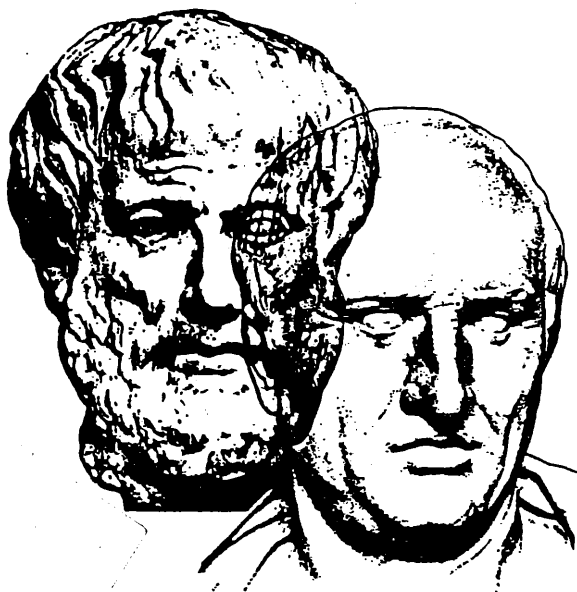


ETHOS AND PATHOS

FROM
ARISTOTLE TO CICERO

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**ETHOS
AND
PATHOS**
FROM
ARISTOTLE TO CICERO

... making unfulfillable promises.
For who can bear to be forgotten?
(David Bowie, 'Ricochet')

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Preface

This book is about an aspect of the history of ancient rhetoric, and its focus is on two of the central texts from the period, Aristotle's *Rhetoric* and Cicero's *De oratore*. Since it has become clear to me that subjects and texts like these are also of interest to those working in speech departments and related fields, I have tried to make it accessible also to non-classicists. To this end, I have added translations to nearly all quotations of ancient texts, relegating them to an appendix only in the two sections where they would be cumbersome. Only one part of one section (§ 7.2, p. 224-229) was impossible to adapt for others than classicists, since it is based on philological analysis. Transcription of Greek words has not always been possible: the words ἦθος (*êthos*) and πάθος (*pathos*) are occasionally used.

If some classicists will find a number of remarks superfluous, however, this is probably not entirely due to my effort to reach the non-specialist. The vast amount of literature about the *Rhetoric* and *De oratore* shows, if anything, that what is obvious and hardly worth mentioning to some, is unknown to or neglected by others. Therefore, I have chosen to be too explicit rather than obscure. The great number of relevant publications and the diversity of opinion they show is further reflected by the great number of footnotes. These fulfil their natural function of unburdening, not that of burdening the text: some may choose to neglect them and, as E.R. Dodds has put it, to 'practise the art of skipping'.

Although I have made use of much of the existing literature, I have by far not used all, since that would have meant postponing publication for another forty years or so. About the books I have used, I should perhaps say that, unfortunately, James M. May's *Trials of Character* arrived too late for me to study it more than superficially.

The book is a considerably rewritten and enlarged version of my Dutch MA thesis, which was written under the auspices of the *De oratore* project of Professors A.D. Leeman and H. Pinkster. This thesis, originally planned to be finished before Christmas 1985, was completed in the autumn of 1986. Not having learnt much from this, I had hoped to write the book in the four months preceding March 1988. In that month, having only reached chapter 3, I was appointed by the Netherlands Organization for Scientific Research (NWO), to work on a commentary on and an analysis of Cicero's synthesis of rhetoric and philosophy in the third book of *De oratore*, also part of the larger *De oratore* project. Hence, the greatest part of this book had to be written in the evenings and weekends; but working on a related subject has been a great advantage. The prolonged work on this

book has also been profitable because, in the meantime, the third volume of the Leeman-Pinkster commentary has been completed and published, which has enabled me to add some points to what I had already written. Where this has been the case, I have indicated this in a footnote; but I have also recorded where I disagree with their analyses.

During all these vicissitudes, Professor A.D. Leeman has been an unfailing source of encouragement and inspiration. Details need not be added. Suffice it to say that even the disagreements just mentioned have been committed to this paper with his encouragement, and that all who know his work will (I hope) recognize my enormous debt to him.

So many others have helped me also, that I can only mention my greatest debts of thanks. Dr. Daan den Hengst has read through the semi-final version and suggested numerous improvements, particularly regarding the clarity of the argument. During my work, it appeared that Dr. Antoine Braet of Leiden University was working on a related article about the *Rhetoric*, and he has kindly provided me with the text of the forthcoming English version. Moreover, he has given valuable comments on my Dutch thesis. Parts of my text were read and commented upon by Dr. Nico van der Ben and by Professor Harm Pinkster. The latter has also shown great kindness and flexibility in allowing me to use his printer to produce the final, camera-ready version. Professor W.W. Fortenbaugh of Rutgers University has been so kind as to send me a copy of his forthcoming article 'Cicero's Knowledge ...', and to allow me to use and cite it as I saw fit.

My mother, M. van der Horst, being a native speaker of English, has helped me with the language. We went through the many problems I had encountered in a number of long, but fruitful and pleasant evening sessions. Michiel Bootsman kindly agreed to take the photographs for the cover, and ended up designing it.

Nancy Laan has discussed a number of problems with me, often helping me to impose some order on chaotic thoughts. Also, the book would still have been unfinished but for her willingness to take upon her, during the last months, household tasks normally shared, while at the same time pursuing her own work and research. My other debts to her are numerous, but this is not the place to record them.

Needless to say, the remaining errors are my own.

J.W.

Amsterdam
Autumn 1989

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ABBREVIATIONS

Ancient authors

Abbreviations of names of ancient authors and their works, mainly restricted to the footnotes, are either those used in the *OLD* and *LSJ* (see the list of modern works below), or expanded forms of these where clarity or custom seem to demand it. Two may be mentioned here, in order to avoid confusion:

Cic. *De or.* = Cicero, *De oratore*

Cic. *Orat.* = Cicero, *Orator*

Periodicals and collections

Periodicals are abbreviated as in *L'Année Philologique*:

<i>AAWM</i>	<i>Abhandlungen der Akademie der Wissenschaften in Mainz, Geistes- und Sozialwissenschaftlichen Klasse</i>
<i>ABAW</i>	<i>Abhandlungen der Bayerischen Akademie der Wissenschaften</i>
<i>AGPh</i>	<i>Archiv für Geschichte der Philosophie</i>
<i>AJPh</i>	<i>American Journal of Philology</i>
<i>AncPhil</i>	<i>Ancient Philosophy</i>
<i>ANRW</i>	<i>Aufstieg und Niedergang der Römischen Welt</i> (Berlin, New York: De Gruyter, 1972-...)
<i>APAW</i>	<i>Abhandlungen der Preussischen Akademie der Wissenschaften</i>
<i>BSG</i>	<i>Berichte über die Verhandlungen der kgl. Sächsischen Gesellschaft der Wissenschaften zu Leipzig, Phil.-hist. Classe</i>
<i>C&M</i>	<i>Classica et Mediaevalia</i>
<i>CPh</i>	<i>Classical Philology</i>
<i>CQ</i>	<i>Classical Quarterly</i>
<i>GIF</i>	<i>Giornale Italiano di Filologia</i>
<i>GRBS</i>	<i>Greek, Roman and Byzantine Studies</i>
<i>HSPh</i>	<i>Harvard Studies in Classical Philology</i>
<i>ICS</i>	<i>Illinois Classical Studies</i>
<i>PACA</i>	<i>Proceedings of the African Classical Association</i>
<i>Ph&Rh</i>	<i>Philosophy and Rhetoric</i>
<i>RhM</i>	<i>Rheinisches Museum</i>
<i>SAWW</i>	<i>Sitzungsberichte der Österreichischen Akademie der Wissenschaften in Wien, Phil.-Hist. Klasse</i>

SBAW	<i>Sitzungsberichte der Bayerischen Akademie der Wissenschaften, Phil.-Hist. Klasse</i>
TAPhA	<i>Transactions (and Proceedings) of the American Philological Association</i>
WS	<i>Wiener Studien</i>

Other Modern Works

Works cited by author's name and year of appearance are listed in the bibliography (p. 341-347). The following are collections, dictionaries, editions, etc.:

AABT T ..	Testimonium .. in <i>Aristotle in the Ancient Biographical Tradition</i> (= Düring 1957, see bibliography)
Bonitz	Hermannus Bonitz, <i>Index Aristotelicus</i> (in: <i>Aristotelis Opera</i> , ed. Acad. Regia Borussia, V; Berlin: Reimer, 1870)
Caplan	Caplan (1954) (see bibliography)
Courbaud	Edmond Courbaud (texte, trad.), <i>Cicéron. De l'orateur. Livre premier; Livre deuxième</i> (Budé, 1922-1927)
Denniston	John D. Denniston, <i>The Greek Particles</i> (Oxford: Clarendon, 1954 ²)
Freese	John H. Freese (ed., transl.), <i>Aristotle. The "Art" of Rhetoric</i> (Loeb, 1926)
Friedrich	Gulielmus (Wilhelm) Friedrich (ed.), <i>M. Tullii Ciceronis Opera Rhetorica. Vol. II</i> (Leipzig: Teubner, 1893)
GL	<i>Grammatici Latini</i> , ed. H. Keil (Leipzig: Teubner, 1855-1878)
Kassel	Rudolfus Kassel (ed.), <i>Aristotelis Ars rhetorica</i> (Berlin, New York: De Gruyter, 1976)
K.-G.	R. Kühner, B. Gerth, <i>Ausführliche Grammatik der griechischen Sprache. Zweiter Teil: Satzlehre</i> (2 Bände; Hannover: Hahn, 1898-1904 ³)
K.-St.	R. Kühner, C. Stegmann, <i>Ausführliche Grammatik der lateinischen Sprache. Zweiter Teil: Satzlehre</i> (2 Bände; Hannover: Hahn, 1912-1914 ² ; mit Berichtigungen und Zusätzen 1976 ⁵)
Kum.	Kazimierz F. Kumaniecki (ed.), <i>M. Tulli Ciceronis Scripta quae manserunt omnia. Fasc. 3. De oratore</i> (Leipzig: Teubner, 1969)
L.-P.	Leeman-Pinkster (1981-...) (see bibliography)
L.-P.-Nelson	id.: Hein L.W. Nelson's contribution to vol. II: 1,166-203
L.-P.-Rabbie	id.: Edwin Rabbie's contribution to vol. III: 2,216-290
LSJ	H.G. Liddell, R. Scott, H. Stuart Jones, R. McKenzie, <i>A Greek-English Lexicon</i> (Oxford: Clarendon, 1925-1940 ⁹ ; repr. with Supplement 1977)

- Merklin Harald Merklin (übers., hrsg.), *Marcus Tullius Cicero. De oratore. Über den Redner* (Stuttgart: Reclam, 1981²)
- OLD *Oxford Latin Dictionary*, ed. by P.G.W. Glare (Oxford: Clarendon, 1982)
- ORF *Oratorum Romanorum Fragmenta liberae rei publicae*, ed. Henrica Malcovati (Torino: Paravia, 1953⁴)
- P.-H. K.W. Piderit, O. Harnecker, *Cicero De oratore* (Leipzig: Teubner, 1886-1890⁶; repr. Amsterdam: Hakkert, 1965)
- Rackham Sutton/Rackham: the part 2,300-end
- RE *Paulys Realencyclopädie der classischen Altertumswissenschaft*, ed. G. Wissowa, W. Kroll et al. (Stuttgart, München, 1894-...)
- Rhys Roberts W. Rhys Roberts (transl.), *Rhetorica*, in: W.D. Ross (ed.) *The Works of Aristotle translated into English, Vol. XI* (Oxford: Clarendon Press, 1924)
- RLM *Rhetores Latini Minores*, ed. C. Halm (Leipzig: Teubner, 1863)
- Shackleton Bailey D.R. Shackleton Bailey's editions, comm. and transl. of Cicero's letters: *Letters to Atticus* (ed., comm., transl.; 7 vols.; Cambridge UP, 1965-1970); *Epistulae ad familiares* (ed., comm.; 2 vols.; CUP, 1977); *Epistulae ad Quintum fratrem et M. Brutum* (ed., comm.; CUP, 1980); *Letters to his Friends* (transl., incl. *Q. fr.* and *Ad Brut.*; Penguin, 1978); *Select Letters* (ed., comm.; CUP, 1980)
- Sp.-H. Leonard Spengel (ed.), Caspar Hammer (re-ed.), *Rhetores Graeci I* (Leipzig: Teubner, 1894)
- Sutton Sutton/Rackham: the part 1,1-2,216
- Sutton/Rackham E.W. Sutton, H. Rackham (ed., transl.), *Cicero. De oratore* (2 vols., Loeb, 1942)*: the part 2,217-299
- SVF *Stoicorum Veterum Fragmenta*, ed. Ioannes ab Arnim (Hans von Arnim) (Leipzig: Teubner, I-III 1903-1905, IV [Index] 1924; repr. Stuttgart: Teubner, 1968)
- Sz. Anton Szantyr (neubearb.): J.B. Hofmann, *Lateinische Syntax und Stilistik* (Handbuch der Altertumswissenschaft II,2,2; München: Beck, 1965)
- TLL *Thesaurus Linguae Latinae* (Leipzig: Teubner, 1900-...)
- W. A.S. Wilkins (ed., intr., comm.), *M. Tulli Ciceronis De oratore libri tres* (Oxford 1892; repr. Amsterdam: Hakkert, 1962; and Hildesheim: Olms, 1965)
- Wehrli Fritz Wehrli, *Die Schule des Aristoteles* (10 Hefte, 2 Suppl.; Basel, Stuttgart: Schwabe, 1944-1978)

*) Cf. Rackham's preface (vol. 1: vii): Sutton's translation runs until three-quarters of book 2; the rest is Rackham's. The abbreviation Sutton/Rackham mirrors the uncertainty of the borderline.

1. INTRODUCTION

1.1 General Introduction

One of the fascinating aspects of classical oratory is its frequent use of emotional appeal and other indirect ways of persuading an audience. Since classical rhetoric was meant to provide the orators with instruction and a theoretical background to their speeches, one might expect to find a rich store of interesting observations on this topic in the handbooks of that time, as represented by *De inventione* and the *Rhetorica ad Herennium*. But a modern reader opening these two extant handbooks with such expectations will be disappointed: standard rhetoric paid surprisingly little attention to this aspect of persuasion. Of course the rules for the prologue prescribed winning the goodwill of the judges, and in the epilogue the orator was expected to pull out all the stops and arouse hatred for his opponent and pity for himself. But the treatment, even of these parts of the speech, is rather arid and bald. Moreover, the main emphasis of the rhetorical handbooks was on the part of the speech in which the arguments were put forward, for which an elaborate system of rules to cover all possible cases was developed.

The one-sidedness of this approach is not just a matter of modern hindsight: the rigidity of standard rules and the neglect of non-logical means of persuasion outside prologue and epilogue made the handbooks unpractical and even ridiculous in the eyes of the foremost Roman orator and writer of his day, Marcus Tullius Cicero. His criticisms, as well as his alternatives, are to be found in his major

work on rhetoric and oratory, *De oratore*, which was written in 55 B.C. The form of this work is quite unlike that of the customary handbooks: it presents a dialogue on the subject of the ideal orator between some of the leading orators and statesmen of Cicero's youth, set in 91 B.C. The second and third books, however, do contain large "technical" parts¹, and it is in the course of the second book and through the main speaker in that part of the work, Antonius, that Cicero's criticism of the handbooks is mostly put forward.

At first sight his alternative may seem rather like the standard approach. He organizes his material according to the five traditional *officia oratoris*, 'tasks of an orator', viz. *inventio*, *dispositio*, *elocutio*, *memoria*, and *actio* (invention, disposition, style, memory and delivery); and he also takes account of the parts of the speech, prologue, narration, *argumentatio* and epilogue. Cicero thus, indeed, takes the traditional concepts as his frame of reference. However, he makes so many changes that the result is on many points essentially different. This applies especially to the content of some of the *officia*, and one of the most important differences is the treatment of the first *officium*, invention, given by Antonius in Book 2. School rhetoric here gave rules for each part of the speech, *argumentatio*, the part with the arguments, receiving most emphasis; but Cicero offers a division of invention into three factors of persuasion, viz. rational arguments, ethos (the presentation of the character of the speaker and his client) and pathos (the arousing of emotions in the audience). Ethos and pathos are thus put on the same level as rational arguments, and all three factors receive a separate treatment. Only in the discussion of the second *officium*, disposition, is mention made of the parts of the speech: invention is thus the task of finding all material for the whole speech (arguments, ethos and pathos), disposition that of distributing this material.

Cicero, however, was not the first to put forward this threefold division of invention. He had an illustrious predecessor: Aristotle, in his *Rhetoric*, was in fact the first to devise the concept of *officia*, and had also divided the first of these into the three categories of rational proof, ethos and pathos. Despite Aristotle's influence on the school tradition in other respects, this division had apparently not been adopted. Cicero was the first to bring it to life again in what is very near its original form.

Of course, this has all been stated before, and especially Solmsen, in two famous articles², has done much to clarify these matters. Even so, some of the problems have not been solved satisfactorily. It is my aim to look at them afresh and to

1. *reliqui libri τεχνολογίαν habent*, Cicero wrote in a letter of 54 B.C. (*Att.* 4,16,2-3), although the non-technical, "philosophical" parts of Book 3 are of course at least as important.

2. Solmsen (1938) and (1941).

offer a coherent picture, both of the relevant essentials of the rhetorical tradition, and, especially, of the concepts of *ethos* and *pathos* as employed by Aristotle and Cicero. For Aristotle, my emphasis will be almost entirely on the *Rhetoric*, for reasons to be briefly put forward below³. As far as Cicero is concerned, my focus will be on *De oratore*, because his other rhetorical works are either of an entirely different nature (*De inventione*, *Partitiones oratoriae*), or present another stage in the development of his interests (*Brutus*, *De optimo genere oratorum*, *Orator*)⁴. A short survey of the main problems and principles may now be useful.

In the first place a re-examination and re-interpretation of the relevant parts of the texts of Aristotle's *Rhetoric* and Cicero's *De oratore* will be necessary to describe more exactly their concepts of *ethos* and *pathos*. It will become clear that although the frequently found equation of Cicero's *ethos* with the gentle emotions is inaccurate, there is indeed a difference between his concepts and those of Aristotle.

Of course a comparison between their concepts is not the only way of approaching the close resemblance between their views. One of the other questions that come to mind is: had Cicero actually read the *Rhetoric*, or did he get his Aristotelian material from some other source? Questions like these were very prominent in the last part of the 19th and at the beginning of the 20th century, when so-called *Quellenforschung* reigned supreme. I will treat them at some length in Chapters 4 and 5, for although they have been out of fashion in some scholarly circles for some time, I see no reason to consider them as illegitimate, however misguided the old answers may have been.

It must be emphasized, however, that the question of sources should be carefully distinguished from the problem of interpreting *De oratore*. This problem requires an open mind towards the nature of Cicero's own work and purposes, not a mind preoccupied with finding Aristotelian parallels even for single words - a practice surprisingly frequent even today, and yielding no less surprising results: one recent article⁵ only just stopped short of calling Cicero a poor translator of his Aristotelian source. It has become increasingly clear, most recently and especially from the commentary by Leeman and Pinkster, that *De oratore* is not a compilation but a unity, not a scissors-and-paste work but the result of reflection and careful composition. When Cicero, ten years after its completion, wrote to Atticus *sunt etiam 'de oratore' nostri tres mihi vehementer probati* ('And there are my three books "On the Orator", of which I entertain a very good opinion')⁶, it was certainly not one of his instances of exaggerated self-praise. Of course, these general obser-

3. § 2.1, p. 12-13; cf. § 2.3, p. 30-32.

4. This obvious principle for interpreting Cicero is not always observed: not, e.g., by Schweinfurth-Walla (1986: esp. 130-168).

5. Fantham (1973).

6. *Att.* 13,19,4.

vations on the nature of *De oratore* can only serve as a starting point: they will have to be substantiated by a careful analysis of the text itself.

One further question should be posed if the nature and scope of influence of Aristotle's *Rhetoric* is to be clarified. This question is again distinguished from that of interpretation: it concerns the qualities of the *Rhetoric* vis-à-vis its potential readers, especially those of Cicero's time. How clearly is its meaning brought forward, and to what extent did the backgrounds of these readers allow them to grasp this meaning? This question of the possible reception of the *Rhetoric* will be dealt with in a separate section in the chapter on Aristotle (§ 2.5).

Finally, a picture of the rhetorical handbooks (the τέχναι) that were current between Aristotle and Cicero is indispensable, in the first place because Cicero frequently assumes his readers to be thoroughly familiar with their precepts, in the second place as providing the history of the concepts between Aristotle and Cicero.

If this book shows some lack of balance and seems to overstress *De oratore* at the expense of the *Rhetoric*, two things may be put forward by way of excuse. First, since the interpretation of both works turns out to profit from a conceptual comparison between them, some of the remarks on Aristotle had to be postponed until the chapters on Cicero. Second, the nature of *De oratore* is such, that it requires more detailed treatment: whereas the *Rhetoric* is an exposé, *De oratore* contains many allusions to contemporary debates and, moreover, is a work of a literary nature that employs a number of persuasive techniques. This difference of approach between the two authors, and the confrontation of two minds at once similar and different, may, I hope, add to the attractiveness of the subject of ethos and pathos for the reader, as it has for me.

1.2 The Concepts of Ethos and Pathos

The purpose of the theoretical background to be given here is to facilitate both the formulation of some fundamental points and an accurate comparison between the concepts used by Aristotle and Cicero. Most points will be treated in more detail when the texts of these authors are analysed.

As has already been said, the main emphasis in standard rhetoric was on rational arguments. The presentation by the speaker of his own character and the playing upon the feelings of the audience were mentioned, but only in the rules for pro-

logue and epilogue. (A more precise picture will be given later⁷.) Aristotle and Cicero approach matters differently. Their common starting point is a consideration of the means by which an audience may be persuaded. There are, in their view, three such means (*pisteis*):

- rational arguments;
- ethos : the presentation of the character of the speaker (or of his client: see below);
- pathos: the playing upon the feelings of the audience.

(‘Rational arguments’ is somewhat pleonastic, but it might prevent ambiguities.)

The Greek word ἦθος, from which the second of these gets its name, means ‘character’⁸, and a favourable presentation of the speaker’s character can help to persuade an audience. That is: ἦθος, character, can be *used* as “material” for a means of persuasion. This means of persuasion is often, though not in Aristotle or Cicero⁹, referred to by the same word, ἦθος, but this sometimes gives rise to confusion on a number of levels, not only in modern interpretations: it is already apparent in Quintilian. His chapter about ethos and pathos contains the following observation (6,2,9): *non tam mores significari videntur quam morum quaedam proprietates; nam ipsis quidem omnis habitus mentis continetur*, ‘it is not so much character (*mores*) that seems to be meant (by ἦθος), as a certain appropriateness of character¹⁰; for the term character (*mores*) includes every mental attitude’. Though the text is rather difficult, Quintilian here seems to wrestle with the same ambiguity of ἦθος that has just been mentioned: it may be translated by *mores* (‘character’), but as a means of persuasion it only comprises a certain, i.e. a positive¹¹, kind of character.

To prevent any such confusion, I will use the transcribed form *ethos* for the means of persuasion, thus restricting the Greek form ἦθος to its own value (or values)¹². Similar considerations apply to πάθος (approximately ‘emotion’) vs. pathos, although the danger of confusion seems less in this case. I may add here that the word *ethopoiia*, though it will be avoided as far as possible, will be

7. Chapter 3. See also § 2.2.

8. Cf. p. 30-32, and pp. 60-61, 64-65.

9. Cf. pp. 60-61 and 223.

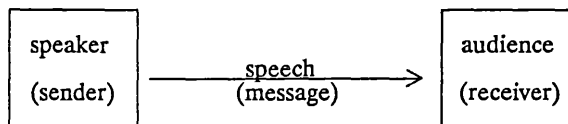
10. *Proprietas* is hard to interpret and translate: it may mean ‘property’ or ‘kind’. The interpretation given here is like that of G.M.A. Grube, *The Greek and Roman Critics* (London: Methuen, 1965): 291, ‘a certain appropriateness of temper’.

11. ‘Positive kind of character’ is of course an interpretation, but it seems the most likely one.

12. Cf. p. 60-61.

used in both its "modern" senses¹³: the suggestion of the character of the client by a logographer (a professional speech writer), and the convincing depiction of characters of people appearing in a speech, especially important in the narration.

In the course of my analyses I will refer a number of times to the following simple model for communication¹⁴:



Of course more sophisticated models exist. I do, however, prefer this one as being clear and as being most easily compatible with ancient rhetorical theory¹⁵.

Now there would seem to be a very simple connection between rational arguments, ethos and pathos on the one hand, and the three entities of the model on the other:

arguments seem to be bound up with the message;
 ethos seems to be bound up with the sender;
 pathos intends an effect of the message on the receiver.

These clear-cut connections are implied in most current views, and remain useful as a starting point. It is, however, essential to make some corrections, in view of some questions that need to be answered if analysis of authors like Aristotle and Cicero is to be clear and fruitful. The most important of these questions seem to be:

13. "Modern", because the first of these is not, as has been thought, the meaning of the word in Dionysius of Halicarnassus, from where it has been taken. Cf. p. 58 n. 233.

14. This model is essentially Karl Bühler's (*Sprachtheorie. Die Darstellungsfunktion der Sprache*, Jena: Fischer, 1934 [repr. Stuttgart: Fischer, 1965]: 24-33), although here the emphasis is different because of its restricted application to rhetoric. Observations related to those below (p. 7-8) I find to have been made by him also: 'few, if any, utterances have one function to the exclusion of others' (John Lyons, *Semantics*, Cambridge UP, 1977, I: 52-53).

15. More refined models are suited for other purposes, but probably less so for examining ancient theory, as they may conflict with, and thus distort, the (implicit) models used by ancient writers (cf. also chapter 10, p. 316). Even the famous Jakobson model is too complicated (cf. Lyons [o.c. above n. 14]: 52-54; Roman Jakobson, 'Closing Statement: Linguistics and Poetics', in: Th.A. Sebeok, ed., *Style in Language*, 1960, 350-377: esp. 350-357). The model proposed by Hellwig (1973: 59) is unsatisfactory: it connects 'Methode' with 'Stoff' only, thus giving arguments *a priori*, i.e. before having analysed the views of any author, a status essentially different from that of ethos and pathos.

- (i) Is ethos concerned with the character of the speaker only (whether he is speaking for himself or on behalf of someone else), or is it extended to cover the client's character also for cases where the speaker is an advocate?
- (ii) What qualities of the speaker (and client) fall under the scope of ethos?
- (iii) Is there any connection between ethos and pathos?
- (iv) Besides positive character-drawing regarding speaker (and client), does ethos comprise its negative counterpart regarding the opponent(s)?

The last question is the least important, and will only be treated in passing. As for (i), this is an issue especially related to the Roman situation, where 'advocacy was common even in prosecution, and almost universal in defence', whereas in Athens the basic situation seems to have been that the litigant spoke for himself¹⁶. This problem is treated in § 3.5 and § 7.2.

The most fundamental questions, however, are (ii) and (iii). As far as (ii) is concerned, there are two principal variants of ethos an author on rhetoric may choose. In the first one, ethos is limited to qualities making the message/speech reliable by suggesting that a speaker with those qualities will tell the truth. The second extreme is to let ethos comprise each and every quality of the speaker that sheds a favourable light on himself and on his case, that is, every quality that may win the sympathy of the hearers. Question (ii), therefore, may also be formulated from another point of view:

- (iia) What effect is ethos meant to have on the audience?

The first variant aims at an impression of reliability, the second one at sympathy.

The descriptions of the second variant show the importance and meaning of question (iii). For if some qualities of the speaker may win the sympathy of the hearers, that sounds very much like pathos: an emotion, be it a light one, is aroused in the audience. So there may be a connection or overlap between the concepts of ethos and pathos.

This may further be clarified by the observation that the communication model can be applied to every aspect of a speech, including arguments, ethos and pathos. We may take the second variant of ethos as an example. All three entities play their part, the sender as well as the message and the receiver; accordingly, the same thing can be described from three points of view:

16. Kennedy (1968: 427 and 421 respectively).

- (1) starting from the sender: the speaker/client is presented as likeable, etc.;
- (2) starting from the message: form or content or tone of the speech suggest that the speaker/client is likeable, etc.;
- (3) starting from the receiver: the audience is made to regard the speaker/client as likeable, etc.

It should be emphasized that these are indeed three ways of describing one and the same phenomenon.

The example of *ethos* will turn out to be highly relevant, but these three types of description can of course be applied to every aspect of communication, and especially to the other two means of persuasion distinguished by Aristotle and Cicero, rational arguments and *pathos*. This is not surprising because, as Aristotle points out a number of times, it is always the intention of a speaker to let the speech as a whole have some effect on the audience. That is, it is not in itself remarkable that it is possible to give these three different descriptions of *ethos*. What is, to some extent, remarkable is that the third one discloses the possibility of a similarity between *ethos* and *pathos* - a similarity that vanishes if we take the first instead of the second variant of *ethos*.

To sum up, *ethos* and *pathos* can be looked upon as entirely different, if the only criterion is the emphasis on speaker or audience¹⁷. A closer analysis, however, reveals that in some cases they may be variants of one phenomenon, whereas in others they may not, depending on the qualities covered by *ethos*.

These statements will be refined, especially in the analysis of Cicero's concepts in § 7.4. The most commonly found description of his *ethos*, that it 'denotes the *leniores affectus*, a lesser degree of *πάθος*'¹⁸, will then be found to be inaccurate.

17. Schweinfurth-Walla (1986: 200) thinks this is the criterion used by Cicero. See further below, esp. p. 240-241.

18. Solmsen (1941: 179). Other references below p. 241 n. 76.

2. ARISTOTLE'S RHETORIC

magna etiam animi contentio adhibenda est
explicando Aristotele, si leges
(Cicero, *Hortensius*, fr. 29 Müller)

2.1 Unity and Consistency: Principles and Problems

That Aristotle's *Rhetoric* is a stimulating but difficult work is a statement to which almost all who have read it seem to subscribe. Unfortunately, a consensus is lacking about almost all other points worth mentioning, for the many difficulties presented by it, including inconsistencies real and apparent, have given rise to fundamentally different approaches. This is of course not the place for a thorough examination of all questions raised. Aristotelian scholarship, however, has shown, and still shows, so many conflicting tendencies, that not to take an explicit stand on some points of method might mean fostering confusion. A short survey - for which of course no originality can be claimed - may therefore help to clarify the basic principles adopted in this study¹.

In the nineteenth and at the beginning of the twentieth century quite a few scholars tried to explain the difficulties by supposing that Aristotle's text had been tampered with by others. Some of them assumed additions and rearrangements by one or more editors, others questioned the genuineness of parts or

1. Cf. e.g. Hellwig (1973: 20-21); Lossau (1976: 13); Sprute (1982: 22-27); in general Flashar (1983: 177-189 'Stand der Aristoteles-Forschung'); and the works brought together in Stark (ed. 1968), and in Paul Moraux (ed.), *Aristoteles in der neueren Forschung* (Wege der Forschung, 61; Darmstadt: Wissenschaftliche Buchgesellschaft, 1968).

even the whole of the work². A new epoch in Aristotelian scholarship started in 1923, with the publication of Werner Jaeger's *Aristoteles*, in which he put forward his thesis of a development of Aristotle's thought as a whole³. Part of the basis for this idea was the explanation of inconsistencies in a number of treatises by supposing that conflicting views belonged to different "Schichten" ("layers"), written in different periods of Aristotle's life. Jaeger's ideas quickly gained vast influence. One of his pupils, Friedrich Solmsen, applied them to the *Rhetoric* in 1929⁴. Chiefly relying on the different approaches towards logical proof he found in the treatise, he detected three chronologically different "layers". Solmsen's analysis has not been without influence⁵, but has also been criticized, even by those who accepted the premise of a development in Aristotle's work (whether or not in the extreme form advocated by Jaeger). Accordingly, several different patterns of layers have been proposed⁶. There have, however, always been those who thought of the *Rhetoric* as a unified whole, a point of view perhaps best known from Cope's *Introduction and commentary* (1867 and 1877). Its main impetus, especially in the United States, now seems to come from the work of Grimaldi, who has offered a unified if idiosyncratic interpretation⁷. It is obvious that these questions of unity and consistency must be taken into account in interpreting any larger part of

2. E.g., Spengel and Vahlen supposed a dislocation of 2,1-17 (Spengel 1852: 476-495; Johannes Vahlen, 'Zur Kritik aristotelischer Schriften (Poetik und Rhetorik)', *SAWW* 38, 1861, 59-148; repr. in: *Gesammelte philologische Schriften I*, Leipzig, Berlin: Teubner, 1911, 47-105); Roemer (1898) thought our text to be a conflation of a long and a shortened version; and Friedrich Marx even denied that Aristotle himself could have been the author, and supposed that an editor had combined students' notes of his lectures ('Aristoteles' Rhetorik', *BSG* 52, 1900, 241-328; repr. in: Stark ed. 1968: 36-123).

