the readings of the mss. and given this possible explanation, I would read ‘*clamitans*’ (against ACHARD (1994)); similarly: MARTIN (1976), 109.

Hoc in genere narrationis: This refers to the *pars* (*tertii generis narrationis*) *quae in personis uersatur*, as is shown by *Rhet.Her.*1.13, where an almost identical list to the one following here is put under ‘*Illud genus narrationis quod in personis positum est*’. It is thus another instance of Cicero mixing ‘*pars*’ and ‘*genus*’ (for which see above under ‘Eius partes...uersatur’ sub 2.).

festiuitas: Cf. *Cic.de Orat.*2.328: *Sed et festiuitatem habet narratio distincta personis et interpuncta sermonibus*, with which compare also *Rhet.Her.*1.13: *Illud genus narrationis quod in personis positum est debet habere sermonis festiuitatem, animorum dissimilitudinem*. The striking similarities between all three works here make one may wonder whether, for the passage in *de Orat.*, Cicero remembered what he had written decades earlier in *Inu.*, or whether he might have used the same source(s) as back then, or some very similar material.

As LEEMAN/PINKSTER/*ALII* (1981-2008), iv 38, note, ‘*festiuitas*’ in the *de Orat.* passage (and through the close similarity also here in *Inu.*) means ‘Lebendigkeit’

(‘liveliness’), a nuance not found in *TLL* s.v. *festiuitas*. CHALKOMATAS (2007), 131-132, discusses *festiuitas* in connection with Aristotle’s views on ἡθος and πάθος (a caveat on CHALKOMATAS’s interpretation of Cic.*Inu.*1.27: he seems entirely unaware of the findings of BARWICK (1928), CALBOLI MONTEFUSCO (1988), esp. 57-62, and CALBOLI MONTEFUSCO (2006) concerning the third *genus narrationis*, which are important for the interpretation of this passage).

The primary meaning of ‘*festiuitas*’ is something that has to do with holidays (*TLL* s.v. *festiuitas*: *sensu strictiore: spectat ad diem festum* A i.q. *feriae, dies festus, festum*); it is only in a secondary meaning that ‘*festiuitas*’ expresses the character of such days (ibid.: *sensu latiore: i.q. amoenitas, iucunditas, lepos, urbanitas* A *de personis*; B *de oratione*). See also KROSTENKO (2001), 123-128, who links *festiuitas* to the *conuiuium* and at 124 translates ‘*sermonis festiuitas*’ as ‘an entertaining style’.

ex rerum uarietate...exitu rerum: Such a long, continuous list is rather unusual for *Inu.*, in contrast to *Rhet.Her.* (cf. e.g. *Rhet.Her.*1.8; 1.10). 13 of the 15 elements of this list are found in exactly the same order in *Rhet.Her.*1.13, showing that they must go back to a common source (the use of the same words in both treatises points to a Latin source), and hence explaining this stylistic incongruity in Cicero’s text.

BARWICK (1928), 278, notes that the types of *rerum uarietas* and *animorum dissimilitudo* listed by Cicero and the *Auctor* seem to have been chosen with regard to tragedy and comedy, e.g. the *iucundus exitus rerum* is characteristic of comedy and *metus* and *miser cordia* of tragedy. THIELE (1890), 131 n.3, and ROHDE (1901), 36-38 n.2, compared Cic.*Part.*32 and (also REITZENSTEIN (1906), 94) *Fam.*5.12.4-5 with the stylistic demands for the *genus narrationis in personis positum*, but BARWICK (1928), 278 n.2, calls for awareness of the differences between these passages (especially Cicero’s emphasis in *Inu.*1.27 that the *festiuitas narrationis* is based on the variety of *res* and *animi*).

quae postea...praecipientur: This is one of the passages suggesting that Cicero had initially planned to write about all *partes artis*, as he gives no details on *elocutio* (Delivery) in *Inu.*; see Chapter 1.

TESTIMONIA:

1.28 *eam tres...*(1.29.) *accommodabitur*: ≈ Alb.*Rhet.*22p.535,37-536,17; *et si non ab eo...incipietur*: = Prisc.*Inst. Gram.*10.55.

COMMENTARY:

Nunc...expositionem: This refers back to the *first genus narrationis*, cf. 1.27: *unum genus est in quo ipsa causa et omnis ratio controuersiae continetur*. Cicero will not analyse the second *genus narrationis*: this is all the more striking as he includes a lengthy discussion of the third *genus narrationis* in 1.27, although he just made it clear that it is not linked to the *ciuiles causae*, which are in fact the real-life orator's business.

tres habere res: 'Res' is also used in *Rhet. Her.*1.14. As becomes clear, especially with the contrast of the *uitia narrationis* listed in 1.30, these three 'res' are in fact the *uirtutes narrationis*.

In *Part.*31 Cicero says of the virtues of Narrative: *quae partim sunt necessaria, partim adsumpta ad ornandum. Nam ut dilucide probabiliterque narremus necessarium est, sed adsumimus etiam suauitatem*. Although he does not include brevity among the *narrationis uirtutes necessariae* here, statistical data collected from 25 of the most important extant ancient (and early medieval) treatises on rhetoric show that all three virtues listed in *Inu.*1.28 (brevity, clarity, and plausibility) have to be considered as *uirtutes necessariae*—in fact, the three virtues listed in *Inu.* and *Rhet. Her.* are the ones that became canonical; see the table below, which includes full references to the relevant passages in these works. Indeed, in only six of these 25 treatises do we find additional virtues (*uirtutes adsumptae*), like *euidencia*, *moratio*, *dignitas* (cf. Cic.*Top.*97).

See also LAUSBERG §§294-334 on the three *uirtutes necessariae* and §§335-336 on *uirtutes adsumptae*.

(*b*: brevity; *c*: clarity; *p*: plausibility; +: additional virtues)

		<i>b</i>	<i>c</i>	<i>p</i>	+
before Cicero	[Arist.] <i>Rh.Al.</i> 1438a21-1438b13	X	X	X	
	Arist. <i>Rh.</i> 1416b32-1417a2	X	X	X	
Cicero's time	Cic. <i>Inu.</i> 1.28-29	X	X	X	
	<i>Rhet. Her.</i> 1.14-16a	X	X	X	
	Cic. <i>de Orat.</i> 2.80; 2.83; 2.326-329	X	X	X	+, +
	Cic. <i>Orat.</i> 122; 124	X	X	X	
	Cic. <i>Top.</i> 97	X	X	X	+, +, +
	Cic. <i>Part.</i> 31-32	(X)	X	X	+
after Cicero	Quint. <i>Inst.</i> 4.2.31-60	X	X	X	discusses +, +
	Theon <i>Prog.</i> p.79,20-85,27	X	X	X	
	Ruf. <i>Rh.</i> 17-20	X	X	X	
	[Hermog.] <i>Prog.</i> 2				
	[Hermog.] <i>Inu.</i> 2				
	Anon. Seg. 63-100	X	X	X	
	Aps. <i>Rh.</i> 3.1		X	X	
	Sulp. Vict. <i>Rhet.</i> 19-20p.322,36-323,33	X	X	X	
	Iul. Vict. <i>Rhet.</i> p.71,17-73,18	X	X	X	
	Fortun. <i>Rhet.</i> 2.17	X	X	X	
	Aphth. <i>Prog.</i> 2.4	X	X	X	+
	Nicol. <i>Prog.</i> p.12,17-13,13	X	X	X	+, +
	Iul. Sev. <i>Rhet.</i> 6p.357,16-26	X	X	X	
	Mart. Cap. p.193,15-19	X	X	X	
	Cassiod. <i>Inst.</i> 2.2.9				
	Isid. <i>Orig.</i> 2.7.2	X	X		
	Alb. <i>Rhet.</i> 22p.535,37-536,17	X	X	X	
Total number of relevant works (out of 25 works analysed):		20 (21)	22	21	6

breuis...aperta...probabilis: the three *uirtutes narrationis*. *Breuitas* and, if concerned with expression (instead of content), *perspicuitas* (the noun ‘*apertas*’ is not found in Classical Latin) refer to the style of the *narratio*. The common Greek terms are: σύντομος/συντομία (brevity), σαφής/σαφήνεια (clarity), πιθανός/πιθανότης (persuasiveness/plausibility). As RUSSELL (2001), ii 237 n.32, notes, *breuitas* leads to memorability, *perspicuitas* to understanding, and *probabilitas* to belief; similarly: [Arist.] *Rh.Al.*1438a22-26; LAUSBERG §§294-295. Cic.*Top.*97, Quint.*Inst.*4.2.35, and Iul.Vict.*Rhet.*p.71,17-19 stress that these three virtues also apply to the other *partes orationis*, even if their most important field of application is the *narratio*.

This triad of *uirtutes narrationis* is one of the many subdivisions in *Inu.* of one concept into three elements; see Chapter 2 and LAUSBERG §1244 s.v. *tres*.

The *narratio* triad *breuis/aperta/probabilis* is already found in [Arist.] *Rh.Al.*1438a21-26 (βραχέως or συντόμως/σαφώς/μὴ ἀπίστως or πιστώς), and according to Quint.*Inst.*4.2.31 was used also, and especially, by the followers of Isocrates (*Eam plerique scriptores maximeque qui sunt ab Isocrate uolunt esse lucidam breuem ueri similem*). As Quint.*Inst.*4.2.32 notes, Aristotle (cf. *Rh.*1416b29-35) ridiculed speed (διήγησις ταχεῖα; cf. *narratio breuis*) as a virtue of *narratio*; considering the way the first sentence of Aristotle is phrased here, it seems that the triad in question existed already when he was writing his *Art of Rhetoric*. By the time Dionysius of Halicarnassus was writing (i.e. in the decades after Cicero’s death), this triad seems to have been a common standard in rhetorical treatises (*Dem.*34): ἐπεὶ καὶ τῆς σαφηνείας καὶ τῆς συντομίας καὶ τοῦ πιθανοῦ χωρίον ἀποφαίνουσιν οἱ τεχνογράφοι τὴν διήγησιν. If Dionysius’ terminology corresponds exactly to Cicero’s, ‘*probabile*’ refers to what persuades (cf. τὸ πιθανόν), i.e. to *id quod probatur ab auditoribus*, not to what is ‘likely’. GLUCKER (1995) has shown that Cicero in *Inu.* and the *Auctor* translate ‘εἰκός’ as ‘*ueri simile*’ and ‘πιθανόν’ as ‘*probabile*’ when both Greek terms are found together, and that there is less consistency in this if one of the Greek terms is found alone:

as he points out (pp.128-129) for the *uirtutes narrationis*, Cicero speaks first of *narratio* ‘*probabilis*’ (1.28-29; the parallel passage in *Rhet.Her.*1.14 and 1.16 consistently has ‘*ueri similis*’), but at the end of 1.29 uses ‘*ueri similis*’, which shows that Cicero is not very consistent in this here. See also MOUSSY (1994) and at 1.29 under ‘*Probabilis erit narratio*’.

In *Part.*31-32 (exact date of composition unknown), Cicero replaces this triad by the triad *dilucide/probabiliter/suauiter* *narrare*, and lists *breuitas* under *dilucide narrare*, creating a clear hierarchy: *breuitas* is a way of making a Narrative *dilucida*. ‘*Dilucida*’ is used by Cicero later in *Inu.*1.29 (*Ac uerbis quoque dilucidis utendum est*) instead of ‘*aperta*’.

In *Top.*97, Cicero makes the list of narrative virtues much longer:

itemque narrationes ut ad suos fines spectent, id est ut planae sint, ut breues, ut euidentes, ut credibiles, ut moratae, ut cum dignitate. Quae quamquam in tota oratione esse debent, magis tamen sunt propria narrandi.

He had already extended the list of *uirtutes narrationis* in *de Orat.*2.326. In *Orat.*122, however, one again finds *breuiter/probabiliter/aperte*, so it does not seem that Cicero had a consistent view on this question.

The expressions used and their order in different authors are:

	<i>brevis</i>	<i>aperta</i>	<i>dilucida</i>	<i>lucida</i>	<i>manifesta</i>	<i>perspicua</i>	<i>plana</i>	<i>probabilis</i>	<i>veri similis</i>	<i>credibilis</i>	<i>suavis</i>
[Arist.] <i>Rh.Al.</i> 1438a21-22	(1)	(2)						(3)			
Arist. <i>Rh.</i> 1416b28-1417a2	(1)	(2)						(3)			
Cic.<i>Inu.</i> 1.28	1	2						3			
<i>Rhet.Her.</i> 1.14	1		2						3		
Cic. <i>de Orat.</i> 2.80; 2.83 2.326-329;	3 1	2 2a				2b		3	1		
Cic. <i>Orat.</i> 122	1	3						2			
Cic. <i>Top.</i> 97	2						1			4	
Cic. <i>Part.</i> 31			1					2			3
Quint. <i>Inst.</i> 4.2.31 4.2.36 4.2.52	2	1a	1b	1					3		3a
Sulp.Vict. <i>Rhet.</i> 19p.322,36	2	1						3			
Iul.Vict. <i>Rhet.</i> p.71,17	1					2		3			
Fortun. <i>Rhet.</i> 2.17	1				2				3		
Anon.Seg.63	(1)	(2)						(3)			
Iul.Sev. <i>Rhet.</i> 6p.357,17-18	2		1						3		
Mart.Cap.p.193,15	3			1					2		
Isid. <i>Orig.</i> 2.7.2	1	2						(/)	(/)	(/)	(/)
Alb. <i>Rhet.</i> 22p.535,37-38	1	2						3			

As the above table shows, Cicero's order of *brevis/aperta/probabilis* is found in at least three Greek sources (for a full list of sources including these narrative virtues, see above under 'tres habere res'), two earlier ([Arist.]*Rh.Al.* and Arist.*Rh.*) and one later (Anon.Seg.), which could suggest that there was a Greek tradition which Cicero is following here. In comparison with other parts of rhetorical theory, it is striking that for the *uirtutes narrationis* Cic.*Inu.* did not have a greater influence on later treatises: apart from Alb.*Rhet.* no treatise makes use of all three adjectives used in Cic.*Inu.* for the *uirtutes narrationis*, or, if these treatises do so, they use them in a different order.

Sulp.Vict.*Rhet.* 19p.322,36-20p.323,33, in his treatment of brevity/clarity/plausibility, gives examples from Cicero's speeches.

See also: LAUSBERG §§293-334; VOLKMANN (1885), 153-159; RIPOSATI (1947), 277-279; CALBOLI MONTEFUSCO (1988), 62-73.

Breuis erit: On *breuitas*, cf. [Arist.] *Rh.Al.* 1438a21-24 (Greek terms: βραχύς or σύντομος/συντομία); 1438a38-1438b1 (in contrast, Aristotle in *Rh.* 1416b29-35 considers it ridiculous that the *narratio* ought to be quick, which probably means short); Cic.*de Orat.* 2.326-328; *Orat.* 122; Quint.*Inst.* 4.2.40-51; Sulp.Vict.*Rhet.* 19p.323,1-15; Iul.Vict.*Rhet.* p.72,1-22; Anon.Seg.63-78; 102; Iul.Sev.*Rhet.* 6p.357,21-23; Mart.Cap.p.193,18-19. The main concern of *breuitas narrationis* is to say just as much as is necessary and sufficient (Quint.*Inst.* 4.2.45). Cf. also Hor.*S.* 1.10.7-10 on *breuitas* in poetry. See also *HWRh* s.v. *Breuitas*; LAUSBERG §§294-314.

Many passages from Cicero's works (e.g. the narrative element in *Catil.* 2.1: *abiit, excessit, euasit, erupit*) suggest that Cicero did not always fully respect this ideal in practice (cf. also Tac.*Dial.* 22.3 on Cicero's early speeches: *longus in narrationibus*), which led him to be criticised as an Asianist later in his life. A modern approach to assess the level of brevity vs. ornamental non-brevity is to take as a reference point a 'zero' style that consists of a bare statement of the content, and then compare this with what is added stylistically in the text in question (in *Catil.* 2.1 for instance, only one of the four verbs would have been needed to express the content).

si, unde...incipietur: Cicero gives eight recommendations on how to achieve brevity in the Narrative, each starting with 'si...'. He advises: (i) not to go back too far (*si unde...repetetur*); (ii) to give only the main points (*si cuius...sit factum*); (iii) not to proceed further than necessary (*si non longius...procedetur*; see also LAUSBERG §307); (iv) to stick to the subject (*si nullam...transibitur*; see also LAUSBERG §§303-304); (v) to include information without actually stating it (*si ita...intellegatur*); (vi) to pass over counter-productive or unhelpful points

(*si non modo...praeteribitur*; see also LAUSBERG §308); (vii) to make no repetitions (*si semel...dicitur*; see also LAUSBERG §306); (viii) not to proceed in this way: A-B, B-C, C-D, etc. (*si non ab...incipietur*; see also LAUSBERG §306).

All these points focus on brevity in content. (i), (iii), and (iv) will also appear as recommendations on how to achieve clarity; see at 1.29 under ‘Hic...conseruanda’.

necesse est: In his treatment of *narratio*, Cicero uses future tense surprisingly often in comparison with the rest of *Inu.* (see also at 1.30 under ‘Quod cum accidet’). Hence, the use of present ‘*est*’ is surprising here, since the relative clause is surrounded by verbs in the future and since future ‘*necesse erit*’ is found elsewhere in *Inu.* (four times: 1.11, 1.19, 1.21, 2.172), although much less often than present ‘*necesse est*’ (29 times). Since *Rhet.Her.* 1.14-16a in the corresponding passage also has mainly future tense, the common source too seems to have used future tense for the passage on the *uirtutes narrationis*.

initium: On the beginning of the *narratio*, cf. *Rhet.Her.* 1.14; *Quint.Inst.* 4.2.40; see also LAUSBERG §§300-301.

summam: ‘the most essential points’, hence also ‘the summary’. Cf. *Rhet.Her.* 1.14: *si summam non particulatim narrabimus*; see also LAUSBERG §§303; 305.

quam quo opus: The conjecture (*quo*) by STRÖBEL (1915) seems sensible here; it takes account of: (i) the vowel ending -e in the readings ‘*quamque*’ (H) and ‘*quam que*’ (V), which suggests that the ending was only a vowel (in minuscule scripts ‘e’ and ‘o’ are easily corrupted one into the other); (ii) ‘*quod*’ (S¹ and PS²I), where we have ‘o’ to which -d would have been added (perhaps due to the fact that ‘opus’ is neuter), as is suggested by the addition of another word (‘scitu’ or ‘scito’) of which there is no trace in H and V and which would have been added as an ablative object to ‘*quod opus est*’.

ut nonnumquam...dictum intellegatur: This refers to the rhetoric of allusion (‘speaking and reading between the lines’) or to information that can be inferred from

information included in the speech (e.g. ‘he entered the house’, from which one can conclude that he must have been outside).

‘*quod dictum est*’ (found in ms. *Vat.*3236) seems the best reading here because we need a relative clause, not an indirect question (cf. ‘*quid*’ in *HVP*). Although ‘*sit*’ would be possible by *Modusattraktion* (‘mood attraction’; see *K.-St.*II,§182.5; II,§182.6 Anmerk.4) to the subjunctive of the superordinate clause (‘*intellegatur*’), ‘*est*’ makes the identification of ‘*quod dictum...*’ as a relative clause more straightforward.

in quo proxime: Contrary to ACHARD (1994), I prefer the reading ‘*quo in proxime*’, see at 1.27 under ‘*quo de*’.

Ac multos...longus: The *uitium* here lies not in an excess of words (*uerba*), but of content (*res*): brevity is not achieved through the simple elimination of words that are essential to form a grammatically correct, minimalized sentence (like connectives, adverbs etc.), but by making the content more compact by compressing several ideas into one (cf. recommendation (v): *si ita...intellegatur*). See also LAUSBERG §§303; 305.

longissimi: here ‘very lengthy’, meaning ‘speaking for a very long time’ (*OLD* s.v. *longus* 8.b; *TLL* s.v. *longus* I.B.2.a).

‘Accessi...domi negauit esse’: This example (not found in *Rhet.Her.*1.14) strongly recalls the famous anecdote of P. Scipio Nasica and the poet Q. Ennius found in *Cic.de Orat.*2.276 (on which see LEEMAN/PINKSTER/*ALII* (1981-2008), iii 312-313) in the treatment of wit in speeches.

*Rhet.Her.*1.14, in the corresponding passage, provides an example including Greek cities (Athens, Megara). THIELMANN (1880), 331, compares this verse in *Rhet.Her.*1.14 with *Pl.Mil.*439 (=2.5.29), so it does not necessarily need to come from a Greek source, but could come from *fabula palliata*, Roman comedy with a Greek setting. In the anecdote about Scipio it is an *ancilla* who opens the door, while in the example quoted in *Inu.* it is a

puer: this difference could suggest that although both stories are similar, they are not identical, even if one were inspired by the other.

Note that in *de Orat.*2.326-327 Cicero will use the same example (*Ter.An.*51) as in *Inu.*1.27, so one may wonder whether this is a pure coincidence or whether Cicero for this part of *de Orat.*2 took his inspiration from *Inu.*, from its own source, or from a very similar source.

tot res...dicere: Indeed, this example includes only the minimum number of words required to express every single step of the content in question: it only comprises verbs and (both direct and indirect) objects, but no ‘extras’ like adverbs, conjunctions, pronouns, etc.

satis fuit dixisse: ‘*satis fuit*’ could be either taken literally (‘it was sufficient’) or interpreted as having a connotation of the unreal (‘it would have been sufficient’, see *K.-St.*II,§44.2.b). Infinitive perfect ‘*dixisse*’ (literally: ‘to have said’ instead of ‘to say’) seems striking here, but can be explained as an adjustment of the tense of the infinitive to the tense of ‘*satis fuit*’ (*K.-St.*II,§33.10 at p.135: ‘eine formale Ausgleichung des Tempus’), which is found with past forms of *oportet*, *conuenit*, *melius est*, and similar expressions. See also *H.-Sz.*§193.

SCHÜTZ (1814) deletes ‘*quia satis...negauit esse*’, calling it an ‘*ineptum glossema*’ (p.218 n.2). The rarity and complexity of ‘*satis fuit*’ followed by infinitive perfect, however, makes it unlikely that this is a gloss: one would rather have expected a more straightforward ‘*satis fuit dicere*’ in such a case.

hoc quoque in genere: It is difficult to see what this is supposed to mean, since ‘*quoque*’ and ‘*hoc (...) in genere*’ seem to conflict; THIELE (1889), 31 n.16, deletes these words as an interpolation. ACHARD (1994) translates ‘pour la brièveté *comme pour les autres qualités*’ (my italics), HUBBELL (1913) ‘in this section of the speech too’. Neither seems correct: ‘les autres

qualités’ is not supported by the Latin ‘*hoc (...) in genere*’ (‘in this kind’), all the more since ‘*breuitatis*’ goes with ‘*imitatio*’, not with ‘*genere*’; nor does Cicero refer to Narrative as opposed to other *partes orationis*: in such a case one would have expected ‘*hac quoque in parte* [sc. *orationis*]’. ‘*Genere*’ must rather be referring back to *genus narrationis*, and at the beginning of 1.28 Cicero mentioned the first *genus narrationis* by describing its content (see above under ‘Nunc...expositionem’). This still leaves ‘*quoque*’ problematic. A possible explanation might be that the reader has by now forgotten that Cicero was speaking about the first *genus narrationis* and that this treatment of *breuitas* would in fact apply to every type of *narratio*, and so Cicero might have included ‘*quoque*’ to *stress* that this actually applies to the first *genus narrationis* too. Given the problematic nature of these words, it seems unlikely that they are a later addition, so it appears better not to delete them.

supersedendum: ‘*Supersedere*’ appears only in *Inu.* (and *Rhet.Her.*) and only once in *Cic.Fam.* 8.8.10 (October 51 BC) and 4.2.4 (April 49 BC), but nowhere else in Cicero’s works.

TESTIMONIA:

Aperta...transeat: ≈Alb.*Rhet.*22p.536,8-12. *Probabilis...accommodabitur*: ≈Alb.*Rhet.*22p.536,12-17.

COMMENTARY:

Aperta...esse: On the virtue of clarity in the Narrative, cf. also: [Arist.]*Rh.Al.*1438a22-37; Arist.*Rh.*1416b35-36; Cic.*de Orat.*2.328-329; *Orat.*122; 124; Quint.*Inst.*4.2.36-39; Iul.Vict.*Rhet.*p.72,23-73,2; Anon.Seg.79-88; 104; Iul.Sev.*Rhet.*6p.357,18-21; 6p.358,2-7. Since there is no noun ‘*apertas*’ (‘*apertio*’ is not used in this sense, see *TLL* s.v. *apertio*), the noun normally found in Latin rhetorical treatises *after Cicero* to refer to clarity is ‘*perspicuitas*’ (cf. e.g. Quint.*Inst.*4.2.64)—in *Rhet.Her.*4.17 it is called ‘*explanatio*’. According to *HWRh* s.v. *Perspicuitas* at 818, George of Trebizond (15th century) first used ‘*claritas*’ in this sense (for the normal use of ‘*claritas*’ until then, see *TLL*). The corresponding *uitium* is *obscuritas*.

Besides brevity, clarity of speech (not only in the *narratio*) was considered by the Stoics to be one of the important virtues of speech, cf. e.g. D.L.7.59 (Ἀρεταὶ δὲ λόγου εἰσὶ πέντε· Ἑλληνισμός, σαφήνεια, συντομία, πρόπον, κατασκευή); see also ATHERTON (1988); LEVENE (2004), 144. Indeed, clarity does not only apply to *narratio* (which, as a *pars orationis*, Cicero here treats under *inuentio*), but also, as clarity of words (*uerborum perspicuitas*), pertains to *elocutio*, cf. e.g. Quint.*Inst.*8.2.22, who treated *rerum perspicuitas* (‘clarity of content’) in the section on *narratio* (4.2); on clarity in the context of *elocutio* (Style), see LAUSBERG §§528-537; *HWRh* s.v. *Virtutes-/Vitia-Lehre*. Already Aristotle considered clarity as a main stylistic principle in *Rh.*1404b1-4 and *Po.*1458a18. Clarity thus applies to both *uerba* and *res* (Cicero also distinguishes between *uerba* and *res* in the case of brevity, see at 1.28 under ‘Ac multos...longus’).

See also *HWRh* s.v. *Perspicuitas*; LAUSBERG §§315-321; ASMUTH (2009).

ut quidque primum...ita primum: This idea is already found in [Arist.] *Rh.Al.* 1438a27-30; cf. also Iul. Vict. *Rhet.* p.72,24. It is opposed by Quint. *Inst.* 4.2.83-84.

This phrase is quite idiosyncratic to Latin and cannot be rendered literally in good English ('just as everything will have happened first, so it will be stated first'). Its meaning is 'in the same order as..., so...'.

ut ita narrentur, ut...uidebuntur: The first 'ut' is consecutive (cf. pres. subj. 'narrentur'), the second one comparative (cf. fut. ind. 'uidebuntur'). One would, however, have expected the subjunctive to penetrate into the comparative clause here as well; see Introduction to 1.27-30.

ut gestae...uidebuntur: This corresponds to the definition of *narratio* in general (1.27: *Narratio est rerum gestarum aut ut gestarum expositio*, see note *ad loc.*), but also reminds one of *historia* and *argumentum* from the *tertium genus narrationis* in 1.27; the return to the first *genus narrationis* at the beginning of 1.28 makes clear, however, that the third *genus* is not meant here.

Hic...conseruanda: Cicero gives six further recommendations, each starting with 'ne'. He advises: (a) not to state anything in a confused way (*ne quid perturbate* [sc. *dicatur*]); (b) not to state anything in a complicated way (*ne quid contorte dicatur*); (c) to stick to the subject (*ne quam in aliam rem transeat*); (d) not to go back too far (*ne ab ultimo repetatur*); (e) not to proceed too far (*ne ad extremum prodeatur*); (f) not to omit anything relevant (*ne quid quod ad rem pertineat praetereatur*).

As Cicero points out (*et omnino, quae precepta de breuitate sunt*), some of these precepts are already found among his recommendations concerning brevity, with quite similar phrasing:

clarity (1.29)	brevity (1.28)
(c) <i>ne quam in aliam rem transeat</i>	(iv) <i>si nullam in rem aliam transibitur</i>
(d) <i>ne ab ultimo repetatur</i>	(i) <i>si, unde necesse est, inde initium sumetur et non ab ultimo repetetur</i>
(e) <i>ne ad extremum prodeatur,</i>	(iii) <i>si non longius quam quo opus est, in narrando procedetur</i>

See also at 1.28 under ‘si unde...incipiatur’.

ne quam...transeat: The same idea is already found in [Arist.] *Rh.Al.* 1438a31-32.

transeat...prodeatur...praetereatur: an accumulation of verbs of going used in a figurative sense to describe a movement in thoughts. See also at 1.27 under ‘digressio’.

et omnino...conseruanda: On ‘*omnino*’, see Introduction to 1.27-30.

Cicero here only says that the rules given about *breuitas* should still be respected when it comes to *claritas*. But he does not give any explicit hierarchy of *breuitas*, *claritas*, and *probabilitas*, in contrast e.g. to Anon.Seg.79 (and 104), where *claritas* is considered more important than *breuitas* (in Anon.Seg.104 the source is Harpocration; for 79 the *Anonymus*’ source is not clear: PATILLON (2005), 83 n.1, declares it impossible to know who is meant by ‘φασι’, but takes the lack of expressed subject of this verb to mean that the view was a traditional one; DILTS/KENNEDY (1997), 25 n.85, wonder whether it might be the Theodorean). Quintilian’s definition of *breuitas* in *Inst.* 4.2.43 is ingenious in this respect: *Nos autem breuitatem in hoc ponimus, non ut minus sed ne plus dicatur quam oporteat*; in this way, *breuitas* will never be detrimental to *claritas*—which it can be, as he notes in 4.2.44. In 4.2.47 he also stresses that *probabilitas* is more important than *breuitas*. Thus, *breuitas* seems to hold the lowest rank for Quintilian; similarly: Arist. *Rh.* 1416b29-1417a2; Cic. *de Orat.* 2.326-328.

As LAUSBERG §296 points out, each of the three *virtutes narrationis* is limited by the other two: *breuitas* must not significantly decrease *claritas* and *probabilitas*, *claritas* not *breuitas* and *probabilitas*, and *probabilitas* not *breuitas* and *claritas*. On the other hand, the plausibility of a scenario does not always depend on the length (or brevity) with which it is described; it seems that it is rather brevity and clarity that are more closely linked (which is further supported by the fact that Cicero gives three identical recommendations for both brevity and clarity, see above). But since all three are interlinked to a certain degree, it seems difficult to establish a definite hierarchy among them that would always apply.

See also LAUSBERG §318.

obscuritate narrationis: On the dangers of obscurity in the *narratio*, cf. Cic.*de Orat.*2.329. Cf. also Anon.Seg.80-88, with a subdivision into obscurity resulting from content and from expression: indeed, a Narrative might be difficult to understand because its content (*res*) is difficult or unclear or because the orator makes an unfortunate choice of words (*uerba*) that are difficult or ambiguous. As Cicero only treats clarity of expression immediately after ‘*obscuritate narrationis*’, he seems, up to here, to limit ‘*obscuritate narrationis*’ to obscurity of content. But the choice of the adjective ‘*dilucidis (uerbis)*’ in the following sentence shows that the light-darkness metaphor is then extended to clarity/obscurity of expression.

By contrast, in *de Orat.*2.326 Cicero warns the reader that brevity can also be detrimental in that it can cause *obscuritas* and impede the Narrative’s pleasant nature and its potential to persuade; similarly, Arist.*Rh.*1416b29-1417a2. LEEMAN/PINKSTER/*ALII* (1981-2008), iv 37, also compare Hor.*AP.*25-26: ...*brevis esse laboro | obscurus fio*... Quintilian in *Inst.*4.2.64-65 criticises how ‘some’ (*quidam*) thought that the truth had to be obscured in some cases and therefore that one should not aim for clarity in the Narrative.

Ac uerbis...utendum est: So far, Cicero has written only about obscurity/clarity of content; now, clarity of expression follows. This dichotomy of clarity of content (*res*) and expression (*uerba*) is already fully developed in [Arist.]*Rh.Al.*1438a26-37, which suggests that this was a tradition running through (at least some) Greek Hellenistic rhetorical treatises, as it is also found e.g. in Anon.Seg.80-88. On clarity of expression, cf. [Arist.]*Rh.Al.*1438a33-37; Quint.*Inst.*4.2.36; Iul.Vict.*Rhet.*p.72,23-73,2; Mart.Cap.p.193,16-17. On *res/uerba*, cf. Quint.*Inst.*3.5.1: *Omnis autem oratio constat aut ex iis quae significantur aut ex iis quae significant, id est rebus et uerbis*; see also e.g.: *HWRh* s.v. *Res-uerba-Problem*; KRAUS (1987); COLE (1991), 12-19.

in praeceptis elocutionis: another passage suggesting that Cicero wanted to write on all *partes artis*; see Chapter 1.

Probabilis erit narratio: The non-objective *narratio* forms the basis of the orator's Argumentation section (cf. Cic.*Part.*31: *narratio est rerum explicatio et quaedam quasi sedes et fundamentum constituendae fidei*) and therefore must be plausible, otherwise the success of the Argumentation (and hence of the entire speech) will be doomed right from the beginning. Plausibility and thus credibility of the *narratio* are therefore of crucial importance.

The virtue of *narratio probabilis* is already found in Greek treatises before Cic.*Inu.* and *Rhet.Her.* This idea can be traced as far back as [Arist.]*Rh.Al.*1438a21-26 and 1438b1-13 and Arist.*Rh.*1416b36-1417a2. It will also have been found in no longer extant Hellenistic rhetorical treatises: the Hellenistic source shared by Cic.*Inu.* and *Rhet.Her.* for much of the material certainly included it, since the triad brevity/clarity/plausibility is found in both Cic.*Inu.* and *Rhet.Her.*, which, however, use a slightly different terminology: in Cic.*Inu.*1.28-29 it is called '*probabilis*', in *Rhet.Her.*1.16a '*ueri similis*'. Both terms have exactly the same meaning here, as is shown on the one hand by the similarity in content of both passages

and on the other by the last sentence of Cic.*Inu.*1.29: *Ac ueri quidem similis ex his rationibus esse poterit*. A further confirmation is provided by Quint.*Inst.*4.2.31, where Quintilian indicates synonymous variants in Latin for the triad brevity/clarity/plausibility: *Neque enim refert an pro lucida perspicuam, pro ueri simili probabilem credibilemue dicamus*. Indeed Cicero himself uses all three terms in his rhetorical works to refer to the same *uirtus narrationis*:

- ‘*probabilis*’ (or its adverb) is found in: *Inu.*1.28-29, *de Orat.*2.328, *Orat.*122, *Part.*31-32;
- ‘*ueri similis*’ is found in: *de Orat.*2.80, 2.83 (NB: in *de Orat.*2.328 Cicero will replace it by ‘*probabilis*’);
- ‘*credibilis*’ is found in *Orat.*124 (NB: in *Orat.*122 Cicero uses ‘*probabiliter*’) and *Top.*97.

Thus the meaning of this concept seems to oscillate between ‘probable’ or ‘plausible’ (‘*probabilis*’), ‘seemingly true’ or ‘plausible’ (‘*ueri similis*’), and ‘credible’ (‘*credibilis*’), and we may suppose from this and already from the different Latin translations found in Cic.*Inu.*1.28-29 (‘*probabilis*’) and *Rhet.Her.*1.16a (‘*ueri similis*’) that Roman authors like Cicero found it difficult to decide which nuance to choose when translating the corresponding Greek term (πιθανός? cf. e.g. Ruf.*Rh.*17, Theon *Prog.*p.79,28, and Anon.Seg.63; MOUSSY (1994) sees the Aristotelian ‘εἰκός’ in the background; this ‘εἰκός’ might, however, be pre-Aristotelian, see e.g. KRAUS (2006), who has a useful analysis of the meaning and concept of ‘εἰκός’ in early Greek rhetoric and philosophy; on Cicero’s knowledge of Aristotle’s works, or lack thereof, see Chapter 5)—or it might be considered another instance of the *patrii sermonis egestas* (Lucr.1.832; 3.260). This obviously causes a similar problem for an English translation of this concept: it seems impossible to find an English term that would be completely satisfying in this respect. Considering the more modern mathematical connotation that ‘probable’ has because of the theory of probability, ‘plausible’ might be a better choice (*OED* s.v. *plausible* A.4.a: ‘Of an argument, an idea, a statement, etc.: seeming reasonable, probable, or truthful; convincing, believable’). Nevertheless, it is worth keeping in mind that the Latin term ‘*probabilis*’ can also mean ‘worthy of approval, commendable,

acceptable' (*OLD* s.v. *probabilis* 1), which could also apply to *narratio*: '*probabilis*' is indeed very rich in connotations in this context. MOUSSY (1994) analyses the problem of '*probabilis*'/'*ueri similis*'/'*credibilis*' in rhetorical vocabulary and notes that the meaning of '*probabile*' will be different in *Inu.* 1.46. and again in 1.47 (and 1.79). Similarly, GLUCKER (1995), who analyses the use of '*probabilis*' and '*ueri similis*' in Cicero's philosophical and rhetorical works, points out such inconsistencies in *Inu.* (esp. pp.128-129). On '*ueri simile*' in Cicero and Augustine, see FUHRER (1993). See also at 1.28 under '*breuis...aperta...probabilis*'.

Aristotle (*Rh.* 1416b20) thinks that it is inherent to an artful speech to demonstrate something that seems implausible (in other words: to make something true, but incredible, sound plausible; cf. Quint.*Inst.* 4.2.34; Anon.Seg.41), i.e. his point of view is in a certain way the opposite of what Cicero states here: Aristotle requires the orator to prove that something true which *seems* unlikely is actually true, while Cicero requires him to make something which *is* untrue seem true or likely. Compare also Aristotle's views on plausibility in the context of poetics in *Po.* 1460a26-27: προαιρεῖσθαι τε δεῖ ἀδύνατα εἰκότα μᾶλλον ἢ δυνατὰ ἀπίθανα.

On the virtue of Plausibility in the Narrative, cf. also: [Arist.] *Rh.* *Al.* 1438a21-26; 1438b1-13; Cic.*de Orat.* 2.328; *Orat.* 122; 124; *Part.* 31-32; Quint.*Inst.* 4.2.52-60; Sulp.Vict.*Rhet.* 20p.323,16-33; Iul.Vict.*Rhet.* p.73,3-18; Anon.Seg.89-100; 103; Iul.Sev.*Rhet.* 6p.357,24-26; Mart.Cap.p.193,17-18. See also LAUSBERG §§312; 322-334.

si personarum...accommodabitur: Most points listed here are also found in Cic.*Part.* 32 and Sulp.Vict.*Rhet.* 20p.323,16-20. As becomes clear in Iul.Vict.*Rhet.* p.73,3-6, most of them correspond to *circumstantiae* (περιστάσεις: *quis?* *quid?* *quando?* *ubi?* *cur?* *quemadmodum?* *quibus adminiculis?*; on their 'topical' character, see PERNOT (1986), 263-265): in the case of this passage of *Inu.* the questions would be: *quis?* *cur?* *quemadmodum?* *quando?* *ubi?*

Quint.*Inst.*4.2.36 has things, persons, times, places, and causes. Mart.Cap.p.194,1-2 lists *persona, causa, locus, tempus, materia*, and *res* as *narrationis elementa*, while person, thing, place, manner, time, and cause are found in Anon.Seg.90.

si causae factorum exstabunt: cf. [Arist.]*Rh.Al.*1438b1-3.

spatii: probably ‘temporal space’ (a period of time instead of a precise moment) rather than ‘local space’, cf. ‘*spatia temporum*’ in the corresponding passage in *Rhet.Her.*1.16.

morem: The readings in the mss. vary between ‘*morem*’ (*S*²*m*², Mar.Victorin.*Rhet.*1,21p.95,46) and ‘*rumorem*’ (*HVPS*¹*m*¹*fh*, Alb.*Rhet.*22p.536,17; supported by PHILIPPSON (1918), 628). ‘*Morem*’ seems preferable for two reasons. First, in this context ‘*morem*’ is the *lectio difficilior* (cf. the combination with ‘*uulgi*’). Second, in a list of three elements in which the first is the *dramatis personae*’s *natura* and the third is the audience’s *opinio*, it makes better sense to have in second position an element to which the matter at stake can be accommodated: it can be accommodated to the *mos* of the people, but not to the *rumor* of the people, since *rumor* often develops a life of its own and is thus out of the orator’s control.

TESTIMONIA:

cum obsit...prosit: ≈Fortun.*Rhet.*2.16 (*Quando non...prosunt*); *Non loco...res postulat:*
 ≈Fortun.*Rhet.*2.17 (*Quando non loco...res postulat*); *Non quemadmodum...neglegenter:*
 ≈Fortun.*Rhet.*2.17 (*Quando non quemadmodum...neglegenter*).

COMMENTARY:

Illud...narrando: This entire passage is about the *uitia narrationis* and about the question when to include a *narratio* and when to leave it out (*ne...interponatur*). This question is discussed elsewhere in: Cic.*de Orat.*3.330; *Part.*15; Sen.*Con.*2.1.36 and Anon.Seg.113-115 (on Apollodorus of Pergamum and Theodorus of Gadara); Quint.*Inst.*4.2.4-23; Anon.Seg.116-123; Aps.*Rh.*3.2; Iul.Vict.*Rhet.*p.74,11-24; Fortun.*Rhet.*2.16; Iul.Sev.*Rhet.*7p.358,14-24.

Cicero here lists four *uitia narrationis*:

1. counter-productivity (cf. Cic.*de Orat.*2.330; Quint.*Inst.*4.2.66-82; Aps.*Rh.*3.2; Fortun.*Rhet.*2.16; Anon.Seg.66; 117; 120; Iul.Sev.*Rhet.*7p.357,14-18);
2. inefficiency (cf. Cic.*de Orat.*2.330; Quint.*Inst.*4.2.4-23; Fortun.*Rhet.*2.16; Anon.Seg.66; 119; 130; Iul.Sev.*Rhet.*7p.357,18-22; see also LAUSBERG §308);
3. misplacement (cf. Fortun.*Rhet.*2.17);
4. not matching the requirements of the Cause.

non loco: It is not immediately clear whether ‘*suo*’ or ‘*alio*’ is to be supplied. Only later in 1.30 does Cicero clarify that ‘*suo*’ is to be understood: ‘It is said ‘*non loco*’, when it is placed not in that Part of the Speech in which the matter requires <it to be>.’

Quod cum accidet: Notice the variation in the tense a little later in 1.30: ‘*Quod cum accidit*’. For the first instance, some of the mss. (*VS²mh*) read ‘*accidit*’. Although one might consider using the same tense twice for structural reasons (when the reader reaches the second instance, the first is still in his mind), ACHARD (1994) seems right to prefer future ‘*accidet*’ in the first case. Indeed, in the first instance, the verb of the main clause (*oportebit*) is also in the future tense, whereas ‘*supersedendum est*’ is present tense. The future is not unusual at all: in fact, Cicero uses future tense in the passage on the *narratio* to a conspicuously high degree in comparison with the rest of his treatise. There is no special reason for using future in the *narratio* passage, since *every* precept given in *Inu.* is intended for *future* use by the orator. It is uncertain whether the use of the future tense in 1.30 can be claimed to go back to a common source of *Inu.* and *Rhet.Her.*, as no treatment corresponding to 1.30 is found in *Rhet.Her.*

membratim...accommodare: The idea here is to divide the Narrative up into parts and then to have each part followed by the Confirmation (or the Refutation) of that part, so that the structure would be NC-NC-...-NC. This idea is also found in: [Arist.]*Rh.AL*.1438b17-22; Arist.*Rh.*1416b21-25; D.H.*Is.*14-15; Quint.*Inst.*4.2.85-86 (who gives Cic.*Clu.* as an example, and reports that he himself did this repeatedly as an advocate and that the judges approved of this); Anon.Seg.132-135; Long.fr.48,144-145; Iul.Vict.*Rhet.*p.73,19-74,6; Fortun.*Rhet.*2.19; Mart.Cap.p.194,3-5. Cf. also Nicol.*Prog.*p.15,16-16,1. The Greek expression is ‘μερικαὶ διηγήσεις’ (cf. e.g. Fortun.*Rhet.*2.19; Long.fr.48,145 has ‘διηγήσεις τὰς ἐπὶ μέρους’); except for Martianus Capella (who at p.194,3-5 uses the expression ‘*narrationes partiles*’, which looks like a late and unfortunate translation of the Greek expression) and one place in Quintilian (*Inst.*7.10.11: he uses the expression ‘*expositio partita*’, where ‘*expositio*’ is synonymous with ‘*narratio*’, cf. the definition of ‘*narratio*’ in *Inu.*1.27), Latin authors seem not to have forged a Latin equivalent

and instead use either a description (e.g. *interrupte narrare*, cf. *de Orat.*2.329), the Greek expression (cf. *Fortun.Rhet.*2.19), or a Greek loanword (*narrationes μερικαί*, cf. *Iul.Vict.Rhet.*p.73,20). In *de Orat.*2.329 Cicero lists *non-interruption* as one criterion for clarity of Narrative. See also LAUSBERG §292; MARTIN (1974), 81-82.