3. *Aristoteles. Grundlegung einer Geschichte seiner Entwicklung* (Berlin: Weidmann, 1923; 1955²). Similar approaches to the *Rhetoric* had already been proposed by Adolf Kantelhardt, *De Aristotelis Rhetoricis* (Diss. Göttingen, 1911; also in: Stark ed. 1968: 124-183); and by Barwick (1922).

4. Friedrich Solmsen, *Die Entwicklung der aristotelischen Logik und Rhetorik* (Neue philologische Untersuchungen, 4; Berlin: Weidmann, 1929; repr. 1975).

5. It was adopted by Fritz Wehrli (p. 16-17 of 'Der erhabene und der schlichte Stil in der poetisch-rhetorischen Theorie der Antike', in: Olof Gigon et al., *Phyllobolia P. Von Der Mühl*, Basel: Schwabe, 1946, 9-34; repr. in: *Theoria und Humanitas. Gesammelte Schriften zur antiken Gedankenwelt*, Zürich, München: Artemis, 1972, 97-120); and, for the most part, by Kennedy (1963: 82-87; cf. 1980: 61, 63-64), although he has recently expressed some doubts (1985: 132; see below p. 11-12).

6. Kennedy (1963: 83 n. 71) refers to the criticisms of Paul Gohlke, 'Die Entstehung der aristotelischen Ethik, Politik, Rhetorik', *SAWW* 223,2 (1944) (which I have not seen); other objections in Barwick (1966/67: 234-245); a pattern of four "Schichten", combined with reworking by an editor, has been proposed by Renate Tessmer, *Untersuchungen zur aristotelischen Rhetorik* (Diss. Humboldt-Universität Berlin, 1957).

7. On Grimaldi below p. 27-28. Also Chr. A. Brandis, 'Über Aristoteles' Rhetorik und die griechischen Ausleger derselben', *Philologus* 4 (1849), 1-47; Süss (1910). Düring (1966: 118-124) takes a kind of middle position: he does try to date separate parts of the *Rhet.*, and also uses a comparison with other works of Aristotle for this purpose; but he regards the work as essentially unified; in general, he thinks of Aristotle's development primarily in intellectual terms, not in the psychological terms employed by Jaeger.

the treatise, such as that on ethos and pathos.

Of course the principle of taking a work as a unity is a laudable one. It should in fact be the starting point for any interpretation, if the danger of a facile assumption of inconsistencies is to be avoided. But this principle should not, I think, be dogmatically insisted upon in all cases. Unity is not a quality bestowed on a written work from above. It may be brought about because the author has conceived and written the work as a unity or, if he has worked on it over a longer period of time, because his ideas have remained essentially the same. In the case of Aristotle, however, independent information on these matters is virtually lacking. Alternatively, the author may have achieved consistency in a final revision, made before publication. Aristotle was of course perfectly capable of this: we know that he did write and publish a number of works, and that these were written in such a style as to win the praise of e.g. Cicero⁸. But these *exoteric* works, as they are commonly called, have not survived, and the *Corpus Aristotelicum* we now possess consists entirely of *esoteric* works: they were, as far as we know, never published⁹. So there is no reason to assume that Aristotle has ever extensively polished the treatises we now have. The presence of inconsistencies, some of which will be discussed in the following sections¹⁰, makes it unlikely that he has. Their nature is such, I think, as to favour the well-known hypothesis that what we now possess were originally notes Aristotle made for his lectures - some parts still showing a rather rudimentary form, others being very clear and coherent, perhaps because already more or less prepared for publication. In any case, it is clear that the possibility of inconsistencies cannot be ruled out, and that to look for unity at any price, and to try to fit every detail into a unified structure, is a dangerous business.

On the other hand, this is not to say that no unity should be looked for at all. One of the main reasons why the efforts to point out later rearrangements and additions have proved unfruitful, is that they entailed the rejection of parts that seemed definitely to bear Aristotle's mark, and there are in fact few sentences that can plausibly be ascribed to later editors¹¹. Internal references show that the arrangement of the *Rhetoric* must also be due to Aristotle himself¹². Therefore, although a development in Aristotle's thought is not in itself impossible, account should be taken of Kennedy's fundamental remark: 'The developmental theory of Jaeger and Solmsen has always been open to the criticism that it leaves unexplained why Aristotle ... left unchanged those inconsistencies which are taken as keys to

8. Cf. p. 107 n. 8.

9. Cf. the history of these esoteric works: below § 4.6.

10. p. 17-20; p. 39-41, cf. p. 42; cf. also p. 24.

11. Cf. e.g. below n. 178.

12. Cf. Düring (1966: 118 n. 3). Some of these references are at places where an editor would not have put them.

his development'¹³. So sections as a whole, here those on ethos and pathos, should if possible be explained as parts of an overall structure.

If there has been a development, it is quite possible that Aristotle has written a certain section with one purpose in mind, has then altered the construction of the whole, but has left that section unchanged because it also fitted this new structure. In that case, he may not have removed all conflicting details because that could be done in the course of his lectures. This means that, although each section must still have its interpretation as a part of the whole, some sections may have another and more natural interpretation if taken by themselves. The chapters 2,12-17 are a possible example of this (see § 2.4). In short¹⁴, on the one hand the efforts should, in each case, first be directed at achieving a consistent interpretation; on the other hand, absolute consistency in every detail is not to be expected, and minor contradictions may be allowed to stand if they cannot be plausibly explained.

It may be readily admitted that this principle of interpretation involves some arbitrariness. This, however, seems unavoidable in the light of the special nature of the work, and preferable to rules of interpretation that are clear but lead to implausible results.

If doubts about the unity of the work by itself are to some extent justified, this is *a fortiori* true regarding the unity of Aristotle's works taken together. This applies especially to the links between the *Rhetoric* and his other works, because the status of this treatise and the lectures of which it seems to be a reflection may have been a special one. Quintilian tells us that Aristotle started his lectures on rhetoric in reaction to Isocrates' successes in this field, but gave them in the afternoon; this indicates that these lectures were meant for a more general audience than those he gave, e.g., on metaphysics or ethics, which were given in the morning¹⁵. Of course the story may or may not be true. But, although the content of the *Rhetoric* seems to present no important deviations from his theories outlined in other works, the terminology and concepts employed are sometimes rather different (see especially § 2.3 on ἦθος, φρόνησις, and ἀρετή). Apart from this, the point of view adopted in the *Rhetoric* sometimes makes it almost incomparable with other treatises¹⁶. I therefore emphatically refrain from using the rest of the Aristotelian Corpus in interpreting the *Rhetoric*. Only additional clarification

13. Kennedy (1985: 132). Solmsen saw the problem (o.c. above n. 4: 225), but obviously considered it a minor one.

14. Sprute (1982: 25-27) adopts principles similar to those described here; his reasons for putting interpretation before a developmental approach are, however, more general.

15. *AABT* T 31-33; 76-77 (with Düring's comments, p. 432-433); see especially Quint. 3,1,14; Gell. 20,5,5; cf. also Cope (1867: 39-40), Solmsen (o.c. above n. 4: 208), Kennedy (1963: 83-84).

16. Cf. p. 72-74 on Aristotle's "pragmatic" stand on pathos.

will, in a few instances, be derived from other treatises.

Fortunately, most problems presented by the parts on ethos and pathos depend much less on the view adopted with respect to the unity of the work than do the problems about rational arguments (the status of the *topoi*, the theory of enthymeme and example, etc.). Some that do depend on it are treated in §§ 2.2 and 2.4.

Obviously, addressing the questions about the possible reception of the *Rhetoric* requires other principles than those outlined here. This problem will be touched upon in the section dealing with these questions (§ 2.5).

2.2 Characteristic Features of the *Rhetoric*; the *Pisteis*

Many concepts and insights offered by the *Rhetoric* were new at the time. Two of the points in which it differed from the earlier handbooks of rhetoric¹⁷ are of interest here: the organization of the material, and the status of ethos and pathos in it. A longer discussion may now supplement the introductory remarks on these matters made in the previous chapter. This discussion will have two main parts. After a further description of these two characteristic features, three problems closely connected with these features will be treated.

In earlier rhetorical handbooks a speech was divided into parts, at least four (προοίμιον, διήγησις, πίστις¹⁸, ἐπίλογος: prologue, narration, proof, epilogue), but usually more. The whole subject was then treated according to these parts of the speech, for each of which separate precepts were given¹⁹. These handbooks probably had a quite limited function and purpose, being for the most part meant to provide people who were not regular and experienced speakers, with quick and easy instructions for writing a speech for a court of law²⁰. As such, they had to be relatively simple. Nevertheless their importance, and perhaps their authors' self-importance, must have been considerable enough to irritate Plato as well as Aristotle, whose criticisms of the rigidity of their rules were far from gentle²¹.

17. The most important of these points have been analysed by Solmsen in a classic article (1941: 37-46); about the two points mentioned here see ib.: 37-39, 42.

18. Or: πίστις (cf. n. 189).

19. Plato *Phaedr.* 266d5-267d9; Arist. *Rhet.* 1,1,9 (54b16-19) (cf. 3,13,3: 14a36-b7); *Prolegg. Sylloge* p. 216 (Rabe). Barwick (1922: 11-13), Solmsen (1938: 391-392; 1941: 37).

20. Kennedy (1959: especially 174-175). Cheap and simple rhetorical instruction was probably not only given in handbooks (as Kennedy thinks), but also by way of models (cf. Kennedy o.c.; Solmsen 1938: 392; Hellwig 1973: 157 with n. 161).

21. Plato *Phaedr.* 266d5-268a1; Arist. *Rhet.* 1,1,9 (54b16-19); 3,13,3 (14a36-b7); 13,5 (14b12-18); 14,8 (15b4-8); 14,9 (15b10-12); Solmsen (1941: 37 with note 9).

Aristotle's own approach is entirely different. It is, if the whole of the *Rhetoric* is taken into account, determined by the various stages of handling the material of a case, in the course of the composition of a speech - in later terms, by the *officia oratoris* ('functions' or 'tasks of an orator'²²). In the first two books he treats the aspect of a speech dependent on content: the *pisteis*, i.e. the different ways of persuading an audience. This corresponds to what was later named invention (εὑρεσις, *inventio*). In book 3 are treated style (λέξις, *elocutio*: 3,1-12) and arrangement or disposition (τάξις, *dispositio*: 3,13-19). After Aristotle the last two changed places, and delivery (ὑπόκρισις, *actio*, *pronuntiatio*) and memory (μνήμη, *memoria*) were added by Theophrastus and an unknown rhetorician respectively. The result was the familiar quintet of *officia*.

The parts of the speech that had been the basis of pre-Aristotelian rhetoric were not wholly discarded. They were treated under the head of disposition, and were thus incorporated in Aristotle's own system. The chapters on disposition are in fact rather close to traditional precepts, and the exact relationship with invention as treated in books 1 and 2 is not made clear in explicit terms. The arrangement of the *Rhetoric*, however, leaves little room for doubt: in the stage of invention the orator was meant to think out all possible material to convince his audience, in that of disposition this material was to be divided so as to form the different parts of the speech.

This organization of the material entails the second characteristic of Aristotle's approach. It concerns the content of invention. As far as we know, standard theory of his time did, as Aristotle himself stresses, pay considerable attention to pathos, the arousing of emotions in the audience. Although it also stressed argumentation from probabilities²³, this seems to constitute a difference from later standard theory, that of Cicero's time, where the classification of rational arguments played a very dominant part²⁴. But apart from this difference in emphasis, the treatment of pathos, as well as that of ethos, was essentially the same: they were firmly connected with prologue (ethos) and epilogue (pathos)²⁵. We may compare Aristotle's introduction of the *pisteis* (1,2,2-3: 55b35-56a4):

τῶν δὲ πίστεων αἱ μὲν ἀτεχνοὶ εἰσιν αἱ δ' ἐντεχνοί. ἀτεχνὰ δὲ λέγω ὅσα μὴ δι' ἡμῶν πιστόριστα ἀλλὰ προὔπηρχεν, ὅσων μάρτυρες βάσανοι συγγραφαὶ καὶ ὅσα

22. Also called *partes*, parts of rhetoric, but that term may lead to confusion with the parts of the speech.

23. Cf. e.g. Plato *Phaedr.* 267a6-7; 273b3-c2; *Rhet. Alex.* 7,4-14 (1428a26-1429a20); 36,8-9 (1442a27-37); Süss (1910: 2-10), Kennedy (1963: 88, 116; 1980: 26-28).

24. As remarked above p. 1. Cf. below, §§ 3.2 and 3.5.

25. Solmsen (1938: 391-392); Arist. *Rhet.* 1,1,9 (54b16-20); 3,14,7 (15a24-b4); *Prolegg. Sylloge* p. 216 (Rabe); the chapters on prologue and epilogue in *Rhet. Alex.* Probably, Thrasyarchus' "Ἐλεος was a collection of commonplaces to be used in epilogues: cf. Solmsen (1938: 392, 404), Kennedy (1963: 63, 69).

τοιαῦτα, ἔντεχνα δὲ ὅσα διὰ τῆς μεθόδου καὶ δι' ἡμῶν κατασκευασθῆναι δυνατόν ὥστε δεῖ τούτων τοῖς μὲν χρῆσασθαι τὰ δὲ εὗρειν. τῶν δὲ διὰ τοῦ λόγου ποριζομένων πίστειων τρία εἶδη ἐστίν· αἱ μὲν γὰρ εἰσιν ἐν τῷ ᾧ θβει τοῦ λέγοντος, αἱ δὲ ἐν τῷ τὸν ἀκροατὴν διαθεῖναι πως, αἱ δὲ ἐν αὐτῷ τῷ λόγῳ, διὰ τοῦ δεικνύναι ἢ φαίνεσθαι δεικνύναι.

Of the means of persuasion, some are non-technical, others are technical. By non-technical ones I mean all those that are not furnished by ourselves but are already in existence, such as witnesses, evidence extracted under torture, agreements, and the like; and by technical ones I mean all those that can be constructed systematically by ourselves: thus the first ones must be used, the second ones must be invented. Of the means of persuasion [*pisteis*] furnished by the speech there are three kinds, for some depend on the character of the speaker, some on putting the hearer into a certain frame of mind, and some on the speech itself, brought about by proving or seeming to prove.

So, apart from the 'non-technical' ones (also called 'inartificial' ones), Aristotle presents three *pisteis* ('means of persuasion'), ethos, pathos and rational proof, which are on one level. Ethos and pathos are thus not restricted to prologue and epilogue as in the handbooks²⁶: all three *pisteis* are to be distributed over the parts of the speech only in the stage of disposition, and this implies that all three may be put into all parts, as the case may require. The threefold division is at the basis of the first two books of the *Rhetoric*, in which rational arguments as well as ethos and pathos (2,1-17) receive a very full treatment²⁷.

In the passage following the one just quoted (1,2,4-7: 56a5-25) Aristotle gives a first description of all three *pisteis*, and the rest of chapter 1,2 is devoted to the forms rational arguments may take (1,2,8-22: 56a35-58a35)²⁸. Since this last point will prove to be important for ethos and pathos also, we may very briefly go into it. Aristotle states that logical proof may take two forms. The first is the enthymeme, which is the analogue of the dialectical syllogism. It may in fact be a complete syllogism (e.g.: 'Those who have a fever are ill; this man has a fever; so he is ill'), but it is most often shortened, because one of the premises or the conclusion is clear and need not be explicitly stated (e.g.: 'This man has a fever; so he is ill')²⁹. The second form is that of the example or paradigm (παράδειγμα). It has been shown, however, that for Aristotle the example is

26. Solmsen (1938: 393-394; 1941: 42).

27. On the methodical character of the treatment of pathos cf. § 2.7. Hellwig (1973: 245 with n. 32) mechanically connects the three *pisteis* with the three factors speaker - matter - hearer, but there is no hint that Aristotle does so. (She adduces the apparent lack of function, in the context, of two of the three factors in 1,3,1: 58a37-b1. But this passage comes after, and rather long after, the introduction of the three *pisteis*.)

28. It makes no difference to the argument here whether 56a35-b5 is genuine, not genuine or genuine but out of place (see Kassell's apparatus).

29. 1,2,13 (57a15-22); the example given here is adapted from 1,2,18 (57b14-15). Cf. e.g. Kennedy (1980: 70-71), Sprute (1982: 68-70, 130-133).

really a special case of the enthymeme³⁰, and accordingly he clearly regards enthymeme as the most important of the two. We may therefore, for the purposes of this study, neglect the example in what follows. While Aristotle thus specifies the form of rational arguments, he does nothing similar for ethos and pathos. It will be argued below that their form may be enthymematic, but may also be different.

As a final point of the general description, something may be said about the word *pistis*. We should, I think, take the meaning of this word to be 'means of persuasion' in general, 'something that persuades or may persuade'³¹. Aristotle employs it, however, with two slightly different shades of meaning, both natural derivatives of this one meaning³²:

(a) in 1,2,3 (above p. 14-15) *pistis* is 'a thing that persuades', one separate persuasive element of a speech. All (technical) *pisteis* are then divided into three categories:

- some *pisteis* are based on ethos,
- some *pisteis* are based on pathos,
- some *pisteis* are based on rational arguments.

One speech contains many *pisteis* in this sense, all of which are based upon one of the three factors. (Of course one *passage* may contain more than one of these three factors.)

(b) 1,9,1 (66a26-27) contains the following phrase:

... ἐξ ὧν ποιοὶ τινες ὑποληφθησόμεθα κατὰ τὸ ἥθος, ἥπερ ἦν δευτέρα πίστις.

... the means by which we will be taken to be of such and such a character, which, as we have said, is a second³³ means of persuasion.

Here ethos (described by ποιοὶ τινες ὑποληφθησόμεθα κατὰ τὸ ἥθος, 'we will be taken to be of such and such a character'), is called a *pistis*, a 'means of persuasion'³⁴. There are, therefore, three *pisteis* in this sense (called 'factors' in (a)), and a speech always contains at most three. This is, however, the only place

30. Kennedy (1980: 70), and especially Sprute (1982: 80-88) (who, 83-84 n. 90, rejects the view of Gerard A. Hauser, 'The Example in Aristotle's *Rhetoric*: Bifurcation or Contradiction?', *Ph&Rh* 1, 1968, 78-90; repr. in: Erickson ed. 1974: 156-168).

31. About the opinion of Grimaldi and Lienhard see below p. 27-28.

32. Cf. Sprute (1982: 64 n. 197), whose account differs slightly from the one given here.

33. Ethos is perhaps called 'second' because it is second in 1,2,7 (56a20-25), but more probably because there, and in 1,2,3-6 (56a1-20), it comes before pathos: rational arguments being under discussion here (in 1,9), the natural ensuing order is arguments - ethos - pathos. (This will indeed turn out to be the order of treatment.)

34. The antecedent of ἥπερ is not ἥθος (as Schenkeveld 1976: 426 takes it), but ποιοὶ τινες ὑποληφθησόμεθα κατὰ τὸ ἥθος, as Dr. N. van der Ben points out to me. This is indeed far more probable in view of Aristotle's other descriptions of ethos (below p. 60 with n. 244); cf. especially (since it closely precedes the passage under discussion) 1,8,6 (66a10).

in the *Rhetoric* where Aristotle himself uses *pistis* in this way³⁵.

Both expressions are essentially equivalent, and confusion is hardly possible³⁶. The description most frequently found today seems to be (b) ('Aristotle's three *pisteis*')³⁷. I will use both.

After this general survey, we may now turn to some problems. The first feature of Aristotle's approach, the organization according to *officia*, is not very problematic. It is true that style and arrangement are not announced until the end of the second and the beginning of the third book³⁸, and it is not impossible that the third book was not originally planned together with books 1 and 2³⁹. But as it stands, its position is clear, and the whole of the *Rhetoric* is adequately described by the division into three *officia*⁴⁰.

The second feature, the division into three *pisteis*, is more difficult. It presents three main problems. The first one is related to the questions of consistency touched upon in § 2.1. In the passage from the second chapter quoted above (p. 14-15), and in what follows, Aristotle unambiguously incorporates ethos and pathos in his technical approach to rhetoric. In the very first chapter, however, he rejects emotional appeal (1,1,3-4: 54a11-18)⁴¹:

νῦν μὲν οὖν οἱ τὰς τέχνας τῶν λόγων συντιθέντες ὀλίγον πεποιθήκασιν αὐτῆς (sc. τῆς τέχνης) μῦθον. αἱ γὰρ πίστεις ἐντεχνὺν ἐστὶ μόνον, τὰ δ' ἄλλα προσθῆ-
και, οἱ δὲ περὶ μὲν ἐνθυμημάτων οὐδὲν λέγουσιν, ὅπερ ἐστὶ σῶμα τῆς πίστewς,
περὶ δὲ τῶν ἔξω τοῦ πράγματος τὰ πλεῖστα πραγματεύονται· διαβολὴ γάρ καὶ ἔ-
λεος καὶ ὀργὴ καὶ τὰ τοιαῦτα πάθος τῆς ψυχῆς οὐ περὶ τοῦ πράγματός ἐστιν
ἀλλὰ πρὸς τὸν δικαστήν.

Now those who in these days compose handbooks of rhetoric have spent their efforts on only a small part of this art. For proofs [*pisteis*] are the only things

35. He uses the expression elsewhere: *Top.* 1,8 (103b3, 7). *Rhet.* 1,2,8 (56a35-b2) might seem another case, but it is not (cf. Radt 1979: 289).

36. The reference back in 1,9,1 (to 1,2,3-7: 56a1-25) is, therefore, unproblematic.

37. Cope's terminology is potentially confusing: he often uses *πίστεις* for rational arguments, terming *πίστεις*, ἦθος ἐν πάθος three 'modes of proof', or the like (1867: 4, 108-109, 152, al.); but he also speaks of 'the three *πίστεις*' (usage (b)) (e.g. 1877: 28 ad 1,2,3: 56a1-4).

38. Düring (1966: 118) thinks the final sentence of book 2 (2,26,5: 03a34-b2) is not Aristotle's. Even if this is true, it makes no difference here, since the phrase at the beginning of book 3 (3,1,1: 03b6-15, especially b6-8) is the essential one.

39. Cf. below p. 158, and Appendix 4.

40. The silence about the section on the parts of the speech (arrangement), until the close of the two books on content, may perhaps (as Kennedy 1985: 132 suggests) be due to an internal 'rhetoric' of the *Rhetoric*, and of the lectures of which it was the basis. The question why Aristotle treats style (3,1-12) before arrangement (3,13-19), whereas the later handbooks employed the reverse order, is of no importance here.

41. As Grimaldi (1980: ad 54a12) remarks, the variants for ὀλίγον πεποιθήκασιν (coni. Kassel; see his apparatus) present nothing essentially different. The paraphrase of the passage in Flashar (1983: 254) is highly erroneous.

falling under the scope of art; everything else is merely accessory. And yet they say nothing about enthymemes, which is the most essential part of persuasion, but devote most of their attention to things outside the matter itself: for the arousing of prejudice, pity, anger and similar emotions has nothing to do with the matter, but is directed at the judge only.

The contradiction is obvious: the 'technical' means of persuasion are here identified with the enthymeme, and everything else, especially pathos, is explicitly excluded from the 'art' (*technè*). This point of view is repeated in the sections following the passage quoted⁴².

The opinion expressed in this passage must not be confused with the view that appeals to the emotions can be dispensed with in practice. Aristotle writes that if the laws, as in some states, would forbid speakers to talk about non-essentials, the handbook-writers would have nothing to say (1,1,4-5: 54a18-24). This implies that what they do say is not irrelevant in reality, the laws being what they are. In fact, he admits that 'in the law courts it is useful to win over the hearers' (1,1,10: 54b31-33). He does not, therefore, deny that pathos is successful in practice. He does, however, here deny that it belongs to the art.

It is relevant to note that the passage quoted is not unambiguous⁴³. Its structure shows that Aristotle means to associate means of persuasion ('proofs', *pisteis*), art, enthymeme and 'the matter itself' (τὸ πρᾶγμα) with each other. On the other hand, the things done by the handbook-writers are first labelled 'a small part of the art', but then contrasted to 'the only thing falling under the scope of art' and therefore regarded as not belonging to the art - not even to a small part of it. The two sentences are, therefore, not completely compatible. Nevertheless, Aristotle connects them by γάρ ('For ...'), thus suggesting their equivalence. Since he repeats his opinion that enthymemes are the technical means of persuasion in the following part of the passage (1,1,9: 54b20-22), this must be the opinion he wants to express. The wording 'a small part of the art' in the above quotation must, accordingly, be an understatement for 'no part of the art at all', to be corrected by the explicit statement in the next sentence. This, it seems, is part of the "rhetorical colouring" of this highly polemical passage, and provides no reason to doubt its overall tendency. It is inescapable, therefore, to accept that here Aristotle does not regard pathos as part of the art of rhetoric, which is inconsistent with his concept of the three technical *pisteis* put forward in the second chapter of the *Rhetoric*.

This is all the more true because of a cross-reference between the conflicting

42. Especially 1,1,9 (54b16-22); cf. also 1,1,4-6 (54a18-31); 1,1,11 (55a3-20).

43. The ambiguity is not in the word προσθήκη, as Hellwig holds (1973: 166 n. 202). Her notion that it means 'notwendige Ergänzung' is based on an erroneous argument of Hartmut Erbse (p. 246-247 of 'Tradition und Form im Werke Herodots', *Gymnasium* 68, 1961, 239-257): the word itself is neutral, the context decisive (so here 'merely accessory'), cf. the addition of σμικρά and μεγάλη in Plato *Rep.* 1, 339b1-2, and οὐ σμικρὰν προσθήκην in *Laches* 182c5.

passages: in 1,2,5 (56a16-17), when describing pathos as a means of persuasion, Aristotle writes: πρὸς δ καὶ μόνον πειρᾶσθαι φαμεν πραγματεύεσθαι τοὺς νῦν τεχνολογοῦντας ('It is to this alone [viz. pathos] that, as we maintain, present-day writers of rhetorical handbooks direct their attention')⁴⁴.

Accordingly, attempts to interpret the first chapter differently and to remove the inconsistency are all unconvincing. Grimaldi's idea, e.g., that Aristotle only rejects 'emotional appeals which are totally extraneous to the issue', and that he sanctions appeals which are not⁴⁵, has no support in the text of the first chapter: such a distinction is simply not there. Sprute's claim that Aristotle's statements in 1,1 only concern an ideal art of rhetoric, corresponding to an ideal set of laws, will not do either. Aristotle's opinion that pathos is non-technical is an unqualified one, and the passage on ideal laws is only a digression, giving only additional strength to his view⁴⁶.

Others (Barwick and Solmsen) took the inconsistency as proof that the first chapter, with its rejection of pathos, belonged to an early stage of Aristotle's development⁴⁷. Even if this is true (which seems impossible to decide), it does not help us any further. An explanation of the contradiction is needed even then (cf. p. 11-12), especially because of the cross-reference just mentioned.

A suggestion recently made by Kennedy and by Solmsen himself⁴⁸ seems to be the most attractive way out of the difficulty: the solution may be found in attributing to the *Rhetoric* a "rhetoric" of its own, and by taking account of the polemical nature of this first chapter. Although the passage quoted does not give Aristotle's opinion as it is reflected in the rest of the work, he must have considered it important to stress, perhaps in the very first part of his lectures, that what he

44. Cf. also ποῖον τινα ... τὸν κριτὴν κατασκευάζειν, which describes Aristotle's pathos (2,1,2: 77b24), with ὅπως τὸν κριτὴν ποῖον τινα ποιήσωσι, which describes the thing he rejects in 1,1 (1,1,9: 54b20).

45. Grimaldi (1980: ad 54a17, cf. ad a15 τῶν ἔξω τοῦ πράγματος). Ad 54a12 he also claims (on the strength of ὀλίγον ... μόνον) that Aristotle 'is not denying that the πάθη are part of the rhetorical τέχνη', ignoring the structure of the passage, and the phrase ἐντεχνῶν ἐστι μόνον (this mistake also in Wikramanayake 1961: 196).

46. Sprute (1982: 36-41, 63-65); Braet (1989: beginning of § 3) subscribes to Sprute's view. The fact that the passage on ideal laws is a digression is apparent from its position (1,1,4-8: 54a18-b16; the passage immediately preceding, quoted above p. 17, is continued by the one immediately following, 1,1,9: 54ab16-22). Moreover, the reasons given for the non-technical nature of pathos in the passage quoted are independent of the nature of the laws. Hellwig's account (1973: 179-180) is also unsatisfactory (and slightly inconsistent with ib.: 49).

47. Barwick (1922: 16-17; 1966/67: 242). In 1929 (o.c. above n. 4: 226-229) Solmsen still regarded this as related to Plato's criticisms of rhetoric in the *Gorg.*; but he seems to have changed his mind later (1976: 175), because in that case 'Aristotle would start from a position which Plato had taken in the *Gorgias* but in the meantime left behind' in the *Phaedrus*. (He rightly prefers the commonly accepted dating of the *Phaedrus*, ca. 370: cf. R. Hackforth, *Plato's Phaedrus. Translated with an Introduction and Commentary*, Cambridge UP, 1952: 3-7). Cf. also Kennedy (1963: 84-85).

48. Solmsen (1976: 175), Kennedy (1985: 132) (cf. also above n. 40).

had to say would be something quite different from what the vulgar handbooks (and Isocrates?) had to offer. The enthymeme was in that case the natural thing to emphasize, because it was probably the most revolutionary feature of his theory⁴⁹ - and because, we may conjecture, Aristotle was in the end as much out of sympathy with pathos as he claims to be in the first chapter, even if he was realistic enough to see that an art of rhetoric would not be complete without it.

The second and third problems are closely related. I will first introduce them, and touch upon previous answers; after that I will formulate and defend a solution recently offered by Braet. The second problem concerns Aristotle's view of the forms ethos and pathos may take. As described above (p. 15-16), he writes that rational arguments take the form of the enthymeme (of which the example is a special case), but nothing similar is explicitly stated about the other two *pisteis*. The traditional view is that the enthymeme is restricted to logical reasoning about the case itself, i.e. to rational arguments. Ethos and pathos are then expressed differently, either directly through statements that are not part of enthymematic reasoning, or indirectly, through the way things are formulated and delivered⁵⁰. There is, however, also a radically different view, viz. that all three *pisteis* are meant to take the form of the enthymeme⁵¹.

The third problem is the structure of books 1 and 2 of the *Rhetoric*. It is connected with the second one, because the traditional view of the enthymeme makes the composition unintelligible. The following scheme shows the structure in general terms⁵²:

- 1, 1-3 Introduction (rhetoric and dialectic; the 3 *pisteis*; enthymeme and example; the 3 kinds of oratory)
- 1, 4-14 Logical proofs: material for arguments for the deliberative (4-8), the epideictic (9) and the judicial kind (10-14)
- (1, 15 Non-technical proofs)
- 2, 1-17 Ethos and pathos
- (2, 18 Link between 2,1-17 and 2,19-26)
- 2, 19-26 "General topics", example, maxims, enthymeme

The exact structure of 2,19-26, and especially the relationship between the *topoi* ("topics") given there and the enthymeme is rather difficult⁵³. These intricate questions, however, need not concern us here. What is important is that these

49. Cf. Solmsen (1941: 39-42), Sprute (1982: 140-146).

50. E.g.: Cope (1867: 99-100, et alib.), Marx (o.c. above n. 2: 286-288), Solmsen (1941: 39 [implicitly]), Wilkramanayake (1961), Kennedy (1963: 95-99; 1980: 68-70), Sprute (1982: 58-67).

51. Cf. p. 26-28, with the references nn. 82-83.

52. Düring (1966: 130-132) oddly gives 2,1-26 the heading 'Der Vortrag'; his analysis is rather superficial.

53. Cf. Sprute (1982: 180-190, et alib.).

chapters deal with enthymeme and related subjects. In the traditional view, which regards enthymeme as the vehicle of rational arguments alone, they continue either the introductory treatment of enthymeme in 1,2, or, somewhat less strictly, chapters 1,4-14, which are also about logical proofs. The chapters on ethos and pathos are then an interruption⁵⁴. Of course rearrangements have been proposed to remove the difficulty (cf. p. 9-10), but this approach creates more problems than it solves: e.g., if the structure was originally more logical, it is not at all clear how the arrangement has come to be as it is⁵⁵. The assumption that the sections on ethos and pathos belong to a later stage of Aristotle's thought⁵⁶ likewise fails to explain their position.

The non-traditional view, which regards all three *pisteis* as enthymematic, solves the third problem, because it makes 2,19-26 relevant to ethos and pathos also. This solution, however, meets with other serious difficulties, as will become clear from what follows.

It will be argued here that a compromise between the two views is the most attractive solution: ethos and pathos may be expressed by enthymemes, but also by other means. This compromise is essentially what Braet has recently proposed⁵⁷. It has the advantage of solving the question of structure, while avoiding the difficulties attached to the view that all *pisteis* must always be enthymematic.

We will start with arguments showing that pathos may take the form of an enthymeme. The first one (which also concerns ethos) has already been mentioned: the structure of books 1 and 2 would thus be clear.