Anon.Seg. treats the questions of split Narrative and multiple Narratives separately (in 132-133 and 134-135 respectively; Theodorus of Gadara considered the possibility of several Narratives, cf. 134), so it seems that some authors at least did not consider both concepts to be equal; still, it might seem difficult to draw a clear dividing line between them.

The parts of a split Narrative are not equal to the parts of the Narrative (beginning, middle, end, etc.; see e.g. LAUSBERG §§338-347; VOLKMANN (1885), 164; MARTIN (1974), 88-89).

ut uulneri...medicamentum sit: another comparison between rhetoric and medicine. Cf. also [Arist.]*Rh.AL*1438b9-10 (where the context is also that of Narrative): **Καὶ τοῦτον μὲν τὸν τρόπον τὰς ἀπιστίας ἰασόμεθα** ('And in this way we shall heal mistrust'). Cf. also Quint.*Inst.*4.2.84 (within his treatment of Narrative in 4.2): *ut erit uulnus, ita uel currandum protinus uel, si curatio differri potest, interim deligandum*. Since several sources in this context use a comparison with medicine or a medical metaphor, one may wonder whether there had been a major tradition of this in now lost Hellenistic rhetorical sources after [Arist.]*Rh.AL* or whether it had already been a standard feature even before [Arist.]*Rh.AL*: rhetoric was indeed already linked to medicine in its very early stages, e.g. via Gorgias, whose brother had been a doctor; see at 1.6 under 'medici' (with further references to rhetoric/medicine) [n.i.]. Moreover, just as there was a link between philosophy and rhetoric in antiquity, there also was one between philosophy and medicine, see e.g. FREDE (1987).

aut ab iis...docere: a view already found in Arist.*Rh.* 1416b25-29.

alio pacto: a rhetorical variation of the earlier '*alio modo*'.

(res) potulat: Typo (*recte: postulat*) in ACHARD (1994), missing in 'CORRIGENDA' (after p.244).

cum de dispositione dicemus: another passage suggesting that Cicero intended to write about every *pars artis* and not only about *inuentio*. See Chapter 1.

uitium: Just as in his treatment of the *exordium*, Cicero here discusses the *uitia*-to-avoid at the end of the passage on the *narratio*.

torquenda: '*Torquere*' usually carries the connotation of twisting or bending *forcefully*.

Ac...uidetur: Compare the formulaic rounding-off of the passage on the *exordium* (1.26):

Ac de exordio quidem satis dictum est.

Introduction to 1.31-33

The thematic section on *partitio* has the following structure:

- (i) function of *partitio* (1.31);
- (ii) the two *partes partitionis* (1.31-33):
 - a. one *pars* defines the areas of agreement and disagreement between the opposing parties (1.31);
 - b. the other *pars* provides a kind of table of content for the Argumentation section of the speech (1.32-33); this part must follow three *virtutes*:
 - 1. *brevitas*;
 - 2. *absolutio*;
 - 3. *paucitas*; in the context of *paucitas*, Cicero makes an excursus on the subdivision into *genera* and *species*.

The excursus on *genera* versus *partes* has a philosophical background, not a rhetorical one (see at 1.31 under ‘Recte...partitio’). As it is not found in *Rhet.Her.* (which tends to avoid such meta-rhetorical discussions, which were surely not found in classroom rhetoric either), it seems likely that Cicero has it from a different source and that it was not included in the common source. Indeed, Cicero had room for such a discussion here, given that the rest of the treatment of *partitio* is rather short otherwise and that the treatment of *partitio* including this discussion still remains the shortest treatment of any part of the speech in *Inu.*

Unlike Fortun.*Rhet.*2.21, Cicero nowhere discusses whether it is necessary to include a *partitio* in every speech. The phrasing ‘*Recte habita in causa partitio*’ (1.31) rather sounds like an affirmation that a Partition is made for every Cause.

The treatments of Partition in *Cic.Inu.* 1.31-33 and *Rhet.Her.* 1.17 are the oldest ones to survive: neither [Arist.] *Rh.Al.* nor Arist. *Rh.* lists Partition as a separate part of the speech. Since both *Cic.Inu.* and *Rhet.Her.* identify it as such and since the precepts they give are quite similar, their treatment must (at least in part) go back to a common source; given the differences in Latin terminology between both treatises (*Cic.Inu.*: ‘*partitio*’; *Rhet.Her.*: ‘*diuisio*’), it seems that this common source is a lost Greek Hellenistic one (see below), perhaps Hermagoras (cf. *Tac.Dial.* 19.3 with note at 1.97 under ‘Hermagoras...ponit’).

Both *Cic.Inu.* and *Rhet.Her.* subdivide Partition into two parts: the first one shows where both parties in a trial agree and where they disagree, the second one gives an overview of what the orator is going to say in the subsequent Argumentation.

The first part brings in information that the orator had dealt with when he was preparing his speech and, *in his mind*, was anticipating the clash between both parties: this was the function of the *iudicatio* scheme (see *Inu.* 1.18-19a with notes *ad loc.*), which is closely linked to the theory of Issues. Both the *iudicatio* scheme and the theory of Issues seem to have been systematised by Hermagoras of Temnos after the middle of the 2nd century BC, although the ideas underlying them are much older and can be traced back as far as Antiphon. The first part of Partition hence seems to presuppose knowledge of both the *iudicatio* scheme (cf. also the shared use of the Orestes case in 1.18-19a and 1.31) and the theory of Issues, which leads to the question of whether Hermagoras introduced this part of Partition (see Chapter 9) and whether he himself may have made a separate *pars orationis* of Partition (see PETERS (1907), 31-34; MATTHES (1958), 201-203; CALBOLI (1993), 217-218). Indeed, *Tac.Dial.* 19.3 includes ‘*multarum diuisionum ostentatio*’ among the characteristics of the treatises by Hermagoras and Apollodorus. I do, however, not wish to follow CALBOLI (1993), 217, in taking this passage in Tacitus to prove *conclusively* that *partitio/diuisio* goes back to Hermagoras’ doctrine: it is not clear whether ‘*diuisio*’ there refers to a Part of the Speech (like the preceding ‘*principiorum*’ and ‘*narrationis*’ do) or not (strictly speaking,

‘*argumentorum*’ does not refer to a *pars orationis*, but to the *content* of the section Argumentation, which is subdivided into Confirmation and Refutation). Indeed, I take it rather to refer to Hermagoras’ manifold “sophistical” subdivisions e.g. in the theory of Issues: there, ‘*multarum*’ and ‘*ostentatio*’ make much better sense than for Partition, where both Cicero and the *Auctor* recommend that one be very brief when giving an overview of the points that the orator is going to treat in his speech. Furthermore, Tacitus is unclear about whether all points of his criticism apply to both Hermagoras and Apollodorus or whether some points (e.g. the one about the *diuisiones*) apply to only one of them (‘*et*’ could here mean ‘and/or’). Given that no Hellenistic rhetorical treatise, including Hermagoras’, is extant, it seems to me impossible to say conclusively whether any credit does indeed go to Hermagoras himself here.

For the second part of Partition, one can find traces of the ideas that underlie this part in [Arist.]*Rh.*1445b34-36 (about divisions of a speech on a certain subject) and Arist.*Rh.*1414a30-36 and 1415b5-8 (on stating something first before embarking on a detailed proof); see also PETERS (1907), 23-25 n.2. One must keep in mind, however, that neither author identifies such an overview as a separate Part of the Speech, so this, too, must be considered a Hellenistic innovation.

Partitio is the *pars orationis* treated in *Inu.* least commonly accepted in later treatises. Indeed, it is not recognised among the *partes orationis* in D.H.*Lys.*16-19, Anon.*Seg.*1, Aps.*Rh.*, [Hermog.]*Inu.* One passage from D.H.*Isoc.*4 should, however, be quoted here: τάξις δὲ καὶ μερισμοὶ τῶν πραγμάτων...πολλῷ μείζονά ἐστι παρ’ Ἰσοκράτει καὶ κρείττονα. It is not entirely clear what kind of ‘divisions’ we have to understand by ‘μερισμοὶ’ (*TLL* s.v. *partitio* indicates ‘μερισμός’ as a translation for ‘*partitio*’); we have the additional problem that a Greek rhetor and historian active in Rome from 30 to 7 BC (cf. *RE* V 1 s.v. *Dionysios* 113) applies this term to an Athenian orator who was active before Aristotle was born and who might not have known the concept of μερισμός/*partitio* at all

as presented in *Inu.* and *Rhet.Her.* The first type of προκατασκευή in [Hermog.]*Inu.*3.2.1-10 is not entirely identical to *partitio*, but comes quite close.

Among Latin rhetoricians, Cicero does not include it among the *partes orationis* in his later treatises (*de Orat.*2.315b-332, *Orat.*122, *Part.*4, *Top.*97-98; contrast, however, the brief reference in *de Orat.*2.80; *de Orat.*2.331 ‘*ut causa...ueniat*’ probably refers to *propositio*). Quint.*Inst.*3.9.1-4 rejects it as a distinct *pars orationis* (see ADAMIETZ (1966) on 3.9.2). According to Sulp.Vict.*Rhet.*16p.322,4-8 some authors include it among the Parts of the Speech, while others do not; he himself seems to treat *partitio* as a *pars orationis* in 21p.323,34-324,14 between his treatments of *narratio* and *argumentatio*. Iul.Vict.*Rhet.* includes *partitio* among the *partes orationis* in p.2,10-12, but not in p.67,18-19. Fortun.*Rhet.* in 2.12 first gives a list of four *partes orationis*, but then says that some authors also included other parts, among which we find *partitio*; however, he will treat *partitio* in 2.21-22, i.e. between *narratio* (2.16-20) and *argumentatio* (2.23-30), giving the impression of including it among the *partes orationis* on second thoughts. Iul.Sev.*Rhet.* does not mention *partitio*, while Mart.Cap. does so in p.174,21-22, but not in p.192,2 (where he replaces it by ‘*propositio*’, but then goes on in p.194,11-196,12 to treat *propositio* and *partitio* between *narratio* and *argumentatio*). Cassiod.*Inst.*2.2.9 (whose phrasing makes his dependence on Cic.*Inu.*1.31 clear) and Alb.*Rhet.*19p.534,26-27 (whose list of Parts of the Speech is identical to that in Cic.*Inu.*1.19) recognise it as a *pars orationis*; Isid.*Orig.*2.7.1 does not.

See also CALBOLI MONTEFUSCO (1979), 387-390 (a helpful discussion of the evolution of *partitio*).

Further treatments of *partitio*:

[Cic.]*Rhet.Her.*1.4; 1.17; 3.8; 3.13; Cic.*de Orat.*2.80; Quint.*Inst.*3.9.1-4; 4.5;
Mar.Victorin.*Rhet.*1,22-23p.97,1-104,52; Sulp.Vict.*Rhet.*21p.323,34-324,14;
Iul.Vict.*Rhet.*p.62,22-67,20; Fortun.*Rhet.*2.21-22; Mart.Cap.p.195,12-196.12;

Cassiod.*Inst.*2.2.9; Alb.*Rhet.*23p.536,18-32. Cf. also: [Arist.]*Rh.*1445b34-36; Arist.*Rh.*1414a30-36; 1415b5-8; Cic.*Top.*26-34.

General literature:

HWRh s.v. *Partitio*; LAUSBERG §§347; 671; VOLKMANN (1885), 167-175; MATTHES (1958), 201-203; MARTIN (1974), 91-95; MONTEFUSCO (1987).

Comparison of Cic.*Inu.*1.31-33 with *Rhet.Her.*1.17:

See also: HERBOLZHEIMER (1926), 413-414; ADAMIETZ (1960), 36-38.

Compared to previous thematic sections of *Inu.*, the one on *partitio* is strikingly different from its corresponding passage in *Rhet.Her.*

First, there is a clear difference in terminology: to Cicero's '*partitio*' corresponds '*diuisio (causarum)*'. The word '*diuisio*' is found nowhere in *Inu.* By contrast, '*partitio*' is found in *Rhet.Her.*1.22, where '*partitio legitimae constitutionis*' refers to the 'subdivision' *translatio* of the *constitutio legitima* and is hence used in a sense entirely different from that in *Inu.*1.31-33. '*Diuisio*' is found in Cic.*de Orat.*2.50; 3.110; 3.119; *Top.*28-36; 83. However, in none of these passages does Cicero use '*diuisio*' to denote a *pars orationis* corresponding to '*partitio*' here in *Inu.*

Second, *Inu.* and *Rhet.Her.* treat Partition with a noteworthy difference in the degree of detail provided: the treatment in *Inu.* is much longer and more detailed. Either Cicero added original ideas or he took them from an additional source; as his excursus on *genera* vs. *partes* in 1.32b-33a goes back to at least one additional source of a philosophical background, it cannot be ruled out that Cicero may have used a (now lost) additional rhetorical source for his treatment of Partition (similarly, ADAMIETZ (1960), 38).

Third, compared to previous sections, there is a strikingly low level of literal correspondences, see Appendix sub Partitio (i), where only such passages are indicated.

Compared to the length of Cicero's treatment of Partition (1.31-33), these similarities are noticeably few in number (similarly: HERBOLZHEIMER (1926), 414). Furthermore, the similarities (or identical passages) could be explained by the fact that in most cases, there is hardly any way of expressing this content in different words (cf. e.g. the use of '*conuenire cum aliquo*').

In conclusion, one can say that, regarding *partitio*, both works differ quite substantially in terminology and degree of detail. There seem to be three possible explanations for this:

1. If both authors relied on the same written source, at least one of them changed the text significantly by shortening it (*Rhet.Her.*) or by expanding it, bringing in original ideas or ideas from one or more additional source(s) (*Cic.Inu.*).
2. Both authors relied on the teaching (or course notes) of a teacher who, over several years, changed his teaching material and even his terminology (which is not at all impossible: cf. e.g. Cicero's own change in terminology for 'Issue' from '*constitutio*' in *Inu.* to '*status*' in *Top.*⁹³; indeed, at the time of composition of *Inu.* and *Rhet.Her.*, the Latin rhetorical vocabulary was still very young and hence not yet fixed).
3. Both passages are completely independent from each other.

However, a number of points seem to support hypotheses 1 and 2:

- (i) most of the material covered in *Inu.* 1.31-33 is also covered in *Rhet.Her.* 1.17, although in a much shorter form;
- (ii) the subdivision of *partitio* into two *partes* is found in both treatises;

- (iii) the same example (Orestes) is given by *Inu.* and *Rhet.Her.*;
- (iv) although limited, there is some similar or identical phrasing in the passage on *partitio* in both works.

The key element in deciding between hypothesis 1 and 2 is the change in terminology (*'partitio'* in *Inu.* versus *'diuisio'* in *Rhet.Her.*). In the case of hypothesis 1, this change can only be explained in two ways:

1. The common source for this passage is a Greek text and both authors translated a Greek term differently.
2. The common source is a Latin one and at least one author changed the terminology (and changed it to the terminology he was used to, perhaps through his rhetorical education).

Hypothesis 2 would offer a direct explanation for the change in terminology.

TESTIMONIA:

Recte...orationem: ≈Cassiod.*Inst.*2.2.9; cf. Quint.*Inst.*4.5.3. *Recte...auditor:*
 ≈Alb.*Rhet.*23p.536,19-25. *Recte...Agamemnonem conuenit:* ≈Iul.Vict.*Rhet.*p.64,17-29.
Partes...(1.32) paucitatem: cf. Fortun.*Rhet.*2.21 (*Partitionis genera...paucitas*).

COMMENTARY:

Recte...partitio: The expression more commonly found in Cicero than ‘*partitionem habere*’ is ‘*partitionem facere*’, which is found in *de Orat.*1.22; *Ver.*2.3.183; *Sul.*13. Other collocations of ‘*partitio*’ in Cicero are: *partitionem inducere* (*Inu.*2.130), *partitionem retinere* (*Fin.*4.4), *partitione uti* (*Top.*33), *partitiones exponere* (*Part.*139), even *partitiones diuidere* (*Part.*139) and *partitionem distribuere* (*Part.*110). See also Chapter 3.

TERMINOLOGY: In rhetorical theory, ‘*partitio*’ can have different meanings; for the general one, see *TLL* s.v. *partitio* 1.: ‘i.q. *diuisio*, *distributio* (GLOSS. μερισμός) | significatur actus *partiendi uel status rei partitae*.’ It can refer to (see *HWRh* s.v. *Partitio*):

1. the third Part of a Speech, coming after *exordium* and *narratio*;
2. the subdivision (διαίρεσις) of a theme, as an aid for finding arguments (cf. Plato’s late dialogues and Aristotle’s works; see e.g. FALCON (1996); FALCON (1997); REINHARDT (2003), 206); in this meaning, ‘*partitio*’ was replaced by ‘*diuisio*’ in Cic.*Top.* (where Cicero distinguishes between the two terms as different concepts, see below) and in Latin declamations later on (cf. e.g. Sen.*Con.*1.1.13; on *diuisio* (διαίρεσις) in declamation, see e.g. BONNER (1949), 56-57, who calls it ‘the skeleton plan of the whole argument’ of a given declamation; FAIRWEATHER (1981), 152-165; FEDDERN (2013), 38-44), so that there could be no confusion between the two.

3. In *Inst.*3.9.2-3 Quintilian considers *partitio* in yet another way by defining it as a *species of dispositio*, so that it does not come under *inuentio*.
4. In the title of Cicero's work *Partitiones oratoriae*, '*partitiones*' seems to refer to the subdivisions of rhetoric into its many subdomains.

Cicero here uses '*partitio*' in the first sense indicated above. The corresponding term in *Rhet.Her.* (cf. e.g. 1.4) is '*diuisio*'. However, all subsequent Latin rhetoricians mentioning Partition will use Cicero's '*partitio*', not the *Auctor*'s '*diuisio*', cf. e.g. (only one instance per work): *Quint.Inst.*3.9.1; *Sulp.Vict.Rhet.*16p.322,6; *Iul.Vict.Rhet.*p.2,11; *Fortun.Rhet.*2.12; *Mart.Cap.*p.174,22; *Cassiod.Inst.*2.2.9; *Alb.Rhet.*19p.534,26. Perhaps this was due to the special sense that '*diuisio*' would acquire when the Latin vocabulary of declamation (cf. e.g. *Sen.Con.*) developed a couple of decades after *Inu.*

It is worth noting that the *Auctor* knew the Latin word '*partitio*': he uses it when subdividing the *constitutio legitima* in *Rhet.Her.*1.22. So it seems that either he made up his own Latin translation for the Greek word for Partition that he found in his source or that he took up a very fresh terminological 'tradition' that would not be taken up by any other Latin rhetorician whose works are extant.

In *Top.*28-34, Cicero distinguishes between '*partitio*' and '*diuisio*'. This terminological distinction seems not to have been employed at the time when *Inu.* and *Rhet.Her.* were written, as both terms there refer to the same concept of Partition as a *pars orationis*—the difference in terminology between *Inu.* and *Rhet.Her.* here is certainly due to the fact that Latin rhetorical vocabulary was still very new and thus not yet standardised. In fact, '*partitio*' and '*diuisio*' do not represent the same concepts in *Inu.* and *Rhet.Her.* on the one hand and in *Top.* on the other: in *Inu.* and *Rhet.Her.* they are rhetorical concepts, in *Top.* they are dialectical/philosophical or legal concepts; however, when Cicero makes an excursus on *genus* and *pars* in 1.32b-33a, he enters the dialectical/philosophical domain (see Chapter 5: Aristotle's *Categoriae*, *Analytica Priora*, and *Topica*—somehow, through one or

more intermediary sources—seem to be in the background here). The passage in *Cic.Top.* has a Greek philosophical background (and not a rhetorical one as in the case of Partition in *Inu.* and *Rhet.Her.*), as REINHARDT (2003), 256-262 (with further literature), shows. In *Top.* (cf. esp. 28; 30-31), *partitio* and *diuisio* are two different types of definition: *partitio* is a ‘dismemberment’ of the definiendum into constituent parts (like a body into head, shoulders, arms etc.), while *diuisio* covers all the different species (*species* or *formae*, Greek: εἶδη) of the genus (*genus*, Greek: γένος) that is the definiendum, i.e. the *diuisio* lists all the different species of the definiendum to define it through analysis and enumeration of all its subcategories while the *partitio* lists its constituent parts, which, however, cannot be said to be different subcategories: e.g. ‘head’ is not a subcategory of ‘animal’, but a part of it (*partitio*), while birds, fish, mammals etc. are subcategories of ‘animal’ but not parts of it (*diuisio*).

The combination of dismemberment with rhetorical Partition is, however, found in *Cic.Diu.Caec.*45: *Quid cum accusationis tuae membra diuidere coeperit, et in digitis suis singulas partes causae constituere?* (Cf. ‘*membra*’ in *Top.*28; 30.) Cicero here means that Verres’ advocate will make a Partition (cf. ‘*diuidere*’ and ‘*partes*’) of Caecilius’ speech to refute it point by point, which he will show with his fingers (for a similar story, cf. *Quint.Inst.*4.5.24). Unless Cicero does not use ‘*diuidere*’ as a truly technical term here, we seem to have an instance of the terminological tradition found in *Rhet.Her.* (‘*diuisio*’ instead of ‘*partitio*’) and hence further proof that both terms co-existed.

With regard to this distinction between ‘*partitio*’ and ‘*diuisio*’ in *Top.* and with regard to the discussion of subdivision of *genus* into *partes* in *Inu.*1.32, a definition of ‘*partitio*’ in *Inu.* would have been desirable. Hence, it is surprising that in contrast to Cicero’s treatment of all other *partes orationis*, only that of *partitio* does not start with a definition of the *pars orationis* in question. In fact, Cicero nowhere in *Inu.* gives a definition of ‘*partitio*’. (By contrast, *Rhet.Her.*1.4 does define ‘*diuisio*’, i.e. Partition.)

The Greek terms corresponding to ‘*partitio*’ are ‘μερισμός’ (see *TLL* s.v. *partitio*) and ‘διαίρεσις’ (see *LSJ* s.v. διαίρεσις V; Fortun.*Rhet.*2.21-22). MATTHES (1958), 201-203, followed by CALBOLI (1993), 218, identifies μερισμός only with *distributio*, the second part of Partition (cf. ‘*distributio*’ in *Rhet.Her.*1.17 and *Inu.*1.33, and ‘*expositio...distributa*’ in *Inu.*1.31), so that διαίρεσις would be situated at a higher level and be divided into what MATTHES hypothetically calls ‘διαίρεσις κατὰ στάσιν’ (cf. Anon.Seg.216: κατὰ στάσιν...ἀνακεφαλαίωσις) and ‘διαίρεσις κατὰ μερισμόν’ (these expressions are not found in our extant sources). Given that no source like Hermagoras’ treatise is extant, one must be aware that we have no direct proof for the period of *Inu.* for what the relationship would be between ‘διαίρεσις’ and ‘μερισμός’: whether the one is only a part of the other or whether they constitute synonymous concepts like *partitio* in *Inu.* and *diuisio* in *Rhet.Her.*

inlustrem...orationem: This is the function of *partitio* within the speech. ‘*Totam*’ stresses the importance of *partitio* for the structure of the entire speech, for which clarity is important, just as clarity was a crucial quality of *narratio* (cf. 1.28-29). Clarity shows that the orator has a firm grip of his Cause, with nothing to hide.

Sulp.Vict.*Rhet.*21p.324,2 notes that Cicero the orator was not as strict as Cato (probably referring to M. Porcius Cato Maior) when it came to *partitio* in speeches—whether Sulpicius had himself read speeches by Cato is unknown: this is the only place in his rhetorical treatise where he mentions Cato. (Cato had the habit of inserting excerpts from his own speeches into his works, cf. e.g. Cato *Orig.*5.3.a-g and 7.1-4 [CHASSIGNET; =*ORF*, p.62,1-66,13 and p.79,3-80,17]; Plu.*Cat.Ma.*7-9.)

inlustrem...perspicuam: Visual metaphors of opening or uncovering, light and darkness, and translucency, in connection with a Cause or speech to refer to clarity (or obscurity) or to present or reveal something, are a recurrent feature in rhetorical texts. In the following, full references will be given for Cic.*Inu.* and *Rhet.Her.* to show the

pervasiveness of these metaphors, with one example from Cicero's later works and from Quintilian to show their continuity in the rhetorical tradition:

perspicuus, perspicue, perspicuitas: cf. Cic.*Inu.*1.16, 1.20-21, 1.31, 1.62-63, 1.65-66, 1.70, 1.72-74, 1.80, 1.88-90, 1.92, 1.98, 2.6, 2.30 2.65 (*perspicua...obscura*), 2.70, 2.84-86, 2.117, 2.139-140; *Rhet.Her.*1.16, 2.11, 3.15, 4.51 (*perspicuam...dilucidam*), 4.53, 4.59, 4.62; Cic.*de Orat.*2.110; Quint.*Inst.*1.6.41;

dilucidus, dilucide: cf. Cic.*Inu.*1.16, 1.29-30, 1.49, 1.55; *Rhet.Her.*1.14-15, 1.27, 2.2-3, 2.13, 2.31, 3.8, 3.19, 3.34, 3.39, 4.17 (*apertam...dilucidam*), 4.35, 4.39, 4.51, 4.62 (*apertiore...obscurius...dilucidum*), 4.63; Cic.*Part.*19-20; Quint.*Inst.*1.5.1;

apertus, aperte, aperire: cf. Cic.*Inu.*1.23-24, 1.28-29, 1.31-32, 1.49, 1.67, 1.70, 1.81, 2.53, 2.55, 2.84, 2.127, 2.130, 2.147, 2.156 (*obscurae...apertiores...apertas obscuriores*), 2.158, 2.170; *Rhet.Her.*1.4, 1.7-9, 1.11, 1.13, 1.17, 2.3, 2.40, 2.42, 2.50, 3.7, 3.28, 4.17, 4.48, 4.54, 4.59-62; Cic.*Orat.*122; Quint.*Inst.*2.6.4;

inlustris: cf. Cic.*Inu.*1.31; *Rhet.Her.*3.32 (*inlustris...obscurus*), 4.60; Cic.*de Orat.*2.120; Quint.*Inst.*8.3.43;

obscurus, obscure, obscuritas: cf. Cic.*Inu.*1.20-21, 1.24, 1.29-30, 1.77, 1.88, 2.65, 2.116, 2.126, 2.141, 2.156; *Rhet.Her.*2.16, 2.50, 3.32, 4.44, 4.62, 4.67; Cic.*Top.*3; Quint.*Inst.*4.5.25.

Similarly: *ante oculos ponere/proponere/esse*: cf. Cic.*Inu.*1.104, 1.107, 2.78, 2.83; *Rhet.Her.*2.22, 4.45, 4.48, 4.59-62, 4.65, 4.68-69; Cic.*de Orat.*2.71; Quint.*Inst.*6.1.11;

planum facere, planus esse, plane dicere/loqui: cf. Cic.*Inu.*1.92, 1.98, 1.100; *Rhet.Her.*2.5, 2.46, 4.37, 4.54-55, 4.59, 4.69; Cic.*Orat.*79; Quint.*Inst.*4.2.64.

See also *HWRh* s.v. *Perspicuitas*; ASMUTH (2009).

Partes...duae: The answer to the question whether '*partes*' here refers to 'parts' of the same Partition or to different 'species' (cf. the use of '*partes*' in 1.27 regarding the narrative

‘species’ *fabula*, *historia*, and *argumentum*, and ‘*utroque genere partitiones*’ later in 1.31) of Partition, is not a straightforward one.

Cicero’s text does not make it clear anywhere whether the second *pars* is to follow the first one, and the expression ‘*utroque genere partitionis*’ later in 1.31 could lead to the assumption that ‘*pars*’ here means mutually exclusive species (it is noteworthy that Cicero here seems to use both ‘*pars*’ and ‘*genus*’ to refer to the same thing, although he makes a long excursus in 1.32b-33a on the importance of distinguishing between *partes* and *genera* in a Partition).

However, *Rhet.Her.*1.17 (as ACHARD (1994), 87 n.93, already noted), where this bipartite division of *partitio* is also found, makes it clear that ‘*pars*’ is to be taken as ‘part’ here: *Deinde, cum hoc fecerimus, distributione uti debemus*. Cicero’s ‘*utroque genere partitionis*’ hence seems not to rule out that these two *genera partitionis* follow one after the other. (Fortun.*Rhet.*2.21 seems to have interpreted it as different forms of Partition, as is indicated by the way he uses two ‘*partitionis genera*’ and subsequent ‘*aut... aut...*’; but *Rhet.Her.*1.17 is to be preferred as help for this interpretation, since its text is closer to *Inu.* in time, wording, and content.) Furthermore, Cicero’s phrasing ‘*tamen utamur distributione*’ in 1.33 suggests that usually *distributio* is not the only part of a Partition, i.e. that both *partes* belong to a normal *partitio*. There is even practical evidence from Cicero’s speeches that ‘*pars*’ here means ‘part’: in his earliest surviving speech, *Quinct.* (81 BC), Cicero uses both ‘parts’ of Partition in §36 by first stating where he disagrees with his opponents, before listing the three major points that he will treat in his speech:

Negamus te bona P. Quincti, Sex. Naeui, possedissee ex edicto praetoris. In eo sponsio facta est [*cf. first pars partitionis*]. Ostendam primum causam non fuisse cur a praetore postulares ut bona P. Quincti possideres, deinde ex edicto te possidere non potuisse, postremo non possedissee [*cf. second pars partitionis*].

One part of Partition (*Vna pars...habere occupatum*) is concerned with contrasting the positions of the two opposing parties by showing what they agree upon and what they disagree about, and with showing that one's own position is the right one; in order to achieve this, the orator must narrow down the audience's view to a certain point which is very probably to be identified with the Point for Decision (*iudicatio*) for the judge. In other words, this part of Partition aims to narrow down methodically the entire dispute to a single, advantageous point. Cf. also Quint.*Inst.*4.5.28. Fortun.*Rhet.*2.21 calls this part of Partition '*per seiunctionem*'.

The second part of Partition (cf. Mar.Victorin.*Rhet.*1,22p.98,30: *Alia autem partitio, quae distributio nuncupatur*; '*distributio*' is indeed the term found in *Rhet.Her.*1.17 for this part; cf. also *Inu.*1.33) provides a summary of what the orator is going to speak about, and its function can be compared to that of a table of contents in a modern book. As the audience knows from it what the orator is going to treat in his speech, they will know that the speech is reaching its End (*conclusio* or *peroratio*), once the orator has finished the last point that he had mentioned in the Partition. Quint.*Inst.*3.9.3 says of this part of Partition (listing what one is going to say) that it is *proprium partitionis* ('the proper function of Partition'). Fortun.*Rhet.*2.21 calls it '*per enumerationem*'. This part of Partition will be taken up again in the *enumeratio* part of Peroration (cf. *Inu.*1.98: *dicere quas partes exposueris in partitione de quibus te pollicitus sis dicturum...*); hence, this part of Partition plus the Argumentation plus this part of the Peroration will form the well-known, three-step precept: 'announce what you are going to tell them; tell them; recapitulate what you told them'. From a different perspective, one could also say that this part of Partition is like the introduction of the subsequent Argumentation.

It becomes clear that these two parts of Partition pursue entirely different strategies: one narrows down the entire Cause to a crucial point, the other constitutes a synopsis of the main body of the speech (i.e. of the rest of the speech, *conclusio* excluded). The use of '*Vna*' instead of '*Prima*' does not imply that there is a strict order for these parts. By contrast,

the phrasing in *Rhet.Her.* 1.17 (*Primum... Deinde...*) suggests that the *Auctor* sees a strict order here. Indeed, it makes better sense first to clarify what the positions of both parties are before the orator provides arguments in favour of his own position.

See also CALBOLI MONTEFUSCO (1979), 387-393.

ad aperiendam causam: ‘to make the Cause clear’ (*TLL* s.v. *aperio* II.2.b: *obscura inlustrare, explicare, exponere*); for the metaphor, see above under ‘inlustrem...perspicuam’. Similar collocations of ‘aperire’ in *Inu.* are: *narratio aperta* (1.28-29), *fontem aperire* (1.49), *rem aperire* (1.81, 2.84, 2.156), *definitio aperta* (2.53), *descriptio aperta* (2.55). There are no directly synonymous expressions to ‘*causam aperire*’ in *Inu.*

Other expressions in *Inu.* in which ‘*causa*’ functions like a solidified, non-abstract object include: *ad causam/causas accedere* (1.4, 2.146, 2.154), *causa nascitur* (1.10), *congruere et cohaerere cum causa* (1.19), *causam negotiis implicare* (1.20), *causam extollere/deprimere* (1.22), *causam demonstrare* (1.23), *incidere in causam* (1.32, 2.53, 2.70), *causam spectare* (2.50).

constituendam: ‘to establish’; ‘*constituere*’ here is closely linked to ‘*constitutio*’, the ‘Issue’ (cf. 1.10-17). The *constitutio* ‘establishes’ the strategy that the advocate has to use in order to choose the strongest defence (or attack) possible for the *causa*. Establishing what is being disputed in one’s favour means interpreting the case (*causa*) from the point of view of one’s own cause (also *causa*—the Roman judicial vocabulary does not clearly differentiate between the case and one’s own cause; for this reason, I keep the equally ambiguous English term ‘Cause’ as translation of ‘*causa*’; see *OED* s.v. *cause* II.7 and 8). The Issue in turn is closely linked to the *iudicatio* scheme, which becomes important for the first part of Partition (see below under ‘ponendum...iudicationis expositione’ and Introduction to 1.31-33).

For a similar use of ‘*constituere*’ meaning ‘to establish’, cf. Cic.*Diu.Caec.*10: *in constituendo accusatore*.

controuersiam: here ‘what is being disputed’ rather than the dispute (act of disputing) itself; *TLL* s.v. *controuersia* B.1: *res iudicanda, argumentum iudicii*; the same meaning is found elsewhere in Cicero e.g. in *Quinct.*71 (*De re pecuniaria cupio contendere.*—‘*Non licet.*’—*At ea controuersia est*) and *Caec.*9 (*ne diutius de controuersia nostra ac de communi iure dubitetis*).

Vna...relinquatur ostendit: What exactly is being agreed upon with one’s opponent, or how far one agrees with the opposing party, is related to the *constitutio*.

In the *constitutio coniecturalis*, both parties do not agree upon the fact that the crime took place or that it is the defendant who committed the crime. In the *constitutio definitiua*, both parties agree upon the existence and authorship of the crime, but not upon the label describing or defining the crime (e.g., ‘murder’ versus ‘manslaughter’). In the case of *constitutio generalis*, the existence, authorship, and name of the crime are agreed upon, but the way in which the crime should be looked at (e.g. whether the crime was justified) is not. The degree of agreement in these three *constitutiones* is inversely proportional to the power of the defence: the more agreement there is, the more concessions the defendant has had to make (for this hierarchy among the *constitutiones*, see the Introduction to 1.10-17 [n.i.]).

In the *constitutio translatiua*, not the crime *per se* is the object of dispute, but the judicial procedure of the Cause in question. In the *genera scriptionis* (later commonly called ‘*status legales*’), not the crime, but a text or document (e.g. a testament or the relevant law) is the object of dispute between the two parties.

in quo...occupatum: The audience will forget or fail to notice points that are disadvantageous to the orator’s Cause or that are left unmentioned or unclear. The orator

aims at reducing the audience's perception to a kind of tunnel vision where everything that is not important or beneficial to the orator's Cause is cut out. This comes very close to a concept found in declamation called '*color*'. What *exactly* '*color*' (ἡρώμα) means in declamation is difficult to determine since no ancient definition seems to be extant and since different types of supporting argument seem to come under it (in both Greek and Latin texts on rhetoric the metaphor of 'colour' seems to be a body metaphor related to one's complexion; see e.g. *HWRh* s.v. *Color*; FANTHAM (1972), 163-175). FEDDERN (2013), 44 n.211, notes that T. BURKHARD in a forthcoming book on *diuisiones* and *colores* distinguishes three types of *colores*: (i) internal factors (*colores actionis*), like motives, ignorance, depiction of character; (ii) external factors; (iii) general circumstances. See also ZINSMAIER (2009), 262: 'It is only the *colores* that give an internal coherence to the incomplete information of the *argumentum* and that make the protagonist's motives, aims, dispositions, and norms for his/her decision visible.'

On '*color*', see e.g.: BONNER (1949), 55-56; FAIRWEATHER (1981), 166-178; ZINSMAIER (2009); FEDDERN (2013), 44-59.

erimus dicturi: 'we shall be about to speak', an 'over-futurised' form. Its use can be justified in that it refers exactly to the moment in the future *before* the orator will embark on those points; normal future or normal periphrastic future (*sumus dicturi*) could not refer to this exact '*before*' moment. *H.-Sz.*§175.a) think that '*-urus ero*' is a vulgar paraphrase of normal future tense (here: *dicemus*), where present '*sum*' was changed into future '*ero*' through assimilation to *future* participle (*-urus*).

Normally, forms in *-urus*, followed by *esse*, are only followed by forms of *esse* other than future forms. As the two other verbs found in this sentence are in the present tense ('*est*' and '*ponitur*'), '*sumus dicturi*' or '*dicemus*' would have been sufficient to express future

tense. In *Inu.*, only one more instance of future participle plus future of *esse* is found, in 1.23: *si demonstrabimus ea quae dicturi erimus...*

Quintilian has only two such instances, and strikingly these two contain exactly the same form as in *Inu.* 1.23 and 1.31: ‘*dicturi erimus*’ in *Inst.* 4.3.10 (with future tense elsewhere in the sentence) and 10.7.15 (with no other future tense).

This construction of future participle plus future of *esse* is found elsewhere especially in *Cato Agr.*, *Sen. Ben.*, *Vitr.*, and *Iust. Dig.*, i.e. mainly in theoretical texts.

In about two thirds of all examples found with *PHI* (the list in NEUE/WAGENER (1892-1905), iii 162-163, is incomplete), the sentence contains another verb in the future: *Cato Agr.* 46.1; 100.1; *Cic. Inu.* 1.23; *de Orat.* 1.223; 2.99; *Fat.* 27.4; *Rhet. Her.* 3.8; *Vitr.* 5.12.5; *Prop.* 4.11.79; *Ov. Ars* 2.350; *Met.* 9.257; *Sen. Ben.* 1.10.5; 2.10.2; 2.15.1; 3.13.1; 4.40.5; 5.21.3; 5.25.1; *Dial.* 7.24.1; *Ep.* 76.27; *Quint. Inst.* 4.3.10; *Plin. Ep.* 10.78.3; *Col.* 2.15.2; 11.2.28; *Arb.* 4.3; *Cels.* 2.13.3; *Mart.* 11.5.10; *Hyg. Gr. Const. Lim.* 157.5; *Mun. Castr.* 29.6; *Iust. Dig.* 24.1.7.5; 28.2.29.13; 29.1.15.1; 37.9.1.2. The following cases include even the (also rare) future imperative: *Cato Agr.* 30.1; 40.2; 45.1; 100.1; 101.1; 161.3; *Liv.* 38.38.2; 38.38.9; *Ov. Ars* 2.287; *Sen. Ben.* 4.40.5; *Plin. Nat.* 17.55; 17.125; *Col.* 5.2.1-2.

Only about one third of all cases have no future tense elsewhere in the sentence: *Cato Agr.* 138.1; 156.3; *Cic. Inu.* 1.31; *Att.* 12.34.3; *Fam.* 9.9.3; *Rhet. Her.* 4.36; *Commentarii consulares* 2; *Var. L.* 6.88; *Vitr.* 3.5.3; 4.6.3; 5.6.6; 6.8.7; *Sen. Her. O.* 1939; *Plin. Nat.* 18.193; *Quint. Inst.* 10.7.15; *Mart.* 14.181.2; *Iust. Dig.* 5.1.18pr.1; 5.1.28.4; 13.5.5.3; 20.6.8.10; 25.4.1.10; 44.4.11.1; 50.16.71pr.3.

See also *K.-St. II*, §40.3.e).

distributa: The key term for this second part of Partition is ‘*distributio*’ (see above under ‘Partes...duae’). Through delaying ‘*distributa*’ by separating it from ‘*expositio*’ with ‘*ponitur*’, Cicero strongly emphasises this adjective.

For ‘*distribuere*’ and ‘*distributio*’, see at 1.33 under ‘aut cum...distributione’.

certas...auditor: This refers to the *rerum earum de quibus erimus dicturi*, i.e. to the points of the ‘list’ provided by the second part of Partition (and not the single point to which the first part of Partition narrows down the Cause).

quibus dictis...peroratum: cf. Quint.*Inst.*4.5.23: *Nihil enim longum uideri necesse est in quo quid ultimum sit certum est.*

peroratum: Cicero nowhere in *Inu.* (as opposed to his later rhetorical works) uses the noun ‘*peroratio*’ to designate the closing Part of the Speech (for which he uses ‘*conclusio*’), while he repeatedly uses the verb ‘*perorare*’ (in 1.31; 1.33; 1.90; 2.48). See at 1.98 under ‘*Conclusio*’.

Nunc...uidetur: The first part of Partition will be treated immediately afterwards in 1.31 (*Quae partitio quid...dictum est*), the second one in 1.32-33 (*Quae partitio rerum...(1.33) potest accidere*). The treatment of the second part is not *breuis*, as Cicero indicates here, which shows that the claim of *breuitas* here is only a persuasive means of retaining the reader’s attention and interest, see How to Persuade One’s Reader [n.i.].

haec...commodum: The orator must aim to show not that he and his opponent agree on a point, but that his opponent agrees with *his* view of the case, as this interpretation of the case is favourable to his cause. Although this does not affect the content itself (i.e. the point and agreement on the point), this tactical manoeuvre results in a shift of perspective with important consequences: the audience thinks that orator A is right and that orator B admits this and thus agrees with A, which strengthens the influence and authority of A’s account and hence adds to A’s ἡθος for the rest of his interpretation of the case.

In the example subsequently presented by Cicero, both parties agree that Clytaemestra killed Agamemnon and that Orestes killed Clytaemestra. A neutral perspective would focus on both murders equally. The difference between the positions of both parties will thus be one of perspective. For Orestes' party, it is beneficial to focus only on the first murder, hence the perspective shifts from both murders to the only one favourable to Orestes' cause: the other murder is not denied, but simply eclipsed. The other party will do the exact opposite of this. Cf. Mar. Victorin. *Rhet.* 1, 22p. 100, 95-101:

Quare accusatoris talis erit partitio: 'interfectam matrem a filio cum aduersario mihi conuenit, cum illa occiderit Agamemnonem; an a filio occidi debuerit, quaestio est.' Rei uero talis erit partitio: 'interfectum a Clytaemestra Agamemnonem conuenit; an a filio Clytaemestra debuerit occidi, quaestio est.'

See also Chapter 9 and at 1.18 under 'in facili...meum occiderat' [n.i.].

ad suae causae commodum: Since the orator must turn the subject of agreement to his advantage, '*causa*' here carries a subjective connotation and hence means 'cause', not 'case'.

Interfectam...Agamemnon conuenit: Orestes' Cause is a favourite with rhetorical treatises; see Chapter 9.

Nam hic...consult: See above under 'haec...commodum'.

ponendum...iudicationis expositione: Where exactly the *iudicationis expositio* is to be included in the speech is problematic due to a seeming contradiction in Cicero's text.

In 18-19a, Cicero explained how the *iudicatio* scheme, of which the *iudicatio* ('Point for Decision') is obviously part, works (see also Introduction and notes *ad loc.* [n.i.]). The *iudicatio* scheme is a theoretical scheme that helps the orator to establish, *in his mind*, how the

alternation of statements/answers by both sides would unfold and, hence, to find out what point will be the one that the judge(s) will have to decide. It is a mental aid, not a dialogue that will actually take place in this form during the trial: the orator will use it while preparing for the trial, as 1.19 shows:

Quare cum iudicatio et ea quae ad iudicationem oportet argumenta inueniri diligenter erunt artificio reperta, cura et cogitatione pertractata, tum denique ordinandae sunt ceterae partes orationis.

The orator establishes the *iudicatio* before ordering the Parts of the Speech (on the problematic use of ‘*ceterae*’ in this passage, see note *ad loc.*): the *iudicatio* scheme itself is *not* included in the speech. The *iudicatio*, however, is of central importance to the speech, hence the orator includes it in his speech to tell the judges which point they have to focus on, and to present, with the *firmamentum*, his own answer to them with regard to that question.

The only mention before 1.31 of where the *iudicatio* is to be included in the speech is found in 1.23, where Cicero is discussing the importance of the *exordium* for making the audience attentive: *Attentos autem faciemus...si...exponemus iudicationem aut iudicationes, si plures erunt*. So according to this passage, the *iudicationis expositio* is part of the *exordium*.