The second one is to be found in the chapters on pathos, 2,2-11⁵⁸. For seven of the fifteen emotions treated there, Aristotle gives instructions about the use

54. E.g.: Spengel (1852: 485), Cope (1867: 245; 1877 II: 172-174), (cf. Barwick 1922: 14-15; 1966/67: 239-241), Kennedy (1963: 82; 1980: 69, 75-76), Sprute (1982: 173-174), Manfred Fuhrmann, *Die antike Rhetorik* (Artemis Einführungen; München, Zürich, 1984): 32-33 and 147, Kroll (1940: 1058-1059). Kroll's explanation (ib.: 1060; also Brink 1963: 83-84) that 2,18ff. contains things relevant to all three *genera causarum* (κωικά), whereas 1,4-15 as well as 2,1-17 are only relevant to one genre ('z.B. Mitleid und Neid nur für die Gerichtsrede') is unfounded (cf. below p. 35 with n. 126). Solmsen's solution (o.c. above n. 4: 223-225; 1,4-15 and 2,1-17 are all given in the form of *τὸ αὐτὸ ἀπορώδεις*) seems too dependent on the term *ἀπορώδεις*. The accounts of the structure in Düring (1966: 126-132) and Flashar (1983: 254-255, 365-368) are faulty on any view.

55. This point also, e.g., in Grimaldi (1972: 31).

56. Solmsen (o.c. above n. 4: 226-229).

57. Braet (1989); an earlier version was published in Dutch: 'Ethos, pathos en logos in de *Rhetorica van Aristoteles*', *Tijdschrift voor Taalbeheersing* 10 (1988), 14-27. The difference between his discussion and mine is chiefly one of emphasis.

58. This argument also in Braet (1989: § 2). He does not, however, mention 2,5,15 (83a8-12; quoted below), and includes 2,2,27 (80a2-4) and 2,3,17 (80b29-33), both of which afford no proof.

of his analyses⁵⁹. In four cases these instructions suggest the use of enthymemes, e.g. 2,5,15 (83a8-12):

ὥστε δεῖ τοιοῦτους παρασκευάζειν, ὅταν ᾗ βέλτιον τὸ φοβεῖσθαι αὐτοὺς, ὅτι τοιοῦτοὶ εἰσιν οἱλοι παθεῖν καὶ γὰρ ἄλλοι μείζονους ἔπαθον καὶ τοὺς ὁμοίους δεικνύναι πάσχοντας ἢ πεποιθότας, καὶ ὑπὸ τούτων ὑφ' ὧν οὐκ ὦντο, καὶ τὰτα καὶ τότε ὅτε οὐκ ὦντο.

So, whenever it is preferable that they [i.e. the judges] should be afraid, it is necessary to put them in such a frame of mind, that they think they are the sort of persons to suffer: for (so you should say) others greater than they have also suffered; and to show (prove) that their equals are suffering or have suffered, and that at the hands of unexpected people, in an unexpected form, and at an unexpected time.

Here καὶ γὰρ ... ἔπαθον ('for ... suffered') is an example of such a use of enthymemes, whereas δεικνύναι ('show, prove') also points to such a use⁶⁰.

A third argument is, that with such a point of view Aristotle would be adequately describing a practice of the orators of his day, who often used arguments to show that they deserved pity, or their opponents hate, etc.⁶¹

The arguments for the possibility of using enthymemes for ethos⁶² are less strong, primarily because of the brevity of the treatment of this *pistis* (2,1,5-7: 78a6-20)⁶³. But the first one given for pathos, the structure of books 1 and 2, is also valid for ethos, especially since the beginning of book 2 reintroduces ethos and pathos together (2,1,2-3: 77b21-29). In addition, a passage from the third book seems to strengthen the point⁶⁴: chapter 3,15, about the means of evoking prejudice (διαβολή, 'slandering') and of countering it, which is connected with ethos⁶⁵, contains instructions about arguments for the purpose⁶⁶.

59. The seven relevant passages are: 2,2,27 (80a2-5); 2,3,17 (80b29-33); 2,4,32 (82a16-19); 2,5,15 (83a8-12); 2,7,4-6 (85a29-b10); 2,9,16 (87b17-20); 2,10,11 (88a25-28).

60. Cf. (ἀποδεικνύναι) n. 72. The other three cases are 2,4,32 (82a16-19: ἀποδεικνύναι); 2,7,4-5 (85a30-b1); 2,9,16 (87b17-20) (about all three cf. also n. 78).

61. Conley (1982: 307-308).

62. Braet (1989: § 2). His first argument seems inconclusive: in 2,1,7 (78a16-20) Aristotle refers to his treatment of the virtues in 1,9 for two of the aspects of ethos, φρόνησις and ἀρετή, and to 2,4 (about φιλία) for the third aspect, εὐνοία. But from the cross-reference in 1,9,1 (66a25-28) it is not clear that the proof of goodness in an epideictic speech (the subject of 1,9) is really the model for making oneself appear good, the only thing stated is that the material is the same; and the reference to 2,4 is probably also to the material only.

63. About oratorical practice cf. e.g. Kennedy (1963: 136-137); below n. 203. But the difficulty of distinguishing between the several variants of ethos (below p. 33-34; § 2.5, p. 50-54; and especially § 7.5, p. 246-247) makes the argument from practice hazardous for ethos.

64. Braet (1989: § 2) also adduces 3,19,1 (19b10-12 and 15-19), but although the implication of enthymematic argumentation seems present there also, it cannot be proven.

65. It makes no difference here that the concept of ethos suggested in book 3 may be different from the one described in 2,1,5-7 (78a6-20) (below § 2.5, p. 55-56), because διαβολή is relevant to ethos in any variant.

Before the arguments for the other possibility (non-enthymematic form of ethos and pathos) are brought forward, it may be in order to treat two objections sometimes raised against the possibility of enthymematic expression just argued for. Does Aristotle not identify logical proof with enthymeme?⁶⁷ In the first chapter he does, as discussed above (p. 17-20)⁶⁸. That, however, is hardly surprising, since there Aristotle only recognizes logical proof, and accordingly there is nothing else the enthymeme could be used for. Also, the contradiction between this chapter and what follows makes it unfit to be evidence for Aristotle's views on the relationship of enthymeme with ethos and pathos⁶⁹.

It is clear, of course, that he does associate rational proof closely with enthymeme: it is said to exist only in that form (or in that of example), e.g.: πάντες δὲ τὰς πίστεις ποιοῦνται διὰ τοῦ δεικνύναι ἢ παραδείγματα λέγοντες ἢ ἐνθυμήματα, καὶ παρὰ ταῦτα οὐδέν (1,2,8: 56b5-7: 'Every orator who makes use of means of persuasion based on logical proof employs either examples or enthymemes, and nothing else')⁷⁰. Moreover, the ability to use the logical *pisteis* is identified with the ability to use syllogisms in 1,2,7 (56a20-25)⁷¹. But all this

66. The formulation of many *topoi* in 3,15 suggests (enthymematic) argumentation; 3,15,7 (16a26-28) is explicit about this, since there such argumentation is given (γάρ).
67. Thus, e.g., Lossau (1976: 16); and cf. below n. 69.

68. Even if not all passages sometimes adduced are absolute proof for identification of the two (1,1,9: 54b20-22; 1,1,11: 55a3-7), they certainly suggest it; and 1,1,3-4 (54a11-18: quoted p. 17) does so very strongly.

69. Grimaldi tries to reconcile 1,1 with the rest of the *Rhet.*, but does not succeed (above n. 45). Wikramanayake (1961: 195) and Sprute (1982: 61-69) identify logical proof with enthymeme, on the basis of passages from 1,1 only (1,1,9 and 11: prev. note); but even Sprute's explanation of 1,1 as describing an ideal rhetoric (above p. 19 with n. 46) does not allow statements from this chapter to be used in interpreting others.

70. I take διὰ τοῦ δεικνύναι to be connected with τὰς πίστεις: the *pisteis* to be discussed are identified by it as the logical ones. The context clearly shows this to be right: the logical *pisteis* have been introduced not long before (1,2,3: 56a3-4) by αὐτὸς δὲ ἐν αὐτῷ τῷ λόγῳ, διὰ τοῦ δεικνύναι ἢ φαίνεσθαι δεικνύναι, and have, when taken up in 1,2,6 (56a19-20), been described by ὅταν ἀληθὲς ἢ φαινόμενον δείξωμεν In 1,2,8 (56a35-b7), τῶν δὲ διὰ τοῦ δεικνύναι ἢ φαίνεσθαι δεικνύναι (sc. πίστειν) must then identify the *pisteis* to be discussed (with regard to the means of persuasion based on logical proof or apparent logical proof), and the same goes for διὰ τοῦ δεικνύναι in the passage in hand (the hyperbaton is regular: K.-G. 2,600-601; cf. 1,615-616; and the references in Schenkeveld 1976: 426). This interpretation of 56b5-7 also in Cope (1867: 153), Rhys Roberts, Schenkeveld l.c., Radt (1979: 287-288). Freese, however, translates 'Now all orators produce belief by employing as proofs either examples or enthymemes and nothing else' (thus Dufour in the Budé transl.), and so Grimaldi (1972: 59; 1980: 353 and ad 56b6) and others (Lienhard 1966: 450-451; Wörner 1981: 76) take it, in support of their idea that enthymeme is the form of all *pisteis*.

71. Grimaldi holds (1980: ad 56a22) that συλλογίσασθαι here means 'to exercise "reasoning in general"', not 'using syllogisms'. This is impossible: (1) in none of the nineteen other instances of the verb in the *Rhet.* (Wartelle 1982: s.v.) can it have this meaning (remotely possible exceptions: 2,22,4: 96a4; 22,10: 96b1); (2) the conclusion in 1,2,7 (56a25-26) that rhetoric is an 'offshoot' of (among other things) dialectic is meaningless without a previous reference to syllogistic reasoning

does not amount to identifying rational proof with enthymeme: it is nowhere stated that ethos and pathos cannot take this form, Aristotle only asserts that the rational *pistis* necessarily always does. Accordingly, rational proof is, in the whole of the *Rhetoric*, described by ἀποδείξεις and (ἀπο)δεικνύναι ('proof, demonstration' and 'prove'), never by 'enthymeme': the enthymeme is only most closely associated with it⁷².

This association, and the lack of any explicit statement on the possibility of using enthymemes for ethos and pathos, would be a strong objection to this possibility in the case of a "regular" treatise. But such an *argumentum ex silentio* is not strong in the case of a work such as the *Rhetoric*. Accepting this irregularity seems much easier than the alternative, for this entails the much more serious irregularity of an interruption, by 2,1-17, of the treatment of rational argumentation⁷³.

Another objection is also found time and again: in 3,17,8 (18a12-17) Aristotle seems to say explicitly that it is impossible effectively to combine enthymeme and pathos, or enthymeme and ethos:

καὶ ὅταν πάθος ποιῇς, μὴ λέγε ἐνθύμημα· ἡ γὰρ ἐκκρούσει τὸ πάθος ἢ μάτην εἰρημένον ἔσται τὸ ἐνθύμημα· ἐκκρούουσι γὰρ αἱ κινήσεις ἀλλήλας αἱ ἅμα, καὶ ἡ ἀφανίζουσιν ἢ ἀσθενεῖς ποιοῦσιν. οὐδ' ὅταν ἡθικὸν τὸν λόγον, οὐ δεῖ ἐνθύμημα τι ζητεῖν ἅμα· οὐ γὰρ ἔχει οὔτε ἥθος οὔτε προαίρεσιν ἢ ἀπόδειξις.

And when you are arousing emotion, do not use an enthymeme, for it will either drive out the emotion or it will be used in vain; for simultaneous movements drive each other out, destructing or weakening each other. Nor should you look for any enthymeme at the time when you are giving an ethical character to what you say, for logical proof shows forth neither character nor purpose.

Here Aristotle indeed rejects the use of enthymemes with ethos and pathos. But chapter 3,17 is about the *argumentatio*, the part of the speech where the rational arguments proving one's case and disproving one's opponent's are put forward, and this instruction is only found here. This would be very strange, had he meant it to be generally applicable. So it is obviously only relevant for the *argumenta-*

(cf. 1,1,11: 55a8-10; 1,2,8: 56a36-b2). Lienhard (1966: 451) characteristically misrepresents the passage: he leaves out the second half of the sentence (cf. Radt 1979: 287-288).

72. Braet (1989: § 2): the passages 1,8,6 (66a8-10); 2,1,2 (77b23-24); 2,1,5 (78a7-8); 3,1,1 (03b9-13) and 3,13,1-2 (14a30-36: note πρᾶγμα) describe logical proof in terms of ἀποδεικνύναι, ἀπόδειξις, etc., which are associated with enthymeme (and paradigm) in 1,1,11 (55a4-8); 1,2,19 (58a1-2); 2,20,9 (94a9-11); 2,22,10 (96a33-b1); 2,25,14 (03a10-16, if the reading ἀποδείξει in a15 is correct); and 3,17 *passim*. Cf. also 1,1,10 (54b30-31); 1,9,40 (68a31-33); 1,10,1 (68b1-2); 2,25,10 (02b26-27).

73. The irregularity connected with 1,2,22 (58a26-35) may likewise be accepted as a minor one: this passage suggests that the treatment of the subjects of 2,18-26 will follow (immediately) after 1,3-14 (cf. Vahlen [o.c. above n. 2]: 121-132 *passim*; he uses this to support his idea of a dislocation of 2,1-17).

*tio*⁷⁴: the enthymemes not to be used are those expressing the rational arguments of the case. The 'movement' that may 'drive out' the emotion or may be driven out by it is therefore not a movement caused by enthymeme as such: it is the "movement" of the reasoning about the case itself, involved in these enthymemes, that may drive out emotions. The same goes for the warning about ethos. (The last ἀπόδειξις is, therefore, 'logical proof', not 'logical reasoning in general'.)

The passage does imply, however, that in the *argumentatio* pathos as well as ethos may be used⁷⁵ - in which case, it is also implied, their form should not be enthymematic.

This last point is a first argument for the possibility of non-enthymematic expressions of ethos and pathos. A second one⁷⁶ is the fact that the enthymeme is, though certainly not identified, yet closely associated with rational arguments (p. 23-24). This would be inexplicable if ethos and pathos were meant always to take enthymematic form.

A third argument is that, whereas some of the seven passages in 2,2-11 about the use of pathos mentioned above (p. 21-22) suggest using arguments, others suggest that there are other means also, e.g. 2,2,27 (80a2-4):

δῖλον δ' ὅτι δέοι ἀν αὐτὸν κατασκευάζειν τῷ λόγῳ τοιοῦτους ὅλοι διῆτες ὀργί-
λως ἔχουσι, καὶ τοὺς ἐναντίους τοῦτοις ἐνόχους διῆτας ἐπ' οἷς ὀργίζονται,
καὶ τοιοῦτους ὅλοις ὀργίζονται.

It is clear, then, that the speaker must, by way of his speech, put the hearers into the frame of mind of those who are inclined to anger, and must represent his opponents as guilty of things that rouse them to anger, and as people of the kind with whom they get angry.

The words used in this connection, κατα- and παρασκευάζειν, are neutral ones: 'make, render', or 'represent as'⁷⁷. This 'making the audience feel so and so' or 'representing the opponent as ...' may be done by argument, as is shown by the passage quoted on p. 22. But the choice of these two words (here not combined with a direct reference to argument) indicates that this is not the only way to

74. This crucial point is due to Braet (1989: § 2). It is not recognized in Lossau (1976: 16), Sprute (1982: 135-136, cf. 29, 61, 63, 169), Schweinfurth-Walla (1986: e.g. 66). Sprute (1982: 61) also adduces 3,17,12 (18a37-39), which, however, affords no support for his position.

75. This is confirmed by the next sentence, 3,17,9 (18a17-21); and by 17,12 (18a37-b1).

76. In addition, 2,18,2 (91b23-27) and 2,22,16 (96b30-97a1) may be mentioned. Though not conclusive (cf. n. 138), they do suggest an essential difference between the *protaseis* of 1,4-14 and the material for ethos and pathos.

77. κατασκευάζειν: LSJ s.v. 5 ('make, render') and 6 ('represent as'); παρασκευάζειν: LSJ s.v., 3 ('make, render').

do it⁷⁸. This concerns pathos, but the wording of the passage that reintroduces ethos and pathos at the beginning of book 2 is significant for both: they are there described as αὐτὸν ποιόν τινα καὶ τὸν κριτὴν κατασκευάζειν (2,1,2: 77b24: 'representing oneself as a certain sort of person, and putting the judge in a certain frame of mind'), which is wholly neutral as to the form this may take⁷⁹. And when it is first introduced, ethos is said to be used ὅταν οὕτω λεχθῇ ὁ λόγος ὥστε ἀξιόπιστον ποιῆσαι τὸν λέγοντα (1,2,4: 56a5-6: 'when the speech is made in such a way, as to render the speaker trustworthy')⁸⁰.

A fourth argument is, that by taking non-enthymematic pathos into account Aristotle would again be adequately describing a part of oratorical practice⁸¹.

Finally, some interpretations that deny the possibility of non-enthymematic expression of ethos and pathos must be mentioned: as indicated before, several scholars think that these two *pisteis* must, in Aristotle's view, take the form of the enthymeme. Two variants of this interpretation must be distinguished. Some think of rational arguments, ethos and pathos as separate things, each taking enthymematic form⁸²; others, most prominently Grimaldi⁸³, suppose that the enthymeme 'incorporates *pistis*'⁸⁴, i.e., one enthymeme ideally combines offering rational argumentation

78. In 2,24,4 (01b3-9) κατα- and ἀνασκευάζειν are even used for indicating something explicitly non-enthymematic. Moreover, of the 21 occurrences of κατα- and παρασκευάζειν in the *Rhet.* (Wartelle 1982: s.vv.), there is none to encourage identification with arguments. On the contrary, the verbs are nowhere used to denote pure argumentation, which proves that the frequent occurrence in connection with ethos and pathos can be no coincidence (8 out of 21 occurrences are in 2,1-11; apart from the 6 mentioned below [this note]: 2,1,2: 77b24 [quoted below in the text] and, in connection with ethos, 2,1,7: 78a18).

Of the seven passages in question (above n. 59) the only one (2,4,32) that contains none of the two verbs has ποιεῖν in a similar function (cf. ποιεῖν in 1,9,1: 66a28). Of the other six, three combine κατα- or παρασκευάζειν with a form of (ἀπο)δευνύναι (in 2,9,16 they refer to two separate activities in producing pity, in 2,5,15 and 2,7,4 they refer to one), three do not.

79. The beginning of the section on pathos (2,1,9: 78a23-28) is just as neutral. Cf. also n. 87, about the systematic nature of 2,2-11.

80. Cf. also κατασκευάζειν in 2,1,7 (78a16-19).

81. On this kind of argument about ethos cf. above n. 63. As for pathos, cf. e.g. Kennedy (1963: 234-235) on Demosthenes' *On the Crown*. The not necessarily enthymematic status of pathos makes the passages on παθητικὴ λέξις (3,7,3-5 and 11: 08a16-25 and b10-20) especially interesting (cf. pp. 71-72 and 73).

82. Barwick (1922: 18-22) (he slightly modified his view later: 1966/67: 240), Conley (1982: 304-309), Wörner (1981: 76). In fact, the latter two restrict their claim to pathos, but that makes little difference here; on Conley cf. also below n. 275.

83. James H. McBurney, 'The Place of the Enthymeme in Rhetorical Theory', in: Erickson (ed. 1974), 117-140 (originally: *Speech Monographs* 3, 1936, 49-74): 127-130, Grimaldi (1957; 1972: 53-68; 1980: esp. 349-356), Lienhard (1966).

84. Grimaldi (1957: 192; 1980: ad 54a15, 350); he seems to believe (1980: ad 54a15) that his meaning of σώμα, in σώμα τῆς πίστεως, is more literal and more frequent than the 'traditional' one. (As to the frequency, σώμα occurs more in the *Rhetoric*: 3,14,8: 15b8 [Wartelle 1982: s.v.], where it is metaphorical; this case actually supports the 'traditional' meaning; cf. also

with being 'ethical' and 'emotional'. Both variants, of course, solve the problem of the structure of books 1 and 2. Despite claims to the contrary, however, the difficulty of chapter 1,1 is not solved. If ethos and pathos both take the form of the enthymeme, this is indeed consistent with the view, expressed in that chapter, that all technical *pisteis* are enthymemes. But it is still not consistent with the unqualified rejection of pathos also found in 1,1⁸⁵. More important, the defenders of both variants must neglect the arguments for non-enthymematical expression just given⁸⁶, while their own arguments are far from compelling.

As proof that the material for pathos in 2,2-11 is meant to be used in enthymemes only⁸⁷, adherents of the first variant adduce the fact that the observations in these chapters are designated by the terms *protaseis* and *topoi*. But there is little or nothing in the *Rhetoric* to suggest that these, as they think, are technical terms specifically related to enthymeme⁸⁸.

What Grimaldi, in his defence of the second variant, mainly relies on - besides a number of inaccurate interpretations⁸⁹ - is his conviction that *pistis* does not have one single meaning ('means of persuasion'): he holds that it means 'method' or 'form of inference' when describing enthymeme or paradigm, whereas in other cases (especially in connection with the three *pisteis*) the meaning is 'matter',

LSJ s.v., IV.)

85. Conley suggests that his view resolves the contradiction (1982: 302, 306-307, 309). About Grimaldi above n. 45; he also makes this claim (e.g. 1957: 192; 1972: 56; 1980: 10, 353).

86. Grimaldi nevertheless feels forced to admit (though only in one short paragraph, 1972: 63) that the enthymeme can sometimes be dispensed with.

87. The systematic nature of 2,2-11 (below p. 68-71) proves nothing (it is adduced by Conley 1982: 304): any method of arousing emotions, whatever its form, will benefit from this. And contentions about the origins of and the assumptions behind the traditional interpretation (ib.: 300-302) can hardly say anything about its correctness.

88. Thus Braet (1989: note 35). On the two terms cf. in general Sprute (1982: 154, 180-182 [*προτάσεις*]; 151-168, et alib. [*τόποι*]). The arguments based on the terms: Barwick (1922: 20-21; 1966/67: 240), Wörner (1981: 64, 76-77) and (*προτάσεις* only) Conley (1982: 303-305). The word *προτάσεις* is used in 2,1,9 (78a29) (Conley). Some of its occurrences in the *Rhet.* tell against a technical meaning: cf. 2,1,1 (77b18) and 2,18,2 (91b24-25) (both times δόξαι καὶ προτάσεις); although it is used in its sense of 'premise' in some places (e.g. 1,3,7: 59a7, 8, 9, 10), in others the meaning 'statement' seems more adequate. Similar considerations hold for *τόπος*: its frequent use in enthymematic contexts proves nothing, and cf. 3,15,10 (16b4-8) for a *topos* certainly not enthymematic; the 'definition' of *τόπος* in 2,26,1 (13a18-19) (Wörner 1981: 77) is a poor basis for argument: the context is enthymematic, which virtually excludes a generally applicable definition (which would be strangely placed anyway, so near the end of book 2).

89. Above nn. 70-71; 84. It must also be noted that he consistently misrepresents 'the traditional interpretation' (e.g. 1957: 190), by claiming that rational proof is traditionally identified with enthymeme only. It is not: it is most often considered capable of being expressed by means of either enthymeme or paradigm (e.g. Cope 1867: 99-100; Marx [o.c. above n. 2]: 286-288; Solmsen 1941: 38-39; Kennedy 1963: 95-99; Wikramanayake 1961: 194). So there is no difficulty with the status of the paradigm, as Grimaldi claims there is (1957: 191; 1972: 65; 1980: 352, 353). On Grimaldi's other objections against the usual interpretation (1972: 65-66) cf. especially Sprute (1982: 61-63).

'source material for argumentation'⁹⁰. Thus the three *pisteis* are matter, to be incorporated in the form of the *pistis* enthymeme⁹¹. This, however, entails straining the interpretation of the crucial passage 1,2,2-8 (55b35-56b10) beyond all reasonable limits. In the beginning of this passage the three *pisteis* are introduced (above p. 14-15); not long afterwards (1,2,8: 56a35), Aristotle writes: 'Now of the *pisteis* ...' (τῶν δὲ [sc. πίστευων] ...). Surely, then, '*pisteis*' in the latter sentence must refer back to '*pisteis*' in the earlier one, and must have the same meaning. Yet Grimaldi is forced to take the first '*pisteis*' as 'matter', the second as 'form'⁹². Other difficulties with his view of *pistis* abound⁹³. Even his parallels for his two meanings from other authors are very doubtful indeed⁹⁴. Consequently, there is no reason to doubt that *pistis* in most cases means 'something that persuades or may persuade', something having a form as well as a content. In one context or another one or the other aspect may be uppermost, but since both aspects are always present, neither should be transformed into a meaning of *pistis* in its own right.

To sum up, the picture given in the first part of this section (p. 13-17) may stand: Aristotle organizes his material according to what were later called *officia oratoris*, and his theory of invention is, apart from the non-technical means of persuasion, based upon the threefold division of *pisteis* into rational arguments, ethos and pathos. Moreover, whereas rational arguments always take the form of enthymeme or example (the latter being a subtype of the former), ethos as well as pathos need not do so: in Aristotle's view, they can be expressed with and without the use of these forms. This solves the problem of the place of 2,1-17, a problem resulting from the traditional view that ethos and pathos had nothing to do with enthymeme⁹⁵. However, the inconsistency between the first chapter of the *Rhetoric*

90. Apart from other meanings irrelevant here: 'pledge of good faith' (once in the *Rhet.* 1,14,5: 75a10), and 'persuasion' as a state of mind; cf. Wikramanayake (1961: 193).

91. Grimaldi (1957: 190; 1980: 352-353, and ad 55a4). Cf. also Lienhard (1966: 452-453).

92. See especially Grimaldi (1980: ad 56a35), where he acknowledges that he assumes a shift in meaning; his parallel for such a shift, the 'startling change' in meaning of εἶδη in 1,3,1 (58a36) (where the meaning of this word is indeed very different from that employed in the previous lines), is specious: there it is clear that a new section on a different subject begins, and there is no reference back, as there is in the passage in hand (56a35) - note that this reference back in 56a35 is essential for understanding the word πίστευων with τῶν δὲ διὰ τοῦ δευκρίναι ἢ φαίνεσθαι δευκρίναι ...!

93. Cf. especially Sprute (1982: 59-61); and also Lossau (1976: 15-16), Schenkeveld (1976: 426).

94. Grimaldi (1980: 20). In Plato *Phaedo* 70b2 πίστεις cannot be 'method of inference' but means 'proof' in general (thus Burnet ad loc.); and the meaning 'evidentiary material' is present in none of the three verses from Eur. *Hipp.* (1037, 1055, 1309), where it means 'pledge of good faith' (cf. above n. 90); cf. Barrett ad 1309.

95. It is of course only more or less solved: a complete solution would have to include an assessment of the exact relations between 2,19-26 and 2,1-17, which is outside the scope of this study.

and the rest of the work cannot, I think, be removed. This may or may not point to an early date of composition of this chapter, but since it must still have a function as it stands, it is best understood as a polemical and rhetorical opening that should leave no doubts about the difference between the vulgar handbooks and the approach of Aristotle himself.

2.3 Ethos: *Rhetoric* 2,1,5-7

Aristotle treats ethos in the first chapter of the second book, in a passage that is surprisingly short, but also very clear and efficient (2,1,5-7: 78a6-20). With the help of the theoretical considerations of § 1.2, I will now discuss his concept of ethos as it emerges from this treatment. (The problem of chapters 2,12-17, where some think Aristotle's exposé on ethos is to be found, will be dealt with in § 2.4.)

The passage begins thus:

τοῦ μὲν οὖν αὐτοῦς εἶναι πιστοῦς τοὺς λέγοντας τρία ἐστὶ τὰ αἵτια τοιαῦτα γὰρ ἐστὶ δι' ἃ πιστεύομεν ἕξω τῶν ἀποδείξεων. ἔστι δὲ ταῦτα φρόνησις καὶ ἀρετὴ καὶ εὐνοία· διαφθείρονται γὰρ περὶ ὧν λέγουσιν ἢ συμβουλευουσιν ἢ δι' ἅπαντα ταῦτα ἢ διὰ τούτων τι· ἢ γὰρ δι' ἀπροσύνην οὐκ ὁρθῶς δοξάζουσιν, ἢ δοξάζοντες ὁρθῶς διὰ μοχθηρίαν οὐ τὰ δοκούντα λέγουσιν, ἢ φρόνιμοι μὲν καὶ ἐπιεικεῖς εἰσιν ἄλλ' οὐκ εἴνοιο, διόπερ ἐνδέχεται μὴ τὰ βέλτιστα συμβουλεύειν γνησκοντας· καὶ παρὰ ταῦτα οὐδέν.

There are three things making the orator himself trustworthy, for belief is induced by three factors, apart from proofs. These are good sense, goodness and goodwill [towards the audience]. For speakers are wrong in what they say or in the advice they give because one or more of these factors are missing⁹⁶: for either, because of a lack of good sense, they have incorrect opinions; or their opinions are correct, but because of wickedness they do not say what they think; or they are sensible and good, but lack goodwill, wherefore they may fail to give the best advice, although they know what it is.

This treatment can be so brief, because Aristotle, some lines further down, refers to other parts of the *Rhetoric* for treatments of the three qualities involved⁹⁷: for good sense and goodness (φρόνησις, ἀρετή) to 'the analyses of goodness', i.e. to 1,9 (where a cross-reference is given, 1,9,1: 66a25-28)⁹⁸; and for 'goodwill

96. This translation is adopted for clarity's sake. More literally, it would be 'because of all or one of these'. This must mean 'because one or more of these are involved', which clearly amounts to '... are missing'.

97. The explanation of this brevity in Hellwig (1973: 260) is, therefore, uncalled-for.

98. For φρόνησις cf. 1,9,13 (66b20-22); on this cf. Hellwig (1973: 253). Vinzaz Buchheit, *Untersuchungen zur Theorie des Genos Epideiktikon von Gorgias bis Aristoteles* (München: Hüber, 1960): 129-131, thinks 1,9,1 (66a25-28) says that 'auch der Lobredner sein ἦθος [taken in a moral

and friendliness' to 'the discussion of the emotions', i.e. to 2,4, the chapter about the emotion φιλία ('friendliness, friendship')⁹⁹.

Before analysing ethos along the lines set out in § 1.2, we may briefly look at the terms and concepts involved. The passage itself is rather clear about them. Φρόνις, 'good sense', denotes certain intellectual qualities, for a lack of it (ἀφροσύνη) leads to incorrect opinions. It is distinguished from ἀρετή, 'goodness'¹⁰⁰ (contrasted with μοχθηρία, 'wickedness'), which denotes moral ones. Εὔνοια, 'goodwill', is of course not the traditional element of the prologue, the goodwill an audience must be made to feel for the speaker¹⁰¹: it is goodwill of the speaker towards his audience. The addition of this third factor of goodwill may seem superfluous, and the possibility that a speaker is good, but may hold back the best advice because he is not well-disposed towards his audience, may seem strange. It is indeed not in line with most modern concepts of goodness. It does, however, perfectly fit the Greek one, for the common opinion was that one should do good to one's friends, but harm one's enemies¹⁰².

It is clear, then, that ἥθος, 'character', here comprises both moral and intellectual qualities. The reason for stressing this is that in the *Ethica Nicomachea* the corresponding concepts and terms are very different, and that, consequently, this treatise cannot be used for elucidating the *Rhetoric*¹⁰³. As for the terms, ἥθος is there exclusively moral: it denotes the sum total of someone's moral qualities, good and bad. As such, it is opposed to διάνοια ('thinking faculty'), which is the sum total of one's intellectual qualities. If this were all, the gap between the two treatises would not be too difficult to bridge. In fact, the difference is not

sense, JW] und seine ἀρετή ... erweisen muss' (cf. below n. 129; Flashar 1983: 366 follows Buchheit; Düring's wording, 1966: 129, is similar). But there is no demand on the 'Lobredner': the passage only says that the material for praising someone else is the same as that for making oneself appear (cf. ὑποληφθησόμεθα) trustworthy and good; cf. Radt (1979: 296-297).

99. 78a19-20: περὶ δ' εὐνοίας καὶ φιλίας ἐν ταῖς περὶ τὰ πάθη λεκτέον. The reference to 2,4 could hardly be clearer; cf. also Cope (1877 I, 1; ad loc.), and e.g. Fantham (1973: 269), Hellwig (1973: 252 with n. 6). A reference to 2,12-17 is rightly rejected by Cope (1867: 111). Cf. also the connection Theophrastus probably made between φιλία and εὐνοία (p. 212 of William W. Fortenbaugh, 'Theophrastus on Emotion', in: W.W. Fortenbaugh et al., eds., *Theophrastus of Eresus. On his Life and Work* [Rutgers University Studies in Classical Humanities 2], New Brunswick, Oxford: Transaction Books, 1985, 209-229).

100. Cf. ἐπιεικέις, σπουδαῖοι in 2,1,6-7 (78a13 and 16).

101. Hellwig (1973: 254-256, 284) confuses the two, as did Spengel (1867: ad 1415b25).

102. This is overlooked by Hellwig (1973: 252), who, again (above n. 27), mechanically uses the triad speaker - matter - hearer to explain the addition of εὐνοία (also Flashar 1983: 369). On the Greek view cf. e.g. *Rhet.* 1,6,26 (63a19-21); *Plato Rep.* 335d; *Soph. Ai.* 1347-1348; Dodds ad *Eur. Bacchae* 877-881; Page ad *Med.* 809-810.

103. For another difference (concerning ἔξις) cf. Schütrumpf (1970: 8-9).

one of terms only: the difference in concepts and views is even more important¹⁰⁴. In the *Ethica* someone really 'good' (ἀγαθός, i.e., possessed of ἡθικὴ ἀρετή) must necessarily also be 'possessed of good sense' (φρόνιμος), and the reverse¹⁰⁵. That the *Rhetoric* offers a very different point of view appears most clearly from the possibility, implied in the passage quoted, that a speaker of good sense may be wicked, and hide his thoughts.

It has been shown that even in the *Poetics* Aristotle uses ἦθος, 'character', in the narrow sense of the *Ethica*, i.e. restricted to moral qualities¹⁰⁶. Therefore, the broad sense it has in the *Rhetoric*¹⁰⁷, i.e. the inclusion of intellectual qualities¹⁰⁸, seems an exception in his writings. In employing this broad meaning in the *Rhetoric*, Aristotle seems to conform to normal usage¹⁰⁹, which illustrates that the *Rhetoric* may have been meant for a more general audience than his other works¹¹⁰. In any case, ἦθος is adequately rendered by the English word

104. The discussion between Schütrumpf and Held (cf. nn. 106-107) concentrates on the denotation of ἦθος, i.e., on the meaning of the term. Only Schütrumpf (1987: 180-181) is aware of the fact that the use of the same terms, with the same meanings, does not in itself imply the same (relationships between) concepts.

105. 6,12 (1144a36-37) ὥστε φανερόν ὅτι ἀδύνατον φρόνιμον εἶναι μὴ ὄντα ἀγαθόν and 6,13 (1144b30-32) δηλον οὖν ἐκ τῶν εἰρημμένων ὅτι σὺν ὅλῳ τε ἀγαθὸν εἶναι κυρίως ἄνευ φρονήσεως, οὐδὲ φρόνιμον ἄνευ τῆς ἡθικῆς ἀρετῆς. Cf. also 10,8 (1178a16-17).

106. Schütrumpf (1970). He was opposed by Held (1985), who argued for the broad sense in the *Poetics* also, but his reply (Schütrumpf 1987) is very adequate. One fundamental feature of Held's approach is notable besides the points mentioned by Schütrumpf: in concentrating on ἦθος only, and trying to establish for it a meaning different from the one it has in the *EN*, he partly relies on the assumption that the meanings of σπουδαῖος and φαῦλος are *not* different from the ones they have in the *EN* (Held 1985: 286-287). Moreover, he supposes these two terms to be moral as well as intellectual, against which our passage from the *Rhet.* should have warned him anyway (and cf. Schütrumpf 1987: 175 n. 1).

107. Books 1-2: cf. Schütrumpf (1970: 28-34). Also in book 3: on this point I differ from Schütrumpf (as does Held 1985: 290-292, whose analysis is, however, confused). The key passage is 3,16,8-9 (17a15-27). In 17a23-27, which is about presenting ἦθος, it is προαίρεσις that is contrasted with διάνοια, not ἦθος itself as Schütrumpf thinks (1970: 83 n. 2; cf. 52 n. 2, 93; in 17a15-18 they are not identified: cf. Schütrumpf himself, 1987: 177, 179): μὴ ὡς ἀπὸ διανοίας λέγειν ... ἀλλ' ὡς ἀπὸ προαιρέσεως. This does not mean that in order to present ἦθος, 'one must not speak *about* διάνοια': the point is that in order to present a positive ἦθος one must speak in such a way, as to show that one regards one's purpose (which is implied to be a good one) as more important than pure (selfish) reasoning ('Nor should we speak as if from the intellect' Freese). So the relationship between διάνοια and προαίρεσις is here presented as relevant to positive ἦθος (ethos); but nothing is said about the relevancy of διάνοια itself to ἦθος itself. Therefore, the passage is consistent with the assumption that ἦθος comprises both moral and intellectual qualities.

108. ἦθος in the *Rhet.* also includes a moral quality that would not count as such in the *EN*, viz. respect for the gods: Schütrumpf (1970: 30).

109. Cf. Plato *Rep.* 10, 604e2 τὸ δὲ φρόνιμον τε καὶ ἡσύχιον ἦθος, and the other passages mentioned by Held (1985: 290 n. 32) and Schütrumpf (1970: 35 n. 3).

110. Thus Held (1985: 290); cf. above, p. 12. That the difference should be due to Aristotle's use of earlier rhetorical theories on ethos (Schütrumpf 1970: 35 n. 3) seems implausible in itself; moreover, it does not explain the uniform usage in the whole of the *Rhetoric*; and we know of

'character'¹¹¹. It should perhaps be noted here already that the word never even comes close to the meaning 'mood'. This misapprehension will be discussed in § 2.6.

Now the questions formulated in § 1.2 may be answered. The first one concerns the problem, whether the *pistis* ethos, in Aristotle's view, pertains to the character of the speaker only. The answer is very clear: here, as well as in the rest of the work, Aristotle supposes the speaker to be the litigant himself, and never mentions (ethos of) clients. This reflects the basic situation in Athenian court practice, where one was supposed to speak for oneself, even if there were many situations in which the use of an advocate was permitted¹¹². However, even speech writing by professional logographers is never referred to, although this practice of writing a speech for someone else to deliver in court was common in Athens. In that case, something might have been said about ethos of such a speaker-client, and its relationship with the need of making the client speak "in character" (*ethopoia*). In principle, however, Aristotle's analysis of ethos is also applicable to this situation, and an explicit reference is perhaps not needed¹¹³.

The second and most important question regards the qualities of the speaker falling under the scope of ethos, and the effect ethos is meant to have on the audience (above p. 7). As to this, the text quoted above is unambiguous. The purpose of Aristotle's ethos is for the speaker to be trustworthy, reliable. This is clear from the beginning of the passage, which specifies the subject under discussion as 'the things that make the orator himself trustworthy' (πιστός). What follows is hardly less clear: after the three qualities of good sense, goodness and goodwill have been mentioned, the reason why these qualities are crucial is given (διαψεύδονται γὰρ ..., 'for speakers are wrong ...'), and this reason is, writes Aristotle, that if a speaker lacks these he may not tell the truth. This shows that he takes 'telling the truth' as central to ethos, or rather, by implication, that he takes as the fundamental aim of ethos the audience's conviction that

no such theories (it is very doubtful whether *Rhet. Alex.* presents one [below p. 51-53], and there ἥθος is not a technical term, as Schütrumpf 1970: 33 implies).

111. Cf. Schütrumpf (1970: 39-46), who shows that German 'Charakter' is very close to Greek ἥθος.

112. Kennedy (1968: 419-426, esp. 420-421): only two anecdotes mention advocates (1,14,3: 74b36-75a2; 2,20,6: 93b23-94a2).

113. See Fantham (1973: 271-272): Kennedy (1963: 91-92) refers to two passages where he thinks the practice of logographers is taken into account (3,7,6: 08a25-30; 3,16,9: 17a22-23), although not with respect to ethos as a means of persuasion, but to characterization of the client (*ethopoia*) (thus Kroll 1918b: 91 on 3,7). But Fantham points out that these passages treat the convincing portrayal of characters appearing in a speech (also sometimes called *ethopoia*). Even the two passages taken by Fantham (p. 271) to refer to a client-figure do not (1,9,1: 66a27-28; 2,1,7: 78a18-19): both are about praising someone else in epideictic oratory (and about the favourable presentation of the speaker by himself).

what the speaker is saying is the truth; and the three qualities are all explicitly related to this aim. Aristotle's *ethos* may therefore be defined as the element of a speech that presents the speaker as trustworthy; or, from the point of view of the hearer, as the element that makes the audience regard the speaker as trustworthy. Sympathy on the part of the audience is not mentioned at all, and is not part of Aristotle's concept.

In confirmation of this analysis of the passage on *ethos* itself, we may notice that in two of the previous passages on *ethos* (1,2,4: 56a5 and 1,9,1: 66a28) the word *ἀξιόπιστος* ('trustworthy') is used to denote the purpose of this means of persuasion. Especially the fact that one of these passages is the introductory description of the three *pisteis* seems significant. There Aristotle says: διὰ μὲν οὖν τοῦ ἥθους, ὅταν οὕτω λεχθῇ ὁ λόγος ὥστε ἀξιόπιστον ποιῆσαι τὸν λέγοντα (1,2,4: 56a5-6: 'when the speech is made in such a way, as to render the speaker trustworthy')¹¹⁴.

This is one of the cases where the distinction made earlier between *ethos* and ἦθος ('character') is important¹¹⁵: *ethos*, the means of persuasion, does not include all qualities of 'character' (ἦθος), and not even all that might be conducive to persuading the audience: it includes only those qualities relevant to its purpose - appearing trustworthy.

Since this variant of *ethos* (the first one mentioned on p. 7) aims at trustworthiness, not at an emotional response, it may be called, in a way, "rational" *ethos*, as distinguished from the second variant, "ethos of sympathy". The term "rational" *ethos* contradicts the designation of *ethos* and *pathos* commonly used, the 'irrational means of persuasion'. Of course the only strictly rational aspect of a speech consists of its arguments. The way Aristotle presents it, however, *ethos* is rational in so far, as it concerns a "warrant" for the factual and argumentative content of the speech, and in so far, as the hearer can rationally decide for himself whether he thinks the speaker is reliable or not. This is not to say that a hearer will always, or even often, make such an evaluation consciously, but that he can do so in principle: the same goes, to a certain extent, for the evaluation of rational arguments¹¹⁶. This "rational" character of Aristotle's *ethos* may also be clarified from another point of view: it has much in common with a part of rational proofs, viz. the commonplaces for and against witnesses, as given

114. The same passage, 1,2,4-5 (56a5-19), affords further confirmation: about *pathos* there is a cross-reference to 1,1, πρὸς δὲ καὶ μόνον πειράσθαι φαμεν πραγματεύεσθαι τοὺς νῦν τεχνολογούντας (1,2,5: 56a16-17), but there is no such reference about *ethos*.

115. Difficulties ensuing from the identification of *ethos* and ἦθος e.g. Hellwig (1973: 252, 256, 267): cf. below n. 183.

116. I.e., the hearer will not often reconstruct the syllogistic form of an argument and test its validity, but the designation 'rational argument' nevertheless remains appropriate.

e.g. by Quintilian¹¹⁷. In short, Aristotelian ethos may be described as *extra causam* (i.e., strictly irrelevant to the case itself), but still rational.

To my knowledge, modern interpretations, with the exception of Fortenbaugh's¹¹⁸, never make the distinction between the various forms of ethos, and Aristotle's ethos is mostly described in terms of "ethos of sympathy". This may be due to the difficulty of Aristotle's concept itself, to the lack of clarity about it in the rest of the *Rhetoric*¹¹⁹, or to the tacit assumption that Cicero's concept, despite some minor differences, is basically the same as Aristotle's. More in particular, descriptions like 'moral character' are often found. This is of course not completely wrong, in that moral goodness (*ἀρετή*) is one of the qualities necessary for Aristotle's ethos; but it is relevant only in so far, as it contributes to the trustworthiness of the speaker, and is not so central as such designations imply. More important, they suggest "ethos of sympathy"¹²⁰.

A third question remains to be answered: is there a connection or overlap between ethos and pathos? The answer follows readily from that to the second one¹²¹: with the "rational" concept of ethos, there is no overlap, since this kind of ethos does not aim at an emotional response such as sympathy.

Aristotle's concept of pathos is in fact exactly complementary to that of ethos, for it comprises all emotions¹²², vehement ones as well as gentle ones such as sympathy. Whereas sympathy is no part of ethos, it is, therefore, not omitted, but belongs to the department of pathos. It is not, however, separately treated, but is covered by a number of emotions between them: *πράοτης*¹²³, *φιλία*, *χάρις* ('mildness, friendship, goodwill').

117. Cf. Quint. 5,7 (e.g. 5,7,25 *ex ipsorum personis*).

118. Fortenbaugh (1988: 260-263).

119. Cf. § 7.5, p. 246-247 and § 2.5, p. 54-56 respectively.

120. 'Trustworthiness' and 'moral character' are sometimes even found side by side; thus e.g. Cope (1867: 109-110), Hellwig (1973: 252 & 319); and not unlike this Sprute (1982: 170-171). For other descriptions cf. e.g. Süß (1910: 149-150, and *passim*), 'die sittliche Persönlichkeit des Redners'; Freese (transl. of 1,2,3-4: 56a2-5), Kennedy (1963: 91; 1980: 68), Wörner (1981: 59). Fantham (1973: 269) and Gill (1984: 153) explicitly take sympathy to be the aim of Aristotle's ethos, as does Schürtrumpf (1970: 21; but the rest of his note 8 is very much to the point). Schweinfurth-Walla (1986: 65-72) is especially confused: she relies on passages from book 3 without analysing 2,1,5-7 itself (cf. ib.: 171), and confuses Aristotle's moral demands on an orator with the role of *ἀρετή* in the "ethical" *pistis*; a similar confusion in Düring (1966: 135). The diagram presented by Sattler as 'a synthesis of the Aristotelian doctrine' (1947: 58; cited with approval by May 1988: 172 n. 11) has very little to do with Aristotle; e.g., the notion that "ethos" is 'manifested in choice through invention, arrangement' etc., confuses the speech with its composition.

121. As already suggested in § 1.2, p. 7.

122. Cf. below p. 67-68.

123. For the connection with *πράοτης* cf. Isocr. *Paneg.* (4), 13 (on prologues as generally used): *καταπραΰνοντας τοὺς ἀκροατάς*. This obviously corresponds to the traditional category of *εὖνους ποιεῖν τοὺς ἀκροατάς*.

Two minor points may be mentioned in conclusion. In 2,1,4 (77b29-31) Aristotle writes: τὸ μὲν οὖν ποιόν τινα φαίνεσθαι τὸν λέγοντα χρησιμώτερον εἰς τὰς συμβουλὰς ἐστίν, τὸ δὲ διακεῖσθαι πῶς τὸν ἀκροατὴν εἰς τὰς δίκας ('That the speaker should appear to be of a certain character is particularly important in deliberative oratory, that the hearer should be disposed in a certain way in judicial')¹²⁴. This was undoubtedly true: for a speaker in the Athenian assembly it was very useful, sometimes even essential, to show how much he understood about war and peace, about naval tactics, about revenues, etcetera¹²⁵. Nevertheless, it would be a mistake to suppose that Aristotle is, in his description of ethos, talking about the deliberative branch only, and to think that this is his reason for stressing the "rational" side of ethos although his complete concept comprised all aspects of character. There is no hint of such a restriction: Aristotle only says that pathos is more useful in judicial speeches, ethos in deliberative ones, not that they are only applicable therein¹²⁶. Moreover, the passage itself is clear enough¹²⁷, as is the corroborative evidence: "rational" ethos is a complete description of Aristotle's concept.

Furthermore, Aristotle writes the following about ethos: δεῖ δὲ καὶ τοῦτο συμβαίνειν διὰ τοῦ λόγου, ἀλλὰ μὴ διὰ τὸ προδεδοξάσθαι ποιόν τινα εἶναι τὸν λέγοντα (1,2,4: 56a8-10: 'This kind of persuasion, like the others, should be achieved by the speech itself, not by any preconceived idea of the speaker's character')¹²⁸. This reflects Aristotle's separation of technical and non-technical *pisteis*: technical ones must be brought about by the speech¹²⁹. Therefore, the impression that a speaker possesses knowledge about war and peace, and the like, is only included in ethos in so far as it is brought about by the speech itself. If a speaker should have authority in society, or if he can find witnesses to support his charac-

124. Rudolf Kassel, *Der Text der aristotelischen Rhetorik. Prolegomena zu einer kritischen Ausgabe* (Peripatoi 3; Berlin, New York: De Gruyter, 1971): 131-132 is probably right in regarding the sentence as a (possibly Aristotelian) addition, or at least (with Thurot) as a parenthesis (it was deleted by Graux): it obscures the causal connection between 77b31 οὐ γὰρ ... and the preceding sentence. That it is indeed Aristotle's, is, however, very probable: a later editor could have written it by expanding b25-26, but there is no reason why someone should have wanted to.

125. Cf. the material for the deliberative genre in 1,4-8; and A. Andrewes' justified insistence on the need for expertise in Athenian democracy (p. 83-84 of 'The Mytilene Debate: Thucydides 3.36-49', *Phoenix* 16, 1962, 64-85). Cf. also below p. 247.

126. 2,1,3 (77b25-26) is about both: πολλὴ γὰρ διαφέρει πρὸς πίστιν, μάλιστα μὲν ἐν ταῖς συμβουλαῖς, εἶτα καὶ ἐν ταῖς δίκαις ... Analogously, no one would conclude from 3,17,5 (17b38-18a5) that enthymeme and example were restricted to one branch each: ἐστὶ δὲ τὰ μὲν παραδείγματα δημοτοκώτατα, τὰ δ' ἐνθυμήματα δικανικώτερα ...

127. Note the coordination 2,1,5 (78a9-10) λέγουσιν ἢ συμβουλευουσιν.

128. Hellwig (1973: 260-261) neglects the second part of the sentence; her explanation of the first part is, therefore, superfluous. Her interpretation (1973: 280, 295-296) of the demand as a criticism of Plato is far-fetched.

129. The account of Buchheit (l.c. above n. 98; quoted Flashar 1983: 366) is wrong: he translates προδεδοξάσθαι by 'vorgeben' ('pretend'), and concludes that Aristotle is here asking for morally upright speakers (cf. above n. 98).

ter, this is not part of Aristotle's technical *pistis* ethos¹³⁰.

Aristotle's concept of ethos has now been described. A tentative evaluation will be given (§ 7.5) after a comparison with Cicero's concept has been made (§ 7.4). It is now time to give some arguments why I have taken the treatment of ethos to be comprised in 2,1 and not, as some do, in 2,12-17.

2.4 The Function of Chapters 2,12-17

After the treatment of ethos in the first chapter of the second book, Aristotle duly discusses the arousing of emotions in chapters 2,2-11. This subject is then brought to an end by the following phrase (2,11,7: 88b28-30)¹³¹:

δι' ὧν μὲν οὖν τὰ πάθη ἐγγίγνεται καὶ διαλύεται, ἐξ ὧν αἱ πίστεις γίνονται
περὶ αὐτῶν, εἴρηται.

The means of producing and destroying the various emotions, from which the *pisteis* connected with these emotions are derived, have now been stated.

For the unprepared reader - though such readers will be hard to find in our time - the sequel must be a surprise. The six short chapters that follow (2,12-17) treat the ἥθη, 'characters', of different age-groups (the old, the young, and those in the prime of life) and social groups (the high-born, the rich, the powerful, those enjoying good fortune in general, and the opposites). Nothing in the preceding part of the second book has even hinted at this.

Accordingly, scholars are, and have been, divided over the function of these chapters. One view, dominating in the nineteenth century and still occasionally found, is that they contain the treatment of ethos¹³², and this is of course of special importance here. I will, therefore, first argue for the view taken in the previous section (which is also the dominant one today¹³³), that it is the first

130. This is neglected Hellwig (1973: 262-263).

131. In 88b29 I read ἐξ ὧν, not καὶ ἐξ ὧν as Kassel does: below n. 275.

132. Spengel (1852: 478-494 *passim*, but cf. 480 with 2nd note; 1867 II: 246-247, although ad 56a5 he mentions 2,1 and 2,12-14 [sic]), Vahlen (1861 [above n. 2]: 124-131; his view is not unambiguously clear), Roemer (1898: ci), Marx (1900 [above n. 2]: 287, 302), Barwick (1922: 14-22), Kroll (1940: 1059), Solmsen (1941: 42; and [tentatively] *Gnomon* 39, 1967, 661), Fuhrmann (ll.cc. above n. 54, and *Das systematische Lehrbuch*, Göttingen: Vandenhoeck & Ruprecht, 1960: 142 n. 1), Brink (1963: 83-84), Radt (1979: 302 [but see below nn. 152, 156]).

133. The adherents of the other position were foremost in Germany in the previous century (prev. note), although Brandis (o.c. above n. 7: 5) had located ethos in 2,1; Süß (1910: 147-158) was, it seems, the first after Brandis to advance this interpretation again. (On Vahlen cf. n. 152.) In England it had already been established by Cope (1867: 108-112, 245; 1877 II: 1, 173). It is dominant today: Schütrumpf (1970: 32-33), Fantham (1973: 268-269), Hellwig (1973: 251 et alib.),

chapter of the second book that contains this treatment. After that I will deal with the difficult question of the function of chapters 2,12-17. Finally, I will briefly touch upon the possibility that they are Aristotle's first attempt at meeting Plato's demand for a scientific *psychagogia* (ψυχαγωγία: 'influencing men's souls'¹³⁴).

An important argument for locating the treatment of ethos in 2,1,5-7 is that the subject of this passage conforms to the designation of ethos given in the introductory description of the *pisteis*: the *pistis* 'through the character of the speaker', etc. (1,2,3-4: 56a2 and 5). After all, it treats certain qualities of this character, needed for a certain effect on the hearers. Chapters 2,12-17, on the other hand, are primarily about the character of the audience. It is true that one passage in these chapters (2,13,16, to be quoted below p. 38) states that the speaker must adapt himself to this character, but the speaker is not half as much in the centre as he is in 2,1.

Furthermore, as noted in the previous section (p. 33), the aim of ethos as specified in two places of the first book is trustworthiness, which is exactly what is treated in 2,1. And this chapter actually has a reference to one of these places for the treatment of good sense and goodness (to 1,9,1: 66a25-28), and there is a cross-reference there (above p. 29-30) - while there is no such reference to 1,9 from anywhere in chapters 2,12-17.

The decisive argument, however, is the structure of the whole of the first chapter of book 2. Ethos and pathos are there reintroduced by αὐτὸν ποιῶν τινα καὶ τὸν κριτὴν κατασκευάζειν (2,1,2: 77b24: 'representing oneself as a certain sort of person and putting the judge in a certain frame of mind')¹³⁵. So ethos comes before pathos, as it did earlier¹³⁶. And in the next lines (2,1,3-4: 77b25-78a6) their importance is discussed in this same order. So it would be very surprising if what followed were not in this same order. And indeed, what comes next are, first¹³⁷ (§§ 5-7: 78a6-20), the sections on the reliability of the speaker, and, second (§§ 8-9: 78a20-30), an introduction to the chapters on pathos followed by these chapters themselves (2,2-11). Consequently, §§ 5-7 must contain the treatment of ethos - it is, moreover, obscure what other function these sections

Flashar (1983: 255), Schweinfurth-Walla (1986: 70 n. 2 [but cf. above n. 120]), Fortenbaugh (1988: 260).

134. Translation Hackforth (o.c. above n. 47: at *Phaedr.* 271c10).

135. Inadequately paraphrased by Brink (1963: 82-83). The phrase ποιῶν τινα (cf. also 2,1,3-4: 77b26, 29) is almost characteristic of ethos and of ἥθος: cf. (ethos) below n. 244, and (ἥθος in general) 2,12,1 (88b31) and 15,1 (90b15). Cf. also 3,7,6-7 (08a29-31); 3,16,8 (17a17-18); and the parallels from other works in Schütrumpf (1970: 13 nn. 3, 4, 24 n. 3).

136. Above n. 33. Only 3,1,1 (03b10-13) is essentially different (pathos - ethos - arguments) (on 2,22,16: n. 138). This argument: Cope (1867: 112; 1877 II: 173). (Grimaldi 1980: ad 1,9,1: 66a27, therefore, is wrong.)

137. 'First'-'second': μὲν in 78a6 is answered by δὲ in 78a20.

might have¹³⁸.

If, then, *ethos* is treated in 2,1, what is the function of 2,12-17? The opening sentence of 2,12 reveals nothing about their purpose, only about their content: it states that the characters will now be treated, and that account will be taken of emotions, "habits" (ἔξεις, which here means virtues and vices), ages and fortunes; and indeed, in describing the characters of the age-groups and the "fortune-groups" it is chiefly their emotions and "habits" he discusses¹³⁹. The only passage in 2,12-17 themselves dealing with the use of the material is 2,13,16 (90a24-28). It refers to chapters 2,12-13 only (where the characters of the young and the old have been treated), but is obviously applicable to all the material in 2,12-17:

τῶν μὲν οὖν νέων καὶ τῶν πρεσβυτέρων τὰ ἥθη τοιαῦτα· ὥστ' ἐπεὶ ἀποδέχονται πάντες τοὺς τῷ σφετέρῳ ἥθει λεγόμενους λόγους καὶ τοὺς ὁμοίους, οὐκ ἄδελφον πῶς χρώμενοι τοῖς λόγοις τοιοῦτοι φανοῦνται καὶ αὐτοὶ καὶ οἱ λόγοι.

Such are the characters of young men and elderly men; and since everyone likes to hear speeches that are spoken in his own character, and speakers who resemble him, it is now easy to see what language we must employ so that both ourselves and our speeches may appear to be of such and such a character.

This passage excludes the view, sometimes found¹⁴⁰, that the chapters are meant to provide material for arguments from probability. It is true that 1,10,11 (69a30-31) refers to them in such a context, and the material can indeed be so used: an accuser may, e.g., argue that the defendant is likely to be guilty of beating someone up because, being a young man, he is prone to anger. But the passage quoted shows that this cannot be the main function of the chapters. (Their position would of course also be inexplicable.)

The adaptation of the speaker and his speech mentioned here can be, and has been, variously interpreted: it may be taken as connected with *ethos*, or the point may be, as one scholar has put it¹⁴¹, to enable the speaker to assimilate his attitudes to the audience's and so more effectively play on their emotions. I submit that both connections should be accepted, though not without qualifications, and

138. The summary in 2,22,16 (96b28-97a1) might provide more support. The content of the second book (until 2,18, obviously) is there described as περὶ τῶν ἡθῶν καὶ παθημάτων καὶ ἔξεων ... οἱ τόποι, which may be taken as *ethos* - *pathos* - characters. But the designation of *ethos* as well as that of *pathos* is unusual (τὰ ἥθη is nowhere else used for *ethos*, and this is the only occurrence of πάθημα in the *Rhet.*), and the argument would be hazardous.

139. The meaning of this first sentence is often misunderstood: cf. Appendix 1.

140. Schütrumpf (1987: 180; earlier, 1970: 31, he took the function to be 'psychologisch wahrscheinliche Darstellung von Personen'); cf. Hellwig (1973: 234 - below n. 159); Quintilian seems to have taken it thus (5,10,15-18, where he refers to 2,1-17: cf. below n. 235).

141. Gill (1984: 153 n. 25).

that the chapters are best regarded as an appendix to both *ethos* and *pathos*¹⁴². The following is meant to support this solution.

As to the connection with *ethos*, this is indeed suggested by the passage from 2,13 just quoted, all the more so since a similar passage in the first book does explicitly refer to *ethos*¹⁴³: 1,8,6 (66a8-14):

ἐπεὶ δὲ οὐ μόνον αἱ πίστεις γίνονται δι' ἀποδεικτικοῦ λόγου ἀλλὰ καὶ δι' ἠθικοῦ (τῷ γὰρ ποῖον τινα φαίνεσθαι τὸν λέγοντα πιστεύομεν, τοῦτο δ' ἐστὶν ἂν ἀγαθὸς φαίνηται ἢ εὖνους ἢ ἀμφοῖ), δεῖοι ἂν τὰ ἥθη τῶν πολιτειῶν ἐκάστης ἔχειν ἡμᾶς· τὸ μὲν γὰρ ἐκάστης ἥθος πιθανώτατον ἀνάγκη πρὸς ἐκάστην εἶναι.

Since means of persuasion are brought about not only through demonstrative speech but also through speech displaying character (for we have confidence in a speaker if he appears to be a certain kind of man, i.e., if he appears to possess goodness, or to have goodwill towards us, or both), we ought to be acquainted with the characters of each form of government; for the character most likely to persuade each form, is necessarily a character corresponding to its own.

Still, the chapters cannot be simply a supplement to the treatment of *ethos* in 2,1,5-7: this treatment is a comparatively self-contained unit, in the sense that the argument is self-contained and that the references to other parts of the *Rhetoric* are straightforward and clear (above p. 29-30). Moreover, there is nothing in 2,12-17 to suggest the "rational" concept of *ethos*, which is the core of the treatment in 2,1. And if the chapters were meant to be a sort of appendix to *ethos* only, their position after the chapters on *pathos* would be very strange¹⁴⁴.

Nevertheless, the approach of 2,12-17 is, as the passage on the employment of the material (above p. 38) suggests, not at all useless for *ethos*, even in its Aristotelian, "rational" variant¹⁴⁵: adaptation to the attitudes of the audience may make them more ready to regard the speaker as sensible, good and well-disposed towards them.

A connection with *pathos*, the aim of the chapters being to offer an approach that may enhance the effectiveness of emotional appeal, is rather plausible in itself, also because the descriptions of the characters take their emotions into account. So we may be tempted to regard them as a genuine sequel to the treat-

142. This "compromise" also Fantham (1973: 270), and already Brandis (l.c. above n. 133).

143. The point, in this form, is Fantham's (1973: 270); the similarity between the passages has of course often been noted.

144. This tells strongly against Schweinfurth-Walla's view (1986: 70-71, with 70 n. 2) that 2,12-17 is an appendix to 2,1; and against Grimaldi's (1972: 126): he thinks 2,1 and 12-17 make up the treatment together, but obviously regards 12-17 as the treatment proper (cf. 1972: 63; 1980: ad 56a2, ad 58a2, 352); thus Sprute (1982: 58, 62, 170-171) and Braet (1989: note 21).

145. Cf. also Schweinfurth-Walla (1986: 71) (though her analysis as a whole is unsatisfactory: above nn. 120, 144).

ment of pathos¹⁴⁶. But 2,13,16 (above p. 38) seems to indicate another main function¹⁴⁷. And why, then, should there be no reference to 2,12-17 at all in the sections on pathos, and should these sections be so unequivocally brought to an close in 2,11 (above p. 36)? And why would Aristotle, at the beginning of 2,12, say λέγω δὲ πάθη ... ὀργὴν ἐπιθυμίαν καὶ τὰ τοιαῦτα, περὶ ὧν εἰρήκαμεν πρότερον (2,12,2: 88b33-34: 'by emotions I mean anger, desire, and the like, of which we have spoken earlier') - such a description seems superfluous, and the reference (πρότερον, 'earlier') surprisingly vague, immediately after 2,11!¹⁴⁸

Moreover, the concept of πάθος ('emotion') presented by this last quotation is not the same as that employed in the sections on pathos. This is apparent from the different status of ἐπιθυμία, 'desire' (for food, drink, sex, etc.¹⁴⁹). Here it is mentioned as an example of an emotion, and some of the characteristics given in chapters 2,12-17 indeed belong to the department of desires¹⁵⁰. But in 2,2-11 it is not included among the emotions - almost certainly because it does not directly influence judgements, which is the criterion in the definition of 'emotions' in 2,1,8 (78a20-23)¹⁵¹.

All this, however¹⁵², does not exclude that chapters 2,12-17 are relevant to

146. As do Cope (1867: 112, 248; 1877 II: 173 [but cf. 138]), Gill (1984: 153 n. 25), W.D. Ross, *Aristotle* (London: Methuen, 1949⁵): 273, Düring (1966: 131). Süss (1910: 155-158, 163-166) thought that the ἡθῆ are related to the πάθη, but this depends on his faulty conception of ἡθος as 'Stimmung' (see § 2.6); on a faulty interpretation of 2,12,1 (88b31-32) (cf. Appendix 1 n. 1); and cf. next note. (Martin's - rather confused - discussion, 1974: 159-160, is similar to Süss's.)

147. Süss ignored this indication because he thought the passage unclear (1910: 155)!

148. The problem of the reference was noted by Spengel (1867: ad loc.); Ross accordingly brackets πρότερον. If we take a developmental point of view and regard 2,1-11 as a later addition (see below), the reference might well be to 1,10-11, cf. 1,10,8 (69a4) ἄλλοι δ' ὀρέξιν ὀργὴ καὶ ἐπιθυμία. But, as often, other passages blur this picture: 1,10,17 (69b14-15) refers forward to 2,2.

149. For the meaning of ἐπιθυμία cf. *EN* 3,11 (1118b8-12) and *Rhet.* 1,11,5 (70a16-27) (of which 70a18-27 is an addition by Aristotle himself, according to Kassel).

150. E.g. 2,12,3-4 (89a2-9).

151. Leighton (1982: 165-168) (Roemer 1898: xciii f. also noticed that ἐπιθυμία was not mentioned in 2,2-11). Πάθη also includes ἐπιθυμία in the *EN* and *EE* (e.g. *EN* 2,5: 1105b21-23). On the judgement criterion cf. below p. 67-68. The exclusion of ἐπιθυμία from the πάθη in 2,2-11 is in line with 1,10,17-18 (69b11-18), where ὀργή and ἐπιθυμία are treated: for the first Aristotle refers to 2,2-11, for the second there is no such reference. In 2,2,10 (79a22) the term πάθος is used for a number of ἐπιθυμίας (even if 79a15-18 must be deleted), but this is obviously non-technical: hunger etc. are in some situations conducive to anger. It must be confessed that ἐπιθυμία is mentioned in 2,1,4 (78a4 ἐπιθυμοῦντι). But there is nothing in 2,2-11 either to correspond to ἐτέλπειν ὄντι in the same sentence (from the context here it is clear that Cope's link with 2,5,16: 83a17-18 cannot be right); and there is no explicit connection between ἐπιθυμία and the πάθη in the passage. Perhaps Aristotle in 2,1,4 only enumerates a number of factors bringing about change of judgement, narrowing down his scope in 2,1,8 ff. to those factors that may be influenced by an orator (cf. p. 67-68).