The present passage in 1.31 seems, however, to imply that the *iudicationis expositio* is part of the first *pars partitionis*. The only way I can see to solve this seeming contradiction is that the *iudicatio* is to be presented twice: once in the *exordium* and once in this part of the *partitio*. The fact that the orator wants the judges to *focus* on the point he includes in the *iudicatio* would support a double exposition of the *iudicatio*.

See also Introduction to 1.31-33.

quae quemadmodum...dictum est: Cf. 1.18-19a with Introduction and notes *ad loc.* [n.i.].

TESTIMONIA:

Quae partitio...amplectimur in partitione: ≈ Alb. *Rhet.* 23p.536,25-28. *Quae partitio...*(1.33) *transigatur*: ≈ Iul. Vict. *Rhet.* p.65,10-66,15.

COMMENTARY:

Quae partitio...expositionem: the second part of Partition mentioned in 1.31.

breuitatem, absolutionem, paucitatem: a *tricolon*; for the frequency of groups of three elements in rhetorical theory, see Chapter 2.

Breuitas is a stylistic virtue in several domains of rhetoric. In *Inu.*, Cicero expressly mentions it in the context of the *exordium* (where it aims at making the audience attentive and receptive, cf. 1.23; 1.25), the *narratio* (1.28), the *conclusio* (see at 1.109 under ‘Commotis...arescit’), and here of the *partitio*. In these Parts of the Speech, brevity aims at making the orator’s point more concise, so that the audience has a clear idea later on of what the orator wanted to say. In many passages of *Inu.*, Cicero stresses that he wants to be brief: in this way, his treatise itself should become more concise. The rhetoric of *breuitas* is one of the means of persuasion that Cicero uses to keep his reader interested in his treatise; see How to Persuade One’s Reader [n.i.]. On *breuitas*, see also at 1.28 under ‘Breuis erit’.

Regarding Partition, *breuitas* is concerned with keeping to a minimum the number of words used, *absolutio* with listing all relevant major headings (genera), *paucitas* with preventing details (species) from getting listed alongside the major headings. In this sense, *paucitas* will be concerned with brevity in content and with word choice, not with word count (with which *breuitas* is concerned). As ATHERTON (1988), 411-412, notes, the virtue of

brevity 'is the one new item the Stoics have added to Theophrastus' list [cf. Cic.*Orat.*79] of the linguistic virtues.'

*Rhet.Her.*1.17 does not use the word '*paucitas*', but includes a similar idea: *Eam plus quam trium partium numero constare non oportet*. For Partition and a list of three points, cf. also Quint.*Inst.*3.9.3; 4.5.3. Cicero in his speeches often respects the limit of three points as prescribed in *Rhet.Her.*1.17, cf. e.g.: *Quinct.*36; *S.Rosc.*35; *Man.*6; *Clu.*9; *Mur.*11. See also VOLKMANN (1885), 170-171; CALBOLI MONTEFUSCO (1979), 390-391.

Haec in hoc...tenendus est: '*in hoc genere*' here refers to the second part of Partition (notice Cicero's inconsistency here in the use of *pars* and *genus*; see also above at 1.27 under 'Eius partes...uersatur' sub 2.).

The problem addressed here is that of *res* versus *uerba*, i.e. of content versus form. Concerning this type of Partition, Cicero advises making it as concise as possible, so that the key elements do not become obscured in a sea of words. In this sense, the style advocated here by Cicero may somewhat resemble that of today's bullet points shown at the beginning of a presentation to inform the audience with utmost concision what the presentation will be about; in this sense, cf. also Quint.*Inst.*4.5.24.

partibus causae: the different elements of the Cause.

omnia...causam genera: Notice that Cicero here uses '*genera*', as opposed to '*partes*' (see his explanation in the following sentence on *paucitas*). The second part of Partition shall hence include only the *major* headings, but not minor ones or details.

aut sero...inferatur: The mistake the orator must avoid is to announce a certain number of points in his Partition (e.g. three) and to later use more points than announced (e.g. four): this would look as if the orator were poorly prepared, had a poor memory, or

were lacking the basics of counting, which would make him an object of ridicule (cf. *turpissimum*) and hence decrease his ἡθος. Cf. Cic.*Brut.*217 (on C. Scribonius Curio): *Memoria autem ita fuit nulla, ut aliquotiens, tria cum proposuisset, aut quartum adderet aut tertium quaereret*. Contrary to Cicero, who does not impose any restriction on the number of points, *Rhet.Her.*1.17 limits the number of points to be included in the Partition to three, in order to keep things easy for both orator and listener and to avoid detection by the listener of rhetorical means as this would lead to the suspicion of rhetorical manipulation.

turpissimum: Cf. Quint.*Inst.*4.5.28: *Turpissimum uero non eodem ordine exequi quo quidque proposueris*. It is ‘most shameful’ because it shows that the speaker is either incompetent or negligent.

Paucitas: Cicero’s treatment of *paucitas* is quite detailed compared to that of *breuitas* and *absolutio*. It extends up to ‘*potest accidere*’ in 1.33.

Nam genus...amplectitur: Cf. 1.42: *Genus est quod partes aliquas amplectitur (...). Pars est quae subest generi*.

equus...homo: This example has an Aristotelian ‘flavour’ and probably goes back to Aristotle through one or more intermediary sources, see Chapter 5. The background here is not a rhetorical, but a philosophical one, as indicated by this example: the ubiquitousness of the man–horse example in Aristotle makes this quite clear. Cicero could have provided examples that better suit the rhetorical context than horse and man; for instance, a Roman would easily have understood that ‘magistrate’ is a genus and that magistrates of different ranks would constitute different species of the genus ‘magistrate’. But the taxonomy may aim to impose order on natural kinds, like horse/man or different men: this is indeed what makes this ‘flavour’ Aristotelian.

alii genus, alii pars...animalis pars: One may wonder whether Cicero deliberately switched from a dative construction (*alii*) to a genitive construction (*animalis*) in such close succession or whether ‘*alii*’ could be considered as the genitive of the otherwise normally avoided genitive form of ‘*alius*’: although they seem to have been quite rare, the genitive forms ‘*alius*’, ‘*alii*’, and ‘*aliae*’ do exist, see *K.-St.I*,§144.1.a).

Thebani...Troiani: Cicero could easily have chosen examples from different Italian peoples or e.g. have opposed Romans to Carthaginians. This example, too, points to a Greek source; see also above under ‘*equus...homo*’.

Haec ideo...auaritia: ‘*Haec ideo diligentius inducitur descriptio ut...seruari possit*’ shows that Cicero was aware that he had briefly overstepped the boundaries of purely rhetorical theory (note the use of the comparative ‘*diligentius*’). After this, he even provides a counter-example (*Nam qui...auaritia*) that could be taken from a real-life speech.

What Cicero means here is that someone who has clearly understood the meaning of *genus* and *pars*, will be able to identify, in a given Cause, whether something is a major heading (*genus*) or a minor heading or a detail of that major heading (*species*). *Paucitas* requires that only genera, but no species, are stated in the Partition: the overall aim of Partition is to make the speech lucid and perspicuous (cf. 1.31), which can only be achieved if the listener does not lose track of the major headings, which will be repeated once more in the Peroration (cf. 1.98). Indeed, much of the listener’s understanding and thus of the speech’s success depend on this. Cicero therefore wants to make absolutely sure that his reader clearly understands what *genus* and *pars* are, and the relationship between them. In the second part of Partition, and in the corresponding part of the Peroration (*enumeratio*), the orator will establish the skeleton (which gives the main shape to a body) of the speech before adding the flesh in the Argumentation, which this part of Partition introduces.

Cf. also Quint.*Inst.*4.5.27: *Superest autem sic fere, cum aut in species partimur quod in genera partiri sit satis, aut genere posito subicitur species*, after which Quintilian also gives an example related to ethics: *ut ‘dicam de uirtute iustitia continentia’, cum iustitia atque continentia uirtutis sint species*.

aperte...parti<um ra>tione: Ironically, Cicero himself is not always entirely consistent in his use of *genus* and *pars* in *Inu.*, see above under ‘Haec in hoc...tenendus est’; see also at 1.27 under ‘Eius partes...uersatur’ sub 2.

‘*Parti<um ra>tione*’ (conjecture by WEIDNER (1878)) makes good sense in contrast to ‘*generali (/e) partitione*’ (mss.; the unanimity of the mss. means that this corruption would have entered before or with the archetype); indeed, ‘*partitione*’ could easily have been wrongly introduced here, as it is found shortly afterwards in this sentence.

paucitas generum: Notice that Cicero here only speaks about *genera* (major headings), not about *partes* (minor headings or details): in the Partition, the orator shall include only the major headings in order to keep the Partition clear and concise.

audaciam: *Audacia*, found in the list ‘*propter cupiditatem et audaciam et auaritiam*’ is not expressly considered as a *pars* of the *genus* ‘*cupiditas*’ later in 1.32, unlike *auaritia*. FRIEDRICH (1884) deletes ‘*et audaciam*’, probably because it does not return at the end of 1.32. All mss., however, seem to include ‘*et audaciam*’, and it would indeed be easier to explain that it had dropped out because it is not found again at the end of 1.32 than that it had been added to the text without being found anywhere else in this paragraph.

partem...generis admiscuisse: See LÖFSTEDT (1956), i 214-215, esp. ‘(...) man ein Nomen nicht, wie eigentlich zu erwarten wäre, dativisch mit dem Verbum verbindet, sondern genetivisch von einem Substantiv abhängig macht, mit dem es dadurch enger verknüpft wird’: the genitive here has the function of a dative. LÖFSTEDT cites as parallel cases: Cic.*Fam.*5.15.2 (*coniunctionis*), *de Orat.*2.347 (*uirtutis*), 3.104 (*orationis*), *Orat.*16 (*orationis*), *Acad.*2.19 (*orationis*). See also STRÖBEL (1908), 12.

TESTIMONIA:

ne aut plura...ostendere: ≈Alb.*Rhet.*23p.536,30-32; *et prima...transigatur*: cf. Quint.*Inst.*4.5.28; Sulp.Vict.*Rhet.*21p.324,9-11; Iul.Vict.*Rhet.*p.66,14-15; Fortun.*Rhet.*2.21.

COMMENTARY:

Hoc...eadem partitione: This is a rephrasing of what Cicero has been explaining since ‘*Paucitas in partitione seruat*’ in 1.32: *genera* and their respective *partes* should not be put on the same level in an enumeration, as this could lead to the mistaken view that a *pars* and its *genus* would be located at the same level and that the *pars* would hence not be a *pars* of this *genus*, but either a distinct *genus* or a *pars* of a different *genus*. That this is indeed still part of Cicero’s discussion of *paucitas* is shown a little later in 1.33: *Atque illud quoque pertinet ad paucitatem...*

in prima causae partitione: The ‘first Partition of the Cause’ refers to the *pars orationis* Partition, which in Cicero’s view should include only major headings (or ‘kinds’). At least one more Partition will be needed later in the speech, in the Argumentation (Confirmation and Refutation), when these major headings will be further subdivided into minor headings or details (or ‘species’). In other words: in the Partition proper, the orator should give only the major points, which he should then develop in detail in the Argumentation. In fact, Cicero in 1.98 recommends repeating these major points one more time in the Enumeration.

So far, Cicero has not yet indicated that there would be more than just one Partition and where any such additional Partition would be located within the speech. Given the detailed nature of this (these) later Partition(s) and given what is left of the speech

after the *pars orationis* ‘*partitio*’, viz. Argumentation and Peroration, this (these) later Partition(s) will be found in the Argumentation section (the Peroration would obviously be the wrong place to provide additional details). In fact, the second part of Partition is just a summary of the Argumentation section (*confirmatio* and *reprehensio*): as the *argumentatio* is divided (*partita est*) into the headings announced in the *partitio*, the entire *argumentatio* can be seen as a huge, detailed Partition.

For an example of such repeated division of the Argumentation in Cic.*Man.*6-68, see the analysis in CALBOLI MONTEFUSCO (1979), 392-393.

See also LAUSBERG §347.

ipsum: to be taken with *ad...explicandum*: ‘to the very exposition of’.

in causae dictione: Given that after the *partitio* (cf. ‘*post partitionem*’) only the Argumentation (*confirmatio* and *reprehensio*) and the Peroration are left (cf. the six *partes orationis* listed in 1.19b), the *causae dictio* must here refer to the remaining part of the body of the speech, i.e. to the Argumentation. As it cannot refer back to the *narratio* (cf. the future tense ‘*uentum erit*’ used by Cicero here), ‘*causae dictio*’ cannot mean ‘statement of the case’, meaning ‘presentation of the facts’ (which would be the function of the *narratio*), but ‘presentation of the cause’, as this includes arguing in favour of one’s own interpretation and against that of one’s opponent.

ne aut plura...dicamus: Cicero here demands, as a further aspect of *paucitas*, concision in content (the counterpart to *breuitas*, concision in *words*).

demonstraturos...ostendere: In *Inu.*, Cicero uses ‘*ostendere*’, ‘*demonstrare*’ and ‘*docere*’ as synonyms meaning ‘to show’ or sometimes more specifically ‘to prove’, with hardly any

difference in nuance. This becomes clear in several examples where he uses two of these verbs with equivalent meaning as synonyms within the same sentence: cf. ‘*ostendere*’ and ‘*demonstrare*’ in 1.79 (*aut enumeratio falsa ostenditur aut simplex conclusio falsi aliquid continere demonstratur*; cf. also: 1.33, 1.44, 1.82, 1.94, 1.102, 1.109, 2.32, 2.54, 2.89, 2.99, 2.138, 2.151), ‘*ostendere*’ and ‘*docere*’ in 2.30 (cf. also 2.53), and ‘*demonstrare*’ and ‘*docere*’ in 1.82 (*Deinde, quid res cum re differat, demonstrabimus: ex quo docebimus aliud de eo...*; cf. also 1.98, 2.25, 2.33, 2.36). Although in most cases Cicero tries to avoid repetition of the same verb, some such instances are found, e.g. in 2.80, 2.106 (*ostendere*), 1.23, 1.96, 2.84, 2.119, 2.135 (*demonstrare*).

There seem, however, to be three slightly special uses of ‘*demonstrare*’: (i) ‘*demonstrare*’ is the only one of these verbs that is used in future participle active form (‘*demonstraturus*’, cf. 1.23, 1.33); (ii) ‘*demonstrare*’ is the only verb whose derivative noun is used (‘*demonstratio*’, cf. 1.12-14, 1.44, 2.12-13, 2.23, 2.85); (iii) in combination with ‘*necessarie*’/‘*necessario*’/‘*necessarius*’ only ‘*demonstrare*’/‘*demonstratio*’ is used (cf. 1.44, 1.86, 1.96, 2.75, 2.77, 2.119)—it seems that if a strong proof is referred to, ‘*demonstrare*’ is used, as becomes particularly clear in 1.44 (*aut probabiliter ostendens aut necessarie demonstrans*), so that ‘*demonstrare*’ in these cases seems in fact to denote stronger proof.

potuisse...uoluisse...fecisse: the triad still valid today of:

- 1) possibility/faculty (*potestas/facultas*, cf. e.g. 2.24); ‘*potestas*’ here denotes the external possibility to commit a crime—an example of external impossibility would be that the defendant would have needed to be in two places at the same time—, while *facultas* refers to the physical ability of the defendant to commit the crime—e.g. a one-armed man cannot have killed the victim with bow and arrow; on argumentation based on *faciendi potestas/facultas*, cf. also 2.35; 2.39; 2.44; and e.g. *Man.*18;
- 2) intention (*uoluntas*, cf. e.g. 2.24); cf. also 2.35; 2.44; and e.g. *Cic.Man.*18;

3) actual perpetration of the crime.

This triad is built in a kind of *crescendo*: first, it must be proven that the defendant was indeed able to commit the crime (if he was not, the question of intention is irrelevant); second, after possibility and faculty have been proven, the intention must be analysed (although the case of crime of passion cannot always be excluded, most crimes involve intention and prior planning of the crime); finally, after the questions *an facere potuerit* and *an facere uoluerit* comes the question *an fecerit*: in most criminal cases, the analysis of the first two questions is necessary in order to establish a suspect's guilt *with certainty*. Yet, if the defendant's guilt can be demonstrated directly (e.g. through witnesses or through arrest *in flagrante delicto*), there is no need to consider stages 1 and 2, as Cicero says: *nam fecisse satis est ostendere*. Indeed, if the defendant's guilt can be proven directly, it may be of smaller importance whether or not any intention was involved.

aut cum...distributione: ACHARD (1994) misinterprets this passage in his translation, because he fails to recognise that '*aut*' takes up the negation introduced by '*ne*' earlier on ('*ne aut... aut...*', meaning 'in order that neither... nor...', is the negation of '*ut et... et...*'). The warning that Cicero issues here is that, since *distributio* is the second *pars* of Partition (cf. 1.31), one cannot (or must not) use a *distributio* if a Cause does not allow for a Partition, because if *distributio* is a *pars* of Partition and if there is no Partition, there cannot be any *distributio*. '*Simplex quiddam*' refers to something which cannot be divided into several sub-points (cf. the ancient idea of an atom, a unit that cannot be divided any further—subatomic level was of course unknown in antiquity). Hence, if it cannot be divided, there can be neither Partition nor, a *pars* of Partition, *distributio*.

TERMINOLOGY: *TLL* s.v. notes that '*distributio*' appears for the first time in *Cic.Inu.* (1.9; 1.33; 2.171) and *Rhet.Her.* (1.3; 1.17; *et passim*). For the verb '*distribuere*', *TLL* s.v. registers only one instance preceding *Cic.Inu.* and *Rhet.Her.*, viz. Terence (*Ad.371*), from

whose *Andria* Cicero will quote a little later in 1.33. Both words are found only in a rather small number of authors (especially in Cicero, Vitruvius, and *Iust.Dig.*), many of whom seem to have taken it from Cicero.

On *distributio*, see LAUSBERG §671.

[et]: WEIDNER (1878) is right to delete ‘*et*’ here. Indeed, the two *cum* clauses are not on the same level: the two ‘*cum*’ do not have the same meaning. In fact, the statement ‘*cum in causa partitio nulla sit*’ needs an explanation, as Cicero has not yet considered the possibility of a Cause that does not admit Partition. Hence, an explanation for it is compulsory, and the clause ‘*cum simplex quiddam agatur*’ provides it. Thus ‘*et*’ cannot stand since it would make the two ‘*cum*’ clauses parallel, with ‘*cum*’ meaning ‘when’.

Ac sunt...inueniebamus: See at 1.32 under ‘*equus...homo*’. Cicero here again stresses that the needs of an orator are not those of a philosopher, although they are often very close or even overlap partially. See also 1.8, where he says of some general, philosophical questions that they are *procul ab oratoris officio remota[e]*, and 1.77, where he says of some other patterns of argument found in philosophy that *illa nobis abhorreere ab usu oratio uisa sunt*. See also Chapter 7.

*Rhet.Her.*1.17, in its corresponding passage on Partition, shows no awareness of (or interest in) philosophical concepts (and problems related to them), as can be seen from the absence of such a discussion about *genera* and *partes*.

ad hunc usum oratorium: The meaning of this phrase depends on the word that should carry the stress. If ‘*oratorium*’ is to be stressed, Partition in oratory would be opposed to that in other fields, especially philosophy (see at 1.32 under ‘*equus...homo*’). If Cicero intended to stress ‘*hunc*’, the opposition would not be one between rhetoric and a different field, but between two fields within rhetoric, probably between rhetoric of the

genus iudiciale and that of the *genera demonstratiuum* and *deliberatiuum*, as most examples provided so far in 1.31-33 belong to the *genus iudiciale*.

ex quibus: There seems to be a paradox in these words. The relative pronoun ‘*quibus*’ refers back to the *other* rules about Partition found in the domain of philosophy. If that is the case, how can Cicero have ‘taken only those points that seemed suitable’ from *other* rules that he did not want to state? What Cicero probably means by ‘*ex quibus*’ is: ‘from the rules about Partition found in the domain of philosophy, I took over only those points that seemed suitable.’

in omni dictione: ‘in the entire speech’; ‘*dictio*’ here means ‘speech’, as opposed to ‘presentation’ or ‘statement’ found earlier in 1.33 (*in causae dictione*). See *TLL* s.v. *dictio* II. *id quod dicitur*. B. *t.t. rhetorum et grammaticorum* 1. *i.q. declamatio, oratio, compositio (cum quae habetur et auditur, tum quae componitur et legitur)*. With this meaning, ‘*dictio*’ seems to be first found in *Cic.Inu.* (cf. 1.6, 1.20, 1.33, and 2.121).

ut et...ut exposita...ut ne: The first two of these ‘*ut*’ are not identical in sense: the first one, followed by the subjunctive, is final while the second one, in correlation with the subsequent ‘*sic*’ and followed by the indicative, is comparative. ‘*Ut*’ in ‘*ut ne*’ is final, as is indicated by the use of ‘*ne*’; this is slightly surprising as without ‘*ne*’ one would have considered this ‘*ut*’ to be consecutive since it follows ‘*hoc modo*’ (this might have led KAYSER (1860) to delete ‘*hoc modo*’, considering that ‘*ut ne*’ is less commonly found than ‘*hoc modo ut*’ and that ‘*hoc modo ut ne*’ is found nowhere else in Cicero’s works).

et prima...inferatur: The headings (or ‘bullet points’) given in the Partition must all be returned to in the Argumentation (see above under ‘in prima causae partitione’), i.e. none must be left out in this Part of the Speech. No heading that is not part of the *partitio* (here meaning the Part of the Speech) must be added later in the Argumentation. In short,

the number of headings addressed in the *partitio* and in the *argumentatio* must be exactly the same. Quint.*Inst.*4.5.2 lists the potential dangers of a Partition: *Rursus quidam periculosum id oratori arbitrantur duabus ex causis: quod nonnumquam et excidere soleant quae promissimus et si qua in partiendo praeterimus occurrere*, but then gives the all clear: *quod quidem nemini accidet nisi qui plane uel nullo fuerit ingenio uel ad agendum nihil cogitati praemeditatique detulerit*. Cf. also Sulp.Vict.*Rhet.*21p.324,4-6.

Cicero also calls for the headings to return in exactly the same order. Quint.*Inst.*4.5.3 gives a reason for keeping to the sequence found in the Partition: *Sequitur enim naturam ducem adeo ut memoriae id maximum sit auxilium, uia dicendi non decedere*. Cf. also Sulp.Vict.*Rhet.*21p.324,9-14. Cicero does not give any precepts here as for in what order the headings (and hence later the arguments) should be listed: he only stresses that the order of the headings must be the same in Partition and Argumentation.

Partitur...perorare: The two verses (*Eo pacto...te uelim*) are taken from Ter.*An.*49-50. This is another example of rhetorical theory being analysed with an example taken from the genre of *fabula palliata* (Roman Comedy in a Greek setting), and Cicero again chooses a passage from Terence, not Plautus. Note that, just as for the example in 1.27 for which Cicero indicates that it is by Terence, this example too is taken from Ter.*An.* (while the author is not indicated for ‘*Venit ad me...et bonum*’ in 1.27, taken from Ter.*Ad.*), and Cicero here even indicates the title of the work (‘*in Andria*’). See also at 1.27 under ‘*apud Terentium*’.

It is worth noting that he takes an example from Comedy, not from a famous speech (as Quintilian does e.g. in *Inst.*4.5.11-15), which one could have expected in a rhetorical handbook. This shows how closely *Inu.* is linked to the practice of the rhetorical schools, whose teaching came after that of the *grammaticus*, in whose class Terence’s works might have been read in Cicero’s youth. See also Chapter 10.

quae cognoscere libertum: *accusatiuus cum infinitiuo* after ‘(senex) uelit’; this construction is needed instead of simple infinitive since the subjects of ‘cognoscere’ and of ‘uelit’ are not identical.

‘Nam...Sosia’: =Ter.An.51.

in partitione proposuit: Strictly speaking, ‘*partitio*’ here does not refer to the *pars orationis* ‘Partition’ as defined by Cicero in *Inu.* (there is no such *pars orationis* here—which would be followed by the Narrative in this example, cf. the subsequent ‘*ita narrat*’). Rather, in a broader sense, it refers to a similar subdivision of what a person (here: the *dramatis persona*) is going to talk about. See *TLL* s.v. *partitio* 1.b.: *laxius pertinet ad quamlibet dispositionem (sc. fere ad expositionem distributam; ad structuram operis ipsam fortasse [...])*.

‘Et nunc id operam do...’: =Ter.An.157 (*Et nunc id operam do, ut per falsas nuptias*).

‘Nunc tuum est officium...’: =Ter.An.168. The transmitted Terence text in KAUER/LINDSAY/SKUTSCH (1926) is slightly different: *nunc tuomst officium has bene ut simules nuptias*. According to ACHARD (1994), *app. crit.*, the text of this lemma is the only one transmitted. If there was no interference by scribes, it would seem that Cicero ‘modernised’ the archaic forms found in the transmitted Terence text by changing ‘tuom’ to ‘tuum’ and by expanding the merged form ‘tuomst’ back into ‘tuum est’. If the transmitted readings are indeed those by Terence and Cicero, ‘tuomst’ and ‘tuum est’ prove how elision worked in the pronunciation of Latin and how in Cicero’s time there seems to have been a tendency to ‘modernise’ archaic passages or to adapt them to the style of the work in which they are embedded as quotes.

Further treatments of *digressio*:

Cic.*de Orat.* 2.80-1; 2.311-12; *Brut.* 82; 322; *Part.* 15; 52; 128; [Long.] *Subl.* 12.5; Quint.*Inst.* 2.13.1; 3.9.1; 3.9.4; 4.2.19; 4.2.103; 4.3; 9.1.28; 9.1.32; 9.1.35; 9.2.55-56; 9.3.87; 9.3.90; 11.3.64; 11.3.164; Theon *Prog.* p.71,5; p.78,8-9; p.80,27-81,4; p.106,2-3; p.128,7-8; Hermog.*Id.* 2.11.28; Anon.Seg.61-62; 67; Mar.Victorin.*Rhet.* 1,51p.175,14-23; Iul.Vict.*Rhet.* p.77,1-79,10; Fortun.*Rhet.* 2.20b; Mart.Cap.p.194,8-10; *RhGr* vii.1 p.64,2 (WALZ); *RhGr* iv 12,17; 12,23-13,2; 13,14-18 (WALZ) = *P.S.* 17p.270,22-23; 270,28-271,3; 271,15-19 (RABE).

General literature:

HWRh s.v. *Exkurs*; LAUSBERG §§340-342; 431; VOLKMANN (1885), 164-7; MARTIN (1974), 89-91; ERNESTI (1983a) s.v. Παρεκβάσεις. BERRY (1996), 131-3, discusses different forms of *digressio*. DAVIES (1968b), =DAVIES (1984), analyses how Cicero in his speeches switches back from a Digression to the speech's main theme. HEATH (1989), 91-101, gives an overview of Digression in Latin and Greek rhetoricians. MAY (1979) considers Cic.*Mil.* 72-91 and MAY (1988), 28-9, Cic.*S.Rosc.* 133-42 to be an 'ethical' Digression as *pars orationis*, and lists examples for this type of Digression in Greek oratory before Hermagoras (in MAY (1979), 245 n.13, ten examples from Cicero's forensic speeches are listed). MICHEL (1960), 400-403, analyses Digressions in *Cael.*, *Clu.*, and *Pis.* TEMPEST (2007) sees in Cic.*Ver.* 2.5.139-70 a Digression as *pars orationis* between the *reprehensio* and *conclusio* of the macrostructure of *Ver.* 2, which would correspond to Hermagoras' teaching.

Comparison of Cic.*Inu.*1.97 with *Rhet.Her.*:

‘*Digressio*’ (or similar) is not found in *Rhet.Her.* It is possible that the discussion of this subject was not included in the common source and was introduced by Cicero. Indeed, Cicero has several such discussions in which he wants to show that he is aware of the views of major rhetoricians like Hermagoras and which he uses to position himself *vis-à-vis* these rhetoricians and criticise or praise them, cf. e.g. 1.7 (praise for Aristotle) and 1.8 (harsh criticism of Hermagoras). See also *How to Persuade One’s Reader* [n.i.].

TESTIMONIA:

Hermagoras...implicatas: =Hermag.I.B.fr.22.a (MATTHES); Hermag.mai.T49 (WOERTHER).

COMMENTARY:

Hermagoras...ponit: DIGRESSION AS *PARS ORATIONIS*: From this passage, from Cic.*de Orat.*2.80, and Tac.*Dial.*19.3, we can reconstruct which Parts of the Speech Hermagoras recognised. Tacitus states that Hermagoras’ treatise included, among others, Exordium (*principium*/προοίμιον), Narrative (*narratio*/διήγησις), (perhaps—see Introduction to 1.31-33) Partition (*diuisio*/διαίρεσις), and Argumentation (*argumenta*/πίσταις). To these, Cicero here adds: Digression (*digressio*/παρέκβασις) and Peroration (*conclusio*/ἐπίλογος). Hence, Hermagoras seems to have subdivided his speech into six Parts, or seven, if he subdivided Argumentation into Confirmation and Refutation. See MATTHES (1958), 190-191; 208-209. Other rhetoricians who choose to consider the Digression as a separate *pars orationis* place it after the *narratio*, which might be considered as a different tradition, cf. e.g. Quint.*Inst.*2.13.1 (‘*excursio*’), Iul.Vict.*Rhet.*p.2,11 (‘*egressus*’) and p.78,27 (‘*egressio*’), Mart.Cap.p.194,8-10.

In *RhGr* iv 12,17 (WALZ) =P.S.17p.270,22-23 (RABE) we hear that Digression (παρέκβασις) would already have been considered a *pars orationis* in the *Techne* of Corax; by

contrast, the first rhetorician to whom it is ascribed elsewhere (e.g. in Cic.*Inu.*1.97) thereafter is Hermagoras (MATTHES (1958), 208 n.3). There is, however, no firm basis for believing that Corax—despite pseudo-confirmatory evidence like [Arist.]**Rh.Al.*1421b1-2 his existence has been questioned: ‘Corax’ could simply be a nickname of Tisias (see e.g. COLE (2007), esp. 53-9)—wrote a rhetorical treatise as we know them, i.e. an analytical set of rules rather than a collection of exemplary passages from speeches (see SCHIAPPA (1999), 34-47). Neither [Arist.]**Rh.Al.* nor Arist.*Rh.* discusses Digression. Hence, Digression as a *pars orationis* could go back to Hermagoras or to some other Hellenistic rhetorician: COLE (2007), 50-55, suspects the later Greek rhetoricians to have retrojected a Hellenistic invention to the mythical founder of rhetoric, Corax/Tisias. See also COLE (1991), 23-27; 82.

Cicero is not alone in rejecting *digressio* as a *pars orationis*: cf. Quint.*Inst.*3.9.4; 4.3.4-5; 4.3.14-15; Fortun.*Rhet.*2.20b; Mart.Cap.p.194,9-10. Indeed, it seems never to have gained canonical status as such in rhetorical theory after Hermagoras: most authors consider it rather as a rhetorical figure for stylistic embellishment (e.g. Quint.*Inst.*9.1.28) or as a form of proof (e.g. Quint.*Inst.*10.1.49), using the same Greek and Latin terms as for the *pars orationis* Digression (see below).

Digression can indeed be used for stylistic embellishment, as it gives the orator (or writers in other genres) the opportunity to ‘digress’ to a subject that allows for greater stylistic virtuosity in which he can show all of his skills. In its second function as a form of proof, it indeed comes very close to Amplification, as Cicero points out here. Amplification is linked to *locus communis* in 2.48 (note Cicero’s words in 1.97: *quod de causa digredi nisi per locum communem displicet*), where two situations are described for *locus communis*: 1) when the *res* is already *certa* (which will be the case *after* the Argumentation section of the speech); 2) when it is still *dubia* (which will be the case *within* the Argumentation section). On this, see at 1.106 under ‘locis communibus’: in the first situation, the Amplification is done mainly

through the *loci indignationis* and *loci conquestionis* (1.101-109); in the second one, the orator ‘digresses’ from his Cause by considering this particular Cause from the perspective of the general issue at stake, in the manner of a *θέσις* (*quaestio*, cf. 1.8), which should support *other* arguments in the Argumentation section.

DIGRESSION AND CICERO: As Quintilian suggests (*Inst.*4.3.13; 11.3.164), Cicero used Digression many times in his speeches, famous instances being e.g. the encomium of Sicily (*Ver.*2.2-10) and the rape of Proserpina (*Ver.*4.106-7). For an extensive (though not complete) list and summary analysis of the Digressions found in Cicero’s extant speeches, see CANTER (1931). If *digressio* is not considered a *pars orationis*, Cicero seems indeed to approve of it, cf. *de Orat.*2.311-312; *Brut.*82; 322; *Part.*15; 52 (*‘declinationes’*); 128. As Quintilian (*Inst.*9.3.87) notes, there is a rhetorical figure (called ‘ἄφοδος’) that forms a standard formula for returning to the speech’s main theme, like: *longius euectus sum, sed redeo ad propositum*.

TERMINOLOGY: Greek terminology agrees on ‘παρέκβασις’ (Quint.*Inst.*4.3.12; Theon *Prog.*p.71,5; Hermog.*Id.*2.11.28; Anon.Seg.61-62; 67; Iul.Vict.*Rhet.*p.78,27, who relies on Quintilian here; Fortun.*Rhet.*2.20b, who gives ‘διέξοδος’ as alternative; Mart.Cap.p.194,8; *RhGr* vii.1 p.64,2 (WALZ); *RhGr* iv 12,17; 12,23-13,2; 13,14-18 (WALZ) = *P.S.*17p.270,22-23; 270,28-271,3; 271,15-19 (RABE)). By contrast, different terms are found in Latin: *digressio* (Cic.*Inu.*1.97; *de Orat.*3.203; Quint.*Inst.*9.1.28; this seems to be oldest term, as it is found in *Inu.*, although *Rhet.Her.* does not discuss this as *pars orationis*), *digressus* (Quint.*Inst.*10.1.49), *egressio* (Quint.*Inst.* 3.9.4; 4.3.12; Iul.Vict.*Rhet.*p.78,27), *egressus* (Quint.*Inst.*4.3.12), *excessus* (Quint.*Inst.*3.9.1; 3.9.4: *quod usitatius esse coepit*; Fortun.*Rhet.*2.20b), *excursio* (Quint.*Inst.*4.2.103). All these Latin terms as well as the Greek one have the same meaning of ‘a going away from or out of’. Anon.Seg.61 notes that some rhetoricians assimilated ‘παρέκβασις’ to ‘παραδιήγησις’ (‘digressive narrative’) and (§62) that the rhetorician Alexander criticised the term ‘παρέκβασις’ (reminding one of Quint.*Inst.*3.9.4).

orationem: either ‘passage’ or ‘Part of a Speech’, not just ‘speech’. Besides the normal meaning of ‘speech’, Cicero uses ‘*oratio*’ with five special meanings in *Inu.*:

- (i) the ‘faculty of speech’: 1.2 (*propter rationem atque orationem*);
- (ii) a full ‘passage’ or ‘Part of a Speech’: 1.20 (*exordium est oratio...*), 1.97 (*orationem a causa atque a iudicatione ipsa remotam*), 2.136 (*Nam superior oratio hoc omnis faciebat*);
- (iii) a ‘development’ (not a true, full ‘Part’ of a speech) that is characterised by a special choice of words or a specific aim: 1.20 (*Principium est oratio...; Insinuatio est oratio...*), 1.49 (*Imago est oratio...; Conlatio est oratio...*), 1.100 (*Indignatio est oratio...*), 1.106 (*Conquestio est oratio...*);
- (iv) an ‘argumentative development’ or ‘form of argument’: 1.51 (*Inductio est oratio...*), 1.57 (*Ratiocinatio est oratio...*); see *TLL* s.v. *oratio* B.2.a.γ (‘*de certis quibusdam locutionibus dialecticis*’);
- (v) ‘words’: 1.36 (*qua sit usus oratione*, which corresponds to a future-tense version of the preceding ‘*quid dixerit*’ and ‘*quid dicat*’).

Meanings (iii) and (iv) seem to be the ones that can be understood least easily by the most common meaning ‘speech’ of the Latin ‘*oratio*’: ‘*oratio*’ does not look like the most fortunate terminological choice here. This strongly suggests that ‘*oratio*’ in these cases is a somewhat unmarked translation of the Greek ‘λόγος’, which is much richer in meaning than any Latin equivalent and is also used as a technical term in argumentation theory (cf. (iv))—which would strongly suggest that there is one or several Greek sources directly in the background here. Indeed, it is quite easy to find standard Latin expressions as alternatives for meanings (i) (e.g. *facultas dicendi*), (ii) (e.g. *pars orationis*), and (v) (e.g. *uerba*), while this is not true for (iii) and (iv), where all of the alternative expressions just mentioned would have been erroneous. Furthermore, all examples in (iii) and (iv) stand out with their parallel construction ‘*A est oratio...*’, (suggesting that the Greek original read something like ‘*A λόγος δέ ἐστιν...*’), which clearly sets them apart from (i), (ii), and (v) (‘*exordium est oratio*’ in 1.20

does not stand out because the construction ‘[*pars orationis*] *est* *X*’ is also found in the case of *narratio* in 1.27 and *conclusio* in 1.98). One may hence wonder how much Cicero is operating in Latin here and how easily he expects his reader to understand that ‘*oratio*’ here is meant to represent the much richer Greek term ‘λόγος’.

iudicatione: the main point of the Cause that the judge has to decide, one of the stages of the *iudicatio* scheme; cf. 1.18 with note *ad loc.* under ‘Iudicatio’ [n.i.].

remotam: This resumes the spatial metaphor of *digressio*/*digredi* (‘to go away’).

augendo...amplificationem: On *amplificatio*, see at 1.100 under ‘amplificationes...indignationes’.

[Nam...dabuntur]: ‘*Nam*’ does not really fit here since there is no logical connection between following Hermagoras’ views and where to find Cicero’s precepts on emphasis, praise, and criticism. On the contrary: it seems to disturb the contrast between Hermagoras’ views (*Hanc si...licebit*) and Cicero’s (starting with the strongly contrasting words: ‘*Nobis autem...*’) Indeed, this sentence picks up the triad of *laudare*/*uituperare*/*augere* found just above in Cicero’s text. Moreover, Cicero has not really given rules for these yet: praise and blame have so far only been mentioned in 1.7 in the definition of the *genus demonstratiuum*, and in 1.94 in the second part of the third *modus reprehensionis*, but there the rules are rather about this *modus reprehensionis* than about praise and criticism themselves: the rules that concern praise and criticism will only be given in 2.177-178a. Besides ‘*nam*’ expressing logical connection, KROON (1995), 144-170, identifies several other uses of ‘*nam*’, but none of these is helpful in explaining how this sentence fits in at this point. Thus, KAYSER (1860) seems right to suggest deletion.

[hanc partem] in numerum reponi: It is not immediately clear among whose ‘number’ this part ought to be counted. Hence, one may wonder whether the original reading was not: *hanc partium in numerum reponi*. Another explanation might be that the original reading was ‘*hunc in numerum*’ and that a scribe wrongly introduced ‘*partem*’ here (‘*partem*’ and ‘*partim*’ are found just before in this passage) which was either *due* to a *previous* corruption from ‘*hunc*’ into ‘*hanc*’ or which itself *triggered* this corruption. The corruption from ‘*u*’ into ‘*a*’ is indeed an easy one in many minuscule scripts.

nisi...communem: Cicero in *Inu.*2.47-48 defines ‘*locus communis*’ as an argument that can be applied not only to the Cause in question, but to many different Causes. From *Inu.*2.48 one can conclude that it can be used before and during the Peroration; see at 1.106 under ‘*locis communibus*’. It is thus not specific to a separate *pars orationis* Digression.

quo de genere: This refers to the *loci communes*, which Cicero will treat in Book 2 in connection with each *constitutio* or *genus scriptionis*:

- 2.47b-50a: general precepts concerning *loci communes*
- 2.50b-51: *constitutio coniecturalis*
- 2.53b-56: *constitutio definitiua*
- 2.58b-61: *constitutio translatiua*
constitutio generalis:
 - 2.68b (*pars negotialis*)
 - 2.71a (*pars iuridicialis, pars absoluta*)
 - 2.77-78a (*pars iuridicialis, pars assumptiua, comparatio*)
 - 2.85b-86a (*pars iuridicialis, pars assumptiua, relatio criminis*)
 - 2.91a (*pars iuridicialis, pars assumptiua, remotio criminis: remotio causae*)
 - 2.94b (*pars iuridicialis, pars assumptiua, remotio criminis: remotio rei*)
 - 2.101b-102a (*pars iuridicialis, pars assumptiua, concessio: purgatio*)
 - 2.108a; 2.109b (*pars iuridicialis, pars assumptiua, concessio: deprecatio*)

2.114-115 (*pars iuridicialis, praemium et poena*)

- 2.121a: *ambiguum*
 2.125, 2.143b: *scriptum et uoluntas*
 2.147b: *contrariae leges*
 2.150-153a: *ratiocinatio*
 2.154 (end): *definitio*.

In fact, although Cicero does not state this explicitly, the *loci indignationis* and *loci conquestionis* treated in 1.101-109 are also *loci communes*; see at 1.106 under ‘locis communibus’. The same probably goes for all the *loci* mentioned in 2.50b-154, whether ‘*communes*’ is added or not (NB: above only passages containing ‘*communes*’ are indicated), for several reasons:

- (i) in 2.47-48 Cicero defines *loci communes* as arguments that apply not only to one Cause, but to several: this is true of all the *loci* mentioned thereafter (indeed, it would not make much sense to list, in a concise handbook, *loci* that apply to one Cause only); these arguments are different from the *loci* of 1.34-43, see at 1.106 under ‘locis communibus’;
- (ii) ‘*communes*’ is not used with the *loci indignationis* and *conquestionis* in 1.101-109, but in 2.48 Cicero suddenly uses ‘*communes*’ for them, so he might not be strict elsewhere either, cf. (iii);
- (iii) ‘*amplificationem*’ in 2.48 is used for *loci communes certae rei*, while in 2.51 Cicero states ‘*certus...locus* [without ‘*communis*’]...*per quem auget*’.

In some places (like 2.74-78a), however, Cicero seems sharply to oppose *loci* and *loci communes*. Only two explanations seem possible: either Cicero’s phrasing causes confusion here, or he is no longer consistent with the definition of *loci communes* from 2.47-48.

Laudes...implicatas: This refers to the treatment of praise and criticism within a speech, not within a rhetorical treatise. What Cicero means here is that, within a speech, praise and criticism should not form a separate section (or a Part of the Speech; cf.

separatim) after the Argumentation, *pro* (*confirmatio*) and *contra* (*reprehensio*), but should be included *in* the Argumentation, because they are intrinsic elements of Argumentation, speaking in favour of or against a person or thing (cf. Mar.Victorin.*Rhet.* 1,51p.175,19-22).

Cicero will give Topics of praise and criticism in 2.177-178a, i.e. when dealing with Argumentation in the *genus demonstratiuum*.

Introduction to 1.98-109

The structure of the passage on *conclusio*, the last Part of the Speech, is:

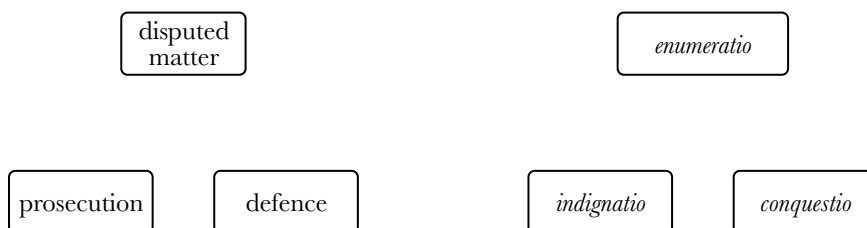
- (i) definition of *conclusio*, and the three *partes conclusionis*: *enumeratio* (Enumeration), *indignatio* (Indignation), *conquestio* (Call for Pity) (1.98a);
- (ii) *enumeratio* (1.98b-1.100b):
 - ii.1. definition and function of *enumeratio* (1.98b);
 - ii.2. the need for variation in *enumeratio* (1.98c);
 - ii.3. different ways of treating *enumeratio* (1.98d-100a);
 - ii.4. the *uirtus enumerationis*: *brevitas* (1.100b);
- (iii) *indignatio* (1.100c-105):
 - iii.1. definition and function of *indignatio* (1.100c);
 - iii.2. all the *loci* stated for *confirmatio* can also be used for *indignatio* (1.100d);
 - iii.3. the 15 *loci* specific to *indignatio* (1.101-105);
- (iv) *conquestio* (1.106-109b):
 - iv.1. definition and function of *conquestio* (1.106a);
 - iv.2. the need to make the listener *mitis* and *misericos* first (1.106b);
 - iv.3. the 16 *loci conquestionis* (1.107-109a);
 - iv.4. the *uitium conquestionis* that must be avoided (1.109b);
- (v) end of Book 1 (1.109c).

In a certain way, the Peroration is related to both the Exordium and the Partition. Together with the Exordium it forms the frame for the entire speech and appeals to the audience's emotions (similarly: Quint.*Inst.*6.1.51-52). With the Enumeration, it returns to the major points (or 'heads of argument') stated in the Partition, forming a threefold

construction together with the Argumentation section, as is still recommended in modern times: announce to your audience what you are going to tell them (Partition), tell them (Argumentation), recapitulate what you told them (Enumeration section from the Peroration); see also CALBOLI MONTEFUSCO (1988), 80-81.

With regard to Aristotle's three technical proofs (NB: Cicero does not show clear awareness of this concept; see Chapter 5), *enumeratio* focusing on the matter (*res*) is concerned with λόγος (it briefly repeats the arguments presented in the Confirmation and Refutation), while *indignatio* and *conquestio*, which focus on the emotions (*affectus*), are concerned with ἦθος (the influence of the speaker's character) and πάθος (manipulation of the audience's emotions). WACHTLER (1973), 16, notes that this is similar to the Exordium, where there is a connection between *res* and *docilis* (cf. *Inu.*1.23: *Dociles auditores faciemus, si aperte et breuiter summam causae exponemus*) and between *affectus* and *beniuolus* and *attentus*. On πάθος and passions in *Rhet.Her.* and *Cic.Inu.*, see ACHARD (2000), who states (p.9-17) that *Inu.* is both more Peripatetic and more Stoic than *Rhet.Her.*—through intermediary sources, not directly through treatises like *Arist.Rh.*—and seems to adapt the theory better to reality, and that these philosophical concepts might have found their way into rhetorical theory through Greek Hellenistic rhetoricians like Hermagoras and Apollonios Malakos. On Peroration and *persona* (as opposed to *res*), see GUÉRIN (2009), 336-340.

From another perspective, one might also say that the three parts of the Peroration address one last time the key 'elements' of the trial, viz. a recapitulation of the disputed matter (cf. *enumeratio*), a last attack on the prosecution (cf. *indignatio*) and a last attempt to secure favour for the defence (cf. *conquestio*):



Cf. also Nicol.*Prog.*p.5,6-10:

ἐπίλογος δέ ἐστι λόγος ἐπὶ προειρημέναις ταῖς ἀποδείξεσιν ἐπαγόμενος, ἀθροισμὸν πραγμάτων καὶ ἡθῶν καὶ παθῶν περιέχων· ἔργον δὲ καὶ τούτου, φησὶν ὁ Πλάτων, τὸ ἐπὶ τελευτῇς τοῦς ἀκούοντας ὑπομνήσαι τῶν εἰρημένων.

Although, generally speaking, the *indignatio* has more of a prosecutorial character and the *conquestio* more of a defensive character (similarly: Mar.Victorin.*Rhet.*1,53p.177,8-11; KENNEDY (1972), 141; CALBOLI MONTEFUSCO (1988), 97; ACHARD (2000), 8 with n.52), many of the *loci indignationis* and *loci conquestionis* can be used by both the prosecution and the defence, depending on how the perspective is shifted: the prosecution can depict themselves as a victim in need of help from the judges (cf. *conquestio*) and launch a heavy attack on the defendant (cf. *indignatio*), while the defence can just as much depict themselves as a victim of an unfair accusation that the judges must prevent from succeeding (cf. *conquestio*) and can launch a fierce counterattack on the prosecution (cf. *indignatio*), cf. e.g. Quint.*Inst.*6.1.9. Enumeration is of course open to both sides (cf. e.g. Quint.*Inst.*6.1.8), but Cicero states in *Part.*59-60 that it is more often necessary for the prosecutor than for the defendant. Cf. also Mar.Victorin.*Rhet.*1,54p.178,7-11:

Hoc autem scire debemus, esse multos communes locos et indignationi et conquestioni, et recte; neque enim iudex potest nobis praebeere misericordiam, nisi ira in aduersarium consequatur, aut irasci poterit aduersario, nisi in hoc ipso nobis animum praebeat misericordem.

Similarly, Sulp.Vict.*Rhet.*23p.324,33-325,2.

On this, see also WACHTLER (1973), 11; 15; MARTIN (1974), 165; CALBOLI MONTEFUSCO (1988), 92; 97; 99-100.

The style in Cicero's treatment of *indignatio* and *conquestio* is quite different from that of most other parts of *Inu.* in that Cicero suddenly presents long numbered lists of Topics in a clear and structured, but very monotone way (*Rhet.Her.* does so only for the section corresponding to *indignatio*, leaving out numbers for the section corresponding to *conquestio*, see the comparison between *Inu.* and *Rhet.Her.* below). This *could* suggest that these two sections are taken from different sources from the rest of *Inu.*, but there is an alternative explanation: Cicero could have had very pragmatic reasons for providing these long numbered lists (with many Topics in turn being subdivided into several elements): giving the orator an extensive check-list of Topics to be learnt by heart and to be run over quickly during the preparation of the speech or during the trial if the orator has to adapt to what has been said earlier in the trial. On Topics being organised in lists, see also: LEFF (1983); PERNOT (1986), 260-261.

In comparison with some other authors or later works of Cicero's, one can notice that Cicero does not discuss e.g.: the possibility of having several *conclusiones* within a speech (cf. e.g. *Rhet.Her.*2.47); when to use a Peroration and when not (cf. e.g. Anon.Seg.201-202); the fact that an orator might have to deliver only the Peroration, if several orators speak on the same side (cf. e.g. *Cic.Orat.*130); the increased use of prose rhythm in the Peroration (cf. e.g. *Cic.Orat.*210-211); the need for taking into account what has been said previously and how the people present at the trial are behaving during the Peroration (cf. e.g. *Quint.Inst.*6.1.42-43); the right behaviour for the defendant during the Peroration if an advocate is speaking in his stead (cf. e.g. *Quint.Inst.*6.1.37-38). Nor does he speak about how to begin the Peroration or how to end it; WACHTLER (1973), 110-131, shows the different ways in which Cicero did this in his speeches.

Further treatments of *conclusio*:

Pl.*Phdr.*267d; [Arist.]*Rh.Al.*1439b11-36; 1443b14-21; 1444b20-1445a29; Arist.*Rh.*1414a30-1414b18; 1419b10-1420b4; [Cic.]*Rhet.Her.*1.4; 2.47-50; 3.9; 3.15; Cic.*de Orat.*2.80; 2.332; *Orat.*122; 130-133; 210-211; *Top.*98; *Part.*4; 14-15; 27; 52-60; D.H.*Lys.*19; Quint.*Inst.*6.1; Ruf.*Rh.*41; Long.fr.48,84-118; fr.48,158-169; fr.48,427-434; fr.49,10-12; fr.49,40-49; Long.Ap.I,200-203; Anon.Seg.198-253; Aps.*Rh.*10; Mar.Victorin.*Rhet.*1,52-54p.175,1-178,11; Sulp.Vict.*Rhet.*23p.324,21-325,2; Iul.Vict.*Rhet.*p.79,11-81,7; Fortun.*Rhet.*2.31; Nicol.*Prog.*p.5,6-10; Iul.Sev.*Rhet.*18p.365,5-13; 19p.365,22-366,5; 20p.366,18-367,3; 24p.370,1-8; Mart.Cap.p.199,16-200,9; Cassiod.*Inst.*2.2.9; Isid.*Orig.*2.7; Alb.*Rhet.*33-34p.542,13-543,20.

General literature:

HWRh s.v. *Collectio*; *Conclusio*; *Enumeratio*; *Epilog*; *Locus communis*; *Peroratio*; *Topos*; LAUSBERG §§431-442; VOLKMANN (1885), 262-284; PETERS (1907), 94-101; MATTHES (1958), 209; MARTIN (1974), 147-166; CALBOLI MONTEFUSCO (1988), 79-104; WINTERBOTTOM (2004). For a study of Peroration in Cicero's speeches, see WACHTLER (1973), 1-152 (unfortunately, she does not search his speeches systematically for examples of variations in the treatment of *enumeratio* or of Topics of *indignatio* and *conquestio*).

Comparison of Cic.*Inu.*1.98-109 with *Rhet.Her.*2.47-50:

See also: HERBOLZHEIMER (1926), 421-423; ADAMIETZ (1960), 53-57.

*Rhet.Her.*2.47-50, unlike *Inu.*, does not start with a definition of '*conclusio*', but instead indicates the corresponding Greek term; but then, the *Auctor* introduces *none* of his sections on each *pars orationis* with a definition, as he has already defined each *pars* in *Rhet.Her.*1.4.

After that, both treatises subdivide the *conclusio* into three *partes*:

Cic. <i>Inu.</i> 1.98	<i>Rhet.Her.</i> 2.47
3 partes: 1. <i>enumeratio</i> 2. <i>indignatio</i> 3. <i>conquestio</i>	3 partes: 1. <i>enumeratio</i> 2. <i>amplificatio</i> 3. <i>commiseratio</i>

At first sight, it looks as if both works only had one *pars conclusionis* in common. However, as will become clear through a comparison of the *loci* of *indignatio/amplificatio* and of *conquestio/commiseratio*, these terms correspond to each other respectively, and it is noteworthy that Cicero's terminology has a more vehement connotation (cf. *indignatio/conquestio* versus *amplificatio/commiseratio*).

*Rhet.Her.*2.47 next discusses four possible places within the speech where *conclusiones* can be used (*Quattuor locis...in conclusione*): Cicero does not discuss this. As there is no apparent reason why he would have left this out, the best explanation for this seems to be that this point was not included in the source he was using.

I will now compare the passages on the three *partes conclusionis* separately.

(I) *enumeratio* (Cic.*Inu.*1.98b-100b; *Rhet.Her.*2.47b):

This section is very different in each treatise. The *Auctor's* treatment is much shorter and simpler than Cicero's and thus does not serve the future orator as well as the one found in *Inu.*

The definitions of Enumeration in *Inu.* and *Rhet.Her.* are similar in structure and seem to use more or less synonymous terms and phrases, see Appendix sub Conclusio (i). Indeed, '*unum in locum coguntur et reminiscendi*' and '*colligimus et commonemus*' express 1) the same idea 2) in the same order, and look as if they are different Latin translations of the same Greek clause.

Hereafter, the treatises diverge. Cicero stresses the importance of hiding the art through varying the way in which the Enumeration is carried out (1.98c) and then gives a

detailed and complex treatment of how to do this (1.98d-100a). At the end of this section (1.100b), he indicates and briefly explains the sole *uirtus enumerationis*: *breuitas*. By contrast, the *Auctor* immediately addresses this virtue and discusses where exactly the Enumeration must start: he mentions the importance of hiding the art (*Ficta enim...ostendendae causa*) almost *en passant*, without going out of his way to show his reader how to achieve this, in contrast to Cicero in *Inu.* 1.98d-100a. Only one short passage shows similarities in wording between the two texts, see Appendix sub Conclusio (ii). The wording shows, however, that the two works *cannot* rely on a common Latin source, because Cicero says that *non oratio renouata uideatur*, while the *Auctor* says the exact opposite: *ut (oratio) renouetur*.

The conclusion for the treatment of Enumeration in both treatises must hence be:

1. neither author relies on the other here—this section proves that neither can ‘simply’ have freely copied from the other *without deliberately using additional sources* (the young Cicero’s material in 1.98d-100a is certainly organised in too complex a way for him to have made it up himself without any practical experience of his own) *and without completely leaving out what the other’s work had here*, and there is no apparent reason why this author should have done so: both works *are* independent here, and one-source-only hypotheses have to be rejected;
2. Cicero and the *Auctor* relied on *different* sources, with the possible exception of the definition of Enumeration (the similar wording there *could* be a coincidence). Whether these sources were Greek or Latin (possibly a Latin intermediary source) is hard to say. Indeed, there seems to be nothing in Cicero’s text that could point to whether his source(s) was (were) Latin and/or Greek. The same is true for *Rhet. Her.*, although ‘*quae apud Graecos epilogi nominantur*’ not long before this section might point to a Greek source.

Regarding this section, I do not fully agree with ADAMIETZ (1960), 53-54. He correctly notes that the *Auctor* gives four rules for variation: (a) *breuiter...*; (b) *et ordine...* (c) *Item...* (d) *Deinde...* He sees all four paralleled in Cicero's treatment and so concludes that a common source for these rules is 'very likely'. But Cicero's treatment has a very different, much more complex structure (see at 1.98 under 'Quare...(1.100) licebit') with several elements that do not appear at all in the *Auctor*'s version (e.g. *nostra/tua persona, aliqua persona, aliqua res*). Furthermore there is hardly any similar wording between the two treatises here. Hence the 'parallels' that ADAMIETZ sees are much too general and thin to point to a common source: the details are so different that it is most likely that two *different* sources were used that came up with slightly *different* solutions to solve the *same* problem. This is further supported by the fact that Cicero's treatment mostly focuses on the need for variation, while the *Auctor* seems mostly concerned with *breuitas*: Cicero mentions the *uirtus enumerationis* only briefly (1.98: *transire breuiter*; 1.99: *per breuem comparisonem*) before adding a short note on this at the very end of the section (1.100b); the *Auctor* starts with a rule on *breuitas*, and rules (c) and (d) also strongly focus on *breuitas*, not on *uariatio*.

(II) indignatio/amplificatio (Cic.*Inu.* 1.100c-105; *Rhet.Her.* 2.47c-49):

The treatments of the Topics of *indignatio/amplificatio* show many similarities between the two works, see Appendix sub Conclusio (iii).

Although Cicero has five Topics more than the *Auctor*, his first ten Topics are the same and follow in exactly the same order as those in *Rhet.Her.* Furthermore, some of these Topics show a striking degree of similar or even identical phrasing, which strongly suggests that for these Topics they rely on a common *Latin* source: it seems unlikely that a common Greek source, *through pure chance*, was independently translated into identical Latin words in so many places. The differences in the wording of the remaining text and the divergent length and detail of treatment can thus be explained in three ways:

1. one of the two authors (the *Auctor*) shortened the text of the common Latin source and slightly changed the phrasing;
2. one of the two authors (Cicero) considerably expanded the text of the common source (cf. esp. Topic 8) with his own thoughts or with those of at least one other source and slightly changed the phrasing;
3. the common Latin source is an oral one: a Latin *rhetor* who over the years changed some of his views and added or removed some of the details for these *loci*.

The kind of differences in the wording can probably best be explained by option 3., perhaps also by a combination of 2. and 3.

CALBOLI MONTEFUSCO (1988), 101, thinks that the *Auctor* reduced the list of fifteen *loci indignationis* as found in *Inu.* to ten. But, as will be shown below, Cicero must have used additional sources for the Topics of *conquestio*, so it could just as well be that he added some Topics for *indignatio*, too, from other sources (similarly HERBOLZHEIMER (1926), 422), perhaps even from the same ones he used for *conquestio*.

ADAMIETZ (1960), 54, does not try to explain why Cicero here lists fifteen Topics, the *Auctor* only ten. Concerning the eighth Topic (the only one with a significant difference in length of treatment), he tries to prove that it is the *Auctor* who changed the material from the common source by showing that ‘*spurcum, nefarium*’ (*Rhet.Her.*2.49; these words are not found in Cicero’s text) would be an unsuitable addition. These words could, however, be seen as an attempt to summarise what Cicero has on this Topic through a source, or could be an early marginal gloss on ‘*singulare*’ (before or with the archetype: all mss. have them).

(III) *conquestio/commiseratio* (Cic.*Inu.*1.106-109; *Rhet.Her.*2.50):

In comparison with (II), the picture is a different one for the *loci conquestionis/commiserationis*, see Appendix sub Conclusio (iv).

It is noteworthy that, in the case of *commiseratio*, *Rhet.Her.*2.50 (unlike for *amplificatio*) uses neither the term ‘*locus*’ nor ordinal numbers, while *Cic.Inu.* in the corresponding passage applies the numbered-list style used by both *Inu.* and *Rhet.Her.* for the *loci indignationis/amplificationis*. Although for these *loci conquestionis/commiserationis* there is hardly any identical wording, it is striking that *all* the Topics listed in *Rhet.Her.*2.50 have corresponding ones in *Inu.*1.106-109: this can hardly be a coincidence, but points to a common source (similarly: AULITZKY (1917), 30; ADAMIETZ (1960), 54-55). Still, the order of these *loci* is not the same in both works, and for some of them two different *loci* in *Rhet.Her.* seem to be regrouped in a single *locus* in *Inu.* Furthermore, for some Topics the wording of one treatise seems to be paraphrased in the other treatise. As shown at 1.107 under ‘*primus...*(1.109) *obsecratio*’, it is very likely that Cicero’s list of Topics here is Greek in origin since many of these Topics are also found in the Greek tradition of *Aps.Rh.* (overlooked by HERBOLZHEIMER (1926), 423). Whether Cicero took his entire list of *loci* directly from a Greek source or from an intermediary Latin one, or whether he combined several sources here, cannot be determined due to our lack of Hellenistic rhetorical sources. The difference in phrasing here suggests, however, that Cicero and the *Auctor* do not rely on a common *Latin* source for this passage (against AULITZKY (1917), 31-33). Again due to our lack of sources, we cannot know whether one author relied on a Latin source while the other one consulted a Greek one (in addition), or whether both relied on the same Greek source but translated it differently, with the *Auctor* shortening the list or (more probably) with Cicero adding material from at least one other source (the similarities with *Aps.Rh.* show that some of these Topics most likely were not invented by Cicero himself). That Cicero used additional source material seems indeed to be the best explanation, given that it is difficult to see why the *Auctor* would have shortened this list so significantly.

For this passage, it seems sound to exclude the possibility of a common *oral* Latin source, i.e. a teacher, who (relying on the same Greek tradition as Apsines) changed his

views over the years: while the number of Topics and the differences in wording could be explained, it seems less likely that he would have combined two Topics into one or, vice versa, split one into two: one would rather have expected him only to add or remove Topics from his list, but not to interfere with the structure of the list in this way.

As for the *loci indignationis*, CALBOLI MONTEFUSCO (1988), 102, thinks that the list in *Rhet.Her.* is reduced in comparison with *Inu.* (similarly, ADAMIETZ (1960), 56-57), but this time in a more irregular way, as not every Topic in *Rhet.Her.* here has a corresponding one in *Inu.* [which is incorrect, see above]. This view does not sufficiently explain why the order of Topics was changed so drastically and why this combination or splitting of Topics occurred.

ADAMIETZ (1960), 56-57, claims that the presence of a numbered list for the *loci conquestionis* in *Inu.*—*Rhet.Her.*2.50 does not have any such numbered list, although it had one for the *loci amplificationis* in 2.48-49—would suggest that Cicero has the original version of a common source here. It seems more plausible that Cicero introduced such a numbered list here for the sake of clarity and stylistic uniformity with 1.101-105 than that the *Auctor* removed it from what he found in the common source.

Conclusion:

The overall picture of the relationship of *Inu.* and *Rhet.Her.* for the Peroration is a very disparate one and resembles patchwork: no single and simple picture is possible. The global structure of the treatment of Peroration in both works could be similar by coincidence, since it is rather straightforward: both authors subdivide the Peroration into three *partes* and then treat each *pars* in turn. The results for the treatment of each *pars* were:

- (I) *enumeratio*: with the possible exception of the definition of Enumeration, both treatments rely on different sources;

- (II) *indignatio/amplificatio*: both works rely on a common source here, probably a Latin one, possibly an oral Latin one;
- (III) *conquestio/commiseratio*: both texts share some source (perhaps a Greek one—but quite certainly no Latin *oral* one); Cicero probably uses additional source material, resulting in a fuller list of Topics.

For the Peroration, Cicero provides much more material than the *Auctor*, making his treatment the more helpful and thus superior one, also from a stylistic point of view since Cicero uses a clear, numbered-list style for both *indignatio* and *conquestio*, while the *Auctor* does so only for *amplificatio*: his treatment of *commiseratio* looks less elaborate and slightly rushed in this sense.

TESTIMONIA:

Conclusio...orationis: =Cassiod.*Inst.*2.2.9. *Conclusio...subiciuntur*: ≈Alb.*Rhet.*33p.542,15-19. *Haec habet...*(1.100) *conclitetur*: ≈Iul.Vict.*Rhet.*p.79,12-80,22.

COMMENTARY:

Conclusio...orationis: While Cicero here gives a definition of ‘*conclusio*’, *Rhet.Her.*2.47 indicates the corresponding Greek word and points out where ‘*conclusiones*’ can be found in a speech: in the *principium* (*exordium*), after the *narratio*, after the strongest point in the Argumentation, and in the ‘*conclusio*’—*Rhet.Her.* hence uses ‘*conclusio*’ both as a *pars orationis* and as a short passage in other *partes orationis*. Cicero, however, clearly defines ‘*conclusio*’ only as the concluding Part of the entire Speech (*totius orationis*). *Aps.Rh.*10.3 extensively discusses whether a Peroration (in this case more precisely an Enumeration) is found only at the end of the entire speech or can also be found in several other places in the speech.

Conclusio: Unlike Cicero, *Rhet.Her.*2.47 indicates the Greek term as well (*epilogus*/ἐπίλογος, literally ‘after-word’ or ‘after-speech’; Anon.Seg.236 criticises this interpretation). While ‘ἐπίλογος’ was to become the traditional Greek term for the Peroration, Socrates in *Pl.Phdr.*267d uses ‘ἐπ’ἀνοδος’ (‘return’, i.e. ‘recapitulation’) to refer to the last *pars orationis* (we can, however, not be sure that there is not an element of satire in Plato’s passage); CALBOLI MONTEFUSCO (1979), 422, and CALBOLI MONTEFUSCO (1988), 91-92, with reference to Syrian. ii p.89,20-24, wonders whether this term might *sometimes* (counterexample: [Hermog.]*Meth.*12.1.2) refer to a recapitulation in reverse order (i.e. starting with the last heading and proceeding back to the first one; cf. e.g. *Gorg.Hel.*20). The terms generally found in Latin rhetorical treatises for the concluding *pars orationis* are (only one reference per work):

- *conclusio*: cf. e.g. Cic.*Inu.*1.19b; *Rhet.Her.*1.4; Cic.*de Orat.*2.80; *Orat.*122; Sulp.Vict.*Rhet.*16p.322,5; Cassiod.*Inst.*2.2.9; Isid.*Orig.*2.7.1; Alb.*Rhet.*19p.534,27;
- *peroratio*: cf. e.g. Cic.*de Orat.*2.80; *Orat.*122; *Brut.*127; *Top.*98; *Part.*4; Quint.*Inst.*3.9.1; Sulp.Vict.*Rhet.*23p.324,21; Iul.Sev.*Rhet.*18p.365,5; Fortun.*Rhet.*2.12; Mart.Cap.p.192,2; in *Inu.*, it is only found as the verb ‘*perorare*’ (*Inu.*1.31; 1.33; 1.90; 2.48), which, however, can also mean ‘to end a *part* of a speech’ (as opposed to ‘end the *entire* speech’), as is shown by ‘*perorata narratione*’ in *Rhet.Her.*1.17;
- *epilogus/epilogi*: cf. e.g. *Rhet.Her.*2.47; Cic.*de Orat.*1.86 (where LEEMAN/PINKSTER/*ALII* (1981-2008), i 180, think that the use of the Greek loanword is a deliberate one, which would also explain the use of ‘*prooemiüs*’, but cf. also 2.278); *Orat.*57; *Brut.*127; Quint.*Inst.*6.1.10; Iul.Vict.*Rhet.*p.67,19; Iul.Sev.*Rhet.*18p.365,6; Fortun.*Rhet.*2.31 Mart.Cap.p.199,23; Cassiod.*Inst.*2.2.9;
- *cumulus*: cf. Quint.*Inst.*6.1.1.

As can be seen above, Cicero switched from ‘*conclusio*’ (found in *Inu.* and *de Orat.*) to ‘*peroratio*’ in his late rhetorical works (*Orat.*, *Top.*, and *Part.*). Since Quintilian also uses ‘*peroratio*’, one may wonder whether ‘*conclusio*’ (which in extant Latin literature is not found before Cicero and Caesar) represents an earlier stage of Latin rhetorical vocabulary (it is also used in *Rhet.Her.*) and was replaced sometime between 55 BC and 46 BC by ‘*peroratio*’ (cf. *de Orat.*2.80: *alii conclusionem orationis et quasi perorationem conlocant*: the use of ‘*quasi*’ here seems to suggest that the noun ‘*peroratio*’ was not yet established as the normal technical term for the final Part of a Speech—indeed, *TLL* s.v. *peroratio* lists *de Orat.*2.80 (55 BC) as the earliest instance of its use). After that, it seems to have become the standard term for ‘end of a speech’ in Latin rhetoric until at least the end of the 1st century AD. This would echo the switch, for instance, from ‘*constitutio*’ in *Inu.* to ‘*status*’ in Cic.*Top.* and Quint.*Inst.* Perhaps ‘*peroratio*’ was later favoured since ‘*conclusio*’ could also refer to many other concepts, e.g. to the ‘logical conclusion’ in Argumentation theory, cf. e.g. *Inu.*1.45 and

LAUSBERG §1244 s.v. *conclusio*; for the different meanings and uses of ‘*conclusio*’ in Cicero’s later works, see e.g. both *TLL* and MERGUET (1887-1894) s.v. *conclusio*. ‘*Epilogus*’ (and its equivalents in modern languages) can be used for both rhetorical/oratorical texts and literature in general (where it refers to the closing part), while ‘*peroratio*’ is more or less limited to rhetorical/oratorical texts and church sermons, see e.g. *HWRh* s.v. *Peroratio*.

See also: *HWRh* s.v. *Epilog*; LAUSBERG §431; MARTIN (1974), 147-148; RIPOSATI (1947), 281-284 (who at 281 n.2 thinks that ‘*peroratio*’ is a Ciceronian neologism introduced hesitantly in *de Orat.*2.80 and used repeatedly thereafter in *Orat.*, *Brut.*, *Top.*, and *Part.*); CALBOLI MONTEFUSCO (1988), 79 n.1.

As VOLKMANN (1885), 262 n.1, points out, ‘*peroratio*’ and ‘ἐπίλογος’ were also used to refer to the concluding speech that the last orator would give in a Cause presented by several speakers (he lists *Lys.*27-29 as examples). This is confirmed e.g. by *Cic.Orat.*130, where Cicero states that when he was one of many advocates speaking on the same side, he would normally be assigned to give the *peroratio*: his talent for securing the audience’s pity in the *conquestio* (or, as he calls it there, the ‘*miseratio*’) seems to have been famous among his fellow orators.

exitus: a word taken from the semantic field of ‘walking’, as is quite often the case in *Inu.*, see also at 1.27 under ‘digressio’.

exitus...determinatio: This synonymous pair stresses the importance of the *conclusio* for the entire speech: the orator must not relax after the difficult *pars orationis* of Argumentation.

partes tres: These three *partes* fulfil two main functions. *Enumeratio*, a listing of the most important points of the speech, aims at reminding the listener of what the orator’s message is: it focuses on the *res* and targets the listener’s *memoria*. In contrast, *indignatio* and *conquestio* aim at winning the audience over completely for the orator’s Cause. They are used in an

attempt to manipulate the audience's feelings, but with opposite results: the *indignatio* aims to arouse the listener's anger against one's opponents while the *conquestio* tries to appeal to his sense of pity for oneself (or, if an advocate is speaking, for the defendant), cf. Mar.Victorin.*Rhet.* 1,52p.175,5-8. In Aristotelian terms, *enumeratio* is concerned with λόγος (rational argumentation), *indignatio* and *conquestio* with ἦθος and πάθος (the orator's character and the audience's emotions). Cf. also Quint.*Inst.* 6.1.1: *Eius duplex ratio est, posita aut in rebus aut in affectibus*; *Inst.* 6.1.36: *Sed priuatae quoque causae utrumque habent perorationis genus, et illud quod est ex enumeratione probationum et hoc quod ex lacrimis, si aut statu periclitari aut opinione litigator uidetur.*

'Partes' here refers to 'parts' of *conclusio*, not to 'species', given that the functions of these three '*partes*' (see above) are complementary and not mutually exclusive. Cicero does not make it clear here whether the orator *must* use all three parts in his Peroration or whether he may use only one or two of them. In *Part.* 59-60, however, he will state that the Enumeration is used more often (*saepius*) by the prosecutor than by the defendant (*rarius*), showing that the orator does *not* need to use all parts of the Peroration in every Cause: the orator should adapt the theory to the requirements of the Cause in question. Indeed, as WACHTLER (1973), 17, observes, some of Cicero's speeches fulfil both functions of the Peroration (summing up; manipulating the audience's emotions), others only one of them. Moreover, if one splits the second function into *indignatio* and *conquestio*, one notices that some of his speeches use only one of these: e.g., *Quinct.* has an Enumeration (85b-90) and a Call for Pity (91-99), but no Indignation (also noted by KENNEDY (1972), 141). The order in which the orator should use these parts is probably the one in which they are listed here—Cicero does not state otherwise or discuss the possibility of changing the order—; indeed, it makes sense to have the Enumeration before the orator tries to manipulate the audience's feelings one last time in the Indignation and Call for Pity (see e.g. the order in

Quinct. above). But in practice the orator would of course have to adapt the rules to his needs, as so often in rhetoric.

For an analysis of the structure of Perorations in Cicero's speeches, see WACHTLER (1973), 19-101. She divides Cicero's speeches into groups according to the nature of their Peroration:

- (i) Peroration comprising a recapitulation and aiming at emotional manipulation (p.18-36): *Quinct.*85-99; *Diu.Caec.*66-73; *Font.*41-49; *Caec.*103-104; *Agr.*2.98-103; 3.15-16; *Arch.*31-32; *Balb.*56-65; *Prou.*47; *Pis.*96-99; *Phil.*3.33-39;
- (ii) Peroration comprising only a recapitulation (p.36-41): *Ver.*1.56; 2.3.226-228; *Phil.*9.15-17; 10.25-26; 14.36-38;
- (iii) Peroration aiming only at emotional manipulation (p.42-96): *S.Rosc.*143-154; *Ver.*2.2.191b-192; 2.5.171-189; *Clu.*195-202; *Man.*69-71; *Catil.*1.33; 2.26-29; 3.26-29; 4.20-24; *Agr.*1.22b-27; *Mur.*83-90; *Rab.Perd.*33-38; *Sul.*88-93; *Flac.*94-106; *Dom.*142-147; *Red.Pop.*24-25; *Red.Sen.*39; *Har.*61b-63; *Sest.*144-147; *Planc.*101-104; *Rab.Post.*45-48; *Scaur.*46-51; *Mil.*92-105; *Lig.*30-38; *Marc.*33-34; *Deiot.*35-43; *Phil.*1.83b; 2.115-119; 4.16; 5.53b; 6.17-19; 7.26-27; 11.38b-40; 12.30b; 13.48b-50;
- (iv) no Peroration (p.97) *Ver.*2.1; 2.4; *Vat.*; *Phil.*8;
- (v) Peroration not extant (p.18): *Q.Rosc.*; *Tul.*

As WACHTLER (1973), 18, further notes, the three parts of Peroration are often interwoven, while the theory of Peroration could suggest that they form separate sections. She also points out (p.99) the importance of the focus on emotional manipulation of the original audience (rather than the reader) in Cicero's Perorations: just five speeches (ii) comprise Enumeration only.

In its function of manipulating the audience's feelings, the *conclusio* resembles the *exordium* (cf. e.g. 1.20) and, together with the *exordium*, forms an 'emotional' frame for the

entire speech (cf. also Aps.*Rh.* 10.2). Indeed, the listener must first be persuaded to lend the orator his ears (cf. Mark Antony in Shakespeare, *Julius Caesar* 3.2.73: ‘Friends, Romans, countrymen, lend me your ears’) and hence the *exordium* has a function similar to that of a catalyst. On the other hand, the *conclusio* is the *pars orationis* closest to the judgment or opinion-forming by the audience, hence the orator must end his speech in an emotional *crescendo* to make sure that the effect produced in the previous Parts of the Speech lasts or is even intensified. Cf. also Quint.*Inst.* 6.1.11: *Est igitur utrisque* [i.e. to both parties] *commune conciliare sibi, auertere ab aduersario iudicem, concitare adfectus et componere*; *Inst.* 6.1.51: *Omnis autem hos adfectus, etiam si quibusdam uidentur in prohoemio atque in epilogo sedem habere*. Anon.Seg.237 stresses that there are differences between *exordium* and *conclusio* regarding word choice and thought (cf. also Quint.*Inst.* 6.1.9-10):

Διαφέρει δὲ ὁ ἐπίλογος τοῦ προοιμίου καὶ κατὰ τὴν λέξιν καὶ κατὰ τὴν διάνοιαν· κατὰ μὲν τὴν λέξιν, ὅτι ἐν ἐκείνῳ μὲν μετρίαν εἶναι δεῖ καὶ ἡπίαν, ἐν τούτῳ δὲ συγκεκινημένην καὶ πολλὰς ἐμβοήσεις ἔχουσιν καὶ σχετλιασμούς· κατὰ δὲ τὴν διάνοιαν, ὅτι ἐκεῖ μὲν πάθος ἐμποιῆσαι δεῖ, ἐνταῦθα δὲ προὔπον ἀυξήσαι καὶ ἐπιρρῶσαι.

HISTORICAL OVERVIEW: In Pl.*Phdr.* 267d only one function of the Peroration is mentioned: reminding the audience of what was said in the speech, which corresponds to Enumeration (FUHRMANN (1960), 126, suspects that Plato here is rendering a definition taken from a rhetorical handbook). According to Anon.Seg.207 (=SVF ii fr.296), the Stoic Chrysippus held the same view (Pl.*Phdr.*, where ideal rhetoric is described as philosophical discourse in continuous monologue, is the kind of text on rhetoric that Stoics like Chrysippus would read; given that emotions could lead to wrong judgments, the Stoics generally disapproved of arousing emotions, which is at the heart of *indignatio* and *conquestio*). Quintilian (*Inst.* 6.1.7) states that most Attic orators shared this view due to the prohibition in Athens (RUSSELL (2001), iii 20 n.6, thinks that this ‘seems to apply strictly to the Areopagus only’) to appeal

to the emotions of the judges (according to some ancient authors, e.g. Ath.590d-f, this was linked to Hypereides' trick of stripping Phryne naked in front of the judges, who thus became very emotional and acquitted her; see also at 1.109 under 'Duodecimus...familiari'). CALBOLI MONTEFUSCO (1988), 84, wonders whether Enumeration might indeed have been the original function of the Peroration (she refers to Sardinian.p.50,12-19, where the invention of the Parts of the Speech is attributed to Corax; however, given that John of Sardis—if he is indeed the author, see RABE (1928), XVI-XX—wrote his commentary possibly in the 2nd half of the 10th century AD, this attribution must be considered dubious; on 'Corax' see at 1.97 under 'Hermagoras...ponit').

Anaximenes ([Arist.] *Rh.Al.* 1443b14-18; 1444b20-1445a29) envisages a threefold division of the Peroration into one part that recapitulates what was previously said, one that should turn the audience's emotions against the orator's opponents, and one that should make the audience favour the orator's own position. This is the threefold division that will reappear centuries later in Cic. *Inu.* and *Rhet. Her.*—and thus seems to have been maintained by Greek sources during the Hellenistic period before reaching Rome (in *Inu.* 1.97, Cicero states that Hermagoras also used the Peroration as the last *pars orationis*, but unfortunately without specifying whether and how he subdivided it). Aristotle envisages a fourfold division (*Rh.* 1419b10-1420b4: disposing the listener favourably towards oneself and unfavourably towards the opponent; amplifying and disparaging; arousing the listener's emotions; recapitulating), which SOLMSEN (1932), 148, relates back to Theodectes' precepts on the Peroration as reported in Anon. Seg. 208, where, however, Theodectes (or Aristotle in a work called after Theodectes—for an overview of this problem and the problem of Theodectes father/son, see *RE* V A 2 s.v. *Theodectes* 1) and 2) and *BNP* s.v. *Theodectes*) is said to have distinguished *three* functions of the Peroration: exciting emotions, praising or blaming, and recapitulating. Aristotle's fourfold division

resembles a bipartite one in that its first three parts are related to emotions and the last one to providing a summary of what has been said in the speech.

As in the case of Aristotle's division, the threefold division that is first found among our extant sources in [Arist.]*Rh.AL* (and in Theodectes or Aristotle's work called after him) can also be reorganised according to the functions of these parts in a bipartite division with, on the one hand, summing up the points previously made and, on the other, manipulating the audience's emotions.

As WACHTLER (1973), 10, notes, it is through the splitting of the emotional function into two parts (*indignatio* and *conquestio*) that one moves from a two- to a threefold subdivision. Depending on whether they base their division of the *conclusio* on the three parts or on the two functions of these parts, some authors introduce a tripartite division:

Cic. <i>Inu.</i> 1.98	enumeratio	indignatio	conquestio
<i>Rhet.Her.</i> 2.47	enumeratio	amplificatio	<i>commiseratio</i>
Sulp.Vict. <i>Rhet.</i> 23p.324,21-22	renouatio	exaggeratio	<i>commiseratio</i>
Iul.Vict. <i>Rhet.</i> p.79,12-13	enumeratio	indignatio	conquestio
Fortun. <i>Rhet.</i> 2.31	enumeratio	indignatio	<u>miseratio</u>
Anon.Seg.198	πραγμάτων ἀθροισμὸς καὶ ἡθῶν καὶ παθῶν		
Aps. <i>Rh.</i> 10.1	ἀνάμνησις	ἔλεος	δείνωσις
Mart.Cap.p.199,23-24	enumeratio	indignatio	<u>miseratio</u>
Alb. <i>Rhet.</i> 33p.542,16-17	enumeratio	indignatio	conquestio

while others have a bipartite one (Cic.*Part.*52; Quint.*Inst.*6.1.1; Ruf.*Rh.*41; Long.fr.48,84-90; Anon.Seg.203). In *de Orat.*2.332, *Orat.*122, and *Top.*98, Cicero only discusses the emotional function of the Peroration (similarly: Isid.*Orig.*2.7.2). It becomes clear that Cicero later reduced the number of parts of the Peroration he had indicated in *Inu.*, and that this tripartite system itself, as pointed out above, most certainly does not go back to Cicero, since it is also found in *Rhet.Her.* and in the Greek tradition before (in [Arist.]*Rh.AL*)

and after (e.g. in *Aps.Rh.*). CALBOLI (1993), 251 n.74, thinks that the tripartite division of Peroration might go back to Hermagoras (i.e. mid-2nd century BC), but its presence in [Arist.] *Rh.Al.* and the remark in Anon.Seg.208 concerning Aristotle and Theodectes strongly suggests that this tradition goes back to much earlier times.

For Greek and Latin terms for the three parts of Peroration, see below under ‘Enumeratio...subiciuntur’, at 1.100 under ‘Indignatio...concitetur’, and at 1.106 under ‘Conquestio...captans’.

See also: *HWRh* s.v. *Epilog*; LAUSBERG §§431-433; VOLKMANN (1885), 263-264; WACHTLER (1973), 9-11; MARTIN (1974), 147-150.

Enumeratio...subiciuntur: A similar expression is found in Quint.*Inst.*6.1.1 (*totam simul causam ponit ante oculos*). Anon.Seg.210 has a very similar definition, which might go back to the same Greek tradition as Cicero’s in the last instance.

The idea expressed here is that the function of the *enumeratio* is to provide a well-structured summary of the speech so far. An Enumeration of what the main body of the speech contains will already have been given by the orator in the *partitio*, cf. 1.31: *Altera* (sc. *pars partitionis*) *est in qua rerum earum de quibus erimus dicturi breuiter expositio ponitur distributa*. As CALBOLI MONTEFUSCO (1979), 422, notes, the Enumeration is, in this sense, the counterpart of (add: the second part of) the Partition. Indeed, with regard to the *res* and *argumentationes*, one could say that in the second part of the Partition the orator says what he is going to talk about, in the Confirmation and Refutation he talks about it, and in the Enumeration he recapitulates what he has talked about (see also Introduction to 1.98-109), which strongly resembles the advice given by many modern researchers in education and in psychology: ‘tell your audience what you are going to say, say it, summarise what you have said.’

In *Part.*59 Cicero explains the two situations that make the Enumeration necessary:

Huius tempora duo sunt, si aut memoriae diffidas eorum apud quos agas, uel interuallo temporis uel longitudine orationis aut frequentatis firmamentis orationis et breuiter expositis uim est habitura causa maiorem.

The power of Enumeration lies in its accumulation of briefly recapitulated arguments, cf. Quint.*Inst.*6.1.1: *etiam si per singula minus mouerat, turba ualet*. It might be for this reason that some Latin rhetoricians called the entire Peroration ‘*cumulus*’, cf. *Inst.*6.1.1: *Peroratio...quam cumulum quidam...uocant*.

Alternative terms for ‘*enumeratio*’ are: *renouatio* (Sulp.Vict.*Rhet.*23p.324,22), *rerum repetitio et congregatio* (Quint.*Inst.*6.1.1). The Greek terms are: *παλιλλογία* (‘a saying-backwards’; [Arist.]*Rh.Al.*1433b29), *ἀνάμνησις* (‘a calling-to-mind’; Arist.*Rh.*1419b13; Aps.*Rh.*10.1), *ἀνακεφαλαίωσις* (‘a going-over-the-headings’; Quint.*Inst.*6.1.1 and 6.1.2: *quod Graeco uerbo patet, decurrendum per capita*; Aps.*Rh.*10.3; Fortun.*Rhet.*2.31; Mart.Cap.p.199,16; =‘*recapitulatio*’, cf. Anon.*Schem.Dian.*13). See LAUSBERG §434; MARTIN (1974), 147.

On *enumeratio*, see also: HWRh s.v. *Enumeratio*; LAUSBERG §§434-435; VOLKMANN (1885), 264-266; MARTIN (1974), 150-153; CALBOLI MONTEFUSCO (1988), 89-95.

unum in locum: ‘*Locus*’ is here used in its normal, non-technical sense ‘place’.

Haec...poterit: The orator should of course aim to hide the art while it works on the listener’s mind. Cf. also Quint.*Inst.*4.2.127: *perire artem putamus nisi appareat, cum desinat ars esse si apparet*; *Rhet.Her.*2.47: *Ficta enim et dedita opera comparata oratio uidebitur esse artificii significandi, ingenii uenditandi, memoriae ostendendae causa*. If the art is detected, it leads to suspicion (cf. *suspicionem*), which is detrimental to the speech, especially if this happens at the end of the speech, which will have the last impression on the audience. On hiding the art, see also at 1.25 under ‘*propterea...nascitur*’.

The main *raison d’être* for listing various ways of treating Enumeration is then to try

to hide that one is using the art of rhetoric—although a rhetorically educated and experienced audience would have known this anyway.

sin uarie fiet: the very thing Cicero does not do in his lists of 15 *loci indignationis* (almost all of them are introduced by ‘[ordinal number] *locus est per quem*’; cf. 1.101-105) and of 16 *loci conquestionis* (almost all begin with ‘[ordinal number] *per quem*’; 1.107-109): this repetitive style makes the structure of the passage very clear, but also monotonous, which can quickly lead to *satietas*. This numbered-list style with hardly any stylistic variation is quite unusual in comparison with the rest of Cicero’s treatise, but it increases user-friendliness, as one immediately notices when looking at *Rhet.Her.*2.50, where the *Auctor* does not use any such numbered list.

[Arist.]*Rh.Al.*1433b31-33, 1444b30-35, and Arist.*Rh.*1419b33-1420a2 discuss possible variations in the treatment of Enumeration, which shows that, more than two centuries before *Inu.* and *Rhet.Her.* were written, authors were already concerned about hiding the art in the Enumeration through variation. This would continue in the centuries after *Inu.* and *Rhet.Her.*, cf. e.g. Quint.*Inst.*6.1.2-6, Anon.Seg.214-218, and Aps.*Rh.*10.4-14. See also MARTIN (1974), 150-153; CALBOLI MONTEFUSCO (1988), 93-95.

suspicionem: The rhetorical elaboration of a passage must not be easily detectable by the audience. Otherwise, the audience might immediately suspect that it is an object of manipulation and, if they do not approve of this, grow hostile towards the orator and his Cause, which would be the very opposite of the aim of his speech. Avoiding this must have been very difficult among the rhetorically trained political elite of the late Roman Republic, while the rhetorically uneducated masses were a much easier prey for orators. On the other hand, the rhetorically experienced listeners will have had certain *Hörerwartungen*.

satietatem: Cf. *Inu.*1.76: *Variare autem orationem magno opere oportebit; nam omnibus in rebus similitudo est satiетatis mater.*

***poterit*:** It is not entirely clear whether the subject of this verb is still the Enumeration or, through a silent change of subject, the orator.

Quare...(1.100) licebit: The structure of this passage on how to vary the treatment of Enumeration is quite complex.