152. The difficulty of the problem of 2,12-17 is not only illustrated by the great number of solutions offered (cf. nn. 132, 140, 142, 144, 146), but also by the ambiguity of the position of some scholars. Vahlen's first statement (o.c. above n. 2: 122-123: ethos in 2,1, pathos, which includes

pathos in the way indicated. Since they may also be relevant to ethos, they may be interpreted as a loosely added appendix to both. Their position, after the treatments of ethos and pathos, is consistent with this interpretation. So is the vagueness, and the apparently arbitrary place, of the passage on their function (above p. 38).

Finally, I will indulge in some chronological speculation. The above is aimed at interpreting 2,12-17 as part of the whole of the *Rhetoric*, and this seems possible despite the contradictions with the treatments of ethos and pathos. These contradictions, however, do show that these chapters cannot have been written for the purpose they now have.

It has long been recognized that Aristotle's account of the emotions and the characters in 2,2-17 fulfils the demand in Plato's *Phaedrus* for a scientific *psychagogia* (ψυχαγωγία: 'influencing men's souls')¹⁵³. It is true that his analyses can offer nothing like the absolute and universal knowledge Plato had in mind, and that Plato himself would have chosen very different ways of approach¹⁵⁴, but that reflects the basic difference in attitude between the two philosophers, and does by no means remove the connection.

Now it is clear that chapters 2,2-11 on the emotions are a most original approach to the problem, and do not really proceed along the lines set out by Plato. The main difference is, as Solmsen observed, that there is nothing in these chapters 'like a distinction between, and description of, the various εἶδη ψυχῆς' ('types of soul') as a basis for influencing souls; even the word ψυχή ('soul') does not occur in the passage¹⁵⁵. Chapters 2,12-17, on the other hand, are in fact an account of classes of souls, and thus much nearer the *Phaedrus* in method (if not in spirit)¹⁵⁶. So we may conjecture that these chapters are Aristotle's first attempt at meeting Plato's demand, whereas 2,1-11 on ethos and pathos constitute a later, more original attempt.

the ἦθη in 2,1-17) is slightly incongruous with the suggestions that follow (above n. 132); Kennedy (1963: 91-93) distinguishes 2,12-17 from what I call ethos, but is silent on how they fit into the whole; (1972: 222) he seems to regard them as treating ethos, but describes them as if the subject were appropriate characterization; and (1980: 68, 75) he includes them in the part on pathos. Schürumpf also changed his mind (above n. 140). Radt (1979: 296-297) suggests that 2,1 is about ethos - contrast ib.: 302.

153. Hellwig (1973: 19 nn. 1-2, 233 n. 1) notes that the connection was seen by Schleiermacher (1804), Havet (1846), Benoît (1846), Spengel (1852: 461-470), and many others afterwards. See on the subject of the connection also Solmsen (1938: 402-404). (It makes no difference here that some mention 2,1-17 instead of 2,2-17.)

154. Cf. e.g. Hellwig (1973: 287-289 and 204-216 respectively).

155. Solmsen (1938: 402).

156. This is noticed by Radt (1979: 301-302) (who, however [302 n. 26], blurs the distinction between ethos and pathos, and misunderstands the function of 2,1; he also seems to think [ib.] that his views on this matter correspond with Süss').

This conjecture receives some support from the nature of the distinctions made in 2,12-17, for whereas we know of no antecedents for Aristotle's analyses of the emotions in 2,2-11, the practice of dividing people into classes, according to age, strength, etc., was an old one. It was used for rational arguments from probability as mentioned above (p. 38), which were already a traditional feature of rhetorical theory (e.g.: this young man must be guilty, since a young man is more likely to start a fight than an older one)¹⁵⁷. It was also employed in defining virtues: those of men, women, children, etc. were separately described¹⁵⁸; and for other purposes¹⁵⁹. Moreover, the use of the divisions in 2,12-17 for oratorical practice can only be very limited, because they are too much divisions of individuals: no audience is composed of young or old or rich people only; nevertheless, the instructions of 2,13,16 (above p. 38) clearly point to such a use¹⁶⁰. This may have been the reason for Aristotle for devising the new approach to the emotions reflected in 2,2-11¹⁶¹.

If all this is correct¹⁶², chapters 2,12-17 are an example of the possibility sketched in § 2.1 (p. 12), viz. a passage that has its own, natural interpretation if taken by itself, but also a different one if taken as part of the whole structure of the *Rhetoric*. Aristotle, in that case, replaced his old approach by a new one, but kept the old text because it contained valuable material. But of course this chronological scheme must remain conjectural.

157. The example: Antiphon, 3rd *Tetr.* 3,2 (Süss 1910: 8). On this feature of the handbooks above n. 23.

158. *Rhet. Alex.* 35,11 (1441a15-18); Gorgias did so: cf. *Arist. Pol.* 1,13 (1260a25-28[ff.]) and Plato *Meno* 71c5-72a5 (Süss 1910: 100-101; but his contentions on p. 101 go too far).

159. *Gorg. Pal.* 32. Aristotle uses it only as a supplementary way of analysis: see 1,10,9-11 (69a7-31) (cf. Hellwig 1973: 236); and it does not occur in his own analysis of virtue (1,9), though in 1,5,6 (61a2-12) and 5,11 (61b7-14) he uses it for this purpose in passing. Hellwig (1973: 234) declares that both 2,12-17 and 2,2-11 are more appropriate for rational proof than for ethos and pathos - I do not know why this should be so; she thinks the instructions for the use of the material (the seven passages mentioned above n. 59, and 2,13,16 quoted above p. 38) are later additions; but precisely the odd place of 2,13,16 (which she adduces 235 n. 7) points, if to anything at all, to the conclusion that it is a remnant of an earlier stage - a later addition would not be so clumsily placed.

160. Roemer (1898: xcii). Süss (1910: 157) rejected this ('Es leuchtet ein, dass ein derartige Verwendung unmöglich gedacht ist') - but he had dismissed 2,13,16 as unclear! (above n. 147). Hellwig (1973: 222-227) addresses the problem in connection with the *Phaedrus*, but, in my opinion, instead of solving it she covers it up under a heap of words: the division into ψυχῇ ἀπλῇ and ψυχῇ ποικιλῇ e.g., has the same disadvantage as the divisions that need explanation.

161. Cf. also Solmsen (1938: 403): Aristotle, as compared to Plato, had a much lower opinion of the method of διαίρεσις, upon which the concept of the εἶδη ψυχῆς was primarily based.

162. Parallels with Plato are no help in this dating experiment, for they are ambiguous: 2,13,16 (90a25-26) (above p. 38) is strikingly parallel to Plato *Gorg.* 513b8-c2 (as noted Schütrumpf 1970: 33-34; Hellwig 1973: 285; also Kennedy 1963: 93), and this might indeed be thought to point to an early dating; but the argument about ethos in 2,1,5-6 (78a9-14) also has a striking Platonic parallel: *Gorg.* 486e6-487b5 (also noticed Hellwig 1973: 281).

The interpretation of the function of 2,12-17 given above is more important. To sum it up: 2,12-17 cannot be the treatment of ethos. A number of inconsistencies with the earlier part of book 2, moreover, prevent their being firmly linked to 2,1 on ethos or to 2,2-11 on pathos. These inconsistencies are not, however, important enough to prevent a function as an appendix to both, apart from a secondary function as offering material for arguments from probability, supplementary to 1,10.

2.5 The Reception of Aristotle's Concepts

The previous sections have been concerned with interpreting the *Rhetoric*. For that purpose, we must not only analyse the text carefully but may also, as long as the structure and the various contexts are not neglected, combine several passages to make sense together or to reinforce each other's interpretation, and the like. The question of the influence and reception of the work is a different one, requiring different methods. This is true, in principle, in all cases, but it is essential in the case of a treatise like the *Rhetoric*, which contains so many unpolished passages, a number of very compactly reasoned ones, and some real or apparent inconsistencies. "Normal" readers generally read a work less carefully, they read it only once, perhaps twice, and that mostly from beginning to end - the last being even more true in antiquity than today, because of the form of the books: a role does not encourage re-examination of earlier parts of a text. Combination and comparison of different passages is, therefore, hardly to be reckoned with.

Accordingly, the numerous difficulties will have obscured quite a few points to normal ancient readers. And it is with such readers that we are here chiefly concerned: rhetoricians who might take some ideas from the *Rhetoric* and incorporate it into their own handbooks, and people like Cicero, writing about rhetoric in a less technical way. The ancient commentators of Aristotle were, of course, readers of a very different kind, but they are irrelevant here, even apart from the fact that the first real commentaries only made their appearance in the late first century B.C., after Cicero's death. In this section, I will examine the *Rhetoric* with all this in mind, in an attempt to answer the question whether ancient readers from the period covered by this study were likely to discover the Aristotelian concepts important here: the three *pisteis* and the "rational" variant of ethos.

Obviously, the background of a reader was a decisive factor in his reception of the work. For our purpose, we may make a rough distinction between readers from Aristotle's time and not long after on the one hand, and those from a later

period down to the first century B.C., i.e., between those still unfamiliar with all new concepts and ideas offered by Aristotle, and those brought up, as it were, in a rhetorical tradition that had incorporated a number of these. This tradition will be examined more closely below (chapter 3). A feature highly relevant here is that one of the concepts adopted by most later rhetoricians (probably not through the *Rhetoric*, but via Theophrastus and others) was that of the *officia oratoris*. It is obvious that it made a lot of difference for a reader if he was already familiar with this, for in that case the structure of the whole work would be far more readily intelligible.

The history of Aristotle's text is rather unclear, and we do not know how widely the *Rhetoric* was actually read, although the work was, in principle, available also in the period covered here¹⁶³. We may, however, conjecture that the number of its readers was rather limited. In the following discussion 'the reader' should, therefore, be understood to mean 'the potential reader'.

The obscurity of the history of Aristotle's text also has a more direct bearing on the discussion. It is almost certain that at least part of the early copies of the *Rhetoric* only contained the first two books, the third being edited separately under the title *Περὶ λέξεως* (*On Style*; named after its first twelve chapters); but there were quite possibly also copies containing all three books together¹⁶⁴. So of the potential readers of the relevant part of the *Rhetoric*, books 1 and 2, some may have possessed only these, whereas others may have known all three books, either as a unity or as books 1 and 2, combined with the separate treatise *On Style*.

This section falls into two main parts, since the question whether readers understood the concept of the three *pisteis*, and that whether they recognized that Aristotle's ethos was the "rational" variant, are best treated separately. Both parts analyse the *Rhetoric* as it was probably read, and discuss the background of the potential readers. At the end of the section follows a discussion of some ancient testimonies that may illustrate the analyses given.

I will start with the three *pisteis*, and analyse the relevant parts of the *Rhetoric* in the light of the question how difficult it was for a reader to recognize the principle. It will appear that the text is not completely clear about it. It should perhaps be stressed again that this does not affect the interpretation, and that it implies no criticism of the author himself: Aristotle can hardly be held responsible for a lack of clarity in a work he did not, as far as we know, intend to publish in this form, even if the material and its organization are probably all his. In accordance with the above discussion, the analysis will follow the order

¹⁶³. About the availability cf. § 4.6.

¹⁶⁴. Arguments for this view are given in Appendix 4; cf. also p. 158.

of the text¹⁶⁵.

The rejection of emotional appeal in 1,1 will not have troubled most readers. When reading about the three *pisteis* in 1,2, and especially when seeing the cross-reference to 1,1 (above p. 18-19), they must have thought about it as Cope did: Aristotle 'is to be understood as speaking only comparatively', and 'in consequence of the defects of the audience, we must accommodate ourselves to circumstances'¹⁶⁶. After all, most, if not all, readers will have assumed that the treatise, though difficult, was consistent. The introduction of the threefold division of the 'technical' means of persuasion and their first description in 1,2,3-7 (56a1-25)¹⁶⁷ (of which the beginning has been quoted p. 14-15) is very clear. The next lines (1,2,7: 56a25-27) state: τὴν ῥητορικὴν οἷον παραφυῆς τι τῆς διαλεκτικῆς εἶναι καὶ τῆς περὶ τὰ ἥθη πραγματείας, ἣν δίκαιόν ἐστι προσαγορεύειν πολιτικὴν ('rhetoric is as it were an offshoot of dialectic and of the study of characters'¹⁶⁸, which may be reasonably called politics'). Knowledge needed for *ethos* and *pathos* is thus subsumed under the one head of the study of the ἥθη ('characters'). This is a possible source of confusion, for it suggests that *ethos* and *pathos* may in fact be taken together. Since the foregoing descriptions are so very clear, however, the chance of such a confusion at this point seems quite small. The same is probably true for 1,4,5 (59b8-11), where this statement is resumed, and rhetoric is linked to knowledge related to logic ("analytics"), and knowledge about the characters¹⁶⁹.

The next passage relevant to our investigation occurs at the end of the treatment of the material for rational proofs in the deliberative branch: 1,8,6 (66a8-16), of which the largest part has already been quoted earlier (p. 39). It mentions the existence, besides rational arguments, of *ethos* as a means of persuasion. *Pathos* goes unmentioned, but this does not in itself contradict the threefold division. Moreover, a few lines further down this is compensated for: in 1,9,1 (66a26-27) *ethos* is called 'a second means of persuasion' (as discussed above p. 16)¹⁷⁰.

In 1,10 ἥθη ('characters') and especially πάθη ('emotions') are frequently mentioned in connection with motives for crimes, but this will hardly have confused

165. The next survey incorporates all (passages with) instances of ἥθος, ἥθικός, ἥθικῶς, πάθος, παθητικός, παθητικῶς mentioned in Wartelle (1982) (who omits the first instance of πάθη in 78a20 [his 78a19]), except that not all instances in 2,1(,8)-2,11 and 2,12-17 are enumerated; irrelevant passages containing these words are mentioned in the notes.

166. Cope (1867: 140). This interpretation was even easier for those familiar with the beginning of the third book (Περὶ λέξεως) (3,1,4-7: 03b32-04a19).

167. 1,2,1 (55b31) (πάθη) is irrelevant.

168. The translation 'ethics' (Freese, Rhys Roberts) is misleading, cf. Schütrumpf (1970: 43).

169. 1,2,21 (58a19) (τῶν ἥθικῶν) is irrelevant; at 1,8,1 (65b24) the v.l. ἥθη is probably wrong.

170. πάθη in 1,9,15 (66b29 and 31) means 'sufferings', but this cannot have been confusing.

anyone¹⁷¹. The same goes for similar passages in 1,13 and 1,15¹⁷².

In 2,1,2-4 *ethos* and *pathos* are reintroduced, designated, however, not by these names but by αὐτὸν ποῖόν τινα καὶ τὸν κριτὴν κατασκευάζειν ('representing oneself as a certain sort of person, and putting the judge in a certain frame of mind'). This is not in itself confusing. On the other hand, between the last passage that mentions the *pisteis* (1,9,1) and this one lie seven chapters, some of them not very easy, and a number of readers may have needed more than the designation given to be reminded of the principle. Accordingly, the formulation may have obscured the fact that *ethos* is treated in the sections immediately succeeding (2,1,5-7). Of course the beginning as well as the end of what follows, i.e. the treatment of *pathos* (2,1(8)-2,11)¹⁷³, are very clearly marked, but the next six chapters (2,12-17) may have reinforced the oversight of 2,1,5-7, since some readers will have taken them for the treatment of *ethos*. The fact that a number of modern commentators have thought that the description of the characters in these chapters constituted the treatment of *ethos*¹⁷⁴ illustrates the possibility of confusion. For those readers who were still aware of the threefold division, but who took 2,12-17 for the treatment of *ethos*, this will of course only have obscured the nature of *ethos*. Those, however, for whom the concept of the three means of persuasion still needed some reinforcement probably lost their way here, especially because the treatment of the characters of the different classes includes a description of their emotions (πάθη)¹⁷⁵.

This is not made any better by the transition in 2,18,1-2 (91b20-28)¹⁷⁶. First it is said that, because the characters of the different kinds of states have been treated in the chapter on deliberative speeches (1,8: above)¹⁷⁷, διωρισμένον ἂν εἶη πῶς τε καὶ διὰ τίνων τοὺς λόγους ἥθικους ποιητέον (91b22-23: 'it has been determined how and by what means we may make a speech present character'), and this may suggest that 2,12-17, together with 1,8, indeed contained the treatment of *ethos*. The next sentence summarizes the content of the whole of the first two books until now, naming first the materials for rational proof (1,4-14) and then 'the means by which speeches can be made to present character'

171. 1,10,5 (68b26); 10,9 (69a18); 10,11 (69a29); 10,18 (69b15).

172. 1,13,7-8 (73b36, 37); 1,15,18 (76a25, 28). The passages 1,11,6 (70a28) and 1,12,10 (72b8) are irrelevant.

173. The treatment itself is clear, nor can any of the instances of the words ἥθος, πάθος, etc. (above n. 165) have caused confusion.

174. Above p. 36 with n. 132.

175. E.g. 2,12,5 (89a9-12); 12,9-11 (89a26-33); 13,4 (89b22-24). Cf. also 2,12,1 (88b31-32) τὰ δὲ ἥθη ποιοῖ τινας κατὰ τὰ πάθη καὶ τὰς ἑξεις καὶ τὰς ἡλικίας καὶ τὰς τύχας (on which cf. Appendix 1). (The word ἥθη occurs frequently in 2,12-17.)

176. This is true even apart from the difficulties presented by the involved first sentence (2,18,1: 91b8-20).

177. Düring's suggestion of a different reference (1966: 119 with n. 5) ignores 91b21 ἐν τοῖς συμβουλευτικοῖς (as observed by Radt 1979: 302).

(91b26-27 ἐξ ὧν ἠθικοὺς τοὺς λόγους ἐνδέχεται ποιεῖν). This last phrase (virtually a repetition of the previous sentence) must summarize both *ethos* and *pathos* (and 2,12-17). This is perfectly possible in view of the statements in 1,2,7 and 1,4,5, mentioned above, which subsumed knowledge needed for both under the study of characters; but it must, after the potentially ambiguous chapters 2,12-17, have baffled quite a number of readers. It will certainly not have helped them remember the principle of the three *pisteis*¹⁷⁸.

The summary at the end of book 2¹⁷⁹ is not unambiguous¹⁸⁰, but need not occupy us here: the copies that contained it probably went together with a copy of the third book, the beginning of which summarizes all foregoing material quite clearly (3,1,1: 03b6-13):

... τρία ἐστὶν αὐτοῖς δεῖν παραμελεῖσθαι περὶ τῶν λόγων, ἓν μὲν ἐκ τίνων αἱ πίστεις ἔσονται, δεύτερον δὲ περὶ τὴν λέξιν, τρίτον δὲ πῶς χρὴ τάξαι τὰ μέρη τοῦ λόγου, περὶ μὲν τῶν πίστεων εἴρηται, καὶ ἐκ πόσων, οἳ ἐκ τριῶν εἰσι, καὶ ταῦτα ποῖα, καὶ διὰ τί τοσαῦτα μόνον· ἡ γὰρ τῷ αὐτοῖς τι πεποιθέναι οἱ κρίνοντες, ἡ τῷ ποιοῦς τινὰς ὑπολαμβάνειν τοὺς λέγοντας, ἡ τῷ ἀποδεδεῖχθαι πείθονται πάντες.

... three things require special attention in regard to speeches, first, the sources of the means of persuasion, second, the style, and third, the proper arrangement of the parts of the speech. Now we have already spoken of the means of persuasion, and stated that their sources are three in number, and what these are, and why there are only these three; for in all cases persuasion is effected either because the judges themselves are affected in a certain manner, or because they consider the speakers to be a certain sort of person, or because the truth of the statements made is demonstrated.

The first sentence states the principle of the *officia*; and because Aristotle, some lines further down, says, περὶ δὲ τῆς λέξεως ἐχόμενόν ἐστιν εἰπεῖν (3,1,2: 03b15: 'we have therefore next to speak of style'), the three *pisteis* are here

178. Cf. the conjecture (in 91b27) ἠθικοὺς <καὶ παθητικοὺς> by Trincavelus; Spengel (1852: 490; 1867: ad loc.) suspected the same (but preferred to think the whole phrase spurious). Note that this use of ἠθικός, paralleled by περὶ τὰ ἥθη in 1,2,7 and 1,4,5, virtually guarantees that the sentence is genuinely Aristotle's (Barwick 1922: 19-20 argues similarly; 2,12,1: 88b31-32, however, is not an appropriate parallel).

179. The rest of the book contains two hints about the three *pisteis*: 2,21, on the use of γνῶμαι, states how these may be employed for *ethos* and for giving (parts of) a speech an emotional tone (2,21,13-16: 95a18-b17); and 2,22,16 (96b28-97a1), which again summarizes the content of the first two books until that point, probably refers to *ethos* - *pathos* - characters (above n. 138).

180. The transition is possibly not Aristotle's (Düring 1966: 118). The text is (2,26,5: 03a35-b1): ὑπὲρ μὲν παραδειγμάτων καὶ γνωμῶν καὶ ἐνθυμημάτων καὶ ὅλων τῶν περὶ τὴν διάνοιαν, ὅθεν τε εὐπορήσομεν καὶ ὡς αὐτὰ λύσομεν, ἐλήσθω ἡμῖν τοσαῦτα. The phrase ὅλων τῶν περὶ τὴν διάνοιαν may refer to *ethos* and *pathos* also, as some have thought (Spengel 1852: 494-495; 1867: ad loc.; Solmsen [o.c. above n. 4]: 33 n. 1; Barwick 1966/67: 240, 242-245), but it may also refer to the material in 2,18-26 only (cf. Düring l.c.). The phrase ὅθεν ... λύσομεν (and its position) strongly suggests the second interpretation, but for the reception of the concept of the *pisteis* this will have made little difference, especially since 3,1,1 is clear.

also clearly linked with the first *officium*.

The chapter on propriety of style (3,7)¹⁸¹ may have reminded readers of the three *pisteis*, but the concepts of an emotional style and an "ethical" one (i.e., one showing character) (παθητικὴ, ἠθικὴ λέξις), announced in 3,7,1 (08a10-11) and treated later on¹⁸², is confusing: the second has nothing to do with ethos, the means of persuasion, but is concerned with the convincing portrayal of characters appearing in a speech, which was especially important in the narration¹⁸³. This may have blurred the role of the three means of persuasion¹⁸⁴.

The chapters on *τάξις* (disposition: 3,13-19) contain some statements and concepts that do not combine easily with the concept of the three *pisteis*. Chapter 3,14, which treats the prologue, does so mainly on the basis of traditional rules: the material for prologues is derived from 'the speaker, the hearer, the subject and the opponent'. These categories are not immediately compatible with those of arguments, ethos and pathos¹⁸⁵. Chapter 3,16, on the narration, discusses, among other things, convincing portrayal of characters and of people experiencing emotions. There are also some stray remarks on ethos, but no explicit references to the concept¹⁸⁶. And chapter 3,19, on the epilogue, mentions pathos, the praising of oneself and the blaming of the adversary, but all without a link with the three *pisteis*¹⁸⁷. Only 3,17, on the *argumentatio*, contains explicit references to the concepts of book 1-2. An example is the passage, quoted earlier (p. 24), that warns against combining ethos or pathos with enthymemes in this part of the speech¹⁸⁸. Why did Aristotle here suddenly return to the concept of the three *pisteis*? Probably, he wanted to emphasize his principle particularly in his treatment of the part of the speech which was traditionally concerned with rational arguments only, and which was commonly called *pisteis* (or *pistis*)¹⁸⁹. For his readers, how-

181. 3,1,4 (03b28) and 3,2,12 (05b2) (πᾶθος) are irrelevant.

182. Emotional style: 3,7,3-5 (08a16-25) and 7,11 (08b10-20); "ethical" style: 3,7,6-7 (08a25-36). The paraphrase of 3,7 in Flashar (1983: 255) is erroneous.

183. Above n. 113; Hellwig (1973: 267) wrongly associates it with ethos, which shows how necessary the distinction ethos/ἦθος is.

184. The same goes for 3,12, where "ethical" and emotional style are mentioned again (3,12,2: 13b10; cf. 12,4: 13b30-31; 12,6: 14a21). Süß (1910: 175 n. 2) connects this directly with ethos and pathos, but this depends on his views on ethos: § 2.6.

185. 3,14,7 (15a24-27): §§ 7-11 (15a24-b27) are based on it; cf. also § 4 (15a1-2). The whole chapter is somewhat chaotic anyhow.

186. 3,16,5 (17a2-7) is about ethos; §§ 8-10 (17a15-b11) about portrayal of characters and the faithful description of emotions, with ethos in between in § 9 (17a23-36) and § 10 (17b7-10).

187. 3,19,1 (19b10-13) announces four subjects for the epilogue, of which praise/blame and pathos are treated in § 1 (b14-19) and § 3 (b24-28).

188. 3,17,8-9 (18a12-21), partly quoted p. 24. Cf. also § 10 (18a27-28); § 12 (18a37-b1); §§ 16-17 (18b24-38). Süß (1910: 214) already detected this consistency in 3,17.

189. Lienhard (1966: 449) holds that the singular denotes the part, the *argumentatio* (which is correct), and the plural always the arguments within the *argumentatio* (which is doubtful, especially in 3,13,4: 14b9-11; 3,17,1: 17b21; 17,14: 18b5).

ever, this will have made little difference, and the references in this chapter will not have compensated for the absence of the principle in the surrounding ones.

The above analysis shows that the concept of the three *pisteis* is less clear in some parts of the work than in others. However, none of the inconsistencies is important enough to affect the interpretation, so the concept adequately describes the structure of books 1 and 2. On the other hand, this structure is not always clearly brought forward, and in book 3 the *pisteis* disappear almost completely from sight. The background of a reader will therefore have been an important factor in determining whether he understood the concept or not. The rhetorical tradition, in any case, was of no help, for it did, in all probability, never incorporate the three *pisteis*¹⁹⁰.

For contemporaries and near-contemporaries of Aristotle both features of the *Rhetoric* emphasized earlier, the organization according to *officia oratoris*, and the tripartition of the first *officium*, were new. But, in the first place, there were fairly many other new features of the work that were clearer than the concept of the three *pisteis*, and could accordingly divert attention from it: the three *genera causarum* (kinds of oratory), which may have been original in this form¹⁹¹, and were adopted by most later rhetoricians¹⁹²; and the theory of enthymeme and *topoi* for rational arguments, however difficult the details of this may be and may have been¹⁹³. Furthermore, the comparatively philosophical character of the analysis of the emotions may even have contributed to its own neglect.

These two factors may have played their part for any (near-)contemporary reader, whatever the form of his copy of the *Rhetoric*, but some other factors were dependent on this form. For those who possessed books 1 and 2 together with 3, the presence of the traditional parts of the speech in the second half of book 3 probably diverted attention from any principles adopted in the first two books¹⁹⁴. As far as the *pisteis* were concerned, this was reinforced by the fact that this concept was neglected and obscured in these same chapters of the *Rhetoric*. Furthermore, there was the long part on style (3,1-12), where the *pisteis* (after the clear statement in 3,1,1) had also been lost sight of. Since there was much interest in style (cf. Theophrastus, "Demetrius" *On Style*), this very part will

190. Solmsen (1938; 1941: 178-180). There are even insufficient grounds for supposing, as Solmsen does, that they were incorporated into pre-Hermagorean standard rhetoric: § 3.2.

191. Cf. Hinks (1936: 172), Solmsen (1941: 42-43), Kennedy (1963: 85-86), and Hellwig (1973: 142-166, with the conclusion 177).

192. Cf. Solmsen (1941: 180-181).

193. Solmsen (1941: 39-42, 169-178).

194. The observation is Kennedy's (1980: 77).

have received much attention¹⁹⁵.

For those who only had the first two books, the principle of the *officia* cannot have been clear, since that is only announced at the beginning of the third book (above p. 47-48), and is in fact only realized through the addition of this book. Even if these readers recognized the principle of the three *pisteis*, they were, therefore, unable to connect this with the first *officium*.

As far as it depended on the *Rhetoric* itself, it is therefore quite understandable that the *pisteis* were not adopted by the early post-Aristotelian rhetoricians. By the first century B.C., however, things were very different, for many of the concepts once new had become part of the tradition. Potential readers like Cicero were, therefore, familiar with all features mentioned as possible hindrances to an understanding of the concept of the *pisteis* two or three centuries earlier. Moreover, even for someone not in possession of the third book, the *officia oratoris* were so familiar that a link between invention and the content of Aristotle's first two books was probably not very difficult to make. This is not to say that this link was indeed always made: one of the testimonies to be treated below seems to show that it was not. But there is no doubt that Cicero, if he did read the *Rhetoric*, can indeed have recognized the concept. If he did, and if he read the work as a whole, he must also have perceived the connection of the principle of the *pisteis* with the fact that the parts of the speech were treated under the head of disposition, and with the ensuing relationship between invention and disposition, which had been obscured in part of the post-Aristotelian handbooks (see § 3.3). Cicero's organization of the material in *De oratore*, which is essentially the same as Aristotle's, bears witness to the fact that someone (whether Cicero himself or his source) indeed understood all this.

The next problem is the reception of Aristotle's concept of *ethos*. If readers, from whatever age, were aware of the presence of *ethos* in the *Rhetoric* (whether or not as one of the three *pisteis*), were they also likely to perceive that Aristotle's variant of *ethos* was the "rational" one? It seems they were not, for their backgrounds rather suggested *ethos* of sympathy to them, and the *Rhetoric* itself is, for a "normal" reader, not too clear about the point. I will illustrate both these claims, in this order: the background, being even more essential here than in the foregoing, is treated first.

The conditions for an understanding reception of the concept, as determined by traditional rhetoric and oratorical practice, were not favourable, neither in and shortly after Aristotle's own time, nor later. The focus of pre-Aristotelian

195. This is true whether its content was original or not (on its originality cf. Solmsen 1941: 44).

rhetoric was almost exclusively judicial¹⁹⁶, and early potential readers of the *Rhetoric* were therefore not well equipped to recognize a concept which was, as remarked earlier (p. 35), primarily useful for the deliberative kind of oratory. Here the *Rhetorica ad Alexandrum* is helpful. (This treatise was transmitted in the Aristotelian Corpus; it is probably not much later than Aristotle, and in many features reflects pre-Aristotelian rhetoric¹⁹⁷.) Even in the rules for prologues in the deliberative branch given there, the character of the speaker was linked to the winning of sympathy (εὐνοία)¹⁹⁸. This link is of course also made in the precepts for judicial and other prologues¹⁹⁹. And whenever else mention is made of the character of the speaker, that of the client²⁰⁰, or, negatively, that of the adversary, it is either connected with rational proof from probabilities ('I, being who I am, am not likely to have done such a deed'), or with sympathy, never with "rational" ethos²⁰¹. That the theory for the prologue in this treatise was indeed the standard one is confirmed by hints in Aristotle²⁰². Oratorical practice likewise primarily used character to arouse sympathy or to put the adversary in an unfavourable light²⁰³.

There is, however, one passage in the *Rhetorica ad Alexandrum* that shows a concept similar to Aristotle's ethos. Because it is not without some difficulty, I will treat it here. In 14,8-9 (1431b10-19) the first of the πιστεῖς ἐπιθετοί, 'supplementary means of persuasion' (the equivalent of Aristotle's 'non-technical means of persuasion'), is treated. It is ἡ δόξα τοῦ λέγοντος, which is sometimes

196. Above, p. 13 with n. 20.

197. Cf. Kennedy (1963: 114-123), Manfred Fuhrmann, *Untersuchungen zur Textgeschichte der pseudo-aristotelischen Alexander-Rhetorik* (AAWM 1964,7), Barwick (1966/67; on his reconstructions below n. 211).

198. *Rhet. Alex.* 29,6-28 (1436b17-1438a2), especially 6-10 (1436b17-38).

199. 36,3-4 (1441b37-1442a5) (Fuhrmann is probably correct in marking the passage as corrupt, but the general tendency is clear); 36,5 (1442a6-14) (εὐμένεια); 36,7-15 (1442a12-b28) (on διαβολή; both rational arguments and sympathy appear). On prologues in general: 38,4 (1445b39-46a2) (cf. 38,5: 1446a4).

200. In *Rhet. Alex.* a client is sometimes implied, but the possibilities this creates as to character-drawing are only occasionally hinted at (Kennedy 1968: 422, cf. 426).

201. Probabilities: e.g. 7,9 (1428b29-32); sympathy: 37,3 (1445b3-4); 37,6 (1445b17-20); 38,2 (1445b32-34). In 22,8 (1434b28-31) convincing portrayal of people appearing in the speech (*ethopoeia*) seems to be meant: τὰ ῥῆθι τῶν λόγων ὁμοῦν τοῖς ἀνθρώποις (*contra* Forster [Oxford Transl.], Rackham [Loeb ed.], who take ἀνθρώποις as 'your audience').