First, Cicero in 1.98d describes three ways of rhetorical variation, each introduced by ‘*tum*’:

- a tum oportebit...argumentationes;*
- b tum autem...fecimus;*
- c tum ab iis...desiderare.*

The use of *tum...tum...(tum...)* indicates that the two (or three) options presented are considered mutually exclusive: *at times* the orator should do X, but *at other times* (when X would work less well or not at all) he should use Y, etc.

At the beginning of 1.99, Cicero introduces two new ways of rhetorical variation, again introduced by ‘*tum*’:

- A tum, ut ante...separatim;*
- B tum, id...redintegrabitur;* the structure of this way can be slightly confusing, as it comprises another ‘*tum*’ (*tum contra eam...*), which, however, is not on the same level as ‘*tum, ut ante...*’ and ‘*tum, id...*’, but is correlative to ‘*cum*’ (*cum tuam...*).

As Cicero points out, *A* is in fact made up of *a*, *b*, and *c* as described in 1.98d. By contrast, there is no direct relation between *B* and *a*, *b*, and *c*, which is confirmed by the fact that *B* is concerned with both *confirmatio* and *reprehensio*, while *A* is only concerned with *confirmatio* (cf. ‘*confirmaris*’ in 1.98).

A and *B* are subjected to further variation (*Atque haec...uariare oportebit*), with each of the two further possibilities introduced again by ‘*tum*’. The orator can take as a starting point:

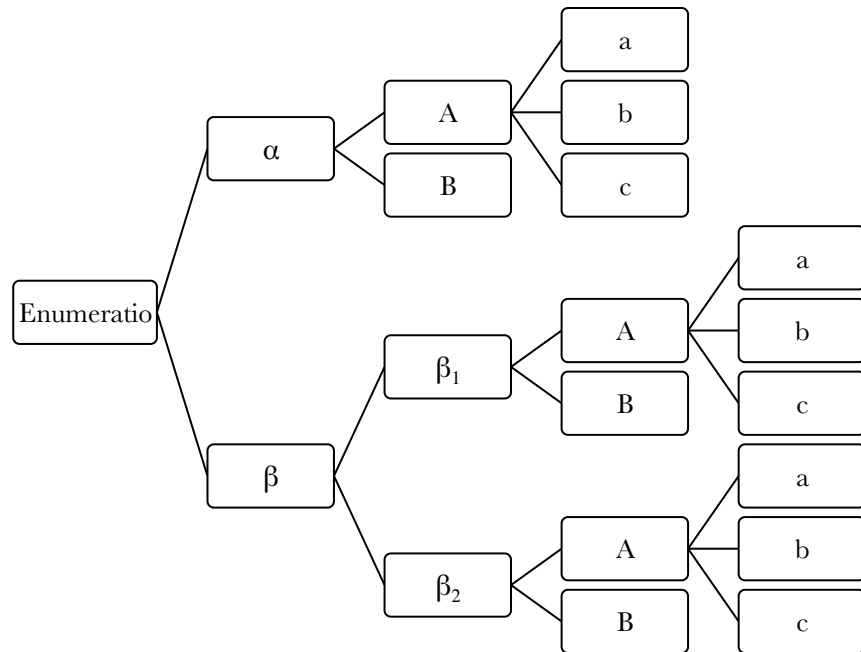
α his own person (*tum ex...admoneas*); indeed, Cicero in *A* (i.e. in *a*, *b*, and *c*) and *B* has just treated the Enumeration from this starting point;

β some other (β_1) person or (β_2) thing (*tum uero...attribuere*).

He then focuses on β_1 (*Personam...argumentationum*), showing that (β_1) can be varied according to *a* (*alias singillatim...argumentationes*), *b* (*alias ad...referre*), *c* (*alias ab...quaerere*)—these three form *A*—, and according to *B* (*alias haec...argumentationum*).

In 1.100a he then turns to β_2 (*Res...licebit*), which can also be treated according to *A* (i.e. *a-c*) and *B*, cf. ‘*In hoc quoque...licebit*’. It is important to note here that *A* and *B* are concerned with the arguments made by *persons*. Nevertheless, they can be used for a thing in β_2 because this thing is *personified* through the rhetorical figure of *προσωποποιία* (*si alicui rei...oratio attribuetur*).

Hence, the following variations in the treatment of Enumeratio are envisaged by Cicero:



It might seem surprising, but in fact Cicero (or his source) worked his way backwards, in describing these different ways, from the level of *a-c* to that of α - β , and not vice versa. But since *a-c* and *A-B* are found at different levels (cf. diagram above), it might not have been

possible for Cicero to get to the same result using the opposite direction of description from α - β to a - c , with the same ease and clarity, as he would have needed to move levels up and down several times in parenthetical explanations. Thus, although the structure of this whole passage is indeed quite complex, proceeding in this way was still the best option available.

Cicero's list of variations is not exhaustive; for several other ways of varying the Enumeration, see the passages listed above under 'sin uarie fiet'. Cf. also Quint.*Inst.*6.1.5: *Sed non sunt singulae species persequendae, ne sola uideantur quae forte nunc dixero, cum occasiones et ex causis et ex dictis aduersariorum et ex quibusdam fortuitis quoque oriantur.*

tum oportebit...argumentationes: This corresponds to what is called variant *a* above under 'Quare...(1.100) licebit'. In this variant, the orator tries to sum up everything he has said in his speech, not just the major headings that he has pointed out in the Partition (NB: in contrast to variant *b*, Cicero does not mention '*partitio*' here and uses '*res*', not '*partes*', to refer to all the points made in his speech). This gives the impression of a fast-paced, almost overloaded summary. Cicero uses this variant of Enumeration in *Quinct.*85b-90; unfortunately the beginning of the Enumeration is lost, but the remaining section gives a good impression of the quick succession in which different points are addressed (which becomes apparent through the use in close succession of verb forms like '*ostendi*', '*docui*', '*demonstravi*' etc., and of adverbs indicating a next step like '*deinde*', '*postea*', '*tum*'). Indeed, in *Quinct.*36 Cicero makes it clear that his Partition includes three major headings, but in the Enumeration he addresses many more points.

The structure of this variant is thus: *point 1, point 2, point 3, ...* It is indeed a fairly easy procedure, as Cicero notes. In connection with the *pars artis* '*memoria*' (memorising the speech; on this cf. e.g. *Rhet. Her.*3.28-40a), the orator in this variant rushes again along the entire imaginative path in the building or space in which he has put his reminder objects:

as he has already done this once before (at a slower speed) in his speech, this will be quite easy for him, as he does not need to single out only certain episodes from this path.

In *Part.*60 Cicero gives a warning for this variant: *Sed erit in enumeratione uitandum, ne ostentatio memoriae suscepta uideatur esse puerilis. Id effugiet qui non omnia minima repetet, sed breui singula attingens pondera rerum ipsa comprehendet.* See also MARTIN (1974), 151.

ita: It is by summing up all the points that the orator at the same time lightly touches upon all the different arguments he has previously given.

singillatim...auditor: cf. *Rhet.Her.*2.47: *et ordine ut quicque erit dictum referemus, ut auditor, si memoriae mandauerit, ad idem quod ipse meminerit reducat.*

adtingere...breuiter: Similar metaphors are found in: *Cic.Part.*60: *Id effugiet qui non omnia minima repetet, sed breui singula attingens pondera rerum ipsa comprehendet.* *Sulp.Vict.Rhet.*23p.324,23-24: *cum breuiter capita rerum atque argumentorum percurrimus ad renouandam memoriam iudicum.* ‘*Transire breuiter*’ basically means ‘to sum up’.

breuiter: As for other Parts of the Speech, *breuitas* is also a virtue of *enumeratio*: cf. *breuiter* (1.98), *breuem* (1.99), *breuissime* (1.100). As in the *partitio* (see 1.33 with notes *ad loc.*), the orator must only name major headings, not details, in the *conclusio*, cf. *Quint.Inst.*6.1.2: *In hac quae repetemus quam breuissime dicenda sunt, et, quod Graeco uerbo patet, decurrendum per capita. Nam si morabimur, non iam enumeratio, sed quasi altera fiet oratio.*

See also LAUSBERG §440.

tum autem...fecimus: This corresponds to what is called variant *b* above under ‘Quare...(1.100) licebit’. In this variant, the orator does not go through all the points made in his speech as in variant *a* (see above under ‘tum oportebit...argumentationes’). In variant *b*, he limits himself to only the major headings that he had listed in the Partition (the use of ‘*partes*’ and ‘*in partitione*’ is important here, as it is not found for variant *a*), and for each major heading sums up how he proved it in the Argumentation. The structure of the

Enumeration in this case is thus: *major heading 1 and how it was proved; major heading 2 and how it was proved; major heading 3 and how it was proved; ...*

This variant is also described in Anon.Seg.212-213, where a second version is also considered: listing the major headings again, but without repeating how they were proved. This alternative version is not identical to Cicero's variant *a*, which uses not only the major headings from the Partition, but all the points made, to give a fuller recapitulation. By contrast, variant *b* tries to make the Enumeration more concise by focusing only on the bigger and most important points from the speech.

See also MARTIN (1974), 151.

id quod difficilius est: This contrasts with '*ut plerique faciunt propter facilitatem*' earlier in 1.98 for variant *a*. Variant *b* is more difficult since the orator must remember which of all the points stated in the Argumentation he had used in the Partition, and how he proved these: while wandering through his 'memory' building or space, he must stop only at the objects linked to the major headings stated in the Partition, passing over all others.

dicere...confirmaris: cf. *Rhet.Her.2.47: Quapropter initium enumerationis sumendum est a diuisione. Deinde ordine breuiter exponendae res sunt quae tractatae erunt in confirmatione et confutatione.*

See 1.31-33 with notes *ad loc.* for Cicero's instructions on the statement, in the Partition, of the major headings that the orator will treat in his speech.

partes: This specifically refers to the 'major headings' (or 'parts') from the Partition and is *not* identical to what is called '*rem*' in variant *a* above under '*Quare...(1.100) licebit*'. The use of '*partes*' here in 1.98 might have been triggered by the use of '*in partitione*'. In 1.99, Cicero will call these *partes* '*genera*' (in conjunction with '*partitionis*'), showing how inconsistent he is in his terminology here, as both refer to the same thing: the *major headings*. This inconsistency might be explained by the fact that both '*partes*' and '*genera*' are directly related to the concept of subdivision, which also underlies the Partition with its major

headings, or by Cicero being inconsistent in translating from a Greek source.

exposueris...confirmaris: Cicero suddenly uses 2nd pers. sing. here and in most of 1.99, without any apparent reason. One may wonder whether this goes back to his source: indeed, this could point to an oral source, like a teacher addressing his student.

confirmaris: This refers only to the Confirmation and not to both Confirmation and Refutation: Refutation will only be included in 1.99 (*tum id...redintegrabitur*, corresponding to variant *B* above under ‘Quare...(1.100) licebit’).

hoc modo...fecimus: Mss. *MI*, *Iul.Vict.Rhet.p.79,21-22*, and STRÖBEL (1915) place this after ‘*debeant demonstrari*’, as does LINDEMANN (1828), 515 (error in ACHARD (1994), *app. crit.*). SCHÜTZ (1814), 264, deletes it, calling it a ‘*manifestum glossema*’ in n.3. ACHARD (1994) keeps it. But there seem to be sound reasons for deletion: these words do indeed sound very much like a gloss; moreover, the wording seems quite general in that ‘*docuimus*’ and ‘*planum fecimus*’ could be taken as synonymous expressions meaning ‘we have proved’, making it quite unclear what the precise meaning of each is.

If one keeps these words, ACHARD (1994) seems right to place them after ‘*confirmaris*’ (variant called *b* above under ‘Quare...(1.100) licebit’), not ‘*demonstrari*’ (variant *c*): according to variant *c*, the orator should use interrogative phrasing, whereas these words are not formulated as a question. If these words are by Cicero, ‘*Illud*’ refers to the *partes* that were initially mentioned from the Partition, ‘*hoc*’ to the arguments (see above under ‘*tum autem...fecimus*’). Because of the similar meanings of ‘*docuimus*’ and ‘*planum fecimus*’, it seems sensible to read ‘*hoc*’ with *P*² and *Iul.Vict.Rhet.p.79,22* instead of a second ‘*illud*’ with the other mss.

tum ab...desiderare: This corresponds to what is called variant *b* above under ‘Quare...(1.100) licebit’. In this variant, the orator proceeds as follows: ‘*What must you desire to have proved to you? X, Y, Z. Have I just proved this to you? Yes. Hence, there is nothing left for me to*

prove.’ In other words, it is the orator who tells the listener again what he must focus on and what he must wish for.

quaerere: As noted above, this is not a real question, but a rhetorical one: the orator will not wait for an answer from the audience since he might risk getting one that he does not like or that even has the opposite effect from what he wants to achieve. *Aps.Rh.10.13* gives similar advice.

in memoriam redibit: The choice of the verb indicates quite an active form of remembering.

COMMENTARY:

in his generibus: It is not immediately clear what this refers to, as Cicero did not use the word ‘*genera*’ in 1.98. But the clause ‘*ut ante dictum est*’ shows that this refers to the treatment of Enumeration in 1.98, where Cicero presented three variants (*a, b, c*; see at 1.98 under ‘Quare...(1.100) licebit’), which, as he points out under variant *A* here, were described as going through the points/arguments without being combined with the opposing arguments (which will form variant *B*). ‘*In his generibus*’ must hence refer to the variants *a, b*, and *c*.

tum ut ante...separatim: This refers to ‘*Quare tum...desiderare*’ in 1.98, i.e. to the three variants called *a, b*, and *c* at 1.98 under ‘Quare...(1.100) licebit’. ‘*Separatim*’ here does not pick up ‘*singillatim*’ from 1.98 (which would correspond to variant *a* only), but is intended to distinguish variant *A* from *B*: ‘*transire separatim*’ is meant to form a contrast with ‘*cum tuis contrarias coniungere*’. *A* uses only one’s own arguments, while *B* uses both one’s own and those of the opposing side.

The structure of variant *A* could thus be represented as follows:

own argument 1	own argument 2	...

The structure of variant *B* could be represented as follows:

comparison of own argument 1 (<i>confirmatio</i>) with corresponding argument of opponents (<i>reprehensio</i>)	comparison of own argument 2 (<i>confirmatio</i>) with corresponding argument of opponents (<i>reprehensio</i>)	...

Already Aristotle in *Rh.*1419b33-1420b2 advises contrasting one’s own arguments with those of one’s opponent in the Enumeration, and Apsines (*Rh.*10.8) will do so, too, centuries later.

tum: Ms. *u* (followed by ACHARD (1994)) has ‘*tum, ut ante dictum est*’, mss. *MI* (followed by STRÖBEL (1915)) have ‘*ut ante dictum est, tum*’. The former reading has the correct sense since ‘*ut ante dictum est*’ refers to variant *A* (first ‘*tum*’) only, not variant *B* (second ‘*tum*’) as well: for this reason, ‘*ut ante dictum est*’ must stand *within* the first *tum* clause. Furthermore, this achieves better balance, since both ‘*tum*’ are then immediately followed by a parenthetical remark.

transire...coniungere...ostendere: These infinitives are still dependent on ‘*oportebit*’ from 1.98 (*Quare tum oportebit...*).

id quod artificiosius est: ‘that which requires more advanced knowledge/mastery of the art [*sc.* of rhetoric]’.

cum tuis contrarias coniungere: Cf. what Cicero said about the *partitio* in 1.31: *Vna pars est quae quid cum aduersariis conueniat et quid in controuersia relinquatur ostendit*. Hence, the orator will already have compared (at least some of) his positions with those of his opponent in the *partitio*, and he will of course go into more detail in the Refutation of the opponent’s arguments in the second half of the *argumentatio*.

contrarias: This probably refers to the arguments presented by the opposing side (i.e. *argumentationes aduersariorum*) rather than to just *any* arguments that are contrary to the orator’s but that have not been presented by his opponents: the orator would certainly not run the risk of adding, on his own initiative, further arguments that could be used against his own Cause. This interpretation is supported by a passage on Hortensius in Cic.*Brut.* 302: *memor et quae essent dicta contra* [not: *quae contra dici potuissent/possent*] *quaeque ipse dixisset*.

et cum: This ‘*et*’ is epexegetic (*OLD* s.v. *et* 11: ‘In other words, to be more precise, namely, and’); it introduces the explanation of how the orator ought to proceed when combining his

own arguments with those of the opposing party. Indeed, the normal meaning of additive ‘and’ (used e.g. by HUBBELL (1949) and ACHARD (1994)) does not make good sense here. On epexegetic ‘et’, see also *TLL* s.v. *et* PARS PRIOR.IV.C *et explicatium*; *H.-Sz.*§256.m (referring to further literature).

For further examples of this quite rare meaning of ‘et’, cf. e.g. *Cic.Mil.61: Magna uis est conscientiae, iudices, et magna in utramque partem...*; *Catil.2.17: Sed cur tam diu de uno hoste loquimur et de eo hoste qui iam fatetur se esse hostem, et quem (...) non timeo...?*

tum contra: This ‘tum’ is not at the same level as the previous two ‘tum’ in this sentence, but is correlative to ‘cum’ in ‘et cum tuam...’.

breuem: See at 1.98 under ‘breuiter’.

conparationem: the comparison of the orator’s arguments with those of his opponent.

et de confirmatione...reprehensione: the two parts of the Argumentation: strengthening one’s own arguments and refuting those of one’s opponent.

aliis actionis quoque modis: ‘actionis (...) modis’ here refers to modes of presentation of the *enumeratio*. These are subdivided into *enumeratio* linked to *personae* (people) and *enumeratio* concerned with *res* (things). In fact, as becomes clear from the following, *enumeratio* is here linked to *προσωποποιία* (cf. ‘*oratio attribuetur*’ in 1.100): instead of listing these things in his own name, the orator lets another, absent person (like the author/writer of a law, cf. *si legis scriptor existat et quaerat...*) or a personified thing (like laws, cf. 1.100: *si leges loqui possent*) enumerate them, so that an additional, external authority seems to support the orator’s position. Cf. also *Aps.Rh.10.5* on the use of *προσωποποιία* in the *conclusio*.

tua persona...possis: On the use of 2nd pers. sing. here, see at 1.98 under ‘dicere...confirmaris’. Closely related to this switch in person is the use of ‘tua’ (for which see also earlier in 1.99: *tuas argumentationes...cum tuis contrarias coniungere*): in fact, ‘tua persona’ corresponds to ‘nostra persona’ in contexts where the verb is not used in 2nd pers. sing. (cf. later in 1.99; cf. also 1.22 on deriving *benivolentia ab nostra persona*). As in 1.22, the question arises whether *tua/nostra persona* in 1.99 in a Roman context refers to the person of the advocate and/or the litigant he represents. In this case, the following clause (*ut quid et quo quidque loco dixeris admoneas*) makes it clear that it is the speaker himself, i.e. the advocate (unless the litigant himself speaks), who is referred to here.

personam...attribuere: Quintilian (*Inst.*6.1.3) indicates a similar ‘other-person’ technique of Enumeration used by Cicero in *Ver.*2.5.136 (Cicero’s wording, not Quintilian’s): *Ipse pater si iudicaret, per deos immortales, quid facere posset? Cum tibi haec diceret:* [there follows an Enumeration]. As an example of a *res*-based technique of Enumeration, he refers to *Ver.*2.5.184-188, where Cicero uses an invocation of the gods to make an Enumeration according to their temples despoiled by Verres.

si legis scriptor existat: If taken literally, the *legis* ‘scriptor’ is the person responsible for the *wording* of the law, who does not need to be identical with the *legis* ‘lator’, i.e. the person who brought in the bill.

This rhetorical trick of conjuring up the *legis scriptor* (or the *legis lator*) and putting one’s own interpretation into his mouth is a very powerful one, since it opens the door for all kinds of historical fictions: the orator blurs the line dividing historical reality from fiction, with the audience prone to forgetting about this dividing line.

As already noted by ADAMIETZ (1960), 54, Cicero uses a similar idea and wording in *Inu.*2.139: *scriptorem ipsum, si existat...*

hic: This refers to the Enumeration made with another person as a starting point (the variant called β_1 at 1.98 under ‘Quare...(1.100) licebit’).

ut in nostra persona: This refers to the variant called α at 1.98 under ‘Quare...(1.100) licebit’. ‘*Nostra persona*’ here corresponds to ‘*tua persona*’ earlier in 1.99, see above under ‘*tua persona...possis*’.

alias singillatim...argumentationes: This refers back to 1.98: *singillatim unam quamque rem adtingere et ita omnes transire breuiter argumentationes* (variant called *a* at 1.98 under ‘Quare...(1.100) licebit’).

alias ad...referre: This refers back to 1.98: *dicere quas partes exposueris in partitione* (variant called *b* at 1.98 under ‘Quare...(1.100) licebit’).

As the passage referring to this method of treatment in 1.98 shows, ‘*singula*’ here has to mean ‘each one of’, not ‘taken separately’. ‘*Genera*’ here refers to what in 1.98 was called ‘*partes*’; see note *ad loc.*

alias ab...quaerere: This refers back to 1.98: *ab iis qui audiunt quaerere quid...demonstrari* (variant called *c* at 1.98 under ‘Quare...(1.100) licebit’). As ADAMIETZ (1960), 54, notes, a similar idea is found in *Inu.2.125*: *tum ad iudicis officium reuertentem et ab eo quaerentem quid praeterea audire aut exspectare debeat*.

alias haec...argumentationum: This refers back to earlier in 1.99: *cum tuis...ostendere* (variant called *B* at 1.98 under ‘Quare...(1.100) licebit’).

TESTIMONIA:

quidnam...factum sit: $\approx$ Alb. *Rhet.* 33p.542,19-21; *per quam...concitetur*: $\approx$ Alb. *Rhet.* 33p.542,21-22;
Nam...possunt: $\approx$ Alb. *Rhet.* 34p.543,6-7.

COMMENTARY:

Res...licebit: This corresponds to what is called variant β_2 at 1.98 under ‘Quare...(1.100) licebit’. While in variants α and β_1 the orator takes as the starting point for his Enumeration a person (either himself or someone else), he here chooses a thing (an animal, an object, or an abstract thing) for this purpose. By attributing speech and thus the faculty of speech to a thing (*alicui rei...oratio attribuetur*), the orator uses the rhetorical figure of προσωποποιία. Προσωποποιία to create variation in Enumeration is also found in Aps. *Rh.* 10.5. See also at 1.98 under ‘Quare...(1.100) licebit’.

si leges loqui possent: Cicero uses a similar trick in *Clu.* 148: *Iubet lex...adiungit...nominavit...docet...ubi enim omnes mortales adligat, ita loquitur...uoluisse, adiunxisse*. Indeed, this is slightly different from the precepts given here in *Inu.*: in *Inu.*, the laws are completely personified and address the judges in direct, passionate speech, while in *Clu.* Cicero attributes verbs of saying and doing to the laws, but their ‘speech’ is simply their wording and not some direct, passionate speech addressed to the judges.

quidnam...factum sit: Cicero uses almost exactly the same example here to demonstrate an Enumeration whose starting point is a thing (β_2) as he used in 1.99 for an Enumeration that originated from another person (β_1): *quid dubitetis, quid possitis dicere, cum uobis hoc et hoc sit demonstratum*.

hoc et hoc: ‘this and that’, see *K.-St.* II, §160.3.a).

In hoc quoque genere: This refers to the ‘*genus*’ *enumerationis* taking a thing as a starting point (β_2). For a similar use of ‘*genus*’ in the context of Enumeration, see at 1.99 under ‘in his generibus’.

omnibus isdem modis: This refers to what was called variant *A* (comprising *a*, *b*, and *c*) and *B* at 1.98 under ‘Quare...(1.100) licebit’.

Commune...datur: This advice is given for all the different ways of treating Enumeration that have been described in 1.98d-100a. It deals with the *uirtus enumerationis*: *breuitas*. See also at 1.109 under ‘Commotis...arescit’ and LAUSBERG §§435; 440.

One may wonder whether the choice of present indicative passive ‘*datur*’ suggests that Cicero is reporting what he finds in his source(s)—in fact, one could otherwise have expected ‘*detur*’ (‘shall be given’) or 1st pers. pl.

quoniam...uideatur: In the Enumeration, the orator must not repeat the arguments in their entirety, but only sum them up, using the most important points from each. Similarly: Quint.*Inst.*6.1.2: *Nam si morabimur, non iam enumeratio, sed quasi altera fiet oratio*.

Cf. also *Rhet.Her.*2.47: *breuiter, ut renouetur, non redintegretur oratio*. Notice that, while it is the orator who speaks, it is the listener who recollects. Hence, *enumeratio* should give the listener the impression that what is being listed here is something that comes from within himself, not from the orator.

breuissime: See at 1.98 under ‘breuiter’.

Indignatio...concitetur: The aim of the *indignatio* is of course that the listener starts to *indignari*.

Although *Rhet.Her.2.47* uses ‘*amplificatio*’ instead of ‘*indignatio*’ (see also below under ‘*amplificationes...indignationes*’), its function here is the same as that of *indignatio*, cf. *Rhet.Her.2.47*: *Amplificatio est res quae per locum communem instigationis auditorum causa sumitur. Loci communis ex decem praeceptis commodissime sumuntur adaugendi criminis causa*. In *Part.52*, Cicero subdivides the Peroration into *enumeratio* and *amplificatio*.

Cf. also *Aps.Rh.10.1*: ἡ δὲ δεινῶσις [i.e. *indignatio*] κατὰ τὴν αὐξήσιν [i.e. *amplificatio*] θεωρεῖται.

Alternative terms for ‘*indignatio*’ are: *amplificatio* (*Rhet.Her.2.47*), *exaggeratio* (*Sulp.Vict.Rhet.23p.324,22*), δεινῶσις (*Aps.Rh.10.1*; *Fortun.Rhet.2.31*; *Mart.Cap.p.199,24*). See LAUSBERG §438.

On *indignatio*, see also: *HWRh* s.v. *Amplificatio*; *Indignatio*; LAUSBERG §438; VOLKMANN (1885), 266-271; MARTIN (1974), 155-158; CALBOLI MONTEFUSCO (1988), 95-104.

oratio: here ‘passage’, not ‘speech’, see at 1.97 under ‘*orationem*’.

In hoc genere: Cicero is inconsistent here in his use of ‘*genere*’, as he had listed *indignatio* as one of the three *partes conclusionis* in 1.98.

posse...indignationem: On the precepts given in *Inu.* on the *loci* of *confirmatio*, see 1.34-43 and at 1.106 under ‘*locis communibus*’.

The word order is quite unusual here: ‘*posse*’ is found far from ‘*tractari*’, and not a verb (*tractari*), but a noun (*indignationem*) is found at the very end of the sentence, while Latin usually prefers to put a verb last. Hence, ‘*indignationem*’ receives a strong emphasis, which seems somewhat unjustified, given that the entire paragraph is about *indignatio* anyway. If the text is not corrupt here, one might wonder whether Cicero was trying to achieve a

clausula: indignātiōnēm. Indeed, the previous sentence and the following one also end in a *clausula* (*cōncitētūr* and *consīdērēmūs*; ^ represents the *elementum anceps*). This would show that Cicero was indeed already familiar with the principles of rhythmic prose when he wrote *Inu.* and that he was consciously using it in some places; see also Chapter 4.

ex iis rebus...attributae: This division into people and acts is found in the treatment of both *narratio* (cf. the subdivision of the third *genus narrationis* in 1.27 with the note *ad loc.* under ‘Eius partes...uersatur’) and *confirmatio* (1.34), but as the words ‘*quos in confirmandi praeceptione posuimus*’ show, the reference here is to 1.34, i.e. to Confirmation. On this division into people and acts—the most important ‘ingredients’ of any Cause: *who and what?*—in the context of Topics, see LEFF (1983) and at 1.106 under ‘locis communibus’.

Cf. also Sulp.Vict.*Rhet.*230p.324,31-32: *In hac quoque parte et e re gesta et ex ipsis personis sumenda erunt...*

amplificationes...indignationes: In *Rhet.Her.*2.47, ‘*amplificatio*’ is the term corresponding to Cicero’s ‘*indignatio*’, as can be seen from the *loci* provided for ‘*indignatio*’ and ‘*amplificatio*’ in Cic.*Inu.*1.101-105 and *Rhet.Her.*2.48-49 respectively (see Introduction to 1.98-109). Although Cicero here uses both terms next to each other, he gives them different meanings (cf. *sed tamen ea quae separatim de indignatione...*, and 1.101: *cum amplificatione per indignationem*), which shows that for him in *Inu.* the terms are not synonymous, but represent different things. Hence, he cannot have used (only) the same source as the *Auctor* here (or else have introduced Latin technical terms familiar to him), as this would have precluded the use of both terms side by side with different meanings.

Cicero in *de Orat.*3.104 gives a good explanation of what *amplificatio* (αὔξισις) is about: *Summa autem laus eloquentiae est amplificare rem ornando, quod ualet non solum ad augendum*

aliquid et tollendum altius dicendo, sed etiam ad extenuandum atque abiciendum. And he adds where in the speech it is used:

Id desideratur omnibus eis in locis, quos ad fidem orationis faciendam adhiberi dixit Antonius, uel cum explanamus aliquid uel cum conciliamus animos uel cum concitamus, sed in hoc, quod postremum dixi, amplificatio potest plurimum eaque una laus oratoris est [et] propria maxime.

Similarly: Cic.*Part.*27 (*est enim amplificatio uehemens quaedam argumentatio*); 52-53 (*Est igitur amplificatio grauior quaedam adfirmatio, quae motu animorum conciliet in dicendo fidem. Ea et uerborum genere conficitur et rerum*). If *amplificatio* is concerned with ideas (*res*), it comes under *inuentio*; if it is concerned with words (*uerba*), it belongs to *elocutio*.

In fact, the *Auctor* himself will use *amplificatio* in this sense, too, later in *Rhet.Her.*, cf. 3.23: *Amplificatio est oratio quae aut in iracundiam inducit aut ad misericordiam (!) trahit auditoris animum*, and in 3.24 he subdivides it into *cohortatio* and *conquestio* (!).

On *amplificatio* (αὔξῆσις), see also: Cic.*Inu.*2.48; Quint.*Inst.*8.4; *HWRh* s.v. *Amplificatio*; LAUSBERG §§400-409; PLÖBST (1911); MARTIN (1974), 153-155 (who does not always clearly distinguish between general *amplificatio* as αὔξῆσις, found in different *partes orationis*, and *amplificatio* as the *Auctor*'s term for what Cicero calls 'indignatio' as a distinct part of the Peroration); CALBOLI MONTEFUSCO (1988), 97-98 with n.31 (which includes references to further primary literature).

separatim: The *loci* listed in 1.101-105 will be specific to *indignatio* and not apply to *amplificatio*. Thus, *indignatio* does not only admit the 15 *loci* treated in 1.101-105, but also those linked to the attributes of persons and acts found in 1.34, which, for the sake of conciseness, Cicero does not want to list here again.

With regard to the *loci* of both *indignatio* and *conquestio*, it is worth noting that the orator will not use each of these *loci* in every Cause, but only those that suit the Cause in

question; similarly Mar.Victorin.*Rhet.*1,53p.177,33-178,2. See also: MARTIN (1974), 157; CALBOLI MONTEFUSCO (1988), 100.

Indeed, using all *loci indignationis* and/or *loci conquestionis* would result in excessive length: similarly, for ‘topical’ invention in the Argumentation as prescribed by [Hermog.]*Inu.*3.6-7 and 3.11-12, PERNOT (1986), 267-269, has shown that if an orator used the *full* ‘topical’ lists for each of the four argumentative stages κεφάλαιον, ἐπιχείρημα, ἐργασία, and ἐνθύμημα/ἐπενθύμημα, the result would be more than 200 proofs for only one κεφάλαιον, which clearly shows that such ‘topical’ lists need *not* be used in their entirety, even if a rhetorical treatise does not state this expressly; indeed, Quintilian gives such a warning in *Inst.*5.10.122-123. Cicero nowhere in *Inu.* states how many Topics should be used in the *conclusio* of a particular speech and in what order they should be used.

The list of *loci* provided should be memorised by the orator so that he has a diversity of arguments at hand, from which he can then quickly make a selection. The question of whether the order of *loci* may be changed is not dealt with here, since it belongs to *elocutio*, not *inuentio*.

TESTIMONIA:

diis...populo: ≈Alb.*Rhet.*33p.542,24-25; *quidnam...demonstrabimus*: ≈Alb.*Rhet.*33p.542,27.

COMMENTARY:

primus locus...(105.) quintus decimus locus: This plain listing style is very unusual, if compared to the rest of *Inu.*1. Cf. also the list in 1.107-109 (*primus locus...sextus decimus locus*). One may wonder whether it is influenced by the use of other sources for this passage than for the previous sections of *Inu.*1, see Introduction to 1.98-109.

The *loci indignationis* mentioned here are in fact *loci communes*, see at 1.106 under ‘locis communibus’.

Primus...scriptoribus: This Topic resembles a *locus a maiore ad minus* stating that if something applies to something of a higher degree (bigger, better, etc.) it also applies to something of a lower degree (smaller, less good, etc.); cf. e.g. *Inu.*1.41; *Top.*23; *Quint.Inst.*5.10.87; see also LAUSBERG §396; REINHARDT (2003), 248-250. Rather than substantiating his point with rational arguments, the orator relies on the authority and prestige of others (gods or humans) to support his position: he transfers the authority of someone of higher standing to someone of lower standing.

On the question of authority, cf. also Cic.*Top.*24: *Quae* [sc. *argumenta*] *autem adsumuntur extrinsecus, ea maxime ex auctoritate ducuntur. Itaque Graeci talis argumentationes ἀτέχνους uocant, id est artis expertis; Top.*73:

Haec ergo argumentatio quae dicitur artis experts in testimonio posita est. Testimonium autem nunc dicimus omne quod ab aliqua re externa sumitur ad faciendam fidem. Persona autem non qualiscumque est testimoni pondus habet; ad fidem enim faciendam auctoritas

quaeritur, sed auctoritatem aut natura aut tempus affert.

WACHTLER (1973), 99-100, observes that Cicero uses this *locus* in many speeches by referring to the *auctoritas* of the state.

locus: For the meaning and metaphorical use of ‘*locus*’, see at 1.106 under ‘locis communibus’.

diis...scriptoribus: a clear dichotomy between the divine/religious/supernatural world and the human sphere, which could imply that the young Cicero did not consider the gods to interfere directly in human affairs. However, the very fact that the gods are listed here (and are listed even before the human sphere), suggests that they are viewed as important and as having power over humans or at least that Cicero thinks that a Roman audience would view them in this way—otherwise this argument would not work.

There is no clear hierarchy in the sequence of words from the human sphere. Indeed, one might have expected, for instance, to find ‘*legum scriptoribus*’ next to ‘*senatui*’ rather than behind ‘*populo*’.

qui...similibus rebus: The gods’ authority cannot be derived from a direct statement by them: their opinion is only perceived through the means listed thereafter: *sortes*, *oracula*, etc.

sortibus...responsis: All these terms relate to the supernatural domain of foreseeing the future through divine interaction.

For the exact meaning of these words, see the relevant entries in *TLL*, *OLD*, and *RE*: the *sortes* are lots that were drawn to produce an answer that was considered of oracular status; even in a political context, drawing lots for decision-making (e.g. when choosing which pro-consul should govern which province) also had a religious connotation: the decision was considered to express the will of the gods. ‘*Oraculum*’ refers to an utterance of a god (and also to the place where it is made), pronounced through the mouth of an

interpreter of the god(s), usually a priest(ess), such as the Pythia and Apollo's oracle at Delphi. A 'uates' is, in the strictest sense, an interpreter of the gods (cf. *uaticinari*, 'to prophesy'), which suits the context better than its broader sense of a divinely inspired poet, although it might already have been found before Cicero, unless one mistrusts Var.L.7.36 (*antiquos poetas uates appellabant a uersibus uiendis, ut <de> poematis cum scribam, ostendam*); see also e.g. BICKEL (1951); NEWMAN (1967) (who at p.8 states that 'the revival or employment of *uates* in an honourable sense is an Augustan neologism'); JOCELYN (1995). Cicero has two similar lists in which 'uates' is used in its religious sense: *N.D.* 1.55 (*haruspices, augures, harioli, uates, coniectores*) and *Diu.* 2.13 (*haruspex aut augur aut uates*). 'Ostentum' is used for an extraordinary event that catches one's attention, 'prodigium' for a distinct, supernatural sign; 'ostentum' and 'prodigium' often refer to events or signs in nature, while 'portentum' and 'monstrum' usually refer to those from the human or animal sphere. 'Responsum' in this context is an answer given by an interpreter of the gods (*OLD* s.v. *responsum* 2.a); indeed, although 'responsum' could also refer to a legal opinion given in 'reply' to someone seeking the advice of a jurist (*OLD* s.v. *responsum* 2.b), all the previous terms in this list come from the religious sphere. Nevertheless, one must keep in mind that in Rome priests (the *pontifices*, *augures*, and *fetiales*) had a major influence on some domains of the law and that many jurists (like Q. Mucius Scaevola Augur and Q. Mucius Scaevola Pontifex) until the early 1st century BC were members of a pontifical college (and vice versa), see e.g. KUNKEL (1967), 45-49; LINDERSKI (1986); WIEACKER (1988), 310-340; HARRIES (2006), 149-169; for an overview of the links between religion, society, and politics in Rome in general, see e.g. BEARD (1994); for religion in Cicero's speeches, see e.g. GILDENHARD (2011), 246-384.

The single repetition of 'ex' (*ex oraculis*) seems strange, since it interrupts the list in the following way: *ex A, ex B, C, D, E, F...* One might consider deletion, as there is no apparent reason for its presence: neither 'sors' nor 'oraculum' exists as an adjective and could

thus have been misunderstood as such (contrast here ‘*ostentis*’ and ‘*responsis*’), nor does this ‘*ex*’ add anything to the sense or create a clausula.

maioribus...scriptoribus: dative, like ‘*diis immortalibus*’, not ablative after ‘*ex*’ like ‘*sortibus...similibus rebus*’.

regibus: In the context of the Roman Republic, it is somewhat surprising to see ‘*regibus*’ (‘kings’) included in a list of *auctoritas grauissima*, given that, following the behaviour of some of the Roman kings, especially of L. Tarquinius Superbus and his family (see e.g. Liv.1.49-60), the title of king was to a Roman like a red rag to a bull (see e.g. Liv.2.1-8; compare also the anecdote of Mark Antony offering a diadem like a royal crown to Caesar during the Lupercalia and the strong reaction this provoked among the Roman people, e.g. in Suet.*Iul.*79.2; Plut.*Caes.*61; for further passages, see GELZER (1960), 298 n.234). In this sense, ‘*rex*’ is comparable to our modern usage of the word ‘dictator’ (the original meaning of Latin ‘*dictator*’ did not carry any tyrannical connotation). Indeed, in Cicero’s days the words ‘*rex*’ and ‘*regnum*’ were regularly used in invective to depict an opponent as a despot, cf. e.g. Cic.*Sul.*21.

One may hence wonder whether ‘*regibus*’ here is a remnant from a Greek source, whether the juxtaposition of ‘*maioribus nostris*’ and ‘*regibus*’ implies a reference to Rome’s monarchical past, or whether ‘*regibus*’ here refers to *foreign* kings who were allies of the Romans (like Massinissa from 206 BC on).

hominibus sapientissimis: Equally striking for a period when things Greek were still considered with some hostility and contempt by conservative upper-class Romans is the inclusion of ‘*hominibus sapientissimis*’: indeed, ‘*sapiens*’ often functions as the Latin word for philosopher, and philosophy, together with rhetoric, was among the domains considered with suspicion by the conservative Roman elite, cf. e.g. Cicero’s rejection of concepts pertaining to philosophy in 1.8 and 1.77. The inclusion of ‘philosophers’ (if we are not to understand ‘*hominibus sapientissimis*’ simply as ‘wise statesmen’ of great merit to the

state due to their decisions in times of crisis), which might be somewhat bold in the Rome of the early 1st century BC, also seems to point to a Greek source, or, perhaps, to the subtle hint of a young author with a partially hidden interest in philosophy. (By contrast, Cicero included '*inlustris homines*', not '*sapientes homines*', in his list in 1.23.)

Secundus...superbissimum est: This Topic is concerned with the injustice that arises when a disadvantage, crime etc. befalls either everyone or only a certain group of people; the groups listed here represent a downwards angle of perspective from higher standing to lower standing. If this form of harm befalls all or almost all, it is catastrophic for the entire community; if it befalls only those of high status, it is outrageous, since they do not deserve such treatment or fate; if it befalls people living in equal mental, material, and corporal circumstances, it is unjust if their treatments or fates are different; if it befalls only those of low status, it seems as if the action was aimed specifically at the lower classes and hence looks like an act of arrogance.

The interspersed parentheses introduced by '*quod*' are the reasons that the orator is meant to give his audience to make clear why he shows indignation at this (these) situation(s).

illa res...pertineat: This indirect question depending on '*ostenditur*' has a rather strange word order, given that '*illa res*' does not have any grammatical function in the superordinate clause. Cicero probably chose this word order to avoid the wording '*per quem ad quos illa res pertineat*', which, besides being inelegant, could also have been briefly misunderstood as two separate questions (*per quem?* *ad quos?*).

cum amplificatione: See at 1.100 under 'amplificationes...indignationes'.

per indignationem: '*Indignatio*' is used here in its normal, i.e. non-technical sense of 'indignation'.

aut ad...aut ad...aut ad...aut ad...aut ad: This takes up ‘*ad quos pertineat*’ again and defines the ‘*quos*’ more precisely.

Some of the mss. hesitate between ‘*aut*’ and ‘*an*’ after the first two ‘*aut ad*’. From a grammatical point of view, both ‘*aut*’ and ‘*an*’ are possible here and confer the same meaning, but since the first two ‘*aut ad*’ are well-attested in the mss. (*HVPS*¹*mh* vs. twice ‘*an ad*’ in *S*²*f*), it seems best to read ‘*aut ad*’ in all five instances.

quales...sumitur: cf. the list of such people provided under the first Topic (*diis immortalibus...maioribus nostris...legum scriptoribus*). ‘*Indignatio*’ here is again used in its technical sense, as is shown by the use of *auctoritas*, which constituted the first *locus* of Indignation.

animo...corpore: It is worth noting that Cicero places ‘*fortuna*’ in between *animus* and *corpus* (which would normally have been considered as belonging together to form a human being, cf. e.g. *Tusc.*3.1: *cum constemus ex animo et corpore*); one may wonder whether the young author, who suffered from poor health in his youth, wants to decrease the importance of a person’s physique by mentioning it only in the last place.

Tertius...demonstrabimus: This Topic treats the danger of granting an exception to one person and of the precedent resulting from this exception. It comprises three steps:

1. the orator shows what would happen if all committed this deed; the audience ought not to concede this, but they are free to do so;
2. he then considers the case in which they make this concession and shows them that many will imitate such behaviour if it goes unpunished;
3. he finally depicts what the consequences of this situation would be.

With this Topic, the orator hence tries to intimidate the audience in order to have them make no exception for the defendant in the present case and hereby not to create any dangerous precedent (slippery slope argument).

quidnam: The addition of ‘-nam’ to ‘quid’ (which alone would have been sufficient) expresses the speaker’s indignation (‘what indeed?!’).

huic si concessum sit: ‘huic’ needs to precede the conditional clause since from a grammatical point of view it belongs both to this conditional clause and to the indirect statement depending on ‘ostendimus’.

ex quo...demonstrabimus: This probably refers only to the second part of this Topic (*et simul...audaciae futuros*).

TESTIMONIA:

multos...possint: ≈Alb.*Rhet.*33p.542,30-32; *uoluntario...oportere:* ≈Alb.*Rhet.*33p.542,28;
taetrum...sit: ≈Alb.*Rhet.*33p.542,32-34.

COMMENTARY:

Quartus...possint: This Topic is related to the third one, in which the problem of precedent was already raised. In fact, it continues the line of reasoning of the third Topic by addressing the danger that some evil-minded people wait for a precedent to be created so that they can use it as a defence for their own future wrongdoings.

demonstramus: Notice the abrupt and arbitrary change with the same verb from preceding future ‘*demonstrabimus*’ at the end of 1.101 back to present tense ‘*demonstramus*’.

Quintus...possit: The fifth Topic contrasts two situations: in all other cases, a bad precedent can be corrected once it has been recognised as a bad one, while in the present case this is not possible (note the contrast between ‘*ceteras res*’ and ‘*hanc...rem*’). Hence, a concession by the judges that would lead to a bad precedent must be avoided at all costs.

si...semel: In this expression, ‘*si*’ has a temporal sense and ‘*semel*’ loses its strong numerical sense, and ‘*si semel*’ means ‘once’ (cf. the German expression ‘wenn einmal...’). Elsewhere in Cicero, ‘*si semel*’ is found similarly e.g. in *Ver.*2.3.220; 2.5.79; *Caec.*96; *Cael.*16; *Fin.*1.22. See *H.-Sz.*§363. LANDGRAF (1914), 77-78, lists passages in which ‘*semel*’ has a similarly weakened numerical sense with ‘*quoniam*’, ‘*quando*’, ‘*quando quidem*’, ‘*ut*’, ‘*cum*’, ‘*ubi*’.

neque alio commutari iudicio: This refers to the judicial principle of not judging the same case twice (*non/ne bis in idem/de eadem re*), which has become an important

principle in legal theory and even entered the domain of declamation, cf. e.g. Quint.*Inst.* 7.6.4; [Quint.]*Decl.min.* 266.

Sextus...conuenire: This Topic is concerned with evil intention and the claim that neither evil intention nor inattention/ignorance may be pardoned.

***inprudentiae*:** While in the theory of Issues (cf. 1.15) '*inprudentia*' means 'lack of knowledge' rather than 'imprudence', it is used here to contrast with '*consulto*', '*de industria*', and '*uoluntario*', and thus here means 'absence of intention, inadvertency' (*OLD* s.v. *imprudentia* 2). *TLL* s.v. *imprudentia* lists this passage as the only one where this term is antonymous to *uoluntarium facinus*, but it has the same sense in *Part.* 38 (listed immediately thereafter in the *TLL*): *Iam facta et euentus aut consili sunt aut imprudentiae, quae est in casu aut in quadam animi permotione*.

Septimus...sit: This Topic addresses the evil character of the deed and its illegal and unjust nature.

***taetrum...tyrannicum*:** Notice the *crescendo* in these four adjectives.

***crudele...tyrannicum...uis*:** As DUNKLE (1967), 160, points out, *crudelitas* and *uis*, besides *libido* and *superbia*, are, for the Romans, the characteristic vices of the tyrant. See HELLEGOUARC'H (1972), 309 (on *uis*) and 561-562 (on *tyrannus*); VASALY (1987), 217-221 (on the tyrant stereotype in Livy).

***nefarium*:** what is against *fas*, i.e. against divine law or will; in this sense, '*fas*' is the divine counterpart of '*ius*', human law; see *EDRL* s.v. *Fas*. If one accepts that *crudele* is stronger than *taetrum*, then it seems that Cicero builds this list of four items in a climactic way: *taetrum* < *crudele* < *nefas* < *tyrannicum*; indeed, *nefas* is stronger than *crudele*. This would imply that *tyrannicum*—which is measured by human standards—is stronger than *nefas*, placing the human political sphere above the divine/religious one; see also at 1.101 under

‘diis...scriptoribus’. What exactly falls under which of these four categories might be a rather subjective assessment.

tyrannicum: This adjective carries a special rhetorical ring besides the purely political one. Indeed, tyranny and tyrannicide are among the most common declamation themes in the four extant Latin declamation *corpora* (Sen.*Contr.*; [Quint.]*Decl.min.*; Calp.*Decl.*; [Quint.]*Decl.mai.*) and in rhetorical treatises. Cf. also the example in *Inu.*2.144.

Although Seneca the Elder claims that declamation was ‘a thing born after [him]’ (Sen.*Contr.*1pr.12), one of the recurring declamation themes (a foreigner ascending a wall and thus warning and saving the city from the approaching enemy) is already found in Cic.*de Orat.* (2.100) and must hence already have existed in Rome by 55 BC and perhaps already at the time of the plot of *de Orat.*, i.e. in 91 BC. See also FAIRWEATHER (1981), 106-131, esp. 124-131. Cf. themes in Cic.*de Orat.*2.100 and *Att.*9.4., on which see also BLOOMER (2007), 302. See also KASTER (2001), 318.

One may hence wonder whether ‘*tyrannicum*’ here only carries the political meaning of cruel governance or whether any subtle reference to declamation is to be understood here. Although most sample cases found in *Inu.*1 and 2 are much more detailed than the dream-world declamation themes found *en masse* from Sen.*Contr.* onwards, the seeds of these later prevalent declamation themes can already be found in some of the themes included in *Inu.*1. and 2: see Chapter 10. On the ‘discourse of tyranny’ in Greece, at Rome, and in Cicero’s speeches in particular, see GILDENHARD (2011), 85-92 and 173-175 (with further bibliography).

per uim, manum: As a ‘hand’ can be a tool of violence, the literal meaning of ‘*manum*’ here would not add anything after ‘*uim*’. Hence, it here probably has its figurative sense referring to a group of people.

opulentiam: ‘Wealth’ is somewhat surprising here, considering that in the 80s BC juries in Rome included many rich upper-class citizens: they might not have approved of

an advocate depicting wealth in a negative way in order to make rich people look suspicious. One might hence wonder whether this passage goes back to a Greek source: wealth as a source of envy that the orator wants to arouse in the audience against his opponent. Indeed, [Arist.] *Rh.Al.* 1445a17-26 states the orator should try to arouse envy, which is close to hatred and anger, in his audience, and indicates certain ways of how to do this.

Similar details as well as the character of the examples used in *Rhet.Her.* have led several scholars to think that the *Auctor* was a *popularis* when it came to political views (e.g. MARX (1894), 152-153; CALBOLI (1965), 57-103; CALBOLI (1993), 34-42; ACHARD (2003), XXVIII-XXX—Cicero’s ‘*opulentiam*’ here can be used as an argument against ACHARD’s line of reasoning at p.XXX: ‘It is remarkable that the *De inuentione*, whose theories are often close, has carefully avoided these references’, my translation), while others reject this (e.g. GELZER (1962); HELLEGOUARC’H (1967); VON UNGERN-STERNBERG (1973)).

***legibus...iure*:** Cicero makes a dichotomy between laws and ‘equality-providing justice’, which seems to indicate that, in his opinion, the former do not directly guarantee the latter, and even that justice (*ius*) is not always *aequabilis* (‘equality-providing’), as the addition of ‘*aequabili*’ to ‘*iure*’ suggests. The expression ‘*ius aequabile*’ is already found in 1.2.

The link between *ius* and *aequum* also appears in the definition of ‘*ius*’ at the beginning of *Iust.Dig.* 1.1.1pr.1: (*ius*) *est autem a iustitia appellatum; nam, ut eleganter Celsus definit, ius est ars boni et aequi*. See *EDRL* s.v. *Aequitas (aequum)*; *RE* I 1 s.v. *Aequitas* 1). The ‘*Celsus*’ mentioned here might be the jurist described in *RE* X 1 s.v. *Iuventius* 13), who lived in Rome during the 1st-2nd centuries AD.

TESTIMONIA:

in hospites...mulieres: ≈ Alb. *Rhet.* 33p.542,34-37.

COMMENTARY:

Octauus...commouere poterit: With this Topic, the orator claims that the deed is a unique one and has not even been committed by the greatest daredevils, by non-Romans (and perhaps non-Greeks), nor by animals. Under this category come especially crimes against relatives or acquaintances.

***factitatum*:** The frequentative '*factitare*' of '*facere*' indicates a repeated action.

***ab audacissimis...bestiis*:** There is a clear climax in this list from people (in ever-decreasing degree of expected decent and civilised behaviour) down to wild animals: first come very audacious people (probably very audacious fellow citizens), next come *savage* (i.e. violent and cruel) people—but still *people* (*hominibus*)—, then barbarous *tribes*—the word '*homines*' is no longer used here, so that these tribes already lose their human character—, before wild beasts are mentioned.

***barbaris*:** The Romans used this term to refer to all peoples who were not Roman or Greek (*TLL* s.v. *barbarus* B), while the original Greek word 'βάρβαρος' would even have included the Romans.

***parentes...supplices*:** The word order here seems to reflect an ever-increasing distance to the orator and hence to stress the importance of the male lineage within the Roman family, cf. e.g. Verg. *A.* 2: Anchises and Ascanius seem to be more important than Aeneas' wife when they flee from Troy. It also stresses the importance of the *paterfamilias* and of the father-son relationship. The father-son relationship and the problems arising

from it are a favourite theme of New Comedy and of declamation. On the latter, see e.g. BONNER (1949), esp. 101-103; GUNDERSON (2003), esp. 59-89.

consanguineos: in the strict sense, brothers and sisters by the same father; in a broader sense, blood relatives. See *EDRL* s.v. *Consanguinitas*. Cf. also 1.35.

in eos apud quod: typo in ACHARD (1994), missing in ‘CORRIGENDA’ (after p.244): the text should read ‘*apud quos*’ (cf. juxtaposition of the S- and D-keys on a computer keyboard).

educatus...eruditus: These two terms are not equivalent in meaning. ‘*Educare*’ denotes the rearing and moral instruction of children, while ‘*erudire*’ here refers to their instruction in a particular subject like literature (*TLL* s.v. *educo* I.A.1.a and s.v. *erudio* I.A.1.a.α.).

claros...usos: ‘*claros*’ here refers to fame, ‘*nobiles*’ to noble stock, and ‘*honore usos*’ to (formerly) held magistratures.

The use of ‘*et*’ here is striking: *A, B et C*. If all elements are on the same level, Latin uses either *A, B, C* or (*et*) *A et B et C*. As *K.-St.II*,§154.11 Anmerk.5 point out with reference to this passage among others, in the case of *A, B et C* the last element is not on the same level as the previous two, but somehow depends on the preceding one: these men are ‘*honore usos*’ because their being ‘*nobiles*’ gives them access to a high political office to which honour (‘*honore*’) is attached.

nec se defendere potuerunt: ‘*se defendere*’ could here be used in its physical sense (cf. *laedere*) or in its legal sense: although children (*pueri*) and normally also women (*mulieres*) were not allowed to defend themselves in court (they needed to be represented by an adult Roman citizen who was *sui iuris*, usually an advocate), elderly men were permitted to do so, unless they had been declared senile. See GREENIDGE (1901), 369-371; KASER (1966), 44-47; BABLITZ (2007), 72-76; 82-83.

pueros...mulieres: The word order suggests again that the male lineage seems more important; see above under ‘parentes...supplices’ and at 1.105 under ‘patribus...parentibus’.

TESTIMONIA:

illi...uiderit: ≈Alb.*Rhet.*33p.542,37-543,1; *ab eo...conuenerit*: ≈Alb.*Rhet.*33p.543,1-2.

COMMENTARY:

Nonus...ostenditur: This Topic should show through comparison that the deed in question is much worse than other deeds that are generally recognised as crimes.

peccatis: ‘*peccatum*’ often refers to a moral offence or to an error resulting not from malicious intention, but from imprudence, hastiness, etc.; see *TLL* s.v. *pecco*: i.q. (*tamquam pede ruente*) *a uia aberrare, errando delinquere*. See also *EDRL* s.v. *Peccatum*.

constat: i.e. generally conceded and accepted.

quaestio: It is not entirely clear whether ‘*quaestio*’ is here to be understood in its usual sense (‘question’) or in its technical, judicial sense of *quaestiones perpetuae*, permanent criminal courts, the first of which (the *quaestio de repetundis*, dealing with extortions) was established in 149 BC and the juries of which were composed of senators and (later also) of *equites*, usually under the supervision of a *praetor*; see e.g. *EDRL* s.v. *Quaestiones perpetuae*.

Decimus...uiderit: According to the tenth Topic, everything that happened during and after the deed must be used against one’s opponent and be narrated in a very visual way.

cum...criminatione: ‘with everyone showing indignation at these things and violently denouncing them’ or ‘showing indignation at each of these things and violently denouncing them’; the first is more likely, as the second would often use ‘*rei*’ to make clear that it is a thing, not a person, that one is talking about.

ac si: correlative to ‘*proinde*’, with ‘*proinde ac si*’ meaning ‘just as if’ or ‘just as much as if’ (*OLD* s.v. *proinde* 2.b).

Vndecimus...conuenerit: This Topic shifts the focus from the crime to the defendant: this particular crime is not acceptable in the case of this particular defendant, whether he committed it or simply failed to prevent it. It is close to the eighth *locus conquestionis*. While the latter is concerned with the deed in itself, the eleventh *locus indignationis* focuses on the person who committed the deed and thus is very close to the eleventh *locus conquestionis*.

This is the *locus* usually found in the *iudicatio* scheme developing the Cause of Orestes, cf. 1.18: ‘*At non*’, *inquiet aduersarius*, ‘*abs te filio matrem necari oportuit; potuit enim sine tuo scelere illius factum puniri.*’ See also Chapter 9.

Cf. also Quint.*Inst.* 6.1.16: *si percussus sit a uili aliquo contemptoque uel ex contrario a potente nimium uel ab eo quo minime oportuit.*

conuenerit: The mss. read ‘*conueniret*’. The corruption from *-erit* to *-iret* and vice versa is an easy one, and given the consensus in the mss. reading, it would have happened before or with the archetype. Given that Cicero uses perfect subjunctive in ‘*a quo oportuerit*’ (unanimously attested by the mss.), it does seem sound also to have perfect subjunctive in the parallel ‘*et a quo...conuenerit*’. Indeed, imperfect subjunctive ‘*si alius faceret*’ is dependent on past tense of subjunctive ‘*conuenerit*’, not the other way round. ACHARD (1994) attributes this conjecture to ‘Halm, ed. Zürich, 1845-1862’ (*Sigla* p.47); however the first volume of this edition containing *Inu.* was made by ORELLI/BAITER (1845), who use ‘*conueniret*’ here. Regardless of who introduced the conjecture ‘*conuenerit*’ here, it is a good one.

Duodecimus...uenerit: This Topic focuses on the victim: the victim (or their advocate) claims that they are the first to have been afflicted by this crime.

KAYSER (1854), 267, rightly points out that this Topic is quite similar to the eighth *locus indignationis*.

quod: used here with subjunctive after a verb expressing an emotion (*indignamur*), see *K.-St.* II, §192.g)1.

uenerit: The same logic applies as above under ‘conuenerit’.

TESTIMONIA:

superbiam...arrogantiam: ≈ Alb.*Rhet.* 33p.542,28-29; *ut ad suas...parentibus*: ≈ Alb.*Rhet.* 33p.542,29-30.

COMMENTARY:

Tertius decimus...concitatur: This Topic adds the defendant's insulting words on top of his unjust deed so as to make him look arrogant and hence to make him even more loathsome.

KAYSER (1854), 267, claims that this Topic is quite close to the seventh *locus indignationis*, but this is questionable: the seventh Topic focuses on the cruel and brutal (and similar) nature of the deed committed, while this Topic is concerned with verbal abuse that is added to the deed committed.

iniuria contumelia: '*iniuria*' is the injustice, verbal and/or physical, done to someone, while '*contumelia*' describes an insult or attack in word or deed on someone's honour, particularly someone's social status or prestige. See *EDRL* s.v. *Iniuria*; *Contumelia*.

per quem locum: It would not have been necessary for Cicero to repeat '*locum*' since no word in masculine singular was used after '*Tertius decimus locus*'; however, such repetition is not unusual in Latin, also in the case of '*locus*' (in its primary sense 'place'), cf. e.g. Cic.*Caec.* 66; 80; Caes.*Gal.* 1.49.1.

superbiam...arrogantiam: Both terms are pejorative and although they are very close in meaning, their meanings are not *exactly* the same. '*Superbia*' denotes a *feeling* of superiority over others (of being *super alios*) because of real or imagined qualities or advantages, while '*arrogantia*' refers to an *expression* of superiority, to a *claim* (cf. *ad-rogare*) to more than one is entitled to, especially in comparison with others. On '*arrogantia*', cf.

Grill.p.94,10-12: *Arrogantia est, quae sibi aliquid, quod non habet, usurpat; nam probata merita dicere non est arrogantiae*. See also *TLL* s.v. *arrogantia: iactantia superbia*. On *superbia*, see also HELLEGOUARC'H (1972), 439-441.

Quartus decimus...parentibus: According to this Topic, the defendant asks the judges to put themselves in his place and to consider how they would react in his stead.

ad suas...referant: The parallelism that the listener should make between his and the orator's (or the latter's client's) situation is also present in Cicero's phrasing here ('*suas res*' and '*nostras iniurias*' have the same word order).

'*Refferre ad alqd.*' in a comparative context means: 'to judge (a thing) by reference (to a standard or measure of comparison)', *OLD* s.v. *refero* 10.

pueros...liberis: ERNOUT/MEILLET (1979) s.v. *liberi* and BENVENISTE (1936) point out that '*liberi*' (which exists only as a plural: in the singular it is replaced by '*puer*') has a technical and legal connotation that neither '*puer*' nor '*infans*' has: '*liberi*' refers to the *legitimate* children born from the marriage of the *paterfamilias* (the aim of his marriage is often stated as being *liberorum quaerendorum gratia* or similar, cf. e.g. *Enn.Scen.*120 (VAHLEN); *Pl.Aul.*148; *Capt.*889) and that are free, while '*pueri*' in that case refers to the *illegitimate* children born from his relationship with a slave maid (Greek: γνήσιοι παῖδες). Here, however, '*pueri*' and '*liberi*' seem to have the same sense ('children'). Nevertheless, the order in which they appear seems to be intentional: as the following two parallelisms (*mulieres/uxoribus*: 'women'/'wives'; *senes/patribus aut parentibus*: 'elderly men/people' / 'fathers or parents'), show, the general term (*pueri, mulieres, senes*) is followed by the more specific one indicating a family relationship (*liberi, uxores, patres/parentes*). '*Liberi*' forms the pendant to '*parentes*'.

pueros...mulieres...senes: These three groups represent the closest relatives to the male members of a jury: their children, their wives, their fathers/parents. Furthermore,

they are vulnerable people whose physical and legal protection lies in the hand and authority of the *paterfamilias* (the picture of the *senes* given here is that of elderly people who need to be taken care of by their sons): in the eighth *locus indignationis* Cicero says of these same three groups: *qui neque laedere alium nec se defendere potuerunt*. See at 1.103 under ‘nec se defendere potuerunt’.

cogitent: The subjunctive mood here goes back to ‘*petimus...ut*’ and is thus part of an indirect statement starting with ‘*de liberis suis*’: the indicative mood of ‘*si ad pueros pertinebit*’ shows that this clause is not part of the indirect speech that surrounds it, but forms a parenthetical remark by Cicero.

patribus...parentibus: The fact that the first category of fathers-only precedes that of both parents, shows again the importance of the male lineage for Romans. See at 1.103 under ‘parentes...supplices’ and ‘pueros...mulieres’.

Quintus decimus...solere: Two interpretations seem possible for this Topic. ‘*Inimicis quoque et hostibus*’ can be taken as:

- (i) dative with ‘*videri*’: ‘these things usually seem shocking also to our private and public enemies’;
- (ii) ablative with ‘*indigna*’: ‘these things are usually regarded unworthy also of our private and public enemies’.

Both form a strong argument, making it difficult to say which interpretation is the correct one.

KAYSER (1854), 267, claims that this Topic would be very close to the eighth *locus indignationis*; the crucial element of Topic 15, however, is that the orator’s *enemies* (personal and public) are linked to the character of the deed committed: this is not found in Topic 8.

inimicis...hostibus: In general, ‘*inimicus*’ is the term used to refer to a personal enemy while ‘*hostis*’ denotes the enemy of an entire city, people, etc., i.e. a public enemy.

Still, a Roman could use ‘*hostis*’ in an attempt to turn his personal enemy into an enemy of all, as Cicero famously did with Mark Antony in *Phil.*2-5, 7-8, and 11-14 (*passim*).

grauissime: ‘with the greatest effect’, see *OLD* s.v. *grauiter* 8.b; *TLL* s.v. *gravis* II.1.b.

[Conquestionis...oportebit]: SCHÜTZ (1814) seems right to suspect this sentence to be an interpolation. Indeed, it shows major structural similarities with the preceding sentence:

<i>Et</i>	<i>indignatio</i>	<i>quidem</i>	<i>his fere de locis</i>		<i>grauissime</i>	<i>sumetur.</i>	
	<i>Conquestionis</i>	<i>autem</i>	<i>huiusmodi de rebus</i>	<i>partes</i>		<i>petere</i>	<i>oportebit.</i>

Furthermore, the fact that two subsequent sentences (‘*Conquestionis...oportebit*’ and ‘*Conquestio...captans*’) would start with ‘*Conquestio(nis)*’ in an emphatic position at the beginning of a sentence seems stylistically questionable. It is on this ground that the first sentence (‘*Conquestionis...oportebit*’) should be considered not to be by Cicero for three reasons:

1. ‘*Et indignatio...sumetur*’ makes clear that the section on *indignatio* is over: it forms a transitional sentence, making the *second* transitional sentence ‘*Conquestionis...oportebit*’ sound empty and superfluous;
2. the structure of the sentence ‘*Conquestio...captans*’ closely parallels the corresponding sentence that introduces the passage on the *indignatio* in 1.100: ‘*Indignatio est oratio...*’ (cf. also ‘*Enumeratio est...*’ in 1.98), which strongly suggests that it is by Cicero; indeed, there are other instances of Cicero introducing corresponding concepts with parallels in wording, cf. e.g. the openings of the sections on Confirmation (1.34) and Refutation (1.78);

3. '*huiusmodi de rebus*' looks out of place, because there is nothing in the following sentence to which it refers.

TESTIMONIA:

Conquestio...oportet: =Alb.*Rhet.*34p.543,9-11; *Conquestio...considerabit*: ≈Iul.Vict.*Rhet.*80,22-28.

COMMENTARY:

Conquestio...efficere oportebit...(107.) Deinde: As noted already by AULITZKY (1917), 26, these words are strikingly echoed in Aps.*Rh.*10.15a (Ἐπειδὴν δὲ...τόπω χρησόμεθα). Even ‘*Deinde*’ introducing the list of *loci conquestionis* seems to be reflected in Aps.*Rh.*10.19 (Μετὰ μέντοι τοὺς κοινοὺς τόπους τοὺς τὴν παρασκευὴν ἔχοντας πρὸς τὸν ἔλεον, which similarly introduces the switch from the *loci communes*/κοινοὶ τόποι to the list of Topics of Pity). As it is unlikely that Apsines relied on *Inu.*, it seems that Cicero’s text here goes back to a Greek tradition to which Apsines is also linked, which will also become clear in the *loci conquestionis* found in both works, see at 1.107 under ‘*primus...(1.109) obsecratio*’. It is noteworthy, however, that after these words Apsines has a much longer passage (*Rh.*10.15b-18) than Cicero before the start of the list of *loci conquestionis*; it seems impossible to say whether Cicero shortened what his source had or whether Apsines added material of his own or from another source.

*Rhet.Her.*2.50 has only a short sentence showing similarities with the present passage: *Misericordia commovebitur auditoribus si uariam fortunarum commutationem dicemus*.

Conquestio...captans: In *Rhet.Her.*2.47, the term corresponding to Cicero’s ‘*conquestio*’ is ‘*commiseratio*’, making its function (which is identical to that of *conquestio*, as shown in Cicero’s sentence here) immediately clear.

Alternative terms for ‘*conquestio*’ are: *commiseratio* (*Rhet.Her.*2.47; Sulp.Vict.*Rhet.*23p.324,22), *miseratio* (Fortun.*Rhet.*2.31; Mart.Cap.p.199,24), ἔλεος (‘pity’;

Aps.*Rh.*10.1; Fortun.*Rhet.*2.31; Mart.Cap.p.199,24) or οἷκτος ('compassion'; Fortun.*Rhet.*2.31; Mart.Cap.p.199,24). See LAUSBERG §439; MARTIN (1974), 148-149.

On *conquestio*, see also: *HWRh* s.v. *Conquestio*; LAUSBERG §439; VOLKMANN (1885), 272; MARTIN (1974), 158-166; CALBOLI MONTEFUSCO (1988), 95-104. On *misericordia*, see also: [Arist.]*Rh.Al.*1439b24-36; 1445a3-12; Arist.*Rh.*1385b10-1386b8; *Rhet.Her.*2.50; Quint.*Inst.*6.1.18b-49; Aps.*Rh.*10.15-47; Anon.Seg.234.

captans: The frequentative '*captare*' expresses a higher frequency than '*capere*' (and, hence, multiple attempts).

In hac...commoueri possit: The *conquestio* requires two stages of action by the orator: (i) first (1.106b: *primum*), he needs to prepare the listener's mind by making it gentle and merciful (precepts in 1.106b); (ii) thereafter (1.107: *Deinde*), he manipulates the listener's mind through the *conquestio* proper (1.107-109). For (i), Cicero recommends Common Topics (*loci communes*) addressing the power that fortune has over all and the weakness that every human has. For (ii), Cicero gives a list of sixteen *loci*.

Apsines (*Rh.*10.15-19) also recommends this two-stage method.

locis communibus: Apart from a short reference in 1.97 concerning *digressio* (which Cicero rejects as a *pars orationis*), this is the first time in *Inu.* that Cicero mentions the concept of *loci communes*. In fact, it is in *Inu.* and *Rhet.Her.* that the expression '*locus communis*' appears for the first time in Latin literature (*HWRh* s.v. *Locus communis*, at 401). The meaning of the concepts of *loci* and *loci communes* is no straightforward one, since it varied rather a lot in antiquity: there is no 'single, coherent doctrine' (LEFF (1983), 24) of Topics. This, and the repeated lack of definition of what exactly is meant by the technical terms in question in the ancient sources, has led to much secondary literature on Topics. Very helpful overviews of the problem at stake are given e.g. by: *HWRh* s.v. *Locus communis* (with

an analysis of Cic.*Inu.*2.47-48 at 401-404); *Topos*; *HWP* s.v. *Topik*; *Topos*; SOLMSEN (1941b), 172-176; SPRUTE (1982), 147-190; LEFF (1983) (with an analysis of Cic.*Inu.*1.34-43 at 26-31); PERNOT (1986); LEFF (1996) (with an analysis of Cic.*Inu.*1.34-43 and 2.47-50 at 446-448); RAPP (2002), ii 270-300; and REINHARDT (2003) (esp. 18-35 and bibliography). RUBINELLI (2006), who at 264 seems to dismiss the merits of these scholars, is less helpful, and often imprecise in her interpretation, showing a lack of knowledge of the relevant secondary literature or not acknowledging it; much of this article has been integrated into RUBINELLI (2009) (with an unsatisfactory analysis of ‘*locus*’ and ‘*locus communis*’ in *Inu.* at 96-109), which shows the same problems.

Neither the Latin ‘*locus communis*’ nor the Greek ‘κοινοὶ τόποι’ has the sense of a modern literary ‘commonplace’, ‘lieu commun’, ‘Gemeinplatz’ etc., which was highly influenced by the works of CURTIUS (1993), see PERNOT (1986), 253 and 271-274.

ARISTOTLE: Recurrent argumentation structures and recurrent arguments are already found before Aristotle (see PERNOT (1986), 259), but Aristotle seems to have been the first one to organise it all into a theoretical system in dialectic and rhetoric in *Top.* and *Rh.* and to use the metaphor of ‘τόπος’ (‘place’, Latin ‘*locus*’) in this way. On the metaphorical use of ‘τόπος’, see PERNOT (1986), 254-257, who shows for the context of Topics that in Latin the metaphor is mainly one of a ‘hiding place’ (*argumentorum sedes/domicilia*) of arguments that the orator will track like a hunter (cf. e.g. Cic.*de Orat.*2.147; 2.162; 2.166; *Top.*7-8; *Part.*5; Quint.*Inst.*5.10.20-22), while in Greek the metaphor is not that of a place *where* the arguments are hidden, but that of a ‘starting point/base’ (ἀφορμή) *from which* the orator will launch his attack on his opponent (cf. e.g. Theon *Prog.*p.106,14-17); both the Latin and Greek metaphors show, however, that ‘*locus*’/‘τόπος’ still carried a strong sense of ‘place’.

For rhetoric, only Aristotle’s treatment in *Rh.* is of major relevance. He distinguishes three major groups (see *HWRh* s.v. *Locus communis*, at 404; for the following,

see esp. PERNOT (1986), 257-259): the first two (*Rh.*1358a10-35) called ‘κοινοὶ τόποι’ and ‘ἴδια’ or ‘εἶδη’, and the later introduced third category also called ‘τόποι’ (*Rh.*1397a1-1400b25):

- (i) ‘κοινοὶ τόποι’ are treated in *Rh.*1359a6-26 and 1391b28-1393a21; they are called ‘κοινοί’, ‘common’, because they are *not specific* to any one domain of knowledge (sometimes ‘κοινοί’ is left out without any change in meaning); there are three kinds: possible/impossible, being (past/future), big/small.
 - (ii) ‘ἴδια/εἶδη’ are treated in most of Books 1 and 2 of *Rh.*; they are propositions *specific* to one domain of knowledge and ‘take the form of propositions (...) that express abstract, generally accepted beliefs and values’ (LEFF (1983), 25-26); confusingly, they are sometimes also called ‘τόποι’: PERNOT (1986), 257-258 n.23 lists *Rh.*1376a32, 1380b31, 1396b27-32, 1419b23, 1419b27; RUBINELLI (2009), 69-70, tries to explain away this confusing use of ‘τόποι’ here.
 - (iii) the third category of ‘τόποι’ is very different in that they focus on general logical relationships and constitute general patterns of argument.
- (i) and (ii) show that in his terminology Aristotle does not emphatically distinguish between ‘κοινοὶ τόποι’ and ‘τόποι’. Moreover, he opposes ‘κοινοὶ τόποι’ to ‘ἴδια/εἶδη’, not to ‘ἴδιοι τόποι’: the opposition between ‘κοινοὶ τόποι’ and ‘ἴδιοι τόποι’, which would be paralleled by Latin ‘*loci communes*’ and ‘*loci proprii*’, is later than Aristotle, i.e. Hellenistic.

In *SE.*183b34-184b3 Aristotle criticises Sophists like Gorgias for not teaching an art (which can be applied to all different kinds of cases so that the student could himself produce the argumentative results that he needs for the case in question), but the results of such an art. He compares it to the problem related to preventing pain in people’s feet, where the art would be the cobbler’s art and the results of such an art various kinds of shoes: according to Aristotle, the Sophists provide their students only with ready-made shoes to solve the problem of foot pain, while he himself teaches them the cobbler’s art.

Mutatis mutandis, concerning Topics in *Rh.* Aristotle teaches the art, not the results of this art.

HELLENISM AND CICERO: During the Hellenistic period, there must have been changes to the concept, for ‘*loci*’ and ‘*loci communes*’ in the first extant sources since Arist.*Rh.*, Cic.*Inu.* and *Rhet.Her.*, do not have the same meaning as Aristotle’s ‘τόποι’ and ‘κοινοὶ τόποι’. Similarly, within Latin rhetorical literature, views on the exact meaning of ‘*loci*’ and ‘*loci communes*’ repeatedly changed: see *HWRh* s.v. *Locus communis*; LEFF (1983), 30-42. Given the complexity and scope of this problem, we have to limit ourselves here to the meaning of ‘*loci*’ and ‘*loci communes*’ in *Inu.* and *Rhet.Her.*—Cicero himself will change his views in his later works, especially in *de Orat.* and *Top.* by no longer basing Topics on the person and on the act, see LEFF (1983), 30-31. But it is primarily Cicero’s views in *Inu.* that influence Quintilian and many other Latin authors until the late 15th century, see LEFF (1983), 31-42; LEFF (1996), 451 n.1.

‘*Locī*’ IN CIC.*INV.*: Cicero presents his *loci* in *Inu.* 1.34-43. They are divided into two major groups, one based on the person, the other on the act (see LEFF (1983), 26-30, and 43-44 for a comparison of the lists of the different *loci* [NB: not *loci communes*] in Cic.*Inu.*, *Top.*, Fortun.*Rhet.*, Iul.Vict.*Rhet.*, and Mart.Cap; on persons and acts, cf. also Hermog.*Stat.* 1.4-12 with SCHOULER (1990) and HEATH (1995), 63-66):

- I. based on the person (1.34-36): *nomen, natura, uictus, fortuna, habitus, affectio, studia, consilia, facta, casus, orationes.*
- II. based on the act (1.37-43); these are subdivided into four subgroups:
 - a. *continentia cum ipso negotio* (1.37b): *summa facti, causa, ante facta, in ipso gerundo negotio, post facta;*
 - b. *in gestione negotii* (1.38-41a): *locus, tempus, occasio, modus, faculta(te)s;*
 - c. *adiuncta negotio* (1.41b-42): *maius, minus, aequè magnum, simile, contrarium, disparatum, genus, pars, euentus;*

- d. *consecutio* (1.43): *nomen, principes/etc., lex/etc., natura, comprobare an offendere, cetera consequentia, honestas aut utilitas.*

These *loci*, which are quite reminiscent of the *περιστάσεις* (*quis? quid? cur? ubi? quando? quemadmodum? quibus adminiculis?*, cf. Mar.Victorin.*Rhet.*1,21p.94,8-10; see also LEFF (1983), 28-29), are *not* arguments themselves, but form the basic building blocks or ‘material’ for all arguments (cf. *Inu.*1.34: *siluam atque materiam uniuersam...omnium argumentationum*). This person/act focus of *loci* is not a major criterion for Aristotle’s three kinds of Topics (see above): the concept in *Inu.* is a very different one. On the main differences between Aristotle’s and the young Cicero’s system of Topics, see also LEFF (1983), 28, and LEFF (1996), 446-448. Cicero nowhere in *Inu.* links the word ‘*locus*’ to Aristotle’s name (as RUBINELLI (2009), 101 and 105-106, already observed), but he will do so decades later in *de Orat.*2.152 and *Top.*7.

‘*LOCI COMMUNES*’ IN *CIC.INV.*: Cicero’s concept of *loci communes* is very different from that of his *loci*. His *loci communes* are no such basic building blocks. In contrast to ‘*loci*’, Cicero gives a definition of ‘*loci communes*’ in *Inu.*2.47-48:

Omni autem in causa pars argumentorum est adiuncta ei causae solum quae dicitur, et ex ipsa ita ducta ut ab ea separatim in omnes eiusdem generis causas transferri non satis commode possit [*these are the ‘loci proprii’; the term is found e.g. in 2.49*]; pars autem est peruagatior et aut in omnes eiusdem generis aut in plerasque causas adcommodata. Haec ergo argumenta quae transferri in multas causas possunt, locos communes nominamus.

As the passage above shows, in *Inu.* both *loci proprii* and *loci communes* are considered to be arguments (*argumenta*). A *locus proprius* is an argument that is specific to one particular Cause and does not really apply to other Causes. By contrast, a *locus communis* is an argument that is *not* specific to one particular Cause, but can easily be applied to many different Causes.

This is a major difference from Aristotle’s system: the young Cicero’s *loci communes* are 1) arguments that are not specific to one particular 2) Cause, while Aristotle focuses on

1.a) propositions that are not specific to one particular 2) domain of knowledge (‘κοινοὶ τόποι’ under (i) above) or on 1.b) general logical relationships or *patterns of argument* (‘τόποι’ under (iii) above).

This also constitutes a major difference from Cicero’s views in his later works, where he uses the metaphor of ‘*hiding places*’ of arguments (*argumentorum sedes/domicilia*; see above), which suggests that the *loci communes* there are no longer considered to be the arguments themselves.

But in *Inu.*, *loci communes* are a special type of argument (see also LEFF (1996), 447; PERNOT (1986), 275-283, has an insightful analysis of *Inu.*2.47-48, also making the link with later progymnasmatic treatises): indeed, Cicero goes on to say in 2.48:

Nam locus communis aut certae rei quandam continet amplificationem (...); quo loco nisi perorata causa non est utendum; aut dubiae quae ex contrario quoque habeat probabiles rationes argumentandi (...).

In the first case, the orator has already proved that the matter at stake is no longer in doubt (cf. ‘*certae rei*’): hence, the *locus communis* is not a crucial argument in itself, but one that *adds* to the *previously* presented arguments with the aim of increasing, i.e. amplifying their force. This type of *locus communis* can therefore only be used at the *end* of the speech, i.e. *after* the Argumentation, when the orator has in fact already completely proven his Cause; the words ‘*perorata causa*’ do *not* mean that the Peroration is over, and in fact Cicero sometimes introduces the *conquestio*, where *loci communes* are typically used for Amplification, in this way (cf. e.g. *Quinct.*91: *Nunc, causa perorata, ...*); see also WINTERBOTTOM (2004), 217-219. It is of this type that Cicero speaks later in 2.48 when he says: ‘*pars locorum communium per indignationem aut per conquestionem inducitur, de quibus ante dictum est.*’ This sentence proves that although Cicero in 1.101-109 calls the Topics of *indignatio* and *conquestio* only ‘*loci*’, not ‘*loci communes*’, they *are* in fact *loci communes*: Cicero here seems as ‘negligent’ in his use of the

adjective ‘*communes*’ at this point as Aristotle in his use of ‘κοινοί’ (see above under (i)). But this may be due to his wish to be brief: in his list of Topics of *conquestio* (1.107-109), he uses ‘*locus*’ only for the first Topic and thereafter uses only the ordinal number (‘*Secundus*, ...’, ‘*Tertius*, ...’ etc.), showing that he is striving for *brevitas*. That they are indeed *loci communes* and that the (Hellenistic) ‘τόποι’ (first with and then without ‘κοινοί’) may have been found in a common source here is shown by *Rhet.Her.*2.47c-49: *Amplificatio est res quae per locum communem instigationis auditorum causa sumitur. Loci communes* [(Hellenistic) ‘κοινοὶ τόποι’] *ex decem praeceptis commodissime sumentur adaugendi criminis causa*, after which follow these ten *loci communes*, although in the list they are called *only* ‘*loci*’, without ‘*communes*’.

In the second case, the orator has not yet fully proved his Cause, i.e. the Argumentation is not yet over. In this case, the *locus communis* is used *within* the Argumentation to support *other* arguments, and in the manner of a *θέσις* (*quaestio*, cf. 1.8; see also: *HWRh* s.v. *Locus communis*, at 403, where this second case is further subdivided into two subcases, although the first one is in fact part of the second one; PERNOT (1986), 276) generally discusses a point on which there is no common agreement (yet; cf. ‘*dubiae [rei]*’), such as ‘Must one believe suspicions or not?’ (cf. 2.48): in fact, Cicero’s (2.48) ‘*ex contrario*’ and ‘*ut suspicionibus credi oportere, et contra, suspicionibus credi non oportere*’ as well as ‘*pars per aliquam probabilem utraque ex parte rationem*’ seem to mean that the orator should engage, in his *locus communis*, in a discussion *in utramque partem* (almost like a skeptical Academic philosopher!) in order to prove that *A* (his own point of view) is true, while *non-A* (the contrary view) is false.

In what way the first type of *locus communis* is ‘*communis*’ (‘common’, i.e. ‘non-specific’) can be shown from the *loci (communes) indignationis* and *conquestionis* (1.101-109): in these *loci*, Cicero gives arguments that apply not only to one specific Cause, but to many different Causes. They are more or less ready-made arguments, and the orator would mainly need to make a selection of the most powerful ones for his Cause and fill in the

‘details’ (mostly the relevant *περιστάσεις*) and fine-tune the phrasing; in the words of LEFF (1996), 448: ‘The *loci communes* are finished products that integrate logical argument, emotional appeal, and style into a single structure.’ On the question of how the Topics and ‘topical’ lists help the orator and influenced the structure of other rhetorical concepts like the *περιστάσεις* or the theory of Issues, see e.g. PERNOT (1986), 260-271.

With regard to the word ‘*locus*’, one could say that, in this sense, *loci communes* as perceived in *Inu.* are ‘places’ in the orator’s ‘memory for things’, i.e. in his memory that is concerned with *res*, as opposed to rote verbal memory, which is concerned with *uerba* (see e.g. YATES (1966), esp. 4-26; LEFF (1996), 449-451; CARRUTHERS (2008), esp. 113-118). But of course the word ‘*locus*’ here would simply be the Latin translation of ‘τόπος’ in the Hellenist Greek source to which this information goes back.

Regarding the similarities in the section on *conquestio* between *Cic.Inu.* and *Aps.Rh.* (see at 1.107 under ‘*primus...*(1.109) *obsecratio*’), it is worth noting that what Cicero calls ‘*loci communes*’ (1.106) are indeed called ‘κοινοὶ τόποι’ by Apsines (*Rh.*10.15), showing that Apsines’ concept of this expression is not the same as Aristotle’s, but probably the same as that of the Hellenistic source from which Cicero (or his intermediary source) translated this Greek expression into Latin. This in turn would prove that the change in meaning of ‘κοινοὶ τόποι’ after Aristotle took place in *Greek* and not during the transition from Greek into Latin.

The concept of *loci proprii* and *loci communes* in *Rhet.Her.*2.9 is very different from that in *Inu.*2.48: in *Rhet.Her.*, *loci proprii* are *loci* some of which, through their nature, can only ever be used by the prosecution while the others can only ever be used by the defence; by contrast, *loci communes* are *loci* that, through their nature, can in some cases be used by the one side, in other cases by the other side. The border that the *loci ‘communes’* cross here is not that of Causes (cf. *Inu.*2.48), but that of the opposing sides in a Cause. But, when treating the *loci* related to different Issues in the Confirmation and Refutation, he treats

them like Cicero, who, however, is clear that the difference between *loci proprii* and *communes* is not one of opposing sides (besides the definition in *Inu.*2.47-48, cf. e.g. 2.56: *Nam illi quidem communes loci aut qui calumniae accusatorum demonstrandae*—this *locus communis* can only be used by the defence, but is not specific to one Cause). This inconsistency in the *Auctor*’s treatment shows that it is his treatment that is faulty, not Cicero’s. On this, see e.g. THIELE (1889) 67; ADAMIETZ (1960), 66-68; CALBOLI (1993), 232-233; CALBOLI MONTEFUSCO (1991), 25-26 n.18.

hominum: The idea is the same as with the preceding ‘*omnes*’.

grauiter: ‘gravely’, ‘with seriousness’.

sententiose: The meaning here is most probably ‘with an abundance of ideas’ (*OLD* s.v. *sententiose*) rather than ‘in a style containing many maxims/epigrams’: indeed, in our extant sources of Roman oratory and rhetoric the sententious style is found after Cicero’s time and became very important for the discipline of declamation (mock judicial and deliberative speeches), cf. e.g. *Sen.Con.* and *Suas.* In 1.25, *sententiae* and *grauitas* are also paired (*Exordium sententiarum et grauitatis plurimum debet habere*; see at 1.25 under ‘sententiarum’).

cum...considerabit: The audience will identify with the orator (or his client): *conquestio* aims at the audience’s sympathy.

TESTIMONIA:

quibus in bonis...malis sint: ≈Alb.*Rhet.*34p.543,11-12; *ut in morte...educatio:*
 ≈Alb.*Rhet.*34p.543,12-13; *res turpes...proferentur:* ≈Alb.*Rhet.*34p.543,14; *ante oculos...ducatur:*
 ≈Alb.*Rhet.*34p.543,14-15.

COMMENTARY:

primus...(1.109) obsecratio: The *loci conquestionis* mentioned here are in fact *loci communes*, see at 1.106 under ‘locis communibus’.

As AULITZKY (1917) in his extensive treatment of this question already noted, many of the *loci conquestionis* that Cicero and the *Auctor* list are found centuries later in *Aps.Rh.*10.19-47, i.e. in a *Greek* treatise. This strongly suggests that there was a Greek tradition using these *loci*, which in turn would mean that all or many of the *loci* found in *Inu.*1.107-109 and *Rhet.Her.*2.50 in fact go back to Greek rhetoricians in the last instance. The table below tries to match the *loci* found in *Inu.*1.107-109 with those found in *Rhet.Her.*2.50 and *Aps.Rh.*10.19-47. See also the notes for the relevant Topics *ad loc.*

Cic.<i>Inu.</i>1.107-109	<i>Rhet.Her.</i>2.50	<i>Aps.Rh.</i>10.19-47
1 st Topic	1 st Topic (<i>si uariam...comparatione</i>)*	10.21-22
2 nd Topic (past, present, future)	somewhat similar: 2 nd Topic (future); 6 th Topic (past)	/
3 rd Topic	/	somewhat similar: 10.23-27
4 th Topic (4a and 4b)	somewhat similar: 7 th Topic	10.28 (cf. 4a); 10.19 (cf. 4b)

5 th Topic	/	10.32
6 th Topic	/	10.20
7 th Topic	/	10.34
8 th Topic	/	10.37
9 th Topic	/	10.36, 10.38-39
10 th Topic	/	10.29, 10.35b, and 10.45b (<i>inopia</i>), 10.46 (<i>solitudo</i>)
11 th Topic	/	10.47
12 th Topic	/	/
13 th Topic	/	/
14 th Topic	3 rd Topic	/
15 th Topic	4 th Topic	10.44
16 th Topic (<i>miser cordia</i> , ..., <i>patientia</i>)	5 th Topic (<i>miser cordia</i>), 8 th Topic (<i>patientia</i>)	/
/	/	10.30-31, 10.33, 10.40-43, 10.45a

(* With ACHARD (2003) and against CALBOLI (1993) and ADAMIETZ (1960), 55, I read at *Rhet.Her.*2.50 ‘*si uariam fortunarum commutationem dicemus*, [NB: comma, not semi-colon] *si ostendemus in quibus commodis fu<er>imus quibusque incommotis simus, comparatione*’ and take this as one single Topic, leading to a total of eight Topics: ‘*si ostendemus...comparatione*’ is just an explanation of ‘*uariam fortunarum commutationem*’.)