202. 3,14,7 (15a24-25) with 14,7-11 (15a25-b27); his account of διαβολή in 3,15, which almost certainly derives from contemporary theory. 1,2,4 (56a10-13), where εἶνοι τῶν τεχνολογούντων are said to explicitly consider character unimportant, may seem a bit puzzling. But εἶνοι (which is not used in the comparable passages 1,1,3: 54a12; 3,13,3: 14a36!) should probably be taken literally.

203. Cf. Gorg. *Pal.* 28-32 (though rational proof from character is the only aim explicitly mentioned, sympathy is probably also a chief aim); the examples from Lysias in Kennedy (1963: 91 n. 86); Isocr. *Paneg.* (4), 14; *Antidosis* (15), 122. Some passages from Isocrates testify to the widespread use of this technique: *Antidosis* (15), 278-280; *Paneg.* (4), 13; *Phil.* (5), 26.

taken as 'the reputation of the speaker'²⁰⁴. Indeed the phrase frequently has this meaning²⁰⁵, but the passage itself defines it very differently: τὸ τὴν αὐτοῦ διάνοιαν ἐμφανίζειν κατὰ τῶν πραγμάτων ('the pronouncement of his own view regarding the issues')²⁰⁶, so it must mean 'the opinion of the speaker'²⁰⁷. It has been objected that, taken in this way, the definition is a tautology²⁰⁸. This, however, is a half-truth, for the very reason that the phrase could also mean 'reputation'; moreover, the definition of a technical term is often more or less tautological.

As far as the term is concerned, therefore, there is no connection with *ethos* in any form. What complicates the problem is that the rest of the passage does exhibit such a connection²⁰⁹:

δεῖ δ' ἐμπειρὸν ἀποφαίνειν σεαυτὸν περὶ ὧν ἂν λέγῃς, καὶ ἐπιδεικνύειν, ὥς συμφέρει σοὶ τάληθ' εἰπεῖν περὶ τούτων, τὸν δ' ἀντιλέγοντα μάλιστα δεικνύειν μηδεμίαν ἐμπειρίαν ἔχοντα τὸν ἐναντίον περὶ ὧν ἀποφαίνεται τὴν δόξαν ὅμως. ἂν δὲ τοῦτο μὴ δυνατόν ᾖ, δευτέρον, ὥς καὶ οἱ ἐμπειροὶ πολλάκις ἐξαμαρτάνουσιν, ἂν δὲ τοῦτο μὴ ἐνδέχῃται, λέγειν, ὥς ἀσύμφορόν ἐστι τοῖς ἐναντίοις τάληθ' εἰπεῖν περὶ τούτων εἰπεῖν. ταῖς μὲν οὖν δόξαις τοῦ λέγοντος οὕτω χρησόμεθα καὶ αὐτοὶ ἀποφαινόμενοι καὶ ἑτέροις ἀντιλέγοντες.

You ought to show yourself to be experienced in the matters about which you are speaking, and point out that it is to your advantage to tell the truth concerning them. One who is contradicting ought first and foremost to show that his adversary has no experience of the matters on which he is nevertheless giving his opinion; if however that is impossible, he ought to show that even persons of experience often make mistakes; and if this is inadmissible, he must say that it is contrary to the advantage of his opponents to tell the truth about these matters. Such is the use which we shall make of opinions expressed by speakers, both when we are ourselves expressing them and when we are contradicting others.

204. Paul Wendland, *Anaximenes von Lampsakos. Studien zur ältesten Geschichte der Rhetorik* (Berlin: Weidmann, 1905), 50-51; his view was adopted by Süss (1910: 116-117) and Hagen (1966: 20).

205. *Rhet. Alex.* 38.2 (1445b33-34) δόξης ἐπεικουῖς; *Isocr. Paneg.* (4), 14; *Phil.* (5), 26; *Antidosis* (15), 280.

206. Wendland (l.c. above n. 204) paraphrases as follows: 'Also äussert sich der Redner nicht über die Dinge, sondern an den Dingen legt er seine Denkweise, innere Gesinnung, sein ἦθος dar', taking κατὰ (with gen.) as 'an' (thus Hagen 1966: 20), which is impossible: there is no such meaning in LSJ, and none of the four passages he adduces (p. 51 n. 1) offers the slightest support. (The meaning of κατὰ adopted here is common: LSJ s.v., A.II.7 'in respect of, concerning'.) Another decisive point is the plural δόξαις τοῦ λέγοντος at the end of the passage: 'reputations of the speaker' is meaningless.

207. Thus already, with the arguments given here n. 206 and some others, Adalbert Ipfelkofer, *Die Rhetorik des Anaximenes unter den Werken des Aristoteles* (Diss. Erlangen; Würzburg 1889): 33-34 (not 'Ipfelkopfer', as Kennedy 1963: 117 calls him); before him Spengel, *Griechische Prosaiker in neuen Übersetzung* (hrsg. von Tafel u.a., Bd. 201; Stuttgart 1840), 354 (which I have not seen) and Cope (1867: 428); and after him Forster (Oxford Transl.) and others. The solution proposed by Hellwig (1973: 253-254 n. 7) labours under much the same difficulties as Wendland's.

208. Hagen (1966: 20), thus Hellwig (1973: 253 n. 7).

209. Fuhrmann's text, except for τὴν δόξαν ὅμως Forster (Oxford Transl., note ad loc.): τὴν τε δόξαν ὁμοίως codd.: del. Fuhrmann. The translation is Forster's, with minor alterations.

These instructions are clearly aimed at adding weight to the speaker's opinion. This shows why 'the pronouncement of the speaker's view' should be one of the 'supplementary means of persuasion': it refers to pronouncement of an opinion without the addition of its grounds, solely on the basis of the speaker's authority. The added instructions are meant to establish this authority, and are completely in line with Aristotle's concept of "rational" ethos. The factors mentioned are even very similar: experience shows that the speaker could tell the truth, like Aristotle's 'good sense'; and advantage that he wants to, like (less cynically) 'goodness' and 'goodwill'²¹⁰.

This passage is the only one, as far as I know, that resembles Aristotle's approach to ethos. It would be interesting to know who was first, but that seems impossible to decide: although the *Rhetorica ad Alexandrum* shows many pre-Aristotelian features, it was perhaps (or even probably) written after the *Rhetoric*, and the matter is further complicated because the treatise was probably to some degree tampered with in later times²¹¹.

In any case, the passage is an isolated one, and even relatively unimportant in the *Rhetorica ad Alexandrum* itself. Therefore, and because of the firm association in other sources between character and sympathy, we may safely conclude that early theory and practice did not to any significant extent prepare potential readers of the *Rhetoric* for the "rational" concept of ethos.

Whereas the backgrounds of earlier and later readers differed with respect to the three *pisteis* (above p. 50), they were very similar as far as ethos was concerned, since post-Aristotelian handbooks had the same relevant characteristics as the pre-Aristotelian ones. They were also primarily judicial in outlook, and *topoi* taken from the character of the speaker were commonly enumerated, in the rules for the prologue, under the head of εὐνοία (*benevolentia*, 'goodwill, sympathy'; cf. § 3.5). Roman readers will have been even less receptive to the "rational" concept than their Greek contemporaries, since to them the rational aspect was virtually unknown in the practice of deliberative speeches also. The members of the senate knew each other well, and did not need to be informed of the credentials of a speaker, whereas speeches made before an assembly of the people frequently relied on pathos, or on *auctoritas* ('authority, prestige'), which was also important in the senate and in judicial speeches²¹². The latter may indeed be

210. This analysis: Ipfelkofer (o.c. above n. 207: 33).

211. Fuhrmann (o.c. above n. 197: 143-171, with the conclusions 171). I have not taken a stand on the authorship: Anaximenes' claim seems to me more doubtful than some think. Barwick's reconstruction of the historical relationship between the *Rhet.* and the *Rhet. Alex.* (1966/67) is so uncertain as to be virtually worthless (despite a number of pertinent observations).

212. Cf. Quint. 3,8,12-13 (I must admit that he describes *auctoritas* in terms resembling Aristotle's description of ethos: *prudētissimus ... et optimus*; this seems to overemphasize the role of *prudētia* in practice, but rather because of a tendency at moralizing than because of any near-

considered a form of ethos, but it is a far cry from the form Aristotle describes.

Readers with such backgrounds are not likely to discover the "rational" variant of ethos, unless it is brought forward very clearly. A survey of the relevant passages will show that the *Rhetoric* does not do so. (The natural sequence of the passages need not be strictly observed here, since almost all of them point to this same conclusion.) This is not to say that many of these passages show a conflicting concept. But whereas a passage may be in agreement with "rational" ethos, it may nevertheless be confusing, especially if the moral aspect is emphasized: although this aspect does belong to "rational" ethos, a reader not fully aware of that concept may interpret it as pointing to "ethos of sympathy".

None of the passages in book 1 referring to ethos is in conflict with Aristotle's concept as outlined in 2.1. Two of these indeed mention trustworthiness. Even there, however, misunderstanding is not far off. First, there is 1,2,4 (56a5-6): διὰ μὲν οὖν τοῦ ἥθους, ὅταν οὕτω λεχθῇ ὁ λόγος ὥστε ἀξιόπιστον ποιῆσαι τὸν λέγοντα· τοῖς γὰρ ἐπικρέσει πιστεύομεν μᾶλλον καὶ θᾶπτον ('persuasion through character is effected when the speech is spoken in such a way, as to render the speaker trustworthy; for we believe good men more fully and more readily than others'). In this first description, the aim of ethos is already specified, but the explanation still only mentions goodness²¹³. The second passage is 1,9,1 (66a27-28): ἐκ τῶν αὐτῶν ... ἡμᾶς τε καὶ ἄλλον ἀξιόπιστον δυνησόμεθα ποιεῖν πρὸς ἀρετὴν ('it is by the same means that we shall be able to make ourselves or others appear trustworthy as far as goodness is concerned')²¹⁴. 'Goodness' (ἀρετή) is here linked, not identified with trustworthiness, but this was probably lost on readers with backgrounds as sketched. Another passage is still more confusing: in 1,8,6 (66a10-12) (quoted p. 39), two qualities are mentioned as inspiring confidence: πιστεύομεν ... ἂν ἀγαθὸς φαίνηται ἢ εὖνους ἢ ἄμφω ('we have confidence in a speaker if he appears to possess goodness, or to have goodwill towards us, or both'). The element of φρόνησις ('good sense'), which might have hinted at the "rational" variant, is here lacking!²¹⁵

This element of 'good sense', which is so important to the "rational" concept

Aristotelian concept on the theoretical level); and cf. Kennedy (1972: 41, 42, 55-57 [Cato's definition of an orator as *vir bonus dicendi peritus*], 57, 65, 78, 100-101).

213. Since this is a preliminary description, this does not contradict the interpretation of Aristotle's ethos as given in § 2.3.

214. For the meaning of πρὸς with acc. 'in reference to' see LSJ s.v., C.III.1. The meaning 'for (a purpose)' (ib., C.III.3) is not appropriate here: the means to be discussed in 1,9 are those for depicting ἀρετή, not ἀξιοπιστία, so ἀρετή leads to ἀξιοπιστία, not the other way round.

215. 1,15,18 (76a23-29), on witnesses of character, is also confusing (εἰς ἐπικρείαν), even if such witnesses did not fall under the *pistis* ethos (above p. 35-36). (1,2,7: 56a22-23 and a26; 1,4,5: 59b10 are neutral; in the first of these τὰς ἀρετὰς is too vague for Cope's interpretation [1867: 110] as φρόνησις ἀρετὴ εὖνοια).

of ethos, is mentioned only in 2,1,5-7. Moreover, it is improbable that the two (ambiguous) mentions of trustworthiness in book 1 were adequate preparation for Aristotle's very compact presentation. This means that of those readers recognizing this passage as the treatment of ethos, many, if not all, will have missed the significance of φρόνησις and the essence of Aristotle's concept, as most modern interpreters have. They will have taken ethos in the way that their backgrounds suggested to them, i.e., as being aimed at sympathy.

Moreover, 2,1,5-7 is very short, and many readers will, like some modern commentators, have taken 2,12-17 for the treatment of ethos, encouraged by 2,13,16 and 2,18,1-2 (above, p. 38 and p. 46-47). They will certainly have understood the purpose of ethos to be sympathy²¹⁶.

The first chapter of book 3 is explicit about the three *pisteis* (above p. 47-48), but the description of ethos is, again, vague as to its content: ποιοὺς τινας ὑπολαμβάνειν τοὺς λέγοντας (3,1,1: 03b11-12: 'they regard the speakers as being of a certain kind'). Some other passages in this book are like this²¹⁷; others are potentially confusing in a general way, as 3,7 is (above p. 48); and others only mention the moral aspect, suggesting to a reader ethos of sympathy²¹⁸. Although chapter 3,17 is consistent with the principle of the three *pisteis* itself, this suggestion is there reinforced (3,17,12: 18a37-b1):

ἔχοντα μὲν οὖν ἀποδείξεις καὶ ἡθικῶς λεκτέον καὶ ἀποδεικτικῶς, ἐὰν δὲ μὴ ἔχῃς ἐνθυμήματα, ἡθικῶς καὶ μᾶλλον τῷ ἐπιτελεῖ ἀρμόττει χρηστοῦν φαίνεσθαι ἢ τὸν λόγον ἀκριβῆ.

Now if you have proofs, you must speak in a way that brings to the fore your character as well as the proofs, but if you have no (sc. rational) enthymemes²¹⁹, in a way that brings to the fore your character. In fact, it is more fitting for a good man that he should appear decent than that his speech should be painfully exact.

Rational argumentation is here made subordinate to appearing χρηστός ('decent'), which is, again, not strictly contrary to "rational" ethos, but does suggest "ethos of sympathy"²²⁰. The final chapter, 3,19, about the epilogue, even seems to contain a real contradiction with the principle of two separate *pisteis*, "rational" ethos vs. pathos, for making the hearer well-disposed towards oneself and ill-disposed

216. Cf. also 2,21,13-16 (95a18-b17) (above n. 179). 2,22,16 (96b28-97a1) (ib.) will not have made much difference.

217. 3,1,2 (03b17-18); 12,2 (13b10); 17,8-10 (18a15-21; 27-28). Irrelevant passages where ἥθος occurs: 12,4 (13b30-31); 12,6 (14a20-21).

218. 3,14,7 (15a27-34) and 16,5 (17a2-7) (both probably: ethos is not mentioned); 16,8-10 (17a15-b10) (partly about portrayal of characters; ethos 17a23-36 and 17b7-10; cf. Schütrumpf 1970: 5, and above n. 186).

219. On the interpretation of 'enthymemes' etc., cf. p. 24-25.

220. The same suggestion 3,17,16-17 (18b24-38).

towards the adversary is treated as separate from playing upon his feelings²²¹. The only passage in book 3 mentioning the rational aspect (although ethos is not explicitly mentioned) is 3,17,4 (17b36-38) (the context is deliberative oratory!):

δεῖ δὲ καὶ ὁρᾶν εἰ τι ψεύδεται ἔκτος τοῦ πράγματος· τεκμήρια γὰρ ταῦτα φαίνε-
ται καὶ τῶν ἄλλων ὅτι ψεύδεται.

One must also look to see whether the adversary makes any false statements about things outside the issue, for they will look like evidence that his other statements also are false.

This one passage, however, is not clear enough by far to undo the suggestions made elsewhere.

Of course the analysis of what ancient readers may have understood is to a certain extent speculative. It is therefore important that we have some ancient testimonies that may illustrate the above analyses²²².

The first one is from the treatise *Περὶ ῥητορικῆς* (*On Rhetoric*) by Philodemus, a Greek who lived in Rome from the seventies of the first century B.C.²²³ The text is preserved on papyri from Herculaneum, and is rather damaged in some places. In the relevant passage²²⁴, he mentions pathos, perhaps also ethos, and says that, though the rhetoricians have borrowed everything else from Aristotle, they have not borrowed this. As he also seems to speak of 'three things' in this connection, he may have known about Aristotle's three *pisteis*. How he took ethos, we cannot tell²²⁵.

221. 3,19,1 (19b10-13); and 19,1 (19b14-19) vs. 19,3 (19b24-28).

222. This part does not reflect any thorough personal investigation. The lines of the (diffuse) Aristotelian tradition as sketched by Solmsen (1941), however, are clear. Cf. also Angermann (1904; comments on this work in Solmsen 1941: 175 n. 81).

223. Edition: Siegfried Sudhaus (ed.), *Philodemi Volumina Rhetorica* vols. I, II, Suppl. (Leipzig: Teubner, 1892-1896; repr. Amsterdam: Hakkert, 1964) (references are to vol., page and column). A paraphrase with introduction: Harry M. Hubbell, 'The Rhetorica of Philodemus', *Transactions of the Connecticut Academy of Arts and Sciences* 23 (1920), 243-382. On Philodemus' dates cf. Hubbell p. 259.

224. I p. 370 col. LXXXVIII, with corrections II p. xxvi (Hubbell [o.c. prev. n.]: 338 translates the uncorrected text). The text as (finally) given by Sudhaus (see next n. on some difficulties; line endings are indicated, low dots as given by Sudhaus are not except in line 16 το.ον): [τῶν περὶ τὰ πᾶ]||θῆ κα[ὶ] ῥῆθ συνεστικέ[ς]||να[ὶ] φ[ι]ησὶ τ[ὸ] κυριώτα|τον ἐν τῷ κατανοῇ|σαι, διὰ τίνων καὶ γεν|νᾶται καὶ καταπρανε|ται ταῦτα. Τοῦτο δὲ μό|νον ὡς οὐ προσήκον ἐ|αυτοῖς ο[ὐκ] ἐνχειρῆσαι| τοὺς ῥήτορας ἐκ τῶν 'Α|ριστοτέλους μετενε[γ]|κεῖν, τὰ λοιπὰ μετενη|νοχότας. Τοιοῦτων δὲ| τινων λεγομένων τί| προχειρό[τερο]ν ἂν δόξ[ει]|εν εἶναι [ῆ] τῶν το.ον (puto τριῶν)|| μερῶν [μῆ? κ]αταφρονη||σαι.

225. Sudhaus reads ῥῆθ in line 1, but this whole line, as well as the greatest part of the second one, is not preserved (the third one seems to have been hard to decipher). The mention of pathos is preserved. The presence of ethos is not impossible, and would be almost certain if we knew that Sudhaus was right in (not implausibly) suggesting that line 16 had τριῶν; on the

A second testimony comes from Dionysius of Halicarnassus, the Greek literary critic who worked in Rome from ca. 30 B.C.²²⁶ He certainly read the *Rhetoric* in three books²²⁷, but the text to be quoted presently is from a relatively early treatise, *Lysias*, and it is uncertain whether he had read it then already, and if so, if he already had a copy containing books 1 and 2 together with book 3²²⁸. *Lysias* 19 begins thus²²⁹:

ἄρξομαι δὲ ἀπὸ τῶν καλουμένων ἐντέχνων πείσεων καὶ χωρὶς ὑπὲρ ἐκάστου μέρους διαλέξομαι. τριχῇ δὲ νενεμημένων τούτων εἰς τε τὸ πρᾶγμα καὶ τὸ ἥθος καὶ τὸ πάθος

I shall begin with the so-called technical means of persuasion and discuss each of them separately. These are divided into matter, character and emotion.

So Dionysius had understood the tripartition itself (or, if he had not read the *Rhetoric* himself yet, his source had)²³⁰. It is, however, essential to note that the passage under discussion, *Lysias* 19, is about Lysias' handling of the part of the speech *argumentatio*²³¹. Dionysius, therefore, seems to have misunderstood the place of the *pisteis* in Aristotle's system, i.e. the fact that they were meant as a division of invention. Whether this is due to a misunderstanding of the *Rhetoric* as a whole or to his having read books 1 and 2 without book 3 is, of course, uncertain.

Dionysius' handling of ethos, however, is clear, and revealing (*Lysias* 19,3-4)²³²:

καὶ τὰς ἐκ τῶν ἡθῶν γε πίστεις ἀξιολόγως πάνυ κατασκευάζειν ἔμοιγε δοκεῖ. πολλάκις μὲν γὰρ ἐκ τοῦ βίου καὶ τῆς φύσεως, πολλάκις δ' ἐκ τῶν προτέρων πράξεων καὶ προαιρέσεων ἀξιόπιστα κατασκευάζει τὰ ἥθη. ὅταν δὲ μηδεμίαν ἀφορμὴν τοιαύτην λάβῃ παρὰ τῶν πραγμάτων, αὐτὸς ἡθοιοιεῖ καὶ κατασκευάζει τὰ

other hand, the singular τούτο δὲ μόνον (lines 7-8) seems to plead against this. But the exact wording is unknown in any case, and ἡθη seems improbable (cf. below n. 270). (Professor P.J. Sijpesteijn points out to me that, since the lines contain ca. 16 letters each, Sudhaus' first guess [I,370] made line 1 too long, whereas his second one leaves some room there - which is not impossible, but emphasizes the uncertainties.)

226. About Dionysius cf. Stanley F. Bonner, *The Literary Treatises of Dionysius of Halicarnassus: A Study in the Development of Critical Method* (Cambridge UP, 1939; repr. Amsterdam: Hakkert, 1969), Grube (o.c. above p. 5 n. 10: chapter 13), Kennedy (1972: 342-363).

227. Cf. *Ep. ad Amm.* I, 8 (p. 266,20-21 U.-R.) ὅς ἐν τῇ τρίτῃ βύβλῳ τῶν τεχνῶν τέθηκε περὶ τῆς μεταφορᾶς κατὰ λέξιν οὕτω γράφων; and *Comp. verb.* 25,14 (p. 126,6 U.-R.). Cf. Kennedy (1972: 343-344).

228. The point is Düring's (1966: 125 with note 33).

229. Dion. Hal. *Lys.* 19,1 (p. 30,20 - 31,2 U.-R.).

230. Thus Solmsen (1941: 179 n. 92). Cf. also (Gill 1984: 158 n. 47) *Dem.* 18,6 (p. 166,19-26 U.-R.).

231. *Lys.* 18,5 (p. 30,19 U.-R.) ἐν δὲ τῷ πισθοῦσθαι τὰ πρᾶγματα (!).

232. p. 31,8-16 U.-R. The translation is adapted from Stephen Usher's (Loeb ed. of Dion. Hal., *The Critical Essays*).

πρόσωπα τῷ λόγῳ πιστὰ καὶ χρηστά, προαιρέσεις τε αὐτοῖς ἀστοίας ὑποτιθεῖς καὶ πάθη μέτρια προσάπτων καὶ λόγους ἐπιεικεῖς ἀποδοῦς καὶ ...

He also seems to me to show very notable skill in constructing means of persuasion from character. He often makes his client's character appear trustworthy by referring to the circumstances of his life and his parentage, and often again by describing his past actions and purposes. And when the facts fail to provide him with such material, he creates his own moral tone, making his characters seem by their speech to be trustworthy and honest. He credits them with civilized purposes and attributes controlled feelings to them; he makes them voice appropriate sentiments ...

Dionysius uses the word ἀξιόπιστος ('trustworthy'), which may derive directly from Aristotle, but takes this in a broad sense and ascribes to Lysias the ability to depict his client as good and respectable. (This estimate of Lysias' skill is in line with his earlier description of Lysias' *ethopoia* [Lysias 8], for Dionysius is now generally understood to mean by this the favourable presentation of the characters of his clients, i.e. the same as *ethos* as a means of persuasion²³³.) This shows that reading the *Rhetoric* did not prevent him or his source from taking *ethos*, Aristotle's second *pistis*, as "ethos of sympathy".

There are, as far as I know, no other testimonies comparable with these two, except, of course, the indirect one of Cicero's *De oratore*. There invention is divided into the three *pisteis*, which illustrates that this feature was indeed recognizable. *Ethos* in *De oratore*, however, as will be argued in a later chapter (§§ 7.3-7.5), is not Aristotelian, since it aims at sympathy, but it is impossible to decide whether this is due to a conscious change of the Aristotelian concept or to a misunderstanding of the *Rhetoric*: Dionysius refers to 'the so-called technical *pisteis*', which shows that he employs the concepts as he has understood them when he found them elsewhere, but Cicero does nothing of the kind, and thus leaves open the question of his relationship with predecessors.

Other testimonies are few in number, probably because Aristotle was not widely read²³⁴, neither are they very helpful. Quintilian, e.g., quotes him a number of times, but probably not at first hand. The account of *ethos* and *pathos* in his sixth book is not well integrated into his system; Aristotle as a source is out of

233. The "modern meaning" attached to *ethopoia*, the faithful or trustworthy depiction in a speech of characters as they are, either those of the clients of a logographer or those of persons appearing in (the narration of) a speech, is not the one used by Dionysius (as e.g. Kennedy 1963: 92 states): Stephen Usher, 'Individual Characterisation in Lysias', *Eranos* 63 (1965), 99-119: 99 n. 2; Hagen (1966: 5-10), Hellwig (1973: 259 n. 17). Usher shows, however, as others have done (cf. Kennedy: l.c. with n. 87) that Lysias himself did use the technique of *ethopoia* in the modern sense; so, paradoxically, 'Dionysius underestimates Lysias' ability at individual characterisation' (Usher, vol. 1 p. 61 n. 5 of his Loeb ed. of Dionysius).

234. Cf. e.g. Sandbach (1982) (cf. below p. 106 n. 3).

the question, and its presence is almost certainly due to Cicero's influence²³⁵. The only other extant authors exhibiting the threefold division of *pisteis* are Minucianus and Martianus Capella (third and fourth/fifth century A.D. respectively)²³⁶. In the latter's treatise, the *pisteis* are a division of invention, and ethos is aimed at sympathy, but the influence is probably Roman and Ciceronian²³⁷. Minucianus, after briefly discussing the threefold division of *pisteis*²³⁸, goes on to deal with "epicheiremes", i.e., the forms of rational proof (the term covers enthymemes etc.), and it seems likely that his work is meant as a treatise on invention, and that the *pisteis* are indeed a subdivision of that *officium*. Ethos, surprisingly, is described in "rational" terms, and, correspondingly, sympathy (εὐνοία) is explicitly mentioned as belonging to pathos. Minucianus, however, belongs to the age of the commentaries, and though his connections are practically unknown²³⁹, he (or his source) probably differed much from the "normal" reader of the centuries B.C. Nevertheless, it is not without value that his case shows the possibility of an understanding reception of Aristotle's "rational" ethos.

To sum up, the threefold division of invention made in the *Rhetoric* was probably unclear to early readers. Later ones, especially those who possessed all three books together, had a better opportunity of grasping it. But the testimony of Dionysius of Halicarnassus shows that the place of the *pisteis* as a division of invention was not necessarily understood.

Ethos was likely to be interpreted by readers from the whole period between Aristotle and Cicero as aimed at sympathy, as it has been by almost all moderns. The gap between Aristotle's "rational" concept of ethos and what his readers' backgrounds suggested to them was probably too large to be bridged by so short an exposition as 2,1,5-7, embedded in a work containing so many hints leading them astray. The difficulty we have in interpreting Aristotle is nothing new.

235. The reference to Arist. (*Rhet.* 1,2,4: 56a13) in Quint. 5,12,9 might seem to reflect the genuine Aristotelian concept of ethos, but the context tells against this, and the designation *probationes* ... παθητικός is decisive. About ethos and pathos in Quint. 6,2 cf. the references below n. 272. Cf. also the much debated passage 5,10,17, which gives an (inaccurate or expanded?) resumé of *Rhet.* 2,1-17 (cf. Spengel 1852: 496-497; 1867 II: 248; Roemer 1898: lxxxviii, xcii f.; Angermann 1904: 42-43; Süß 1910: 155; Hellwig 1973: 237 n. 12).

236. Solmsen (1941: 179 with n. 92).

237. Mart. Cap. 5,502-505 (= §§ 28-29 in *RLM*) treats ethos and pathos (443-505 = §§ 6-29 is about invention; cf. 506 = § 30). He polemically insists on not treating the parts of the speech at the same time (503 = § 28). Cf. his introduction of the three *pisteis*, 473 (= § 21; he there employs the order ethos - arguments - pathos, which is prompted by the comparison with the parts of the speech: his subsequent treatment follows the usual order arguments - ethos - pathos). Cf. also Appendix 2, pp. 324 and 325-326.

238. Minucianus 1, p. 340-341 Sp.-H.

239. Cf. Kennedy (1972: 624-625), *Kleine Pauly* s.v. Minukianos, 1 and 2.

2.6 Ethos and ἥθος: Some Modern Terms and Interpretations

The interpretation of Aristotle's concept of ethos given in this chapter differs from most modern ones, as remarked earlier (p. 34). In view of the large amount of literature on the subject, and the diversity of current approaches and uses of terms, it seems useful briefly to discuss two issues. The first is a terminological one, the second concerns the approach of Wilhelm Süss. (In what follows, the relationship between ethos and its Greek form ἥθος is essential, and the Greek form will accordingly not be transcribed.)

In an influential discussion of ἥθος, Cope distinguished between what he called 'three kinds of ἥθος'²⁴⁰. The first was what I have called ethos, i.e., the second of the technical *pisteis*; the second was τὰ ἥθη τῶν πολιτειῶν (1,8,6: 66a12: 'the characters of states', 'forms of government'); the third, belonging to style, the quality often called *ethopoia* and concerned with faithfully portraying persons appearing in a speech²⁴¹. Similar descriptions are found elsewhere: Kennedy, e.g., speaks about 'several different "characters"'²⁴².

The distinction between the several categories is useful, but designations like 'kinds of ἥθος' are potentially confusing²⁴³. They suggest that the word ἥθος has different meanings (in the case of Cope and Kennedy, three), and that it is a technical term in all of these meanings. But the one meaning 'character' is appropriate in all three cases; and the word is never used as a term. The *pistis* ethos, e.g., is introduced by αἱ μὲν (sc. πιστεῖς) ... εἰσιν ἐν τῷ ἥθει τοῦ λέγοντος (1,2,3: 56a2-3: 'some *pisteis* are dependent on the character of the speaker'); it is frequently referred to by descriptions like αὐτὸν ποιοῦν τινα ... κατασκευάζειν (2,1,2: 77b24: 'representing oneself as a certain sort of person'); but never by the word ἥθος alone²⁴⁴. As emphasized before, my use of 'ethos' for the means of persuasion instead of the Greek ἥθος is an attempt to avoid confusions such as Cope's²⁴⁵, and others springing from it. An example of these

240. Cope (1867: 108-113; cf. 112 'third variety of ἥθος'; 1877 II: 138).

241. Above n. 233.

242. Kennedy (1963: 91-93) (on 1972: 222 cf. above n. 152); his three categories are not the same as Cope's. Braet (1989: note 19) uses the term ethos to designate his five categories. Cf. also Süss (1910: 2; see below). Sattler's account of 'Aristotle's conception of ethos' (1947: 57-61) is confused.

243. Freese (p. 477), using Cope's three categories, produces a much clearer picture by avoiding this way of speaking.

244. With the introductory formulation cf. 1,2,4 (56a5) διὰ ... τοῦ ἥθους; and with the second description quoted: 1,2,4 (56a10); 1,8,6 (66a10); 2,1,3-4 (77b26-27, 29); 3,1,1 (103b11-12), and also 1,9,1 (66a26-27) (above p. 16).

245. LSJ s.v. ἥθος, II.2.c shows the same confusion in presenting 'delineation of character' as a meaning of ἥθος as a rhetorical term: in all cases quoted it is the whole expression that denotes such delineation, not the word ἥθος, e.g. ἥθος ἐμφαίνειν (Philodemus *Rhet.* 1,200 Sudh.). Cope (1867: 113) fosters another confusion: he also calls his third kind 'the third method

is that the means of persuasion is sometimes even designated by the plural ἥθη ('characters')²⁴⁶, which blurs the distinction between ethos and the subject of chapters 2,12-17, the 'characters' of several classes of people.

Of course, the 'character' of a state is different in kind from the 'character' of a human being. This difference, however, is due to that between states and human beings, it is not due to, or expressed by, the word 'character' (ἥθος) itself²⁴⁷.

If the views of Wilhelm Süss are often misrepresented, this must be ascribed to the obscurity of his arguments²⁴⁸. Nevertheless, his book seems to have had some influence²⁴⁹, and it is frequently mentioned. He sometimes uses the word ἥθος in the way criticized above, but there are objections to his views that are, though connected with this use of the word, still more fundamental. In the following survey of his theories I will attempt to remove the obscurities, but some are bound to remain.

Süss²⁵⁰ distinguished between three concepts, all of which he thought are found in ancient theory. (1) Objective, psychological use of character in rational arguments from probability; this is unproblematic²⁵¹. (2) Use of 'moral' character (ἥθος). This corresponds to the *pistis* ethos, and as such is also relatively unproblematic: the description of ethos in moral terms, and thus in terms of "ethos of sympathy", though not adequate in the case of Aristotle, is common. In fact, Süss was one of the first to defend the view that ethos was treated in *Rhetoric* 2,1²⁵². (3) 'Subjective-dynamic' ἥθος. The concept is problematic, but crucial to Süss' approach. This ἥθος is a quality of the speech: the speech is regarded as a living organism possessing a certain character, by which it can influence the

by which the speech may be made to express *character*' (his italics): this suggests the existence of one purpose, which is served by all 'three variants'.