Table above shows that all eight Topics found in *Rhet.Her.* are also found in *Inu.* Of the sixteen Topics found in *Inu.*, eleven have some corresponding Topics in *Aps.Rh.*, of which only three are found also in *Rhet.Her.* This shows that either the *Auctor* reduced the list found in the source shared by *Inu.*, or, more likely (given the high proportion of eleven out of sixteen), Cicero used at least one more source, either an intermediary Latin one (with the caveat that we are not well informed about everything that was dealt with in the few Latin

rhetorical treatises that existed before *Inu.* and *Rhet.Her.*) or directly a Greek source that could belong to the same tradition from which *Aps.Rh.* 10.19-47 draws. Due to his slightly different subdivision of Topics in all three authors, AULITZKY (1917), 28, has slightly different numbers, but similar proportions, leading to similar conclusions; given some differences of interpretations (see below), however, I do not agree that the order of Topics in all three authors is ‘generally the same’: as the table above shows, there are some significant differences here.

In my analysis of the parallels between the three texts as shown in the table above, I mostly agree with AULITZKY (1917), 26-28, with the following exceptions. First, AULITZKY (p.26-27) points out the similarity between Cicero’s 16th locus and *Aps.Rh.* 10.18b (ἔτι παρὰσκευάσομεν...φιλανθρώπως διεξιόντες), but it is worth noting that Cicero counts this as a *locus conquestionis* while Apsines considers it a *locus communis* to be employed *before* the use of the *loci conquestionis*. Second, he compares (pp.27 and 35) *Aps.Rh.* 10.22b (ἐλθεινοὶ μὲν...μεγάλαις χρώμενοι) with Cicero’s second Topic, but in fact the contrast between former happiness and current misfortune is found in Cicero’s first Topic. Third, I see Cicero’s third Topic vaguely echoed in *Aps.Rh.* 10.23-27, not only in 10.25b. Fourth, AULITZKY does not see Cicero’s ninth Topic reflected anywhere while I trace it in 10.36 and 10.38-39. Fifth, I do not agree with him (p.29) not seeing any parallels between what I call Topics 6 and 7 from *Rhet.Her.* and Topics 2 and 4 from *Inu.*

Some of these Topics are strongly reminiscent of Topics of Indignation (see notes for *loci conquestionis* Nr. 7, 8, and 13), and, as WACHTLER (1973), 18-19, notes, it is indeed often difficult in both theory and practice to draw a clear line between the two groups of Topics. Similarly: Mar.Victorin.*Rhet.* 1,54p.178,7-11; CALBOLI MONTEFUSCO (1988), 97.

primus...ostenditur: This Topic is concerned with how the deed affected the victim’s life and situation and changed it from good to bad. Cf. *Cic.Part.* 57: *Proprius locus est augendi*

in his rebus aut amissis aut amittendi periculo. Nihil est enim tam miserabile quam ex beato miser.

Quintilian has the same Topic in *Inst.*6.1.23.

For an example, cf. Cic.*Sul.*88-89.

fuerint...sint...fuerint...sint...futuri sint: No subject in 3rd pers. pl. is explicitly introduced anywhere for these verbs, so we probably have to understand them as an impersonal construction ('one'). Cicero is indeed quite free in the way he uses verbs in this passage: in 1.108 under the sixth *locus conquestionis*, for instance, he switches to 3rd pers. sing. (*expectaret, adeptus esse*), again without indicating the subject of the verbs, so that this, too, is probably to be taken as an impersonal construction.

[per quem]: These two words are not found in several *codices integri*. There are hence two possibilities: either they dropped out in some mss. (by error or left out intentionally) or they were added by a scribe to clarify the structure of the sentence. However, a repetition of '*per quem*' is found in none other of the 16 *loci conquestionis* nor in any of the 15 *loci indignationis*, so it is quite probable that these two words were interpolated.

Secundus...demonstratur: In this Topic, the defendant compares the three temporal stages (past/present/future) with regard to the unpleasant situation in which he found, finds, and will find himself.

This Topic is quite similar to [Arist.]*Rh.Al.*1445a4-10 and Quint.*Inst.*6.1.23. Cf. also Cic.*Part.*57: *in quibus malis sit futurusue sit exprimitur breuiter*; Quint.*Inst.*6.1.19: *Etiam futuri temporis imagine iudices mouet*. For an example, cf. Cic.*Sul.*88.

Tertius...poterunt: In this Topic, all possible unpleasant effects for the victim resulting from the deed are listed. This Topic reminds one of the advice given in [Arist.]*Rh.Al.*1445a6-10.

educatio: See at 1.103 under 'educatus...eruditus'.

per conquestionem: used here in its non-technical sense of ‘lament, complaint’, similarly to ‘*per indignationem*’ in 1.101 (see the note *ad loc.*).

Quartus...perpessuriue sint: This Topic shows that, because of their age, birth etc., the orator or his client (usually the victim) does not deserve such treatment.

This Topic strongly resembles the Topics presented in Quint.*Inst.* 6.1.16, 6.1.21, and 6.1.24, as well as the advice given in [Arist.] *Rh.Al.* 1445a3-4. For an example, cf. Cic.*Sul.* 88.

inliberales: ‘unworthy of or unsuited to a free man’ (*OLD* s.v. *illiberalis* 1; cf. also *TLL* s.v. *illiberalis* 1).

indigna: Mss. *m²fh* read ‘*indigna*’, mss. *HVP¹S¹m¹* ‘*indignas*’, *P²S²* ‘*indignae*’, WEIDNER (1878) conjectures ‘*indigna esse*’. ‘*Indigna*’ is the *lectio difficilior*, since it forms an abrupt switch from feminine plural (*res turpes et humiles et inliberales*) to a neuter plural. It is, however, clarified by neuter plural ‘*quae passi perpessuriue sint*’ at the end of the sentence. WEIDNER’s ‘*esse*’ is not needed, since the structure ‘*A et B et C proferentur et X (...) quae...*’ with ‘*proferentur*’ also applying to postponed *X* is grammatically correct; the position of ‘*proferentur*’ is even better here than *after X* (‘*indigna*’), given that in this way Cicero can make clear that ‘*aetate...sint*’ refers only to ‘*indigna*’ and not also to ‘*res...inliberales*’.

aetate...beneficiis: This list seems to include a hierarchical *crescendo*, age being the least important, services (to the state) the most important. If this were correct, *fortuna* (here probably denoting wealth) would be considered more important than being a member of a certain family or standing (*genus*).

Quintus...ducatur: With this Topic, the orator tries to depict the unpleasant situation created by the deed as graphically and vividly as possible, so that it is the content itself rather than the words that manipulate the listener’s feelings. ‘Putting it before the eyes (of

the audience)’ is the only difference between this and the third *locus conquestionis*: indeed, both Topics give a list of all the troubling aspects.

One means of representing this as vividly as possible is to use *προσωποποιία*, i.e. to imitate the speech of another person (often one that is absent), cf. Quint.*Inst.*6.1.25b-26; Aps.*Rh.*10.5.

ante oculos...ponuntur: Cf. 1.98: *singillatim unam quamque rem adtingere*; Quint.*Inst.*6.1.1: (*enumeratio*) *totam simul causam ponit ante oculos*; and *Inst.*6.1.11:

Et breuissimum quidem hoc praeceptum dari utrique parti potest, ut totas causae suae vires orator ponat ante oculos, et cum uiderit quid inuidiosum fauorabile inuisum miserabile aut sit in rebus aut uideri possit, ea dicat quibus, si iudex esset, ipse maxime moueretur.

See also at 1.31 under ‘inlustrem...perspicuam’.

TESTIMONIA:

praeter spem...incidisse: ≈Alb.*Rhet.*34p.543,15-16; *ut de suis...recordentur*: ≈Alb.*Rhet.*33p.542,29-30.

COMMENTARY:

Sextus... incidisse: This Topic stresses that the person in question (the victim) did not at all expect this unpleasant situation to arise or that the positive expectations he had were not met. For an example, cf. Cic.*Sul.*91.

expectaret: For the abrupt introduction of a verb in the 3rd pers. sing. without any explicit subject, see at 1.107 under ‘fuerint...sint...fuerint...sint...futuri sint’.

Septimus...recordentur: In this Topic, the orator tries to bring his listeners to mentally put themselves in his place, so that *misericordia* is reached by the audience’s identification with the orator. This Topic is very similar to the fourteenth *locus indignationis* (1.105). Quintilian (*Inst.*6.1.11) advises the orator to use such identification the other way round (i.e. the orator should put himself into the judges’ shoes) in order to see what might move the judges most.

[similem in causam]: KAYSER (1860) deletes these three words. Indeed, they seem to disturb the syntax of the sentence. This ‘in’ followed by the accusative would need to be taken with ‘conuertimus’ (not with ‘qui audiunt’, after which a temporal or local ‘in’ would call for an ablative). However, ‘conuertimus’ is already completed by ‘ad ipsos qui audiunt’, so that an expression with ‘in’ plus accusative would ‘overload’ the sentence. Furthermore, ‘we turn to a similar case’ would not make good sense: it rather seems that ‘similem in causam’ is a marginal gloss for ‘in a similar case’ that later entered the text and

that does not follow the grammatical rules of classical Latin, where ‘*in*’ with ablative would have been needed. There is no surrounding text from *Inu.* which could have resulted in copying a bit of text from a different sentence. In fact, these three words are not found elsewhere in this combination in *Inu.*, and *Rhet.Her.* does not have any corresponding passage dealing with this seventh *locus conquestionis*.

Octauus...caruit: This Topic stresses that a certain deed should or should not have happened. It is closely related to the eleventh *locus indignationis*. But while the latter criticises the person who committed the deed, the eighth *locus conquestionis* condemns the deed itself. For an example, cf. Cic.*Quinct.*94, which shows how close these two Topics are.

Compared to the instructions, the examples are in the wrong order: instructions and examples must be linked as follows:

factum quod non oportuerit	non factum quod oportuerit
‘Inimicorum...caruit.’	‘Non...excepi.’

‘Non affui...caruit’: These two examples are not found elsewhere in extant Latin literature. This leads to two possible explanations, with no evidence available to prove either: a) they come from a real speech (or another genre), which is no longer extant; b) they were invented to serve as rhetorical examples.

non extremum spiritum eius excepi: This does not mean that the speaker did not hear what the dying person said while breathing their last breath: this is already covered by the preceding ‘*non postremam uocem eius audiui.*’ Rather, it seems to refer to the Roman practice of kissing a dying person on their mouth so as to ‘collect their last breath’ or spirit. Cicero describes the same practice in *Ver.*2.5.118 (on which see also LEVENS (1946)).

turpiter: i.e, ‘shamefully’ for the dead person’s relatives, whose duty it is to bury the corpse.

a feris: *a(b)* plus ablative is found with people and with animals that are treated like living beings rather than things, see *K.-St.II*,§80.6.c) Anmerk.7.

TESTIMONIA:

infirmetas: ≈Alb.*Rhet.*34p.543,16; *disiunctio...familiari*: ≈Alb.*Rhet.*34p.543,16-17; *ab iis...seruis*: ≈Alb.*Rhet.*34p.543,17-18; *animum...misericordem esse*: ≈Alb.*Rhet.*34p.543,18-19; *Nam...obsecratio*: ≈Alb.*Rhet.*34p.543,19-20.

COMMENTARY:

Nonus...commouetur: This Topic is concerned with animals or things the mention of which has an influence on the listeners' mind.

This Topic could be interpreted differently depending on what sense is given to '*referre ad*': 'The ninth, by which...

- (i) words will be addressed to mute and inanimate things' (see HUBBELL (1949); MARTIN (1974), 163);
- (ii) speech [and the faculty of speech] will be attributed to mute and inanimate things', which would describe the rhetorical figure of *προσωποποιία* (see ACHARD (1994), 139 with n.278);
- (iii) the speech is led back to mute and inanimate things [that were already mentioned earlier in the speech]'.

The three examples that Cicero gives for these things are: a horse (considered to be without *animus*, which Cicero here reserves for people), a house, a garment. To these, he says, the orator should 'adapt someone's speech' (*sermonem alicuius accommodes*): these three words show that it is a person (cf. *alicuius*, probably referring to the victim) who speaks, not the three things listed as examples—it would seem very odd to try to move the audience by putting the words of the victim in a horse's mouth: rather than be moved, the audience would probably be outraged by this. Hence interpretation (ii) must be wrong, leaving (i)

and (iii). The wording in CALBOLI MONTEFUSCO (1988), 102 ('quando il discorso viene riferito ad esseri inanimati che si sa molto amati dall'ascoltatore'), follows the Latin text too closely to show whether she adheres to (i) or (iii).

Cicero goes on to say that through these things the listeners' minds will be 'vehemently moved' (*vehementer commouetur*), so the right interpretation must describe a rhetorical trick that has the greatest impact on the audience's emotions and hence aims at vividness. Interpretation (i) achieves this much better than (iii). Moreover, (iii) ('is led *back*') would *presuppose* that the thing in question would (necessarily) have been mentioned previously in the speech, but Cicero does not make his reader aware of such a requirement, which further supports (i). The rhetorical device used here hence seems to be ἠθοποιία (imitating another person in speech), directed at such a thing, e.g. an owner speaking to his dying horse or burning house or a raped woman to her torn clothes—which would have a much bigger emotional effect than representing an owner speaking *about* his horse according to interpretation (iii).

Interpretation (i) is confirmed by Cicero's word choice in 1.100 where he *does* discuss the rhetorical figure of προσωποποιία: *alicui rei huiusmodi...oratio attribuetur*. Indeed, with this expression, there can be no doubt that προσωποποιία is meant. Further support for this interpretation can be found in the corresponding Topics in *Aps.Rh.* 10.36; 10.38-39.

mutas...equum: This implies that Romans (or at least young Cicero here) considered animals not to have minds or souls (the exact meaning of '*animi*' here is unclear). By contrast, there was a popular etymology relating '*animal*' ('living being') to '*animus*' and '*anima*', cf. e.g. *Cic.N.D.* 3.36: *animam, unde animantium quoque constat animus, ex quo animal dicitur*. As horses do of course make sounds, '*mutas*' here must have the meaning of 'lacking the capacity of speech' or 'unable to articulate sound' rather than 'unable to utter a sound'.

equum: It is somewhat striking to have a horse listed here in that it is reminiscent of old times when a horse was a symbol of wealth and military power, giving rise to the

Roman social class of *equites*. From another perspective, the triad *equus/domus/uestis* represents three important aspects of Roman life: means of transport (horse), place of dwelling (house), piece of clothing.

Decimus...demonstratur: ‘*inopia, infirmitas, solitudo*’ here are the inconveniences suffered by the victim. For an example, cf. Cic.*Quinct.*91.

This also includes age-related weakness, cf. e.g. Cic.*Quinct.*99.

inopia...solitudo: a lack of wealth, of physical health, and of social company. All three result from the crime. Compare the triad *animo/fortuna/corpore* in 1.101.

Vndecimus...fit: This Topic is concerned with *pietas* (dutiful and respectful behaviour) towards one’s parents, children, the dead, etc. Observing *pietas* can significantly improve one’s ἡθος (cf. e.g. the proto-Roman *pius Aeneas* in Verg.*A.*), not respecting *pietas* can seriously damage one’s Cause in Rome.

Cf. also Cic.*Part.*56; Quint.*Inst.*6.1.20: *Nam et cautiores ad custodiam suae religionis iudices facit.*

liberorum...sepeliundi: Cf. 1.108: *hostili in terra turpiter iacuit insepultus*, with note under ‘turpiter’ *ad loc.* In comparison with the eighth *locus indignationis* (1.103) and the fourth *locus conquestionis* (1.105), where parents, children, and wives are mentioned, it is somewhat surprising not to see ‘*uxorum*’ included in the list of this Topic.

Given the presence of ‘*liberorum*’ (apart from exceptional cases, children survive their parents), it seems sound to take ‘*sepeliundi*’ with ‘*sui corporis*’ only, rather than to apply it to all three nouns. For the idea, cf. e.g. Cic.*Sul.*89.

Duodecimus...familiari: This Topic, which deals with separation from a dear relative or friend, is of a nature similar to that of the preceding Topic (cf. *pietas* towards loved

ones)—and again, *uxor* is left out. Cf. also Quint.*Inst.*6.1.18: *Vtitor frequenter accusator et miseratione, cum aut eius casum quem ulciscitur aut liberorum ac parentium solitudinem conqueritur*. Cicero uses this Topic applied to the advocate who would be separated from his friend, the defendant, in *Mil.*102 (cf. also Quintilian’s comment on this in *Inst.*6.1.24-25).

One powerful way to provoke the judge’s tears was to produce, during the *conclusio*, the defendant’s small children that would have to grow up without their father, or other grieving relatives, cf. e.g. Isoc.*Ant.*321; Cic.*Sul.*88-89; *Sest.*144-146; *Orat.*131; Quint.*Inst.*6.1.18; 6.1.30-33; 6.1.39-42; 6.1.46-47; it is mocked in Ar.*V.*568-575 and also in 975-978, where puppies (the children of the accused dog) are brought in. A similar trick applied to the litigants themselves was to uncover wounds, scars, body parts, etc., cf. e.g. Cic.*Ver.*2.5.3, *Rab. Perd.*36, and *de Orat.*2.124 (where the orator Antonius is said to have used this trick successfully, on which see WINTERBOTTOM (1982), 264-268—Cicero applies this jokingly to Verres in *Ver.*2.5.32) or Ath.590d-f (about the orator Hypereides stripping Phryne naked in front of her judges, as spectacularly depicted in the famous painting *Phryné devant l’aréopage* [1861] by French artist J.-L. Gérôme). Aps.*Rh.*10.44 has a Topic by which the orator shows the emotion felt by some of the defendant’s or of the victim’s relatives.

See VOLKMANN (1885), 282-283; BERRY (1996), 310-311 (with further references for the display of small children for the sake of emotional manipulation of the jury); WINTERBOTTOM (2004), 220-222; HALL (2014) (an extensive study and bibliography on this subject).

parente...familiari: The absence of one’s wife, daughter, and sister in this list is striking (one’s mother could be included under ‘*parente*’): the male lineage again seems more important; see at 1.103 under ‘*parentes...supplices*’ and ‘*pueros...mulieres*’ and at 1.105 under ‘*patribus...parentibus*.’

Tertius decimus...supplicibus: This Topic reverses the issues dealt with in Topics 11 and 12 by raising a complaint that the victim's relatives, friends, or subordinates did not fulfil (or even violated) their duty of *pietas* towards this person. It is quite close to the eleventh *locus indignationis* and the eighth *locus conquestionis*. For an example, cf. Cic.*Quinct.*95-97.

The theme of *mala tractatio* ('maltreatment') is repeatedly found in declamations, cf. e.g. Sen.*Con.*3.7; 4.6; 5.3; [Quint.]*Decl.min.*363; 383. In declamations, it is usually a wife who accuses her husband of *mala tractatio*. In [Quint.]*Decl.mai.*18.5 the declaimer claims that *mala tractatio* is the only charge that (in the fantasy world of declamation) a wife can bring against her husband, so that all kinds of charges have to be covered by this charge. On this (in Rome non-existent) charge, see BONNER (1949), 94-95; SUSSMAN (1994), 234 (with further literature); STRAMAGLIA (1999a), 14 n.1, quoted almost literally in STRAMAGLIA (1999b), 94-95 n.3; HÖMKE (2002), 164-181. Similarly, in declamations a son apparently can bring only an (in Rome again non-existent) charge of madness (*insania*) against his father, see BONNER (1949), 93-94; SUSSMAN (1994), 118; GUNDERSON (2003), 115-149.

cum indignatione conquerimur: Notice the juxtaposition of terms referring to two different kinds of *conclusio*, *indignatio*, and *conquestio*.

seruis...supplicibus: That bad treatment from these groups of people is outrageous implies that the speaker is of high social standing, as he has *clientes*, which makes him a *patronus*.

One may wonder whether any special sequence is intended here. Slaves (*serui*) do obviously form the lowest layer of the social hierarchy. Freedmen (*liberti*, i.e. former, 'liberated' slaves) occupied a social status between slaves and citizens; indeed, freedmen could usually not gain Roman citizenship: only their children, i.e. the first post-slavery generation, could reach it. '*Clientes*' are Roman citizens, usually of lower rank, that are in a patron-client relationship with a *patronus*, a Roman citizen of higher rank, who helps his

clientes in different ways, e.g. by defending them in court; in return, a *patronus* could expect certain favours, like electoral support, from his *clientes*. ‘*Supplicibus*’ is the only term in this sequence that does not indicate a precise social status, but rather generally refers to a person begging someone for help or mercy; indeed, it can even be used of candidates ‘supplicating’ for a magistracy, see HELLEGOUARC'H (1972), 213.

Quartus decimus...misereantur: This Topic falls back on a blunt imploration and on the pity that should be granted to humble supplicants. It is reminiscent of the subdivision ‘*deprecatio*’ of the *constitutio generalis* (cf. 1.15: *ut ignoscatur postulat*). As the subsequent Topic shows, this Topic is concerned with imploring *for oneself*, not for the sake of one’s loved ones. For an example, cf. Cic.*Quinct.*91.

Quintus decimus...demonstramus: This Topic is also related to *pietas*: instead of complaining of his own fate, the orator shows himself worried about the consequences for his loved ones (or those of his client, in the case of a Roman advocate). Thus, he tries to obtain pity not only for these people, but also for the *pietas* he has shown. See also above under ‘Duodecimus...familiari’; indeed, Topic 15 is quite close to Topics 11 and 12. For an example, cf. Cic.*Sul.*88.

See also the advice given in [Arist.]*Rh.Al.*1439b15-36 about how to secure pity for other people.

For the display of small children during the *conquestio*, see also above under ‘Duodecimus...familiari’.

Sextus decimus...obsecratio: In this Topic, the orator tries to obtain pity for himself in return for the pity he shows (on present tense of ‘*esse*’, see the note below) for others on

previous occasions, while stressing that he is enduring a difficult situation and is no coward. Quintilian has a similar Topic in *Inst.*6.1.22.

As the sentence '*Nam...obsecratio*' shows, Topic 16 is stronger than Topic 14, proving that the order in which the Topics are listed does not reflect any hierarchy from the strongest to the weakest Topic as one might have expected. It seems rather improbable that these Topics (just like those of the *indignatio*) were listed in a sequence of increasing order (similarly, Mar.Victorin.*Rhet.*1,53p.177,22-27 and 1,54p.178,4-6), since in a handbook the best sequence for instruction might be first to provide the most important and hence strongest point (see Introduction to 1.10-17 [n.i.] on the hierarchy among the *constitutiones*). The orator will not use all 16 Topics, but only those that are useful for the Cause in question, see at 1.100 under 'separatim'.

***misericordem esse*:** The tense of '*esse*' is surprising: the orator is *currently* merciful towards others; one might rather have expected '*fuisse*', which would have been more natural when citing examples. Indeed, *Rhet.Her.*2.50 in the corresponding passage uses past tense: *si de clementia, humanitate, misericordia nostra qua in alios usi sumus, aperiemus*. Nevertheless, compared to '*esse*', '*fuisse*' would be the *lectio facilior*.

***Nam...obsecratio*:** Quintilian gives similar advice in *Inst.*6.1.34. As an example, cf. Cicero's portrayal of an almost Stoic Milo in *Mil.*92-105.

***in quo*:** After two feminine nouns (*uirtus*, *magnificentia*), one would rather have expected feminine '*in qua*' or '*in quibus*', but ACHARD (1994) lists no variant readings in his apparatus. Hence, '*in quo*' must be neutral, referring to *things* (the singular does not mean that it would refer only to the last mentioned item), see *K.-St.*II,§18.1.

***Commotis...arescit*:** This is the only *uitium conquestionis* (and *uitium conclusionis*) that Cicero points out, while he had given more warnings about faults in the Exordium (1.26) and Narrative (1.30). In other words: the *uirtus conquestionis* is *brevitas*, just like the *uirtus enumerationis* (see at 1.100 under 'Commune...datur'). Since two of the three *partes conclusionis*

have *breuitas* as their *uirtus*, *breuitas* might be considered a general *uirtus conclusionis*. Cf. Fortun.*Rhet.*2.31: *Quid καθόλου in epilogis seruandum est? ut breues sint*. See also LAUSBERG §440.

WACHTLER (1973), 101-106, shows that, while many of the Perorations in Cicero's speeches are indeed short (very short are, in order of increasing proportion to the total length of the speech: *Phil.*5.53b [ca. 1/130 of the total length]; *Ver.*2.2.191b-192; *Red.Sen.*39; *Ver.*2.3.226-228; *Ver.*1.56), about one third of them have a rather long Peroration (the longest one by proportion is that of *Lig.*: ca. 1/4 of the total length). This shows that Cicero did not always adhere to the rhetorical precepts in oratorical practice.

rhetor Apollonius: It is not entirely clear which teacher of rhetoric called 'Apollonius' is meant here, as there were several *rhetores* of this name and since it cannot be fully ruled out that the rhetorician referred to here is an otherwise unknown Apollonius.

Among those Apollonii known to us, two seem to be the most likely candidates for chronological reasons:

1. Apollonius (-os) Malakos, a *rhetor* from Alabanda in Caria (a region in south-western Asia Minor), probably born around 160 BC. He moved to Rhodes, where he taught rhetoric. He is called '*summum illum doctorem, Alabandensem Apollonium*' in Cic.*de Orat.*1.126, so his name and reputation were apparently known to Cicero. Cicero (*de Orat.*1.126; 1.130) says of him that he refused to teach less apt students, whom he advised to focus on something they were talented at. Given that it is M. Antonius († 87 BC) who provides this information in *de Orat.*1.126 and that M. Antonius seems to have taken lessons in rhetoric in Rhodes (cf. *de Orat.*2.3), probably on his way to Cilicia as proconsul to fight the pirates (cf. *de Orat.*1.82, with LEEMAN/PINKSTER/*ALII* (1981-2008), i 175-176), it is possible that Cicero took this quotation from M. Antonius, if it is not a quotation that was generally known (it does not appear outside the sources listed below under 'Lacrima...arescit'). If it was

not generally known, the fact that this quotation is also found in *Rhet.Her.*2.50 (but without indication of the source) would have implications for the relationship between *Cic.Inu.* and *Rhet.Her.*: either the *Auctor* also had it from M. Antonius (directly or indirectly) or from some other student of Apollonius', or he must have relied on a written text for it, possibly on a source shared with *Cic.Inu.*, on M. Antonius' booklet on rhetoric (on which see SCHOLZ (1963), 96-114), or (which is improbable) on *Cic.Inu.* Another possible source for Cicero (and the *Auctor*) could have been Q. Mucius Scaevola Augur († ?87 BC), who also studied with Apollonius (cf. *de Orat.*1.75, where Apollonius' contempt of philosophy is stressed). See also *RE* II s.v. *Apollonios* 84).

2. Apollonius (-os) Molon, also a *rhetor* from Alabanda in Caria, who also moved to Rhodes and taught rhetoric there (*Cic.Brut.*245). He was held in high regard by the Rhodians such that they sent him as an ambassador to Rome in 87 and again in 81 BC. Cicero was taught by him first in Rome (*Brut.*312), probably in 81 BC, then also in Rhodes (*Brut.*314-316; *Quint.Inst.*12.6.7), on his study trip to Greece and Asia Minor in 79-77 BC, i.e. *after* he had written *Inu.*, so that no biographical link of Cicero's can be used here as an argument. See also *RE* II s.v. *Apollonios* 85); DOUGLAS (1966), 221 (on *Brut.*307); DAVIES (1968a); CORBEILL (2002a); MAY (2002).

As Cicero has links to both Apollonii, an indirect one to the first and a personal one to the second, it is difficult, perhaps even impossible, to decide with certainty to whom this quote goes back. *RE* II s.v. *Apollonios* 84), AULITZKY (1917), 33 and 48, and MATTHES (1958), 98 and 209 (followed by DINGEL (1988), 159), attribute it to Apollonius Malakos. The argument in *RE* is based on the observation that Cicero usually uses 'Molon' when referring to Apollonius Molon, so that 'Apollonius' in *Inu.*1.109 would refer to Apollonius Malakos. MATTHES (p.98) seems to base his argument on the fact that Malakos was active

in Rhodes, but the same is true for Molon. HUBBELL (1949), 163 n.a, ACHARD (1994), 141 n.280, and ACHARD (2003), XLIII n.60, attribute it to Apollonius Molon, without substantially supporting this attribution. (ACHARD (2000), 14-15 n.93 changes his mind to Malakos, using the same argument as the one found in the *RE* article, but this has not entered later impressions of his *Rhet.Her.* edition, like ACHARD (2003).) The reference to the rhetorician Menekles in CALBOLI (1993), 253 n.81, leaves it unclear which Apollonius is meant since both Malakos and Molon studied with Menekles in Alabanda, see *RE* XV 1 s.v. *Menekles* 3). In *Brut.*326 Cicero says of Menekles: *Menecium illud studium crebrarum uenustarumque sententiarum*, and it may be to this that one can link the remark in *Sen.Con.*7.4.5: *In epilogis uehemens fuit Apollonius Graecus*, which might refer to the author of the ‘*lacrima*’ *sententia*. See also ACHARD (2000), 14-16, on this.

The observation in the *RE* article about Cicero’s use elsewhere of ‘*Apollonius*’ (*de Orat.*1.75; 1.126; 1.130) when referring to Malakos only and of ‘*Molon*’ (*Att.*2.1.9; *Brut.*245; 307; 312; 316) when referring to Molon may be the only strong lead that we have for this problem. The only major doubt here is whether this use of Cicero’s only applies to these later works (the earliest among them being *Att.*2.1.9 from 60 BC) or whether it also applies to *Inu.* This use in his late works counters the argument in ACHARD (2003), XLIII n.60, that Cicero would have used the surname (Malakos) if he had wanted to refer here to the lesser known of the two Apollonii.

See also KELLOGG (1907), who tries to reconstruct the original Greek wording and context, but seems not to worry much about the question of which Apollonius we are dealing with (see e.g. p.307).

With both Apollonii having taught in Rhodes, some scholars (like MATTHES (1958), 98) saw in this quote a clue that the rules on Peroration in *Inu.* and *Rhet.Her.* go back to Rhodian rhetoric. It could just as well be, however, that this proverb was famous as a maxim and suited the context of *conquestio* well so that it was *therefore* included at this point:

as shown at 1.98 under ‘partes tres’, the tripartite subdivision of the Peroration is already found in [Arist.] *Rh.Al.*, i.e. in much earlier times than that of the two Apollonii, so it cannot be said to have been exclusive to or characteristic of the rhetorical school of Rhodes.

in conquestione...oportebit: cf. Quint.*Inst.*6.1.28: *in qua si moramur, fatigatur lacrimis auditor et requiescit et ab illo quem ceperat impetu ad rationem redit.*

‘Lacrima...arescit’: Contrary to Cicero, *Rhet.Her.*2.50 (*nihil enim lacrima citius arescit*) does not indicate the source of this quotation and does not even identify it as ‘external’ material. It is noteworthy that both authors use the same quotation at the same place (at the end of the treatment of *conquestio/commiseratio* and hence of the treatment of Peroration); however, they do so with a slightly different word order. There seem to be two possible explanations for this. Both might have translated this passage independently from Greek or found it in a common Latin source. In the latter case, at least one of them took the liberty of changing the phrasing slightly. Indeed, there are good reasons for the second explanation: in *Inu.* the quotation is attributed to Apollonius and then stated as an isolated quotation, while in *Rhet.Her.* the attribution is missing and the quotation is not found after a verb of speaking but is embedded in his own text through the use of ‘*enim*’. Contrary to Cicero, the *Auctor* nowhere names any Greek author and, quite on the contrary, in the preface to Book 4 (*Rhet.Her.*4.1-10) launches a vehement attack against Greek authors. Hence, one need not be surprised that Apollonius is not named in *Rhet.Her.*2.50, while Cicero, who repeatedly in *Inu.* tries to show off his learning when it comes to Greek authors (cf. e.g. his emphasis in 2.7 that he knows of a rhetorical treatise by Isocrates but just cannot find it), mentions him here. The *Auctor*’s embedding technique (using ‘*enim*’) further blurs the lines between his own text and an external quotation: if this quotation had only survived in *Rhet.Her.*, we would have been unable to identify it as coming from someone else. But the use of singular ‘*lacrimā*’ instead of plural ‘*lacrimis*’ (see below) in both *Rhet.Her.* and *Inu.* as well as the shared use of ‘*citius*’ (instead of, e.g. ‘*celerius*’ or the positive ‘*cito*’ as

found in *Part.57*) strongly suggests that the common source was indeed a Latin one, not a Greek one; whether it goes back to an oral or written one, seems impossible to say in this case. (By contrast, AULITZKY (1917), 33, wonders whether the quote by Apollonius Malakos could suggest that the whole treatment of *conquestio* goes back to this *rhetor*, but there is no sufficient evidence for this.)

OTTO (1890), 184, lists several passages that include or allude to the same quotation and show differences in wording (quotations are updated to recent editions): Cic.*Inu.*1.109 (*lacrima nihil citius arescit*); *Rhet.Her.*2.50 (*nihil enim lacrima citius arescit*); Cic.*Part.*57 (*cito enim exarescit lacrima, praesertim in alienis malis*); Curt.5.5.11 (*ignorant, quam celeriter lacrimae inarescant*); Quint.*Inst.*6.1.27 (*Nec sine causa dictum est nihil facilius quam lacrimas inarescere*); [Quint.]*Decl.min.*338.3 (*Nam et illud uerissimum est, lacrimas celerrime inarescere*); Iul.*Sev.Rhet.*24p.370,4 (*nam lacrimis comparati sunt, quibus nihil citius arescit*). DINGEL (1988), 159, shows that the passages in Quint.*Inst.* and [Quint.]*Decl.min.* ‘stand together against’ (WINTERBOTTOM (1984), 528) the versions found in *Rhet.Her.* and Cicero’s two works.

On arousing pity and tears in the context of Peroration, cf. also Quint.*Inst.*6.1.9; 6.1.23; 6.1.27b-33; 6.1.44-49 (warning that unsuccessfully arousing pity and tears can backfire with disastrous effects); Fortun.*Rhet.*2.31. See also VOLKMANN (1885), 282.

In fact, an orator can also try to spoil the impending use of tears by his opponent by warning the judges of this trick beforehand, cf. e.g. D.38.27-28; cf. also Quint.*Inst.*6.1.46.

lacrima: K.-St.II,§19.d) explain the singular ‘*lacrimā*’ (instead of plural ‘*lacrimis*’) by stating that the material would be referred to, but this is not necessary (indeed, the Romans would probably have identified the material in this case to be water): it can easily be explained as *pars pro toto* (or *una pro multis*) or even as a close depiction of someone who tries to retain their tears and sheds one only, wiping it quickly away.

ut uidemur: Equivalent to ‘*ut nobis uidetur*’, this expression is found elsewhere in Cicero only twice (*Off.*1.1; *Att.*5.18.2). The only other instances in Latin literature (cf. *PHI*) where the meaning of this construction is not ‘I seem’ (etc.) but ‘it seems to me’ (etc.) are *Pl.Cas.*227 and *Cic.Fin.*2.15, both with 1st pers. sing. ‘*ut uideor*’. The fact that it is found in Plautus could suggest that it is an archaic usage that did not become or stay fashionable. Moreover, the fact that it is found in Comedy and, in Cicero’s works, not in speeches might suggest that it is quite colloquial in tone—perhaps too colloquial to become widely accepted in written texts.

diximus: This is the reading in mss. *P²fh*; mss. *HVP^l* (and perhaps *Sm*) have ‘*dixisse*’. ‘*Dixisse*’ is dependent on ‘*uidemur*’, and mss. *HVSh* do not have ‘*ut*’, so that the sentence structure becomes ‘*Sed quoniam satis uidemur...dixisse*’, which is much easier than ‘*Sed quoniam satis, ut uidemur...diximus*’. It seems then that the latter reading is the original one, which was misunderstood because of the special use of ‘*ut uidemur*’ (see the note above *ad loc.*), resulting in ‘*ut*’ being left out and ‘*diximus*’ being changed into ‘*dixisse*’.

huius uoluminis...processit: In Ciceronian Rome, books were written on papyrus rolls (*uolumina*; from ‘*uoluere*’, ‘to roll’). These rolls had a natural limit to their length, hence larger works had to be divided into several books corresponding to several *uolumina*. However, *Inu.*1 has 15,116 words, *Inu.*2 has 17,088 words, i.e. *Inu.*2 is almost 13% longer than *Inu.*1, which strongly suggests that Cicero’s concern here about his *uolumen* growing too long cannot be a legitimate one, since he states no similar concern at the end of *Inu.*2. Rather, it seems very convenient for him to end Book 1 here: he has just finished treating all *partes artis*, which began at 1.20 with the Exordium, and he is about to embark on linking Argumentation and theory of Issues, which would be much too long for inclusion in Book 1 and which is therefore placed in Book 2.

Moreover, the books of *Inu.* are much longer than those of *Rhet.Her.*:

	number of words found in the Latin texts by ACHARD (1994) and ACHARD (2003)
<i>Inu.</i> 1	15,116
<i>Inu.</i> 2	17,088
TOTAL <i>Inu.</i>	32,204
<i>Rhet.Her.</i> 1	3,719
<i>Rhet.Her.</i> 2	7,291
<i>Rhet.Her.</i> 3	5,513
<i>Rhet.Her.</i> 4	13,632
TOTAL <i>Rhet.Her.</i>	30,155

These numbers show that the length of a *uolumen* was no criterion for the length of a book: both Cicero and the *Auctor* divide their handbooks into books according to the content. *Volumen* and *liber* are hence independent concepts here.

Stating that a book (or a *uolumen*) has reached its end is found elsewhere in ancient literature, both in prose literature and poetry. Famous examples from Latin literature include: *Ov.Fast.* 1.724; 2.863; *Tr.* 2.1.550. *Var.L.* 5.184 has an ending that is quite similar to that in *Inu.* 1.109:

Ad uocabula quae pertinere sumus rati ea quae loca et ea quae in locis sunt satis ut arbitror dicta, quod neque parum multa sunt aperta neque, si amplis uelimus, uolumen patietur. Quare in proximo, ut in primo libro dixi, quod sequitur de temporibus dicam.

The concern about the growing size of the *uolumen* is thus a literary commonplace (such literary commonplaces to explain the end of a work or of a book of a work are found in many genres and throughout the centuries, see e.g. *HWRh* s.v. *Epilog*; CURTIUS (1993), 99-101), which shows that Cicero concerned himself with stylisation in *Inu.* One may wonder whether there was a tradition of this in the no longer extant Greek Hellenistic rhetorical

treatises, perhaps even in a source shared by Cicero and the *Auctor*: indeed, although the end of *Rhet.Her.* 1 is presented as an epilogue to C. Herennius, the *Auctor* includes the same idea as Cicero, cf. *Rhet.Her.* 1.27b: *Nunc quoniam satis huius uoluminis magnitudo creuit, commodius est in altero libro de ceteris rebus deinceps exponere (...).*

quae sequuntur...dicemus: It is unclear what exactly is to follow in Book 2. Indeed, Cicero has finished his treatment of the *partes orationis* and neither here nor in 1.19b (where only the discussion of the *partes orationis* is announced) does he state what follows. Cicero's announcement of a treatment of *dispositio* in 1.30 and of *elocutio* in 1.27 do not point to Book 2, which is still concerned with *inuentio*, and he never carried out these plans, see Chapter 1. The only reference is found in 1.49, i.e. almost in the middle of Book 1:

quemadmodum autem quaeque constitutio et pars constitutionis et omnis controuersia, siue in ratione siue in scripto uersabitur, tractari debeat et quae in quamque argumentationes conueniant, singillatim in secundo libro de uno quoque genere dicemus.

This passage (1.49) shows that Cicero had planned, before reaching the end of Book 1, that *Inu.* would have (at least) two books, and what would be included in Book 2.

APPENDIX
Parallel Passages from Cic.*Inu.* and Rhet.*Her.*

Exordium:

	<i>Cic.Inu.</i>	<i>Rhet.Her.</i>
(i)	1.20a Exordium est oratio <u>animum auditoris idonee</u> comparans ad reliquam dictionem: quod eueniet si eum <u>beniuolum</u>, <u>attentum</u>, <u>docilem</u> confecerit. Quare qui bene exordiri <u>causam</u> uolet, eum necesse est <u>genus</u> suae <u>causae</u> diligenter ante <u>cognoscere</u>.	1.6b Principium est cum statim <u>auditoris animum</u> nobis <u>idoneum</u> reddimus ad audiendum. Id sumitur ut <u>attentos</u>, ut <u>dociles</u>, ut <u>beniuolos</u> auditores habere possimus. 1.5a <u>Causa</u> posita, quo <u>commodius</u> exordiri possimus, <u>genus causae</u> est <u>considerandum</u>.
(ii)	1.20b (5 genera) <u>Genera</u> causarum quinque <u>sunt</u>: <u>honestum</u>, <u>admirabile</u>, <u>humile</u>, <u>anceps</u>, <u>obscurum</u>. [1] <u>Honestum</u> causae <u>genus</u> est cui statim sine oratione nostra fauet auditoris animus; [2] <u>admirabile</u>, a quo est alienatus animus eorum qui audituri sunt; [3] <u>humile</u>, quod negligitur ab auditore et non magno opere attendendum uidetur; [4] <u>anceps</u>, in quo aut iudicatio <u>dubia</u> est aut <u>causa</u> et <u>honestatis</u> et <u>turpitudinis</u> <u>particeps</u>, ut et <u>beniuolentiam</u> pariat et <u>offensionem</u>; [5] <u>obscurum</u>, in quo aut tardi auditores sunt aut <u>difficilioribus</u> ad <u>cognoscendum</u> <u>negotiis</u> <u>causa</u> est <u>implicata</u>.	1.5b (4 genera) <u>Genera</u> causarum <u>sunt</u> quattuor: <u>honestum</u>, <u>turpe</u>, <u>dubium</u>, <u>humile</u>. [1] <u>Honestum</u> causae <u>genus</u> esse putatur cum aut id defendimus quod ab omnibus defendendum uidetur, aut id obpugnamus quod ab omnibus uidetur obpugnari debere ut pro uiro forti, contra parricidam. [2] <u>Turpe</u> genus intellegitur cum aut honesta res oppugnatur aut defenditur turpis. [4] <u>Humile</u> genus est cum contempta res affertur. [3] <u>Dubium</u> genus est cum habet in se <u>causa</u> et <u>honestatis</u> et <u>turpitudinis</u> <u>partem</u>.
(iii)	1.20c Quare quom tam diuersa sint genera causarum, exordiri quoque dispari ratione in uno quoque genere necesse est. Igitur exordium in duas partes diuiditur, in principium et insinuationem. <u>Principium</u> est oratio <u>perspicue</u> et <u>protinus</u> <u>perficiens</u> <u>auditorem</u> <u>beniuolum</u> aut <u>docilem</u> aut <u>attentum</u>.	1.6a; Cum haec ita sint, conueniet exordiorum rationem ad causae genus accommodari. Exordiorum duo sunt genera: principium, quod Graece prooemium appellatur, et insinuation quae ep<h>odos nominatur. 1.11a Inter insinuationem et principium hoc interest. <u>Principium</u> eius modi debet esse, ut <u>statim</u> <u>apertis</u> <u>rationibus</u>, quibus praescripsimus, aut <u>beniuolum</u> aut <u>attentum</u> aut <u>docilem</u> <u>faciamus</u> <u>auditorem</u>:

	<u>Insinuatio</u> est oratio quadam <u>dissimulatione</u> et circumitione <u>obscure</u> subiens auditoris animum.	at <u>insinuatio</u> eiusmodi debet esse, ut <u>occulte</u> per <u>dissimulationem</u> eadem illa omnia conficiamus, ut ad eandem commoditatem in dicendi opere uenire possimus.
(iv)	1.21 [1] In admirabili genere causae, si non omnino infesti auditores erunt, principio beniuolentiam comparare licebit. Sin erunt uehementer abalienati, confugere necesse erit ad insinuationem. Nam ab iratis si perspicue pax et beniuolentia petitur, non modo ea non inuenitur sed augetur atque inflammatur odium. [2] In <u>humili</u> autem genere causae contemptionis tollendae causa necesse est <u>attentum efficere</u> auditorem. [3] Anceps genus causae si <u>dubiam</u> iudicationem habebit, ab ipsa iudicatione exordiendum est. Sin autem partem turpitudinis, partem honestatis habebit, beniuolentiam captare oportebit, ut in genus honestum causa translata uideatur. [4] Cum autem <u>erit honestum</u> causae genus, uel praeteriri <u>principium</u> poterit uel, si commodum fuerit, aut a narratione incipiemus aut <u>a lege</u> aut <u>ab aliqua firmissima</u> ratione <u>nostrae</u> dictionis; sin uti principio placebit, beniuolentiae partibus utendum est, ut id quod est augeatur. [5] In obscuro causae genere per principium dociles auditores efficere oportebit. Nunc <u>quoniam</u> quas res exordio conficere oporteat dictum est, reliquum est <u>ut ostendatur quibus quaeque rationibus res confici possit.</u>	1.6c [3] Sin turpe causae genus erit, insinuatione utendum est, de qua posterius dicemus, nisi quid nacti erimus qua re aduersarios criminando beniuolentiam capere possimus. [2] Sin <u>humile</u> genus erit causae, <u>faciemus attentos.</u> [1] Si genus causae <u>dubium</u> habebimus, a beniuolentia principium constituemus, ne quid illa pars turpitudinis nobis obesse possit. [4] Sin <u>honestum</u> causae genus erit, licebit recte uel uti uel non uti <u>principio</u>. Si uti uolumus, aut id oportebit ostendere qua re causa sit honesta, aut breuiter quibus de rebus simus dicturi exponere. Sin principio uti nolemus, <u>ab lege</u>, ab scriptura <u>aut ab aliquo firmissimo nostrae</u> causae adiumento principium capere oportebit. 1.7a <u>Quoniam</u> igitur docilem, beniuolum, attentum auditorem uolumus habere, <u>quo modo quidque confici possit aperiemus.</u>
(v)	1.22 <u>Beniuolentia quattuor ex locis comparatur: ab nostra, ab aduersariorum, ab iudicum persona, a causa.</u> <u>Ab nostra</u>, si de nostris factis et <u>officiis sine arrogantia</u> dicemus; si crimina inlata et aliquas minus honestas suspensiones iniectas diluamus; <u>si</u> quae <u>incommoda</u> acciderint aut quae instant difficultates proferemus; si prece et obsecratione humili ac supplici utemur.	1.8 <u>Beniuolos</u> auditores facere <u>quattuor</u> modis poterimus <u>ab nostra, ab aduersariorum nostrorum, ab auditorum persona, ab rebus ipsis.</u> <u>A nostra persona beniuolentiam contrahemus, si nostrum officium sine arrogantia laudabimus</u> aut in rem publicam quales fuerimus aut in parentes aut in amicos aut in eos ipsos qui audient aliquid referemus, dum haec omnia ad eam ipsam rem, qua de agitur, sint accommodata. Item <u>si nostra incommoda proferemus, inopiam, solitudinem, calamitatem; et si orabimus ut nobis sint auxilio et simul ostendemus nos in aliis spem noluisse</u>

	<u>Ab aduersariorum autem, si eos aut in odium aut in inuidiam aut in contemptionem adducemus.</u> <u>In odium ducentur, si quod eorum spurce, superbe, crudeliter, malitiose factum proferetur; in inuidiam, si uis eorum, potentia, diuitiae, cognatio [pecuniae] proferentur atque eorum usus arrogans et intolerabilis, ut his rebus magis uideantur quam causae suae confidere; in contemptionem adducuntur, si eorum inertia, neglegentia, ignauia, desidiosum studium et luxuriosum otium proferetur.</u> <u>Ab auditorum persona beniuolentia captabitur, si res ab iis fortiter, sapienter, mansuete gestae proferentur, ut ne qua assentatio nimia significetur; si de iis quam honesta existimatio quantaque eorum iudicii et auctoritatis expectatio sit ostendetur.</u> <u>Ab rebus, si nostram causam laudando extollemus, aduersariorum causam per contemptionem deprimemus.</u>	habere. <u>Ab aduersariorum persona beniuolentia captabitur, si eos in odium, in inuidiam, in contemptionem adducemus.</u> <u>In odium rapiemus, si quid eorum spurce, superbe, perfidiose, crudeliter, confidenter, malitiose, flagitiose factum proferemus. In inuidiam trahemus, si uim, potentiam, factionem, diuitias, incontinentiam, nobilitatem, clientelas, hospitium, sodalitatem, affinitates aduersariorum proferemus et his adiumentis magis quam ueritate eos confidere aperiemus. In contemptionem adducemus si inertiam, ignauiam, desidiam, luxuriam aduersariorum proferemus.</u> <u>Ab auditorum persona beniuolentia colligetur, si res eorum fortiter, sapienter, mansuete, magnifice iudicatas proferemus; si, quae de iis existimatio, quae iudicii expectatio sit, aperiemus.</u> <u>A rebus ipsis beniuolum efficiemus auditorem, si nostram causam laudando tollemus, aduersariorum per contemptionem deprimemus.</u>
(vi)	1.23a <u>Attentos autem faciemus, si demonstrabimus ea quae dicturi erimus, magna, noua, incredibilia esse, et aut ad omnis aut ad eos qui audient aut ad aliquos inlustris homines aut ad deos immortales aut ad summam rem publicam pertinere; et si pollicebimur nos breui nostram causam demonstraturos atque exponemus iudicationem aut iudicationes, si plures erunt.</u>	1.7c <u>Attentos habebimus, si pollicebimur nos de rebus magnis, nouis, inusitatis uerba facturos aut de rebus his quae ad rem publicam pertineant aut ad eos ipsos qui audient aut ad deorum immortalium religionem; et si rogabimus ut attente audiant; et si numero exponemus res quibus de rebus dicturi sumus.</u>
(vii)	1.23b <u>Dociles auditores faciemus, si aperte et breuiter summam causae exponemus, hoc est in quo consistat controuersia. Nam et, cum docilem uelis facere, simul attentum facias oportet. Nam is est maxime docilis qui attentissime est paratus audire.</u>	1.7b <u>Dociles auditores habere poterimus, si summam causae exponemus et si attentos eos faciemus; nam docilis est is qui adtente uult audire.</u>
(viii)	1.23b <u>Nunc insinuationes quemadmodum tractari conueniat deinceps dicendum uidetur. Insinuatione igitur utendum est cum admirabile genus causae est, hoc est, ut ante diximus, cum animus auditoris infestus est.</u> <u>Id autem tribus ex causis fit maxime: si</u> <u>aut inest in ipsa causa quaedam turpitudine</u>	1.9 <u>Deinceps de insinuationibus dicendum est.</u> <u>Tria sunt tempora, quibus principio uti non possumus, quae diligenter sunt consideranda: aut cum turpem causam habemus, hoc est, cum ipsa res animum auditoris a nobis alienat;</u>

aut <u>ab iis qui ante dixerunt</u> iam quiddam <u>auditori persuasum uidetur</u> aut eo tempore locus dicendi datur, quom iam illi quos audire oportet <u>defessi sunt audiendo</u>. Nam ex hac quoque re non minus quam ex primis duabus in oratore nonnumquam animus auditoris offenditur. 1.24 Si <u>causae turpitudine</u> contrahit offensionem, aut pro eo homine in quo offenditur alium hominem qui diligitur interponi oportet; aut pro re in qua offenditur, aliam rem quae probatur; aut <u>pro re hominem aut pro homine rem</u>, ut ab eo quod odit ad id quod diligit auditoris animus traducatur; et dissimulare te id defensurum quod existimeris defensurus; deinde, cum iam mitior factus erit auditor, <u>ingredi pedetemptim</u> in defensionem et dicere ea quae indignentur aduersarii tibi quoque <u>indigna</u> uideri; deinde, cum lenieris eum qui audiet, demonstrare nihil eorum ad te pertinere et <u>negare quicquam de aduersariis esse dicturum</u>, neque hoc neque illud, ut neque aperte laedas eos qui diliguntur, <u>et tamen</u> id <u>obscure</u> faciens, quoad possis, alienes ab eis auditorum uoluntatem; et <u>aliquorum iudicium simili de re</u> aut auctoritatem proferre imitatione dignam; deinde <u>eandem aut consimilem aut maiorem aut minorem</u> agi rem in praesenti demonstrare. 1.25 Sin oratio aduersariorum <u>fidem</u> uidebitur <u>auditoribus fecisse</u>—idque ei qui <u>intellegit quibus rebus fides fiat facile</u> erit <u>cognitu</u>—oportet aut de eo quod aduersarii firmissimum sibi <u>putarint</u> et maxime ii qui audient probarint, <u>primum te dicturum polliceri</u> aut ab aduersarii dicto exordiri et ab eo <u>potissimum</u> quod ille nuperrime dixerit, aut dubitatione uti quid primum dicas aut cui potissimum loco respondeas, <u>cum admiratione</u>. Nam auditor, cum eum quem aduersarii perturbatum putat oratione uidet animo firmissimo contra dicere paratum, plerumque se potius temere assensisse quam illum sine causa confidere arbitratur.	aut cum animus <u>auditoris persuasus</u> esse uidetur <u>ab iis, qui ante contra dixerunt</u>; aut cum <u>defessus est</u> eos <u>audiendo</u>, qui ante dixerunt. Si <u>causa turpitudinem</u> habebit, exordiri poterimus his rationibus: <u>rem non hominem, hominem non rem spectari oportere</u>; non placere nobis ipsis, quae facta dicantur ab aduersariis, et esse <u>indigna</u> aut nefaria; deinde cum diu rem auxerimus, nihil simile a nobis factum ostendemus; aut <u>aliquorum iudicium de simili causa aut de eadem aut de minore aut de maiore</u> proferemus, deinde ad nostram causam <u>pedetemptim accedemus</u> et similitudinem conferemus. Item si <u>negabimus nos de aduersariis</u> aut de aliqua re <u>dicturos, et tamen occulte</u> dicemus interiectione uerborum. 1.10 Si persuasus auditor fuerit, id est, <u>si oratio aduersariorum fecerit fidem auditoribus</u>—neque enim non <u>facile</u> scire poterimus, quoniam non sumus <u>nescii</u>, quibus rebus fides fieri soleat—ergo si fidem factam putabimus, his rebus nos insinuabimus ad causam: <u>de eo quod aduersarii firmissimum sibi adiumentum putarint primum nos dicturos pollicebimur</u>; aut ab aduersarii dicto exordiemur, et ab eo <u>maxime quod ille nuperrime dixerit</u>; aut dubitatione utemur quid potissimum dicamus aut cui loco primum respondeamus, <u>cum admiratione</u>.

	Sin auditoris studium <u>defatigatio</u> abalienauit a causa, <u>te breuius quam paratus fueris esse dicturum</u> commodum est polliceri; <u>non imitaturum aduersarium</u>. Sin res dabit, non inutile est ab aliqua <u>re noua</u> aut ridicula incipere: aut ex tempore quae nata sit, quod genus strepitu, acclamatione, aut iam parata, quae uel <u>apologum uel fabulam</u> uel aliquam contineat <u>inrisionem</u>; aut, si rei dignitas adimet iocandi facultatem, aliquid triste, <u>nouum</u>, horribile statim non incommodum est inicere. Nam, ut cibi satietas et fastidium aut subamara aliqua re releuatur aut dulci mitigatur, sic animus defessus audiendo aut admiratione integratur aut risu nouatur.	Si <u>defessi</u> erunt audiendo, ab aliqua re, quae risum mouere possit, <u>ab apologo, fabula ueri simili, imitatione</u> deprauata, inuersione, ambiguo, suspicione, <u>inrisione</u>, stultitia, exsuperatione, collatione, litterarum mutatione, praeter expectationem, similitudine, <u>nouitate</u>, historia, uersu, ab alicuius interpellatione aut adrisione; <u>si promiserimus aliter ac parati fuerimus, nos esse dicturos; nos non eodem modo, ut ceteri soleant, uerba facturos</u>; quid alii soleant, quid nos facturi simus, breuiter exponemus.
(ix)	1.25b Ac separatim quidem quae de principio et de insinuatione dicenda uidebantur haec fere sunt: nunc quiddam breui communiter de utroque praecipendum uidetur. Exordium sententiarum et grauitatis plurimum debet habere et omnino omnia quae pertinent ad dignitatem in se continere, propterea quod id optime faciendum est quod oratorem auditori maxime commendat; splendoris et festiuitatis et concinnitudinis minimum, propterea quod ex his suspicio quaedam apparationis atque artificiosae diligentiae nascitur, quae maxime orationi fidem, oratori adimit auctoritatem.	1.11b In exordienda causa seruandum est, ut lenis sit sermo et usitata uerborum consuetudo, ut non adparata oratio uideatur esse.
(x)	1.26 Vitia uero haec sunt certissima exordiorum quae summo opere uitare oportebit: uulgare, commune, commutabile, longum, separatum, translatum, contra praecepta. <u>Vulgare est quod in pluris causas potest accommodari</u>, ut conuenire uideatur. <u>Commune, quod nihilo minus in hanc quam in contrariam partem</u> causae potest conuenire. Commutabile, quod ab <u>aduersario</u> potest leuiter mutatum <u>ex contraria parte</u> dici. Longum est, quod pluribus uerbis aut <u>sententiis</u> ultra quam satis est producit. Separatum, quod <u>non ex ipsa causa ductum est</u> nec sicut aliquod membrum adnexum orationi. Translatum est, quod aliud conficit quam causae genus postulat: ut si qui <u>docilem</u> faciat auditorem, cum <u>beniuolentiam</u> causa desideret, aut si principio utatur, cum insinuationem res postulet.	1.11c Vitiosum exordium est quod in plures causas potest adcommodari, quod uulgare dicitur. Item uitiosum est quo nihilo minus <u>aduersarius</u> potest uti, quod <u>commune</u> appellatur; item illud quo <u>aduersarius ex contrario</u> poterit uti. Item uitiosum est, quod <u>nimum apparatis uerbis</u> conpositum est aut <u>nimum longum est</u>, et quod non ex ipsa causa natum uideatur, ut proprie cohaereat cum narratione,

Contra praecepta est, quod nihil eorum efficit quorum causa de exordiis praecepta traduntur; hoc est <u>quod eum qui audit neque beniuolum neque attentum neque docilem efficit</u> , aut, quo nihil profecto peius est, ut contra sit facit.	et <u>quod neque beniuolum neque docilem neque adtentum facit auditorem</u> .
Ac de <u>exordio quidem satis dictum</u> est.	<u>De exordio satis erit dictum</u> : deinceps ad narrationem transeamus.

Narratio:

	<i>Cic.Inu.</i>	<i>Rhet.Her.</i>
(i)	1.27 <u>Narratio est rerum gestarum aut ut gestarum expositio.</u>	1.4 <u>Narratio est rerum gestarum aut proinde ut gestarum expositio.</u>
(ii)	1.27 <u>Narrationum genera tria sunt:</u> <u>unum genus est in quo ipsa causa et omnis ratio controuersiae continetur;</u> <u>alterum in quo digressio aliqua extra causam aut criminationis aut similitudinis aut delectationis non alienae ab eo negotio quo de agitur aut amplificationis causa interponitur.</u> <u>Tertium genus est remotum a ciuilibus causis, quod delectationis causa non inuiti cum exercitatione dicitur et scribitur.</u> <u>Eius partes sunt duae quarum altera in negotiis, altera in personis maxime uersatur.</u> <u>Ea quae in negotiorum expositione posita est tres habet partes: fabulam, historiam, argumentum.</u> <u>Fabula est in qua nec uerae nec ueri similes res continentur, cuiusmodi est: ‘Angues ingentes alites, iuncti iugo...’</u> <u>Historia est gesta res, ab aetatis nostrae memoria remota; quod genus: ‘Appius indixit Cartaginiensibus bellum...’</u> <u>Argumentum est ficta res quae tamen fieri potuit. Huiusmodi apud Terentium: ‘Nam is postquam excessit ex ephebis, [Sosia]...’</u> <u>Illa autem narratio quae uersatur in personis eiusmodi est ut in ea simul cum rebus ipsis personarum sermones et animi perspicui possint, hoc modo:</u> <u>‘Venit ad me saepe clamans: Quid agis, Micio? Cur perdis adulescentem nobis? cur amat?’</u>	1.12 <u>Narrationum tria genera sunt.</u> <u>Vnum est cum exponimus rem gestam et unum quidque trahimus ad utilitatem nostram uincendi causa, quod pertinet ad eas causas, de quibus iudicium futurum est.</u> <u>Alterum genus est narrationis quod intercurrit nonnumquam aut fidei aut criminationis aut transitionis aut alicuius apparationis causa.</u> <u>Tertium genus est id quod a causa ciuili remotum est, in quo tamen exerceri conuenit quo commodius illas superiores narrationes in causis tractare possimus.</u> 1.13 <u>Eius narrationis duo genera sunt, unum quod in negotiis, alterum quod in personis positum est.</u> <u>Id quod in negotiorum expositione positum est, tres habet partes: fabulam, historiam, argumentum.</u> <u>Fabula est, quae neque ueras neque ueri similes continet res, ut eae sunt quae tragoediis traditae sunt.</u> <u>Historia est gesta res, sed ab aetatis nostrae memoria remota.</u> <u>Argumentum est ficta res, quae tamen fieri potuit, uelut argumenta comoediarum.</u> <u>Illud genus narrationis quod in personis positum est</u>

	Cur potat? Cur tu his rebus sumptum suggeris, Vestitu nimio indulges? nimium ineptus es. Nimium ipse est durus praeter aequumque et bonum.’ Hoc in genere narrationis multa <u>debet</u> inesse <u>festiuitas</u> confecta ex rerum uarietate; <u>animorum dissimilitudine</u>: <u>grauitate</u>, <u>lenitate</u>, <u>spe</u>, metu, suspicione, desiderio, dissimulatione, errore, <u>misericordia</u>; <u>fortuna commutatione</u>: <u>insperato incommodo</u>, subita laetitia, iucundo exitu rerum. Verum haec ex iis quae postea de elocutione praecipientur ornamenta sumuntur.	<u>debet</u> habere sermonis <u>festiuitatem</u>, <u>animorum dissimilitudinem</u>: <u>grauitatem</u>, <u>lenitatem</u>, <u>spem</u>, <u>metum</u>, <u>suspicionem</u>, <u>desiderium</u>, <u>dissimulationem</u>, <u>misericordiam</u>; rerum uarietates: <u>fortuna commutationem</u>, <u>insperatum incommodum</u>, <u>subitam laetitiam</u>, <u>iucundum exitum rerum</u>. Verum haec in exercendo transigentur; illud quod ad ueritatem pertinet, quomodo tractari conueniat aperiemus.
(iii)	1.28 Nunc de narratione ea quae causae continet expositionem dicendum uidetur. Oportet igitur <u>eam tres habere res</u>: <u>ut breuis</u>, <u>ut aperta</u>, <u>ut probabilis sit</u>.	1.14 <u>Tres res</u> conuenit <u>habere narrationem</u>, <u>ut breuis</u>, <u>ut dilucida</u>, <u>ut ueri similis sit</u>; quae quoniam fieri oportere scimus, quemadmodum faciamus, cognoscendum est.
	<u>Breuis</u> erit <u>si</u>, <u>unde necesse est</u>, <u>inde initium</u> sumetur <u>et non ab ultimo repetetur</u>, <u>et si</u>, <u>cuius rei</u> satis erit <u>summam dixisse</u>, <u>eius partes non dicentur</u>—nam saepe satis est quid factum sit dicere, ut ne narres quemadmodum sit factum—, <u>et si non</u> longius quam <u>quo opus est</u>, in narrando procedetur, <u>et si nullam</u> in rem aliam <u>transibitur</u>; <u>et si ita</u> dicitur, ut nonnumquam ex eo quod dictum est id quod non est dictum intellegatur; <u>et si non modo</u> id quod obest, uerum etiam id quod nec obest nec adiuuat, praeteribitur; <u>et si semel unum quicque dicitur</u>; <u>et si non ab eo</u> in quo proxime desitum erit deinceps incipietur. Ac multos imitatio breuitatis decipit, ut, cum se breuis putent esse, longissimi sint; cum dent operam ut res multas breui dicant, non ut omnino paucas res dicant et non plures quam necesse sit. Nam plerisque breuiter uidetur dicere, qui ita dicit: ‘Accessi ad aedis; puerum euocaui; respondit; quaesiui dominum; domi negauit esse.’ Hic, tametsi tot res breuius non potuit dicere, tamen, quia satis fuit dixisse: ‘Domi negauit esse’, fit rerum multitudine	<u>Rem breuiter</u> narrare poterimus <u>si inde</u> incipiemus narrare <u>unde necesse erit</u>, <u>et si non ab ultimo initio repetere uolemus</u>, <u>et si summam non particulatim narrabimus</u>, <u>et si non</u> ad extremum sed usque eo <u>quo opus erit</u> persequemur, <u>et si transitionibus nullis</u> utemur, <u>et si non deerrabimus</u> ab eo quod coeperimus exponere, et si exitus rerum ita ponemus ut ante quoque quae facta sint sciri possint, tametsi nos reticuerimus: quod genus, si dicam me ex prouincia redisse, profectum quoque in prouinciam intellegatur. <u>Et omnino non modo</u> id quod obest, sed etiam <u>id quod neque obest neque adiuuat</u> satius est <u>praeterire</u>. Et ne bis aut saepius idem dicamus cauendum est; etiam ne id quod semel supra diximus deinceps dicamus hoc modo: Athenis Megaram uesperu aduenit Simo: Vbi aduenit Megaram, insidias fecit uirgini: Insidias postquam fecit, uim in loco adtulit.

	longus. Quare hoc quoque in genere uitanda est breuitatis imitatio et non minus rerum non necessariorum quam uerborum multitudine supersedendum est.	
	1.29 <u>Aperta autem narratio poterit esse si, ut quidque primum gestum erit, ita primum exponetur, et rerum ac temporum ordo seruabitur, ut ita narrentur, ut gestae res erunt aut ut potuisse geri uidebuntur.</u> <u>Hic erit considerandum ne quid perturbate, ne quid contorte dicatur,</u> <u>ne quam in aliam rem transeatur, ne ab ultimo repetatur, ne ad extremum prodeatur, ne quid quod ad rem pertineat praetereatur; et omnino, quae praecepta de breuitate sunt, hoc quoque in genere sunt conseruanda.</u> Nam saepe res parum est intellecta longitudine magis quam obscuritate narrationis. Ac uerbis quoque dilucidis utendum est; quo de genere dicendum est in praeceptis elocutionis.	1.15 <u>Rem dilucide narrabimus si ut quicque primum gestum erit, ita primum exponemus et rerum ac temporum ordinem conseruabimus, ut gestae res erunt aut ut potuisse geri uidebuntur:</u> <u>hic erit considerandum, ne quid perturbate, ne quid contorte, ne quid noue, ne quid ambigue dicamus,</u> <u>ne quam in aliam rem transeamus, ne ab ultimo repetamus, ne longe persequamur, ne quid quod ad rem pertineat praetereamus; et si sequemur ea quae de breuitate praecepta sunt; nam quo breuior, eo dilucidior et cognitu facilius narratio fiet.</u>
	<u>Probabilis erit narratio, si in ea uidebuntur inesse ea quae solent apparere in ueritate; si personarum dignitates seruabuntur; si causae factorum exstarent; si fuisse facultates faciendi uidebuntur; si tempus idoneum, si spatii satis, si locus opportunus ad eandem rem qua de re narrabitur fuisse ostendatur; si res et ad eorum qui agent naturam et ad uulgi morem et ad eorum qui audient opinionem accommodabitur. Ac ueri quidem similis ex his rationibus esse poterit.</u>	1.16 <u>Veri similis narratio erit, si, ut mos, ut opinio, ut natura postulat, dicemus, si spatia temporum, personarum dignitates, consiliorum rationes, locorum opportunitates constabunt, ne refelli possit aut temporis parum fuisse aut causam nullam aut locum idoneum non fuisse aut homines ipsos facere aut pati non potuisse.</u> Si uera res erit, nihilominus haec omnia narrando conseruanda sunt, nam saepe ueritas, nisi haec seruata sint, fidem non potest facere: sin erunt ficta, eo magis erunt conseruanda. De iis rebus caute confingendum est quibus in rebus tabulae aut alicuius firma auctoritas uidebitur interfuisse.
(iv)	1.27 <u>Illa autem narratio quae uersatur in personis eiusmodi est ut in ea simul cum rebus ipsis personarum sermones et animi perspicui possint (...).</u> <u>Hoc in genere narrationis multa debet inesse festiuitas confecta ex rerum uarietate; animorum dissimilitudine:</u> <u>grauitate, lenitate, spe, metu,</u> <u>suspicionem, desiderio, dissimulationem,</u> <u>errore, misericordia;</u> <u>fortuna commutationem;</u> <u>insperato incommodo, subita laetitia,</u> <u>iucundo exitu rerum.</u> <u>Verum haec</u> ex iis quae postea de elocutione praecipientur	1.13 <u>Illud genus narrationis quod in personis positum est debet habere sermonis</u> <u>festiuitatem,</u> <u>animorum dissimilitudinem:</u> <u>grauitatem, lenitatem, spem, metum,</u> <u>suspicionem, desiderium, dissimulationem,</u> <u>miseri cordiam;</u> rerum uarietates: <u>fortuna commutationem,</u> <u>insperatum incommodum, subitam laetitiam,</u> <u>iucundum exitum rerum.</u> <u>Verum haec</u> in exercendo transigentur; illud quod ad

	ornamenta sumentur.	ueritatem pertinet, quomodo tractari conueniat aperiemus.

Partitio:

	<i>Cic.Inu.</i>	<i>Rhet.Her.</i>
(i)	1.31 Vna pars est quae <u>quid cum aduersariis conueniat et quid in controuersia relinquatur ostendit</u>	1.17 [1] Primum, perorata narratione, debemus aperire <u>quid nobis conueniat cum aduersariis</u> , si ea quae utilia nobis erunt conuenient, <u>quid in controuersiis relinquatur</u> .
	rerum earum <u>de quibus erimus dicturi breuiter expositio</u> and 1.32 Quae partitio rerum distributam continet <u>expositionem</u> , haec habere debet: <u>breuitatem</u> , <u>absolutionem</u> , <u>paucitatem</u> .	[3] <u>Expositio</u> est cum res, quibus de rebus <u>dicturi sumus</u> , <u>exponimus breuiter et absolute</u> .
	1.31 <u>hoc modo</u> : ‘Interfectam matrem esse a filio <u>conuenit mihi cum aduersariis</u> ’. <u>Item</u> contra: ‘Interfectum esse a Clytaemestra <u>Agamemnonem</u> conuenit’.	[2] <u>hoc modo</u> : ‘Interfectam esse ab Oreste <u>matrem conuenit mihi cum aduersariis</u> : iurene fecerit et licueritne facere, id est in controuersia’. <u>Item</u> e contrario: ‘ <u>Agamemnonem</u> esse a Clytemestra occisum confitentur; cum id ita sit, me ulcisci parentem negant oportuisse’.
	1.33 <u>Nunc</u> de <u>confirmatione</u> deinceps, ita ut ordo ipse postulat, praeciendum uidetur.	1.18. <u>Nunc</u> ad <u>confirmationem</u> et confutationem transeamus.

Conclusio:

(I) Enumeratio:

	<i>Cic.Inu.</i>	<i>Rhet.Her.</i>
(i)	1.98b <u>Enumeratio est per quam res disperse et diffuse dictae unum in locum coguntur et reminiscendi causa unum sub aspectum subiciuntur</u> .	2.47b <u>Enumeratio est per quam colligimus et commonemus quibus de rebus uerba fecerimus</u>
(ii)	1.100b et unum quidque quam <u>breuissime</u> transeatur, ut memoria, <u>non oratio renouata</u> uideatur.	2.47b <u>breuiter</u> , ut <u>renouetur</u> , <u>non redintegretur oratio</u>

(II) Indignatio:

	<i>Cic.Inu.</i> 1.101-105: 15 loci indignationis	<i>Rhet.Her.</i> 2.48-49: 10 loci amplificationis
(iii)	1. <u>Primus locus sumitur ab auctoritate, cum commemoramus quantae curae res ea fuerit iis quorum auctoritas grauissima debeat esse: diis immortalibus, qui locus sumetur ex sortibus, ex oraculis, uatibus, ostentis,</u>	1. <u>Primus locus sumitur ab auctoritate, cum commemoramus quantae curae ea res fuerit diis immortalibus aut maioribus nostris, regibus, ciuitatibus, nationibus, hominibus sapientissimis, senatui; item maxime quo</u>

prodigiis, responsis, similibus rebus; item maioribus nostris, regibus, ciuitatibus, gentibus, hominibus sapientissimis, senatui, populo, legum scriptoribus.	modo de his rebus legibus sanctum sit.
2. <u>Secundus locus est</u> per quem illa res ad quos <u>pertineat</u> cum amplificatione per indignationem ostenditur, aut <u>ad omnes</u> aut ad maiorem partem, quod atrocissimum est; aut ad superiores, quales <u>sunt ii</u> quorum ex <u>auctoritate</u> indignatio <u>sumitur</u> , quod indignissimum est; aut <u>ad pares animo</u> , <u>fortuna</u> , <u>corpore</u> , quod iniquissimum est; aut <u>ad inferiores</u> , quod superbissimum est.	2. <u>Secundus locus est</u> cum consideramus <u>illae res</u> de quibus criminamur <u>ad quos</u> <u>pertineant</u> : utrum <u>ad omnes</u> , quod <u>atrocissimum est</u> , an <u>ad superiores</u> , quod <u>genus ii</u> sunt a quibus <u>auctoritatis</u> locus communis <u>sumitur</u> , an <u>ad pares</u> , hoc est in isdem partibus <u>animi</u> , <u>corporis</u> , <u>fortunarum</u> positos, an <u>ad inferiores</u> qui his omnibus rebus antecelluntur.
3. <u>Tertius locus est</u> per quem quaerimus <u>quidnam sit</u> euenturum, si <u>idem</u> ceteri faciant; et simul ostendimus, huic si <u>concessum</u> sit, multos aemulos eiusdem audaciae futuros; ex quo quid mali sit euenturum demonstrabimus.	3. <u>Tertius locus est</u> quo percontamur <u>quid sit</u> euenturum, si <u>omnibus idem concedatur</u> , et, ea re neglecta, ostendemus quid periculorum atque incommodorum consequatur.
4. <u>Quartus locus est</u> per quem demonstramus multos alacres <u>expectare</u> quid statuatur, ut ex eo quod <u>uni concessum sit</u> sibi quoque tali de re quid liceat intellegere possint.	4. <u>Quartus locus est</u> quo <u>demonstratur</u> , si <u>huic sit remissum</u> , multos alacriores ad maleficia futuros quos <u>ad hoc expectatio</u> iudicii remoratur.
5. <u>Quintus locus est</u> per quem ostendimus ceteras res perperam constitutas, intellecta ueritate, commutatas <u>corrigi posse</u> , hanc esse rem quae si sit semel iudicata neque alio commutari iudicio neque ulla potestate corrigi possit.	5. <u>Quintus locus est</u> per quem ostendimus, si <u>semel aliter iudicatum sit</u> , nullam rem fore quae incommodo mederi aut erratum iudicium <u>corrigere possit</u> . Quo in loco non incommodum erit uti ceterarum rerum conparatione, ut ostendamus alias res posse aut uetustate sedari aut consilio corrigi, huius rei aut leniendae aut corrigendae nullam rem adiumento futuram.
6. <u>Sextus locus est</u> per quem <u>consulto</u> et de industria <u>factum</u> demonstratur et illud adiungitur <u>uoluntario</u> maleficio ueniam dari <u>non oportere</u> , <u>inprudenciae</u> concedi nonnumquam conuenire.	6. <u>Sextus est locus</u> quom ostendimus et <u>consulto factum</u> et dicimus <u>uoluntario</u> facinori nullam esse <u>excusationem</u> , <u>inprudenciae</u> et iustam deprecationem paratam.
7. <u>Septimus locus est</u> per quem indignamur, quod <u>taetrum</u> , <u>crudele</u> , <u>nefarium</u> , <u>tyrannicum factum esse</u> dicamus per uim, manum, opulentiam; quae res ab legibus et ab aequabili iure remotissima sit.	7. <u>Septimus locus est</u> quo ostendimus <u>taetrum facinus</u> , <u>crudele</u> , <u>nefarium</u> , <u>tyrannicum esse</u> : quod genus iniuria mulierum aut earum rerum aliquid quarum rerum causa bella suscipiuntur et cum hostibus de uita dimicatur.
8. <u>Octauus locus est</u> per quem demonstramus <u>non uulgare</u> neque factitatum esse ne ab audacissimis quidem hominibus id maleficio de quo agatur; atque id a feris quoque hominibus et a barbaris gentibus et inmanibus bestiis esse remotum. Haec erunt quae in parentes, liberos, coniuges, consanguineos, supplices crudeliter facta	8. <u>Octauus locus est</u> quo ostendimus <u>non uulgare</u> , sed singulare esse maleficio, spurcum, nefarium, inusitatum: quo maturius et atrocius uindicandum est.

	dicentur, et deinceps si qua proferantur in maiores natu, in hospites, in uicinos, in amicos, in eos quibuscum uitam egeris, in eos apud quos educatus sis, in eos ab quibus eruditus, in mortuos, in miseros et misericordia dignos, in homines claros, nobiles et honore usos, in eos qui neque laedere alium nec se defendere potuerunt, ut in pueros, senes, mulieres; quibus ex omnibus acriter excitata indignatio summum in eum qui uiolarit horum aliquid odium commouere poterit.	
9.	<u>Nonus locus est per quem cum aliis peccatis, quae constat esse peccata, hoc quo de quaestio est comparatur, et ita per contentionem quanto atrocius et indignius sit illud de quo agitur ostenditur.</u>	9. <u>Nonus locus est qui constat ex peccatorum comparatione, quasi cum dicemus maius esse maleficium stuprare ingenuum quam sacrum legere, quod alterum propter egestatem, alterum propter intemperantem superbiam fiat.</u>
10.	<u>Decimus locus est per quem omnia quae in negotio gerundo acta sunt quaeque post negotium consecuta sunt, cum unius cuiusque indignatione et criminatione colligimus et rem uerbis quam maxime ante oculos eius apud quem dicitur ponimus, ut id quod indignum est proinde illi uideatur indignum ac si ipse interfuerit ac praesens uiderit.</u>	10. <u>Decimus locus est per quem omnia quae in negotio gerundo acta sunt quaeque rem consequi solent exponemus acriter et criminose et diligenter, ut agi res et geri negotium uideatur rerum consequentium enumeratione.</u>
	(<i>Loci</i> 11-15 from <i>Inu.</i> do not have any corresponding <i>loci</i> in <i>Rhet.Her.</i>)	/

(III) Conquestio:

	<i>Cic.Inu.</i> 1.107-109: 16 loci conquestionis	<i>Rhet.Her.</i> 2.50 8 loci commiserationis [the word ' <i>loci</i> ' is not used in <i>Rhet.Her.</i> here; numbers indicate the order in 2.50]
(iv)	1. Deinde primus locus est misericordiae per quem quibus in bonis fuerint et nunc [per quem] quibus in malis sint ostenditur.	1. si uariam fortunarum commutationem dicemus, si ostendemus in quibus commodis fu<er>imus quibusque incommodis simus, conparatione
	2. Secundus, qui in tempora tribuitur, per quem quibus in malis fuerint et sint et futuri sint demonstratur.	6. si nos semper aut diu in malis fuisse ostendemus 2. si quae nobis futura sint, nisi causam optinuerimus, enumerabimus et ostendemus
	(<i>Locus</i> 3 has no equivalent in <i>Rhet.Her.</i>)	/
	4. Quartus per quem res turpes et humiles et inliberales proferentur et indigna aetate, genere, fortuna, pristino honore, beneficiis, quae passi perpessuriue sint.	7. si nostrum fatum aut fortunam conqueremur
	(<i>Loci</i> 5-13 have no equivalent in <i>Rhet.Her.</i>)	/
	14. Quartus decimus qui per obsecrationem sumitur; in quo orantur modo illi qui	3. si supplicabimus et nos sub eorum quorum misericordiam captabimus potestatem

	audiunt humili et <u>supplici</u> oratione ut <u>misereantur</u> .	subiciemus
15.	Quintus decimus per quem non nostras, sed eorum <u>qui cari nobis debent esse</u> , fortunas <u>conqueri nos demonstramus</u> .	4. si quid <u>nostris parentibus, liberis, ceteris necessariis</u> casurum sit propter nostras calamitates aperiemus et simul <u>ostendemus</u> illorum <u>nos</u> sollicitudine et miseria, non nostris incommodis <u>dolere</u>
16.	Sextus decimus per quem <u>animum nostrum in alios misericordem esse ostendimus</u> et tamen amplum et excelsum et <u>patientem incommodorum</u> esse et <u>futurum</u> esse, si quid acciderit, demonstramus. Nam saepe uirtus et magnificentia, in quo grauitas et auctoritas est, plus proficit ad misericordiam commouendam quam humilitas et obsecratio.	5. si de clementia, humanitate, <u>miser cordia nostra qua in alios usi sumus, aperiemus</u> 8. si <u>animum nostrum fortem, patientem incommodorum</u> ostendemus <u>futurum</u>
	Commotis autem animis <u>diutius in conquestione morari non oportebit</u> . Quemadmodum enim dixit rhetor Apollonius, 'Lacrima nihil citius arescit'.	Commiserationem breuem esse oportet; <u>nihil enim lacrima citius arescit</u> .

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List of Corrigenda and Addenda to the Thesis (TH)

p.	
6	<i>add</i> ‘Anonymus,’ <i>before</i> ‘Excerpta rhetorica e codice Parisino 7530 edita’.
10	<i>align text in cell containing</i> ‘Grammaticae Romanae Fragmenta’; <i>add</i> ‘, §193’ <i>after</i> ‘II.2.2; Munich)’.
11	<i>change</i> ‘§430’ <i>to</i> ‘§431’.
14	<i>add tab stop before</i> ‘Compared with this subtle echo’.
15	<i>add tab stop before</i> ‘In fact, the reasons’.
17	<i>harmonise spelling from de Orat. 1.5 to</i> ‘incohata’.
18	<i>change</i> ‘(1.98-109a)’ <i>to</i> ‘(1.98-109b)’; <i>add</i> ‘(1.109c)’ <i>after</i> ‘A very short epilogue follows’; <i>add</i> ‘(2.178b)’ <i>after</i> ‘The work ends’.
19	<i>change</i> ‘(1.19b-109a)’ <i>to</i> ‘(1.19b-109b)’.
22	<i>change</i> ‘are discussed for each Issue’ <i>to</i> ‘is discussed for each Issue’.
24	<i>add</i> ‘extant’ <i>after</i> ‘is not found elsewhere in’.
38	<i>change</i> ‘has to always remain’ <i>to</i> ‘has to remain forever’.
42	<i>add</i> ‘; ACHARD (1994), 23, has it, but does not draw all the necessary conclusions from it’ <i>after</i> ‘but seems to have been mostly ignored’.
44	<i>after</i> ‘in some of Cicero’s mature works’ <i>add</i> ‘(cf. also the verbs used in Inu. 1.2 and de Orat. 1.30, and cf. Inu. 1.1-2, 1.5a with de Orat. 1.33, 1.35-36)’.
45	<i>start new paragraph before</i> ‘This idea in Proem 1’.
46	<i>add</i> ‘and expressions’ <i>after</i> ‘1) Some words’; <i>add</i> ‘in extant Latin literature’ <i>before</i> ‘it appears for the first time in Cicero’.
74	<i>add</i> ‘(this could help explain the use of examples from poetry and drama in Inu. 1.27)’ <i>after</i> ‘some or even all προϋμνάσματα’.
83	<i>change</i> ‘Orestes as a son ought not to have killed his mother’ <i>to</i> ‘Orestes’ murder can be seen as being worse than Clytaemestra’s’.
84	<i>at the bottom, add reference to</i> <i>Libanius, Decl. 6</i> .
85	<i>change</i> ‘to refer to a Greek official in 1.55’ <i>to</i> ‘in 1.55 and similarly of ‘quaestor’ in 2.87 and 2.98 to refer to a Greek official’; <i>add</i> ‘in his treatise’ <i>after</i> ‘while the Auctor claims that’.
89	<i>add</i> ‘Inu., cf. 1.36 and 2.31 (twice ‘uehementer...adplicata’), and in’ <i>after</i> ‘For other noteworthy uses of ‘uehementer’ in’; <i>add</i> ‘; TLL s.v. duco II.A.5.D.1.a’ <i>after</i> ‘OLD s.v. ducere 27’.
90	<i>add</i> ‘(fr.133 Rose)’ <i>after</i> ‘by Theodectes’.
91	<i>change</i> ‘both parts’ <i>to</i> ‘both Parts’ <i>and</i> ‘of two parts’ <i>to</i> ‘of two Parts’.
94	<i>add</i> ‘(cf. e.g. the references to Arch. in Quint.Inst. in the Index locorum in WINTERBOTTOM’s (1970) OCT)’ <i>after</i> ‘widely-read speeches’.
100, 189, 244, 274, 287	<i>add references to</i> <i>Thier. Chart. Cic. Inu.</i>
100	<i>add space between</i> ‘VON ALBRECHT (2003),’ <i>and</i> ‘174-180’.
104	<i>change</i> ‘is only found’ <i>to</i> ‘is found only’.
110	<i>change</i> ‘Cicero in his later works will use’ <i>to</i> ‘In his later works, Cicero will use’.
111	<i>add</i> ‘; TLL s.v. dictio II.B.1’ <i>after</i> ‘OLD s.v. dictio 1. and 4’.
112	<i>change</i> ‘would hence have an active good will’ <i>to</i> ‘would hence have an active goodwill’.

115	<i>change ‘who links them’ to ‘who links this other type of genera causarum’; change ‘is only found in’ to ‘is found only in’.</i>
130	<i>add ‘then’ after ‘The first question is’.</i>
135	<i>add ‘, see BOWER (1958), 228’ after ‘though probably not Hermagoras’.</i>
141	<i>change ‘the ‘aut’-list of three elements is found for the principium situation in Rhet.Her.’ to ‘the ‘aut’-list of three elements is found for the NO-principium situation in Rhet.Her.’.</i>
154	<i>add space between ‘in Rh.1415a36-37’ and ‘Aristotle states’.</i>
156	<i>add ‘his’ before ‘spiritual ancestors’.</i>
169	<i>after ‘by the sentence that follows after these words’ add ‘: this sentence explains why the audience reacts with ‘admiratio’.</i>
170	<i>add ‘here (contrast with 1.27, where they have a special technical meaning)’ before ‘are means of achieving laughter’.</i>
174	<i>change ‘namely’ to ‘as’.</i>
186, 191, 230- 231	<i>change ‘claritas’ to ‘perspicuitas’ (cf. comment on p.228).</i>
188	<i>change ‘were not normally allowed’ to ‘were normally not allowed’.</i>
192	<i>change ‘Clarity and Plausibility’ to ‘clarity and plausibility’.</i>
202	<i>change ‘‘digressio’ is composed’ to ‘‘Digressio’ is composed’.</i>
204	<i>add ‘also’ after ‘As becomes clear’.</i>
212	<i>use bold font for lemma ‘potuit’.</i>
215	<i>add bibliographical information: BENTLEY, R. (1820), P. Terentii Afri Comoediae (Leipzig).</i>
223	<i>change ‘to pass over’ to ‘to omit’ (cf. p.140).</i>
232	<i>add ‘on narratio’ after ‘for much of the material’.</i>
234	<i>change ‘adminiculis’ to ‘adminiculis’.</i>
241	<i>add ‘[n.i.]’ after ‘see Inu.1.18-19a with notes ad loc.’.</i>
244	<i>add ‘; D.H.Isoc.4’ after ‘Cic.Top.26-34’.</i>
266	<i>change ‘kinds’ to ‘genera’.</i>
273	<i>change ‘as defined by Cicero’ to ‘as described by Cicero’; add ‘ ...’ after ‘ut per falsas nuptias’.</i>
275	<i>change ‘Techne’ to ‘Τέχνη’.</i>
290	<i>change ‘that for these Topics they’ to ‘that for these Topics both authors’.</i>
294	<i>change ‘his treatment of commiseratio’ to ‘the Auctor’s treatment of commiseratio’.</i>
313	<i>change ‘of Enumeration in 1.98’ to ‘of Enumeration in 1.98d’.</i>
318- 319	<i>delete start of new paragraph and add tab stop before ‘quidnam...factum sit:’, ‘in hoc quoque genere:’, and ‘omnibus isdem modis:’, and italicise these lemmata.</i>
335	<i>change ‘included’ to ‘excluded’.</i>
339	<i>change ‘it does seem sound also to have perfect subjunctive in’ to ‘it does seem sound to have perfect subjunctive also in’.</i>
351	<i>change ‘adminiculis’ to ‘adminiculis’.</i>
354	<i>change ‘Hellenist Greek’ to ‘Hellenistic Greek’; change ‘and Refutation, he’ to ‘and Refutation, the Auctor’.</i>
357	<i>change ‘Table above’ to ‘The table above’.</i>
369	<i>change ‘covered be this charge’ to ‘covered by this charge’.</i>
370	<i>delete one tab stop before ‘For the display’.</i>