246. Cope (1867: 108, 112), Kroll (1940: 1059), Solmsen (1941: 42, 179), Fuhrmann (1984 [above n. 54]: 33, 147).

247. Of course, the use of the same word in the two cases tends to blur the difference, but that is another question.

248. Süss (1910). Inaccurate representations: e.g. Kennedy (1963: 93 n. 89) (Süss does not call his second kind of ἥθος subjective, only his third kind); Radt (1979: 302 n. 26) (he seems to imply that Süss thinks 2,12-17 treated the *pistis* ethos); Schweinfurth-Walla (1986: 71 with n. 1) (Süss had other reasons for coupling 2,2-11 and 12-17 than she suggests).

249. Cf. below n. 267; and also Kroll (1918a; 1940: 1059), Grant (below p. 309 n. 30), Konrad Glaser ('Platons Stellung zum Kampf von Philosophie und tragischer Dichtung', *WS* 58, 1940, 30-73: 47-49), H. Koller (*Die Mimesis in der Antike*, Bern: Francke, 1954: 158-162), Rudolf Kassel (*Untersuchungen zur griechischen und römischen Konsolationsliteratur*, *Zetemata* 18, München: Beck, 1958: 7), Charles P. Segal ('Gorgias and the Psychology of the Logos', *HSPH* 66, 1962, 99-155: 132-133), and even (despite repeated criticisms) Hellwig (1973: 292).

250. Süss (1910: 2).

251. Cf. above pp. 38, 42.

252. Above p. 36 with n. 133.

hearers.

This last variant he coupled with an alleged meaning 'mood' ('Stimmung') of the word ἥθος itself, in a way perhaps best explained by the analogy with πάθος. By a confusion, primarily in modern usage, similar to that concerning ethos/ἥθος discussed above, the word πάθος is not only used in its strict sense of 'emotion'²⁵³, but also for designating the arousing of emotions (the means of persuasion pathos), and for the quality of a speech that causes emotions. Süss, then, used ("subjective") ἥθος to designate the quality of a speech that causes a 'mood' (ἥθος) in the hearers. Thus ἥθος is considered a milder form of πάθος.

This view is open to grave objections, as will be discussed below, but it is not all. Süss connected it with the notorious concept of catharsis, and ascribed this whole reconstructed theory to Gorgias, whom we know may well have described rhetoric as *psychagogia* (ψυχαγωγία, 'influencing men's souls')²⁵⁴. Catharsis in Aristotle's *Poetics* (6, 1449b27-28: τὴν τῶν τοιούτων παθημάτων κάθαρσιν) was, in Süss' time and long afterwards, most often taken in a "psycho-therapeutical" sense: tragedy arouses emotions, and this leads to a 'purgation' (catharsis) of these emotions in the spectators, who then come to feel calm. Süss thought that it was this theory that constituted Gorgias' ideas about *psychagogia*, and he described it in the way just mentioned: πάθος, as a quality of a speech, leads to purgation of πάθη, 'emotions'. Moreover, he assigned an analogous place in this system to ἥθος: ἥθος, as a quality of a speech, leads to purgation of ἥθη, 'moods'²⁵⁵ - an elegantly symmetrical edifice, but what 'purgation of moods' may be is never explained.

This implausible reconstruction is at the basis of Süss' interpretation of the *Rhetoric*²⁵⁶. Chapters 2,12-17, which treat the ἥθη, 'moods', are a sequel to the chapters on πάθη, 'emotions' (2,2-11)²⁵⁷. The possibility of confusion with the 'moral' use of ἥθος (i.e. with ethos) is Aristotle's fault, for Gorgias and his followers had reserved the term ἥθος for the 'subjective-dynamic' variant, and did not²⁵⁸ use it for ethos: this they called δόξα τοῦ λέγοντος ('reputation of the speaker'), which was, moreover, not a 'technical *pistis*' but one of the 'non-technical' ones (this is partly based on the passage from the *Rhetorica ad Alexan-*

253. Cf. below p. 67-68.

254. Plato *Phaedr.* 261a7-8; Süss (1910: 21-22) may indeed be right about the ascription of this "definition" of rhetoric to Gorgias (cf. 261b-c); cf. Hellwig (1973: 178 n. 2).

255. Süss (1910: 94): '... das rhetorische ἥθος ... ist ein von dem πάθος nur graduell, nicht qualitativ verschiedenes homöopathisches kathartisches Mittel der Stimmungsauslösung'.

256. Süss (1910: 116-118, 126-131).

257. In order to maintain this interpretation, he had to ignore the only passage that indicates how the material can be used (above n. 147).

258. or with few exceptions: Süss (1910: 118).

drum analysed above p. 51-53²⁵⁹).

Some fundamental shortcomings of this theory are common to most *Quellenforschung*²⁶⁰. The system of Gorgias and his followers (among whom Süss reckons Isocrates) is reconstructed from doubtful evidence²⁶¹, but it is this reconstruction that is supposed to have been perfect, consistent, and meaningful, whereas all later, extant writers are supposed to be confused and to have muddled the original design. But this "confusion" is the result of the fanciful reconstruction itself.

Süss' ideas about 'catharsis' bear testimony to the far-reaching influence of Bernays' psycho-therapeutical interpretation of the notorious passage in Aristotle's *Poetics*²⁶², an interpretation now frequently rejected²⁶³. But they are unwarranted even if Bernays' interpretation would be correct²⁶⁴. In the first place (to begin with the last-mentioned feature of his reconstruction), the grounds for ascribing "the theory of catharsis" to Gorgias are wholly insufficient²⁶⁵. In the second place, which is worse, the link between catharsis and the concept of "subjective-dynamic" ἦθος is Süss': even if this concept has existed, there are no examples from Gorgias or others establishing the connection. This is not surprising, for, in the third place, the concept of "subjective-dynamic" ἦθος did not exist, it is wholly fictitious: of the many occurrences of the word ἦθος, there is only one where it might possibly denote this concept (Isocrates *Philippus* 26); but even in that passage, there is nothing wrong with the meaning 'character'²⁶⁶. In the

259. Cf. n. 204 there; the interpretation of δόξα τοῦ λέγοντος as 'reputation' is wrong (p. 51-52).

260. Cf. in general Douglas (1973: 95-102).

261. E.g., Dion. Hal. and the Anon. Seg. are supposed to be reliable sources for "Isocratean" thought: Süss (1910: 126-127, 129-131).

262. *Poet.* 6 (1449b27-28); Jakob Bernays, *Grundzüge der verlorenen Abhandlung des Aristoteles über die Wirkung der Tragödie* (Breslau, 1857; repr. in *Zwei Abhandlungen über die aristotelische Theorie des Drama*, Berlin, 1880, repr. Darmstadt: Wiss. Buchgesellschaft, 1968).

263. Gerald F. Else, *Aristotle's Poetics: The Argument* (Cambridge Mass.: Harvard UP, 1957), 224-232; 423-450, supported by Düring (1966), 171-177; cf. also N. van der Ben, 'Aristotle, *Poetics*, 1449b27-28', in: J.M. Bremer et al. (eds.), *Miscellanea Tragica in honorem J.C. Kamerbeek* (Amsterdam: Hakkert, 1976), 1-15; Leon Golden, 'Catharsis', *TAPhA* 93 (1962), 51-60; id., 'Mimesis and Catharsis', *CPh* 64 (1969), 145-153; H.D.F. Kitto, 'Catharsis', in: L. Wallach (ed.), *The Classical Tradition. Studies in Honor of Harry Caplan* (New York: Cornell UP, 1966), 133-147; Roselyne Dupont-Roc, Jean Lallot, *Aristote. La Poétique* (Paris: Seuil, 1980), 188-193. Most of these references are taken from the lucid essay 'Katharsis' by N. van der Ben and J.M. Bremer, p. 177-186 of their Dutch translation *Aristoteles Poetica* (Amsterdam: Athenaeum - Polak & Van Gennepe, 1986).

264. Criticism of Süss also Hagen (1966: 11, 13), Hellwig (1973) (below nn. 265-266).

265. Süss (1910: 83-85, cf. 272) bases himself primarily on Gorg. *Hel.* 8-14, where the comparison to medicine is an entirely different one (the same objection in Hellwig 1973: 58 n. 1; cf. also her justified doubts about another ascription to Gorgias by Süss, ib.: 113 n. 9).

266. This same criticism Hagen (1966: 13 with n. 4), Hellwig (1973: 251 n. 3). Isocr. *Phil.* 24-26 is about the difference between a speech as delivered by the writer and as read out by someone else: ἐπειδὴν ... ἀναγγεῖναι δὲ τὴν αὐτὴν ἀπὸ τοῦ ἀνθρώπου καὶ μὴδὲν ἦθος ἐνοηματοδόμενος, ... 'If ... someone reads it out aloud unconvincingly and without putting anything of his own character [perhaps 'personality'] in it ...'.

fourth place, there is no support anywhere in the *Rhetoric* for the meaning 'mood'.

The notion that 'mood' was indeed one of the meanings of ἦθος as early as the fourth century B.C. was entertained by others before Süss, and is still frequently found. But Schütrumpf has effectively disproved the existence of such a meaning in Aristotle's writings²⁶⁷.

There are, indeed, some late instances of the word where the meaning 'character' is impossible²⁶⁸. Something resembling 'mood' may perhaps already be found in the pseudo-Aristotelian *Problemata*²⁶⁹. In Dionysius of Halicarnassus, ἦθος is still basically 'character'²⁷⁰, but a development is apparent: the word is, in a number of occurrences, extended to an effect produced in the listener, viz. the state of mind corresponding to the character (ἦθος) of the speaker²⁷¹. But a genuine meaning 'mood' seems not to be behind this.

Even Quintilian, in his chapter on ethos and pathos, does not equate ἦθος with 'mood' or 'gentle emotion'. He has some difficulty in finding the right description, and writes that there is no Latin equivalent for the word (6,2,8). It is true that in 6,2,9 he says *adfectus* ... πάθος *concitatos*, ἦθος *mites atque compositos esse dixerunt* ('they explain πάθος as describing the violent emotions, and ἦθος as designating those which are calm and gentle'). But he only does so after ex-

267. Schütrumpf (1970: 6-22), where some references to writers with similar views may be found (August Döring, *Die Kunstlehre des Aristoteles*, Jena 1876; repr. Hildesheim, New York: Olms, 1972: p. 338; Franz Dirlmeier [übers., komm.], *Aristoteles, Eudemische Ethik* [Werke in deutscher Übersetzung, Bd. 7], Berlin: Akad.-Verlag, 1962, 1969²: 355; W.J. Verdenius, 'The Meaning of ἦθος and ἥθικος in Aristotle's Poetics', *Mnemosyne* Ser. III, 12, 1945, 241-257: 243). His discussion includes (ib.: 13-22) the famous case of the eighth book of the *Politica*, which deals with music as part of education.

268. The old meaning of the plural 'abodes' etc. (LSJ s.v., I) is irrelevant here. Kroll (1918a) has a number of places from the scholia where 'character' will not do (e.g. the BT-scholion on *Iliad* 3,57: Kroll, 70). As a whole, however, his analysis of the scholia, meant to reveal the meaning of ἦθος as used by the grammarians, is disappointing. He holds that (besides the usual 'character') it ranges from 'mood' ('Stimmung') via 'emphasis' ('Nachdruck, Betonung') to 'irony', but in a number of instances the meaning 'character' can still easily be discerned, and some other cases are of a very late date. Anyhow, Kroll himself maintains (pp. 68; 74) that the unusual meanings of ἦθος are not found outside the scholia.

269. Schütrumpf (1970: 11-12). ἦθος there indeed denotes 'eine vorübergehende Stimmung', but even there, a basic meaning 'character' may be defensible: supposing it has this meaning, the word may have been chosen in order to express the paradoxical effect of e.g. wine, that can seemingly change a man's character, i.e. something comparatively stable, for a short time: cf. *Probl.* 30,1 (953b21) διὰ τὸ αὐτὸ ποιεῖ δὲ τε ὀλὸς καὶ ἡ φέως ἐκείστων τὸ ἦθος.

270. The same is the case in Cicero: *De fato* 1 *mores, quod ἦθος illi vocant*; *Att.* 10,10,6. Philodemus I, 370 Sudhaus (above p. 56 with nn.) is of no help, since ἦθη in line 1 is only Sudhaus' guess - an improbable one, I would say.

271. This conclusion and formulation: Gill (1984: 158). Crucial cases of ἦθος in Dion. Hal. are *Dem.* 2,5 (= p. 131,5-6 U.-R.; cf. Gill l.c. n. 46); 43,2 (p. 224,15-16); *Lys.* 7,3 (p. 15,3-6), all of which Usher (Loeb ed.) rightly translates by terms very near 'character'. Hagen (1966: 5-10) on Dion. Hal. is biased, and his discussion of *Rhet.* 2,1, allegedly showing that Dion. is very close to Arist., is based on sheer confusion.

plicitly stating that he will not give a translation, but only a description of the essence of rhetorical ethos as he sees it: *cautiores voluntatem complecti quam nomina interpretari maluerunt* ('the more cautious writers have preferred to give the sense of the term rather than to translate it'). Quintilian's chapter on ethos and pathos does show that ἥθος, as a rhetorical term, had acquired a range of connotations²⁷²; but as to meaning, his very doubts seem to show that, if 'gentle emotion' was then a meaning of ἥθος at all, it was not a common one even in rhetorical theory.

The existing discussions of the word are either unsatisfactory, or do not concern themselves with the development in meaning²⁷³. The above sketch could therefore only be brief and tentative. The subject might well repay detailed study. But as regards Aristotle, there need be no doubt that the meaning of ἥθος comes very close to our 'character'.

2.7 Pathos

Pathos is treated in chapters 2,2-11 of the *Rhetoric*. From the structure of 2,1²⁷⁴, and the tripartition into *pisteis*, it is clear that the analyses of the fifteen emotions treated there are indeed primarily meant for pathos, i.e. for the arousing of emotions in the audience. This is confirmed in the introductory lines to the subject at the end of 2,1 (§ 9: 78a23-28):

δεῖ δὲ διαμεῖν τὰ περὶ ἕκαστον εἰς τρία· λέγω δ' ὅλον περὶ ὀργῆς, (1) πῶς τε διακείμενοι ὀργίλοι εἰσὶ, (2) καὶ τίσιν εἰσθάνουσιν ὀργίζεσθαι, (3) καὶ ἐπὶ ποίοις· εἰ γὰρ τὸ μὲν ἐν ᾧ τὰ δύο ἔχομεν τούτων, ἅπαντα δὲ μὴ, ἀδύνατον ἂν εἴη τὴν ὀργὴν ἐμποιεῖν ὁμοίως δὲ καὶ ἐπὶ τῶν ἄλλων.

It is necessary to divide the material about each of the emotions under three heads; for instance, when talking about anger, (1) what state of mind makes people inclined to anger, (2) with whom they usually get angry, (3) and on account of what. For if we knew one or two of these heads, but not all three, it would be impossible to arouse anger; and the same applies to the other emotions.

It is also apparent from the seven passages about the use of the material (above

272. On this passage cf. particularly Gill (1984: 158-160; his description of *De or.* is not entirely satisfactory, but this does not affect that of Quint.); and also Solmsen (1941: 179), Grube (o.c. above p. 5 n. 10: 292).

273. Schütrumpf (1970) is very good, but of course limited to (parts of) the writings of Aristotle. Gill (1984) on ethos and pathos is illuminating, but he is concerned 'only with cases where the two terms are contrasted' (149 n. 4). On Kroll (1918a) above n. 268 (a re-examination of this material would have to pay more attention to chronological differences).

274. Above p. 37-38.

p. 21-22). It has been argued above (§ 2.2) that the form the arousing of emotions may take is not specified, but that Aristotle thinks both enthymemes and other forms may be appropriate. Another function of the chapters is to supplement the materials in 1,10 and 1,13 for rational arguments about emotions as motives for crimes, as the references in these chapters show; but this is, accordingly, only a subordinate one²⁷⁵.

The chapters 2,2-11 themselves are very clear, and much of what will be said here is non-controversial. After listing the emotions treated, I will touch upon the meaning of the word πάθος and the change of judgement brought about by emotions; then on the ways by which the clarity of the chapters is achieved; the exactness of Aristotle's analyses; and the passages outside 2,1-11 relevant to pathos. I will end with a more controversial issue: the irrational character of the emotions in question. The separate emotions will not be treated here, but, partly, in the comparison with Cicero in § 8.5.

The emotions treated by Aristotle in chapters 2,2-11 are the following:

[2	ὀργή	anger
[3	πραότης	mildness
[4	φιλία	love, friendship
[ἐχθρα (μῖσος)	enmity (hate)
[5	φόβος	fear
[θάρασος	lack of fear ²⁷⁶
[6	αἰσχύνη	shame
[ἀναισχυντία	shamelessness
[7	χάρις	favour, goodwill
[ἀχαριστεῖν	lack of goodwill

275. 1,10,5 (68b26) and 10,17 (69b14-15) refer to 2,2-11 and 2,2 (on anger) respectively; 1,13,8 (73b36-37) to 2,2. Cf. 1,10,8 (69a4-7) and 10,9 (69a17-19); 10,11 (69a30-31: 2,12-17 are referred to); and 1,15,19 (76a29-30). Gill's account of the function is unfounded (1984: 153 n. 25: the chapters are also meant 'to provide the speaker with guidelines about which emotions he can plausibly express'); about Hellwig (1973: 234) above n. 159.

Conley (1982: 305, 309-312) puts excessive emphasis on the use of the material for rational demonstration. His analysis of this use, however, tells us more about 1,10 and 1,13 than about 2,2-11. He claims (1982: 306) that the closing passage 2,11,7 (80b28-30) mentions the rational use: δι' ὧν μὲν οὖν τὰ πάθη ἐγγίγνεται καὶ διαλύεται, καὶ [καὶ Δ, om. AFT] ἐξ ὧν αἱ πίστεις γίνονται περὶ αὐτῶν, εἰρηται. As Süß (1910: 161) before him he assumes that αἱ πίστεις ... περὶ αὐτῶν must refer to this use of the material, as opposed to the use in arousing emotions referred to in the first half of the sentence. But this is very doubtful: (1) περὶ is sometimes used in a broader sense than 'about, concerning': cf. LSJ s.v., II.5, and e.g. *Rhet.* 1,2,22 (58a34), where περὶ τούτων does not denote the subject of τὰ στοιχεῖα καὶ τὰς προτάσεις, but the fields from which their subjects are drawn; (2) his interpretation requires καὶ, which may very well be an interpolation in Δ; (3) even with καὶ, doubts remain: καὶ may be explanatory (cf. Denniston, 291 (5); Bonitz s.v., 357,13ff.). In view of the emphasis on the use of the chapters for pathos, therefore, Conley's interpretation, though it may be right, seems much less attractive than the traditional one (which is adopted in the translation above p. 36).

276. Rather than 'confidence': below p. 288.

[8	ἔλεος	pity
[9	νέμεσις	indignation
[10	φθόνος	envy
[11	ζήλος	emulation
	καταφρόνησις	contempt

The reason for making pathos into an integral part of rhetoric is put forward by Aristotle in 2,1: rhetoric is concerned with judgement, and things appear different to someone under the influence of an emotion²⁷⁷. Accordingly, Aristotle defines πάθος as follows (2,1,8: 78a20-23):

ἔστι δὲ τὰ πάθη δι' ὅσα μεταβάλλοντες διαφέρουσι πρὸς τὰς κρίσεις, οἷς ἔπεται λύπη καὶ ἡδονή, ὅλον ὀργή ἔλεος φόβος καὶ ὅσα ἄλλα τοιαῦτα, καὶ τὰ τούτους ἐναντία.

Emotions are all those (sc. feelings) that so change men as to make their judgements different, and that are accompanied by pleasure and pain; such are anger, pity, fear, and the like, as well as their opposites.

The definition is in itself incomplete, for it can include, for instance, headaches and stomach-aches: these and similar physical phenomena are accompanied by pleasure or pain, and they affect judgement. But it is clear from the rhetorical context that simple and unqualified change of judgement cannot be meant, but only change in a certain direction²⁷⁸: head-aches change our judgements sometimes favourably, at other times unfavourably, whereas anger always changes it unfavourably towards the object of anger. This is also brought implicitly to the fore by the examples of anger, pity and fear. And the mention of the three elements of a πάθος (above p. 65), which immediately follows the passage quoted here, confirms this: only what we call 'emotions' match the definition and have an object and a cause as well²⁷⁹.

The equation of the πάθη in the *Rhetoric* with English 'emotions' is, however, correct only if it is remembered that they include gentle as well as violent ones (see the above list). The rendering 'passions' is therefore inadequate in this connection (although it seems correct elsewhere in the *Rhetoric*²⁸⁰). There is a strong

277. 2,1,2 (77b21-24); 2,1,4 (77b31-78a6); cf. also 1,2,5 (56a14-17).

278. This role of the context is ignored Leighton (1982: 158), Fortenbaugh (o.c. above n. 99: 229 n. 35).

279. Cf. Wörner (1981: 62-64), Fortenbaugh (1979: 53-55); the latter's argument from Plato's *Philebus* (53 n. 23) is rightly rejected by Leighton (1982: 158). Leighton advocates, as I do, the equation of the πάθη to 'emotions' (157-168), but his arguments are not valid, because based on modern categories as a whole: he excludes all 'sensations' from Aristotle's πάθη on the ground that some do not match Aristotle's definition.

280. Cf. 3,19,3 (19b24-28): the emotions to be aroused in the epilogue are probably violent, and the examples given confirm this. This points to a rendering 'passions' of τὰ πάθη in b25, even if b27-28 refers to 2,2-11.

link with the general meaning of πάθος 'state, condition'²⁸¹, which is also apparent from 1,1,4 (54a17) ... καὶ τὰ τοιαῦτα πάθη τῆς ψυχῆς ... ('and similar states/emotions of the soul') - though the word, in this use, is of course restricted to conditions that are not stable, but temporary and liable to change²⁸².

As remarked earlier (p. 40), the concept of πάθος as appearing from chapters 2,1-11 does not include ἐπιθυμία ('desires'), whereas these are included in chapters 2,12-17. They are also included in Aristotle's *Ethica Nichomachea* and *Ethica Eudemia*. The choice of the concept here, therefore, seems determined by the function the πάθη have in rhetoric: they alter judgements, whereas desires do not, or only indirectly or (like headaches) not in a particular direction²⁸³. In the *Rhetoric* Aristotle is not completely explicit about the ways in which these alterations are brought about, but a fairly complete picture can be reconstructed with the help of some other treatises²⁸⁴, and there appear to be a number of ways Aristotle may have in mind. The most important ones result in connivance, the favourable interpretation of ambiguous cases, and the mishearing, misperception, etcetera, of evidence.

Since πάθος means 'emotion', the corresponding means of persuasion (pathos) is never called by this name, just as ethos is never designated by ἥθος, 'character' (above p. 60). For instance, pathos is introduced by αἱ δὲ (sc. πίστεις εἰσιν) ἐν τῷ τὸν ἀκροατὴν διαθεῖναι πως (1,2,3: 56a3: 'some *pisteis* depend on putting the hearer into a certain frame of mind')²⁸⁵.

As to the clarity of the chapters on pathos, there are several features contributing to this. One of these is that Aristotle explicitly couples related emotions (see the list p. 66-67). All groups are pairs of opposites, except ἔλεος, νέμεσις and φθόνος (pity, indignation and envy). Their relationship is more complicated, but it is explained at length in 2,9,3-5 (86b16-87a5)²⁸⁶.

281. LSJ s.v., III; cf. II 'emotion, passion'.

282. Stable ones are called ἕξεις in the *EN*: 2,5 (1105b19-1106a6); cf. also *Cat.* 8 (8b26-10a10).

283. Leighton (1982: especially 165-168); cf. Hellwig (1973: 233).

284. See the difficult but illuminating analysis in Leighton (1982: 144-154).

285. Other descriptions: 1,2,5 (56a14-15) διὰ δὲ τῶν ἀκροατῶν, ὅταν εἰς πάθος ὑπὸ τοῦ λόγου προαχθῶσιν; 2,1,2 (77b24) (cf. 2,1,3: 77b28-29); the seven passages above n. 59; 2,11,7 (88b28-30); 3,1,1 (103b11).

286. See also p. 289-292; and especially Mills (1985). Conley (1982: 304 n. 12) rightly rejects Süss' couplings ἔλεος-νέμεσις and φθόνος-ζήλος (cf. 2,11,7: 88b23-24), but notices an obscurity in the relationship between ἔλεος and φθόνος. In 2,10,11 (88a23-28) 'envy seems also to be opposed to an unnamed πάθος ... which is not the same as pity'. But the emphasis in this passage is on the opposition between pity and the unnamed emotion, to which envy is not so much opposed as akin; and the same holds for ἔλεος and νέμεσιν in 2,9,16 (87b14-20), where an unnamed emotion akin to indignation is opposed to pity. So there seem to be two emotions opposed to ἔλεος, apart from φθόνος and ζήλος (a different interpretation in Hellwig 1973: 235 n. 10). The cause of this obscurity (if it is one) is, that claims of an adversary to pity are based on

Another feature contributing to clarity is that all emotions are first defined, and that their treatment is based upon this definition²⁸⁷. 'Οργή ('anger'), e.g., is defined as ὄρεξις μετὰ λύπης τιμωρίας φαινομένης διὰ φαινομένην ὀλιγωρίαν εἰς αὐτὸν ἢ τῶν αὐτοῦ μὴ προσήκον²⁸⁸ (2,2,1: 78a31-33: 'a longing, accompanied by pain, for a conspicuous revenge caused by a conspicuous slight directed without justification towards oneself or one's friends or relatives')²⁸⁹. It is such slights that are taken as the starting point for almost all separate observations on anger in 2,2.

In the third place, the separate analyses are structured clearly, and in the way announced by Aristotle in the introduction to the emotions (2,1,9: quoted p. 65)²⁹⁰. This principle of enumerating the elements subject, object and cause is in general consistently followed: all deviations are either natural or are explained²⁹¹.

some misfortune that has befallen him (2,8,1/2: 85b13-14; cf. 2,9,16: 87b14-16; 2,10,11: 88a23-24), whereas indignation and envy are based on something good that has befallen someone. Therefore, such claims to pity need not, and will often not, be countered by arousing indignation or envy, but by showing that the adversary deserved the misfortune or is a rival of the audience, which leads to emotions akin to indignation and envy respectively. (Cf. about indignation 2,9,4-5: 86b25-34; 9,16: 87b14-16; about envy 2,9,5: 86b33-87a5; 2,10,11: 88a23-25).

So 'envious' people (who have an ἥθος φαῦλον: 2,11,1: 88a33-36) can feel pity, if the object is not their equal. Mills (1985: 4-5) is therefore not entirely correct in stating that envy 'is not discriminating'. This is true with respect to the deservedness of the fortunes of others, but envious people do discriminate between those who are their equals and those who are not.

287. Solmsen (1938: 393 with n. 11).

288. The text contains a number of difficulties. The most important ones are: εἰς αὐτὸν Ross: τῶν εἰς αὐτὸν MSS., Kassel, alii; τοῦ ὀλιγωρεῖν μὴ προσήκοντος A: μὴ προσήκοντος β Vet.: ὀλιγωρεῖν μὴ προσήκοντων Kassel. The reading μὴ προσήκον (accusative absolute) has been suggested to me by Dr. N. van der Ben, who argues that (τοῦ) ὀλιγωρεῖν is uncharacteristically pleonastic and may be an intruded gloss. (On the acc. abs. cf. K.-G. 2,87-89.) Kassel's conjecture is unattractive in any case: the personal construction of προσήκειν is not mentioned in LSJ, and derives only weak support from 79b12; there are no other cases in the *Rhet.* (Wartelle 1982: s.v.; 78b34 should be explained differently). The meaning, of course, remains the same (cf. § 18: 79b11-13; § 23: 79b30).

289. φαινομένης/-ην 'conspicuous' Rhys Roberts, in accordance with Cope (1877 II: ad loc., where some parallels are given). This interpretation seems to be supported by 2,3,16 (80b20-22) (where see Kassel's apparatus). (Freese interprets it differently: 'real or apparent'.)

290. Hellwig (1973: 239-240) connects this with 'die ... δύναμις-Formel in Platons "Phaidros"', but the link is artificial, and her analysis of the *Phaedr.*, I think, based on an over-interpretation.

291. Cf. also, e.g., 2,2,27 (79b37-80a1). Deviations: 2,3 on πράννεσθαι (the cause is an absence of ὀλιγωρία, which is explained in 2,2); 2,4 on φιλία-ἐχθρα (the subject is not explicit because everyone can experience this πάθος: the essential point is the relationship with the other person involved, cf. 2,4,4: 81a8-11, etc.; cause and object are intimately connected and treated together [except for § 29: 81b35-37 which treats cause alone]; Hellwig 1973: 255); 2,5 on fear (object and cause are treated together in §§ 1-12: 82a21-b28); 2,5 on θαρρεῖν (§ 16-22: 83a12-b11) (it has no object, for it is absence of fear - cf. 83a14-15); 2,7 on χάρις (the three elements are closely related and treated together; cf. § 4, 85a30-31); 2,9 on indignation (like fear: §§ 7-11: 87a8-b4; cf. b2-4). Roemer (1898: bi ff.) and Süß (1910: 158-160) think that 'diese Disposition nur unvollkommen durchgeführt wird'.

A fourth aspect making for clarity is the presence of the seven passages about how to put the analyses into practice (above p. 21-22).

The definitions of the emotions are often regarded as provisional, 'suitable for rhetorical purposes, but without scientific exactness' (Cope)²⁹². Solmsen, however, rightly stressed that Aristotle's innovation consists not only in his granting to pathos and ethos 'a status on a par with the arguments and thereby elevating them to first-rate factors but also in his careful analysis of the nature of the various emotions and of the conditions under which they may be either aroused or allayed'²⁹³. The most important argument commonly adduced to prove the inexactness of the definitions is that many of them begin with ἔστω δὴ ('let then ... be')²⁹⁴; this use of ἔστω ('let ... be') in the definitions, however, is no clue to their nature, but emphasizes, as it does in the *Prior* and *Posterior Analytics*, that each definition is a starting point for deductive reasoning²⁹⁵. Moreover, Aristotle himself points out that exact definitions are necessary, because an orator needs exact knowledge of the emotions (i.e., of all three elements involved in each case) to be able to arouse them (e.g. 2,1,9, quoted p. 65²⁹⁶). Contrast his statement about the material for rational arguments for the deliberative branch (1,4,4: 59b2-6):

καθ' ἕκαστον μὲν οὖν ἀκριβῶς διαριθμήσασθαι καὶ διαλαβεῖν εἰς εἶδη περὶ ὧν
εὐλόγηται χρηματίζεω, ἔτι δ' ὅσον ἐνδέχεται περὶ αὐτῶν διορίσαι κατὰ τὴν ἀλήθειαν,
οὐ δὲ κατὰ τὸν παρόντα καιρὸν ζητεῖν διὰ τὸ μῆτε τῆς ῥητορικῆς εἶναι τέχνης
...

Now to enumerate and classify accurately the usual subjects of political deliberation, and to frame, as far as possible, true definitions of them, is a task which we must not attempt on the present occasion, for it does not belong to the art of rhetoric...

In book 1, Aristotle is only 'supplying "filler" for the enthymemes' of rational argumentation, i.e., material which need not be exact because it aims only at

292. Cope (1877 II: ad 2,2,1; cf. 1867: 13-14). This view e.g. Kennedy (1963: 95 n. 92), Sprute (1982: 170), and elsewhere: see the references in Fortenbaugh (1979: 40 n. 2).

293. Solmsen (1941: 42; thus 1938: 394); his 'πάθος and ἥθος' has here been replaced with 'pathos and ethos' (cf. above p. 61 with n. 246).

294. (2,2) ὁργή, (3) πραότης, (4) φιλία, (5) φόβος, (6) αἰσχύνη and ἀναισχυντία, (7) χάρις, (8) ἔλεος.

295. All arguments given here are from the convincing treatment by Fortenbaugh (1979: 42-53; this argument 46-48, 51-53; cf. 1975: 16). (Hellwig 1973: 69 n. 29 has not understood the point.)

296. Also 1,2,7 (56a20-25); cf. Fortenbaugh (1979: 49; his reference, n. 17, to 1,8,1: 65b22-25 is irrelevant); cf. also 1,10,17 (69b14-15).

convincing the hearers²⁹⁷.

The definitions in 2,2-11, therefore, are exact. This does not mean, however, that they are complete, in the sense of offering a complete scientific description as referred to in *De anima*²⁹⁸: Aristotle has adapted the discussion to the subject, and perhaps to the audience of these lectures. To use traditional terms, the *causa materialis* is never mentioned (in the case of ὀργή, anger, this would be the boiling of blood around the heart²⁹⁹), neither is the *causa formalis*³⁰⁰. The *causa finalis*, i.e. the purpose of the emotion defined, is often described: the purpose of anger, e.g., is conspicuous revenge (above p. 69). The *causa efficiens* is always indicated: in the case of anger, a conspicuous slight. This last cause is the starting point for the deductive reasoning just mentioned: in the whole of 2,2, e.g., the occurrence of such a slight is the basis for the observations.

The rational analysis of the emotions is completed by the method of enumerating the three elements involved in each, which provides the orator with the precise knowledge he needs.

Chapters 2,2-11 themselves contain instructions about the use of the analyses: the audience must be brought into such a state that they may become angry, etcetera. But they say nothing about the stylistic form or the place this must take in a speech; neither is this systematically treated elsewhere. There are, however, a few passages containing hints on the subject. The two most interesting ones³⁰¹ deal with παθητική λέξις, 'emotional style'³⁰². 2,21,13 (95a18-24) prescribes the use of maxims contrary to well-known ones if this will create the impression of being an emotional utterance. This is illustrated as follows (95a22-24):

297. Cf. also 1,9,14 (66b22-24). The quotation is from Fortenbaugh (1979: 49 n. 17). Cf. however (ib.: 46-48): some definitions in book 1 are, to Aristotle's mind, exact. But this is of no importance in the *Rhetoric* itself: the attempt of Eugene E. Ryan ('Aristotle's *Rhetoric* and *Ethics* and the Ethos of Society', *GRBS* 13, 1972, 291-308) to show that a large part of what Aristotle says in book 1 is 'substantial' is unsuccessful, for a distinction between "technical" and "substantial" parts of the work (ib.: 300) is not supported by the text. Flashar (1983: 368) is superficial. Hellwig (1973: 69-70, 106, 238) does not distinguish between books 1 and 2.

298. Fortenbaugh (1979: 50, with reference to *De anima* 1,1: 403a30-31).

299. *De anima* 1,1 (403a30-b1); cf. a16-19. Aristotle did have ideas like this when writing the *Rhetoric*: 2,13,7 (89b29-32).

300. λόγος should not be interpreted as such: cf. Leighton (1982: 155-157).

301. Other passages: 3,12,2 (13b10); 16,7 (17a12-15); (16,10: 17a36-b7 is about something else: n. 186); 17,8 (18a12-15: above, p. 24); 17,9 (18a17-21); 17,10 (18a27-29); 19,3 (19b24-28: above, p. 48 with n. 187). Even if the connection with the concept of the three *pisteis* is not clear in some of them (p. 48-49), designations like παθητική λέξις leave no room for doubt: pathos is involved, whether this is part of a system of three *pisteis* or not.

302. Cf. *De int.* 1 (16a3-4) ἔστι μὲν οὖν τὰ ἐν τῇ φωνῇ τῶν ἐν τῇ ψυχῇ παθημάτων σύμβολα, where, however, παθήματα is to be taken very generally: 'affections of the soul' is the translation in J.L. Ackrill (transl., notes), *Aristotle's Categories and De Interpretatione* (Oxford: Clarendon, 1963); cf. ib., 113.

ὅλον εἰ τις ὀργιζόμενος φαίη ψεύδος εἶναι ὥς δεῖ γινώσκειν αὐτόν· οὗτος γοῦν εἰ ἐγίνωσκειν ἑαυτόν, οὐκ ἂν ποτε στρατηγέειν ἤξιωσεν.

For example, if a angry speaker were to say: 'It is not true that a man should know himself; at any rate, this man, if he had known himself, would never have claimed an army command'.

Here the expression of the speaker's emotion is not linked with the emotions of the audience, as it is in 3,7, the chapter on propriety of style. Emotional style, it is said in the relevant sections³⁰³, is meant to show the emotions of the speaker, but this is aimed at an emotional response in the audience. This is especially clear from 3,7,4 (08a23-24): συνομοιοπαθεῖ ὁ ἀκούων ἀεὶ τῷ παθητικῶς λέγοντι, καὶ μῆθ' ἐν λέγει ('if someone speaks emotionally, even if he has nothing substantial to say, the hearer is always similarly affected'). This relationship between speaker and audience is no innovation of Aristotle's, and of course well known from later times. It appears in full-fledged form in *De oratore*³⁰⁴.

Aristotle's inclusion of pathos among the means of persuasion has been variously evaluated in modern scholarship. I have argued above (p. 17-20) that the first chapter of the *Rhetoric* does reject its use as unfair and irrelevant, and that attempts to reconcile this with its inclusion in the rest of the work are implausible and find no support in the text of this first chapter. Some recent analyses, however, start from the other side: in trying to refute the notion that Aristotle himself sanctions the use of unfair means, they stress the rational aspects of Aristotle's concept of pathos itself³⁰⁵. In the course of these analyses four things tend to be confused: the rational analysis by the orator, and the questions if getting emotionally involved is rational, if it is good, and if its effects are rational. By distinguishing between them I will try to show that attempts to "whitewash" Aristotle are for the most part misguided - and unnecessary.

The exactness and systematic nature of Aristotle's treatment of the emotions does not "elevate" the emotions to the "level of rationality". What it does is what is explicitly aimed at (2,1,9: above p. 65): it puts the playing upon the emotions by the orator on a firm rational basis, which is a very different thing. It renders emotions intelligible, not necessarily intelligent³⁰⁶. Moreover, there is ample room for manipulation, as is shown by the use of κατα- and παρασκευάζειν ('make,

303. 3,7,3-5 (08a16-25) and 7,11 (08b10-19 - especially b17-18). The link is possibly also made in 2,24,4 (01b3-7), if ὀργιζέσθαι is what should be read in b7.

304. Cf. e.g. Plato *Rep.* 3,395-396. *De or.*: cf. § 8.3. (Cf. also p. 137 of Solmsen, 'Drei Rekonstruktionen zur antiken Rhetorik und Poetik', *Hermes* 67, 1932, 133-154; repr. in 1968: 129-150, and in Stark ed. 1968: 184-205.)

305. Fortenbaugh (1979: 61-64; 1975: 17-18), Wörner (1981: esp. 70, 78); Conley (1982: 304-305, cf. 315; see also above n. 275).

306. Braet's designation 'rational form of psychology' (1989: § 2) is therefore unfounded.

render, represent as': above p. 25-26), and in general by the possibility of using other means besides enthymemes that has been argued for above (ibid.). And even enthymemes may lead to conclusions that are untrue.

There is an important element of cognition and judgement to Aristotle's emotions, since they are based on an evaluation. If someone is to get angry, he must evaluate some act as a slight, and if he fears someone, he thinks this person capable of doing something he evaluates as harmful. These evaluations and judgements, however, can, but need not be rational³⁰⁷, for the hearer is not necessarily aware or in control of the way his own judgements involved are formed. The examples Aristotle gives seem to confirm this, e.g. σημείον δὲ ἐπὶ τῆς τῶν οἰκετῶν κολάσεως (2,3,5: 80a15-16: 'evidence of this is what we do when punishing slaves ...'): they are rather illustrations of the validity of his abstractions, than examples of the conscious use of them in practice. The possibility of non-enthymematic arousing of emotions also supports it. And if book 3 is accepted as proof, the passage from 3,7 on the effect of emotional style just quoted confirms it, for there is nothing rational in getting emotionally involved if the speaker is. Emotions, therefore, can still be blind impulses.

And even if feeling an emotion may in some cases be reasonable or understandable (which is not the same as 'rational' or 'intelligent')³⁰⁸, it is not always good, as is apparent from φθόνος, 'envy'. It receives the same methodical, rational treatment as the others, but Aristotle explicitly says that it is inferior and felt by inferior people³⁰⁹. The possibility of excess with respect to emotions that is behind the doctrine of virtue as a mean in *Ethica Nicomachea* also shows that, whereas Aristotle thought it was reasonable in some cases to feel emotion, he thought it was not so in others³¹⁰.

Finally, the effect of emotions, even if it may be reasonable or understandable to feel them, is at least irrelevant³¹¹: they are meant to change the judgement of the audience (above p. 67). Aristotle does not state that emotions can induce a judge to arrive at a favourable judgement only in cases where he does not know what to decide, or the like: he says that to people under the influence of emotions things *appear different*. There is not the slightest suggestion that the judgement nevertheless remains fair.

In short, Aristotle's analyses render the emotions intelligible, but not intelligent;

307. Wörner (1981: 70) overstates his case: 'Dasjenige aber was wahr oder falsch sein kann und mit Verstand verknüpft ist, liegt im Bereiche des Rationalen'. So does Fortenbaugh (1979: 62).

308. Fortenbaugh (1979: 62) makes a suggestive combination: 'intelligent and reasonable'.

309. 2,11,1 (88a34) τὸ δὲ φθονεῖν φαῦλον καὶ φαύλων. Cf. 2,9,1 (86b12-13) (οἱ ἐλεεῖν καὶ νημεσιῖν): ἄμφορ τὰ πάθη ἥθους χρηστοῦ; 2,9,5 (86b33-87a1); Mills (1985: 4-5).

310. E.g. EN 2,6 (1107a3-6).

311. Wörner (1981), when paraphrasing Aristotle, frequently slips in terms suggesting relevancy, without distinguishing this from the reasonableness of feeling an emotion (59 'eine sachentsprechende affektive Einstellung'; 78).

some of the emotions he treats are even inferior; and all are potentially irrelevant. His description is therefore entirely pragmatic: the means he intends to provide an orator with, may be used in every way that rhetoric itself may be used, i.e. both rightly and wrongly. He is not, however, cynical, and the attempts to remove the pragmatic element from his 'art' are wholly unnecessary: using means that are, strictly speaking, unfair is frequently unavoidable in practice³¹²; moreover, the moral responsibility cannot rest with the method or with the one who describes it. As Aristotle says, all good things, except virtue, may be used to do great harm if used in a wrong way. The choice is with the user³¹³.

2.8 Summary

The principle underlying the analyses given in this chapter has been set out in § 2.1. Roughly put, it amounts to the assumption that the *Rhetoric* has a qualified unity. All larger parts must be intelligible in the work as a whole, but inconsistencies on a smaller scale must be allowed to stand if they cannot be plausibly explained.

The aspects of the structure of the *Rhetoric* relevant to ethos and pathos have been treated in § 2.2. Two important differences with the handbooks of rhetoric in Aristotle's time are the organization according to "*officia oratoris*", and the division of the first of these *officia*, invention, into three means of persuasion, viz. rational arguments, ethos and pathos. The first of these characteristics is hardly problematic, but the second entails a number of problems. The rejection of pathos in the first chapter of the work cannot be brought in line with its recognition as being on a par with rational arguments in the rest of the first two books. Whether this reflects an early stage in Aristotle's thought must remain an open question, but as it stands it should be understood as a rhetorical opening. The place of ethos and pathos in the structure of books 1 and 2 has caused much trouble (see the scheme on p. 20), because it was commonly assumed that their form could only be non-enthymematic. It can be explained if it is noticed that ethos and pathos, in Aristotle's opinion, may also take enthymematic form. This should not be confused with Grimaldi's view of the enthymeme as incorporating

312. Cf. Aristotle's (grudging) admission of the importance of style in 3,1,4-7 (03b32-04a19).

313. 1,1,13 (55b2-7) and 1,14 (55b15-21). The fact that these statements occur in 1,1 strengthens rather than weakens the argument. Spengel (1852: 461) already expressed the view defended here. Hellwig's treatment (1973: 274-279 [cf. 273], 320-321) is characteristically wavering: this is not made any better by her puzzling restriction of the question to her chapters on ethos. One quotation may serve to illustrate the tendencies rejected here (ib.: 275): 'Der echte Redner darf nur für Wahrheit und Gerechtigkeit eintreten' - this should be 'Der moralisch gute Redner wird nur ...'.

all three *pisteis*, which is untenable.

Of the two non-logical *pisteis*, *ethos* is treated not in 2,12-17, but in 2,1,5-7 (§ 2.4). This passage has been analysed in § 2.3. The *Ethica Nicomachea* has not been used to elucidate it, since the terminology and concepts employed in that work are notably different. Aristotle's *ethos* as described in 2,1 is "rational *ethos*": it is concerned with the reliability of the speaker, and sympathy on the part of the audience is not included in the concept. This is consistent with Aristotle's concept of *pathos*: since that comprises the vehement as well as the gentle emotions, including those akin to sympathy, sympathy is not omitted, nor is there any overlap between *ethos* and *pathos*.

Chapters 2,12-17, where the 'characters' (ἥθη) of different classes of people are described, cannot be directly linked either with the treatment of *ethos* in 2,1 or with that of *pathos* in 2,2-11 (§ 2.4). This part might represent an earlier attempt at meeting Plato's demand for a rhetoric based on *psychagogia*. Its function as it stands seems to be that of an appendix to the treatments of both *ethos* and *pathos*.

The qualities of the *Rhetoric* determining the possible reception of the *pisteis* and of the "rational" concept of *ethos*, as well as the backgrounds of the potential readers, have been analysed in § 2.5. (The question if it was actually read is a different one; concerning Cicero this is treated in chapters 4 and 5.) The division of invention into three *pisteis* was probably unclear for (near-)contemporaries of Aristotle, even for those who possessed books 1-3 together. Due to the incorporation of a number of other concepts from the *Rhetoric* into the rhetorical tradition, however, it must have been much easier to recognize for readers of Cicero's time. Such a change of background did not take place with respect to *ethos*, and Aristotle's "rational" concept was not in line with what any of his potential readers expected. Therefore, and because it is not brought forward very clearly, it probably escaped almost all his readers in antiquity, as it has those in modern times.

Two problems related to modern interpretations have been discussed in § 2.6. First, I have stressed the importance of realizing that ἥθος is not a technical term, but that it means something very near to our 'character'. Second, it has been argued that Süss' analyses are misguided, and that the notion that ἥθος can mean 'mood' or 'gentle emotion' is certainly wrong where Aristotle is concerned, and probably so with regard to a very long time afterwards.

Chapters 2,2-11 on *pathos*, discussed in § 2.7, are comparatively clear. Their analyses of the emotions are meant to be exact. The main problem here is evaluating Aristotle's moral attitude. Most attempts to "whitewash" him are based on the confusion of a number of questions. In Aristotle's view, feeling emotions may sometimes be reasonable; but emotions are not always good, and they may still be blind impulses; and their effect is certainly irrelevant to the issues to be decided

by the judges. But Aristotle is not cynical, for the responsibility for the right or wrong use of rhetoric, including emotional appeal, rests with the user, not with the system itself.

3. SCHOOL RHETORIC BETWEEN ARISTOTLE AND CICERO

3.1 Introduction: the Different Types of Handbooks

Aristotle's views about rhetoric had a considerable influence on later handbooks, even though this was probably not due to a wide knowledge of the *Rhetoric*, but to indirect dissemination¹. One of the things adopted by most handbook-writers was the organizing principle of the *officia*, as follows from a statement of Quintilian and is confirmed by one in *De inventione*². To invention, disposition and style that were found in Aristotle's work³, his pupil Theophrastus added delivery (*ὑπόκρισις*, *pronuntiatio*, *actio*), as suggested by Aristotle himself⁴. The subsequent addition of *μνήμη* (*memoria*, memory) cannot be attributed to any known rhetorician, but must have taken place before about 150 B.C., for Hermagoras already

1. The *Rhetoric* was available, but probably not widely read (cf. § 4.6). On the influence of Aristotle's ideas in general Solmsen (1941). (Flashar 1983: 373 is superficial.)

2. Quint. 3,3,1 *omnis autem orandi ratio, ut plurimi maxime auctores tradiderunt, quinque partibus constat, inventione, dispositione, elocutione, memoria, pronuntiatione sive actione* (cf. p. 91-92); Cic. *Inv.* 1,9 *partes ... eae quas plerique dixerunt*

3. Above p. 14.

4. Aristotle: *Rhet.* 3,1,3-5 (03b21-04a8). Diog. L. 5,48, in a list of Theophrastus' writings, mentions the title *Περὶ ὑποκρίσεως α'*. The early Stoics already knew four *officia* (Diog. L. 7,43). On Theophrastus' addition cf. Solmsen (1941: 47); on his work on delivery Kennedy (1963: 282-284), and William W. Fortenbaugh, 'Theophrastus on Delivery', in: W.W. Fortenbaugh et al. (eds.) (o.c. above p. 30 n. 99), 269-288.

knew it⁵. The result was the classical quintet of *officia*.

However, handbooks based on the old system of the parts of the speech, which had been typical of pre-Aristotelian rhetoric, continued to be written. And even those using the principle of *officia* differed from the *Rhetoric* in a number of important ways, two of which are relevant here. First, as will be set out in more detail in § 3.2, none of them seems to have included ethos and pathos as independent means of persuasion: as in pre-Aristotelian handbooks, these were only mentioned in the rules for the prologue (ethos) and for the epilogue (in which emotions, especially pity, had to be aroused). Second, a number of handbooks treated the parts of the speech not under the head of disposition as Aristotle had done, but under that of invention. This system, in which invention contained separate rules for the prologue, for the narration, etcetera, is best considered a contamination of the Aristotelian principle of *officia* with the pre-Aristotelian one of the parts of the speech. It constitutes an essential departure from the Aristotelian system, in which the stage of invention provided the material that was to be divided and arranged in the stage of disposition. As a consequence, ethos and pathos as independent concepts were not only absent in fact: their absence was even inevitable in principle. This conceptual aspect of the second feature of the handbooks based on the *officia* is treated in § 3.3.

De inventione and the *Rhetorica ad Herennium*, the two earliest extant post-Aristotelian handbooks (apart from the *Rhetorica ad Alexandrum*), are both based upon the "contaminated" Aristotelian system. Modern analyses often imply that all handbooks in Cicero's time that used the *officia* were of this kind. This is, I think, untrue (§ 3.4): some still treated the parts under disposition, even though they did not include ethos and pathos.

In § 3.5 it is examined in what ways the handbooks did pay attention to non-logical means of persuasion (chiefly in the rules for prologue and epilogue). The question of the distinction between speaker and client (the first question on p. 7) is treated in § 3.6.

All these points are not only worth considering in their own right, as constituting part of the history of rhetoric. They are also essential for understanding *De oratore*, viz. for an assessment of the possible sources of the Aristotelian scheme, for an evaluation of the difference between this work and the handbooks then current, and of Cicero's polemic against them.

An important point hardly ever stressed in this connection is the large number of different handbooks that must have existed already in the early first century

5. Cf. Solmsen (1941: 47). On Hermagoras' system of *officia*: Matthes (1958: 107-114), Kennedy (1963: 317-318). It may have been Hermagoras who added memory, but this is no more than a possibility: Matthes (1958: 212), cf. Kennedy (1972: 124). Early Stoic rhetoric did not include it (Diog. L. 7,43).

B.C. The author of the *Rhetorica ad Herennium* assures his addressee that he writes the treatise not for gain and glory as the others do (1,1 *non enim spe quaestus aut gloria commoti venimus ad scribendum quemadmodum ceteri*). This must mean that there was a considerable demand for rhetorical treatises, and that many of these were in fact written⁶. We may, I think, safely assume that the number of Greek handbooks, in this century and before, was rather large also. A certain diversity is therefore to be expected⁷.

As for the background assumed here for the evaluation of earlier systems, this is basically the one given by Quintilian (3,1,15-16):

Theophrastus quoque Aristotelis discipulus de rhetorice diligenter scripsit, atque hinc vel studiosius philosophi quam rhetores praecipueque Stoicorum ac Peripateticorum principes. fecit deinde velut propriam Hermagoras viam, quam plurimi sunt secuti.

... while Theophrastus, the pupil of Aristotle, produced some careful work on rhetoric. After him the philosophers, more especially the leading members of the Stoic and Peripatetic schools, surpassed even rhetoricians in the zeal they devoted to the subject. Hermagoras next carved out a path of his own, so to speak, which numbers have followed; ...

Some points may be added to this. During the third century, the level of rhetoric as taught by professional rhetoricians was low, higher education being the province of the philosophical schools⁸. In the period that followed, this central position of the philosophers was threatened, no doubt partly because the Romans preferred practical education, and there ensued, somewhere before 160⁹, the quarrel between rhetoric and philosophy that has been so vividly described by Von Arnim¹⁰, a quarrel not yet over a century afterwards, witness Philodemus' *Περὶ ῥητορικῆς*

6. This point was made by Theodor Birt, 'Verlag und Schriftstellereinnahmen im Altertum', *RhM* 72 (1917-18), 311-316: 312-313. (The comparison with a merchant in *Rhet. Her.* 4,9 may be inspired by this situation.) The point remains valid even if the statement in *Rhet. Her.* 1,1 primarily concerns Latin treatises (even in Cicero's later years Latin books, as opposed to Greek ones, seem to have been hard to come by: Birt, *Das antike Buchwesen*, Berlin: Hertz, 1882: 363-364); and also if this "boom" in Latin treatises belongs not to the eighties, but to the sixties of the first century B.C., as Peter Lebrecht Schmidt would argue ('Die Anfänge der institutionellen Rhetorik in Rom', in: Eckard Lefèvre, ed., *Monumentum Chiloniense. Festschrift Erich Burck*, Amsterdam: Hakkert, 1975, 183-216).

7. Cf. also Quint. 3,1,2 *inquisitione opinionum, quae diversissimae fuerunt*; 3,1,19-20; Suet. *Gramm.* 4,6 *veteres grammatici et rhetoricam docebant ac multorum de utraque arte commentarii feruntur*.

8. Cf. Von Arnim (1898: 80-81).

9. The quarrel was already going on in 155, when the embassy of philosophers (Carneades, Critolaus, Diogenes of Babylon) was sent to Rome by the Athenians; and probably also in 161, when philosophers and rhetoricians were banished from Rome (Suet. *Rhet.* 1).

10. Von Arnim (1898: 80-112). See also Kennedy (1963: 321-330).

(*On Rhetoric*) and *De oratore*¹¹. The effort of Hermagoras, who worked ca. 150¹², to put rhetoric on a new basis was very probably partly prompted by the desire to answer the challenge of the philosophers.

This picture is admittedly rather broad, but the important thing for the moment is to have roughly determined where rhetorical doctrines may have originated or may have been preserved. Some more details about the relationship between rhetoric and the philosophical schools will be given in chapter 5.

3.2 The Absence of Ethos and Pathos

This section is concerned with the absence of ethos and pathos as independent concepts from the post-Aristotelian handbooks until the middle of the first century B.C. Direct evidence for this absence is of course scanty. It consists of the two surviving handbooks from that time, *De inventione*, the work of Cicero's youth, and the anonymous *Rhetorica ad Herennium*, both from the beginning of the first century B.C.¹³: there ethos and pathos are only mentioned in the rules for prologue and epilogue. But Solmsen has assembled a number of testimonies that clearly prove that, despite the diversity of rhetorical doctrines mentioned in the previous section, in this respect the two extant works are typical of all handbooks of their time. One of these testimonies, e.g., is *De oratore* 2,201, where Cicero makes the main speaker of that book, Antonius, say that ethos and pathos 'are not adequately treated in the rules of the handbooks' (*quae minime praeceptis artium sunt perpo-*

11. Cf. also Apollonius Molon, the early first century rhetorician (*RE* II: 141-144, s.v. Apollonios, no. 85): he wrote *Κατὰ φιλοσόφων* (ib.: 143).

12. The place of H. in Quint. I.c. suggests that he was the first important rhetorician after the dominance of the philosophical schools in the third century. This associates him with the quarrel, which means that even 150 may not be early enough, and that 130, the date Matthes (1958: 70-71) is inclined to favour, is implausibly late. His arguments are, moreover, unsound: (1) The fact that Posidonius, as late as 62 B.C., thought it necessary to refute him (Hermag. T5 = Plut. *Pomp.* 42) does not point to a later date than 150: as Matthes himself relates (1958: 73-76), Hermagoras' (direct) influence lasted much longer still; (2) Quint. 3,6,33 shows that a certain Archdemus, in his discussion of *stasis*, did not mention the *stasis* of *μετάληψις*, which was invented by H. (cf. Matthes 1958: 165 n. 4); accordingly, Matthes says, H. must be later than Archdemus, whom he thinks may well be the same as the Stoic philosopher of that name from Tarsus (prob. died ca. 140). But, even apart from the uncertainty of this identification, it does not follow that H. comes after him: H.' authority will not have been overriding from the start, so Archdemus may just have ignored his invention of *μετάληψις*; and even if H. did come after him, Archdemus may have written on *stasis* many years before his death, so an earlier date remains possible.

13. I adopt the traditional dating of *Rhet. Her.*, the 80's of the first century B.C. (cf. e.g. Kennedy 1972: 111-113), not a later one as e.g. Douglas does (below n. 35).

litae). In fact, a few testimonies may be added to Solmsen's¹⁴.

This evidence, however, is relevant only to a limited time, about the end of the second century B.C. This leaves open the question if early post-Aristotelian handbooks did contain Aristotle's division into three *pisteis*. The evidence about this is not such as to warrant too much confidence, but it nevertheless suggests that they did not.

Solmsen, however, supposed that they did, and that their inclusion 'was abandoned by the Hellenistic rhetoricians ... How soon after Aristotle this happened it is difficult to say ... The Stoics, as is well known, generally disapproved of the arousing of emotions, and Hermagoras was influenced by them. In view of his enormous influence on the later rhetorical systems I should think that he was responsible (though not necessarily alone responsible) for the fact that *inventio* was reduced to a theory of the arguments and that the other two factors disappeared'¹⁵. This amounts to three statements: (a) ethos and pathos did occur in the handbooks between Aristotle and Hermagoras; (b) Stoic influence was responsible for their absence from Hermagoras' system; (c) his influence in turn is the most important factor that explains their absence from later handbooks.

Point (a) is the crucial one and will be examined below. But even if it is true, point (b), about the nature of the Stoic influence on Hermagoras, should be modified. Although there is no doubt that his theories did indeed not include ethos and pathos as independent concepts¹⁶, he certainly did not share the Stoics' rejection of emotional appeal, for his rules on digression and epilogue probably prescribed playing upon the feelings, and his system included *deprecatio*, a type of case wholly dependent on the arousing of pity¹⁷. Nevertheless, something not unlike (b) might be true: Quintilian's statement quoted above (p. 79) shows that

14. Solmsen (1938: 394-396). His testimonies: (1a) *De or.* 1,87-89; (b) 2,201; (2) Philodemus *Rhet.* 1,370 Sudhaus (above p. 56 with nn.); (3) Quint. 6,2,25 and its context. To these may be added: (1c) *De or.* 1,52-53 and 1,60 (cf. Barwick 1963: 77), where Crassus says there is much outside rhetorical theory proper that the perfect orator must know. (52-3) *sed tamen in iis ipsis rebus permulta sunt, quae isti magistri qui rhetorici vocantur nec tradunt nec tenent. quis enim nescit maxime vim existere oratoris in hominum mentibus vel ad iram aut ad odium aut dolorem incitandis vel ab hisce isdem permotionibus ad lenitatem misericordiamque revocandis?*; (60) *num admoveri possit oratio ad sensus animorum atque motus vel inflammandos vel etiam extinguendos ...*; (1d) 2,232 *quasi vero ... horum ipsorum, de quibus Antonius iam diu loquitur, ars ulla sit. observatio quaedam est, ut ipse dixit, earum rerum quae in dicendo valent.* It is true that *ars* here means more than 'things contained in the handbooks', and that *earum rerum ...* refers to everything treated from 2,99 onwards. But this would probably not have been stated thus if the handbooks had had anything to say about ethos and pathos, especially in view of the emphasis on these two in 2,178ff. (cf. p. 250). (1e) 2,179-181, where Catulus expresses his surprise at Antonius' announcement that he will now treat ethos and pathos (cf. p. 194-195).

15. Solmsen (1941: 178).

16. Matthes (1958: 60-61, and *passim*).

17. Digression and epilogue: Matthes (1958: 208-209); digression: Hermagoras fr. 22a Matthes = *Inv.* 1,97 (cf. also *De or.* 2,80); *deprecatio*: Matthes (1958: 163).

Stoic rhetoric was probably influential¹⁸, and Hermagoras, who was probably influenced by their logic¹⁹, may also have been influenced by their rhetoric. The absence of anything like emotional appeal in their system may therefore have led to the absence of ethos and pathos as separate means of persuasion in his. In any case, his theories did not include ethos and pathos. Point (c), the hypothesis that his influence was decisive, may then be right, for Quintilian's statement that he went his own way and that many have followed him is borne out by what we know of his influence²⁰. On the other hand, not everyone needs to have followed him, and Quintilian's next sentence actually mentions Hermagoras' foremost rival, Athenaeus (*cui maxime par atque aemulus videtur Athenaeus fuisse*). If (c) is to be true, Athenaeus and other rivals must have been influenced by Hermagoras (or by Stoic rhetoric) with respect to ethos and pathos. In this modified form, Solmsen's reconstruction may be true.

The alternative hypothesis, however, seems more attractive, viz. that ethos and pathos, as concepts, were absent from the whole or virtually the whole of post-Aristotelian rhetoric. It has been argued in the last chapter (§ 2.5) that as far as Aristotelian influence depended on direct knowledge of the *Rhetoric*, this alternative would be quite plausible. Moreover, on the principle of Occam's razor, it explains more simply the correspondence on this score between pre- and post-Aristotelian handbooks: there was, then, one more or less continuous tradition, which incorporated some of Aristotle's concepts, but disregarded others, among which ethos and pathos. These considerations are of course no proofs. These may be found in the actual history of rhetoric in the third and the first half of the second century (as the background I assume the one sketched in § 3.1).

The Stoics, as remarked above, rejected emotional appeal²¹ and cannot therefore have adopted Aristotle's three *pisteis*. As for the Peripatos, it is likely that Theophrastus in his rhetorical writings and teachings treated invention along Aristotle's lines²²: having heard him in person, he did not need the *Rhetoric* for that. But, as I will try to show in § 5.4, it is unlikely that his successors preserved this approach.

But the main question here concerns the specifically rhetorical tradition, and because of its low standing in the third century it would be no surprise if it did

18. Quintilian's testimony should not be lightly discarded: below p. 184.

19. Below, n. 67.

20. Cf. Matthes (1958: 70-81).

21. See e.g. *SVF* III 451; *De or.* 1,220; 227-230; 2,159; *Brut.* 113-116; 117 (cf. Quint. 6,1,7). Max Pohlenz, *Die Stoa. Geschichte einer geistigen Bewegung* (Göttingen: Vandenhoeck & Ruprecht, vol. I 1978⁵, vol. II 1980⁵): I, 52-53; II, 31.

22. There is no direct evidence that I know of; regrettably, no confirmation can be derived from the title of one of his books, *Περὶ τῶν ἀρέχων πῶς τελεῖται* (Diog. L. 5,46; cf. below p. 181 n. 75): the division into *πίστεως* & *ἐντεχνῶν* was common, however much its place in the various systems differed (cf. Solmsen 1941: 44-45, 186-187; and below p. 130-132).

not preserve Aristotle's three *pisteis* either. This is in fact what is strongly suggested by the only passage providing real evidence, *De oratore* 1,87. According to this passage the Academic philosopher Charmadas, in a discussion allegedly held about 102 B.C.²³, mocked the rhetoricians for having nothing to say on ethos and pathos. This testimony, about which more will be said in chapter 5, is of course primarily relevant for the end of the first century B.C.²⁴. But Charmadas' statements are part of the quarrel between rhetoric and philosophy that had begun much earlier; and one of the philosophers particularly associated with the attacks on rhetorical education is Charmadas' teacher, Carneades, who became head of the Academy about 160²⁵. It is therefore hard to imagine that the criticism voiced by Charmadas (even if it was not formulated exactly as in the passage from *De oratore*²⁶) did not apply sixty or seventy years earlier than 102, since in that case the rhetoricians (among them Hermagoras) gave up treating ethos and pathos in the very period when they were violently attacked.

This indicates that ethos and pathos were probably absent from the rhetorical handbooks as early as 170 or 160, i.e. just before Hermagoras, and at or just before the time professional rhetoric began to gain importance again. This makes the hypothesis that ethos and pathos had been absent in the third century also, when rhetorical education was at a much lower level, very plausible.

But the evidence is tenuous, and Solmsen's hypothesis may still be right. As things are, however, the little evidence we have seems to favour the assumption that ethos and pathos, as independent concepts, are not among the Aristotelian principles that became part of the rhetorical tradition.

3.3 The Nature of the Contamination

To treat the parts of the speech not under the head of disposition but under invention, as *De inventione*, the *Rhetorica ad Herennium* and undoubtedly many other handbooks²⁷ did, is commonly, and rightly, called a contamination of the Aristotelian scheme with the older one of the parts of the speech²⁸. This term has a conceptual and a historical aspect: a conceptual one, because a contamination is supposed to be, in some measure, a confusion of two or more principles; and a historical one, because the principles involved are assumed to have first existed

23. Cf. L.-P. ad 1,82 *pro consule*.

24. It is one of Solmsen's testimonia (above n. 14).

25. Below p. 168.

26. Below, §§ 5.1 and 5.3.

27. Cf. the polemic in *De or.* mentioned below pp. 85, 90-91.

28. E.g. Solmsen (1941: 48-49), Kennedy (1963: 265-266, 'conflation').

in a pure form. The historical aspect matches the approach known as *Quellenforschung*²⁹, which was directed towards reconstructing the original systems whose traces survive in the extant handbooks. Its procedures, however, were based on the conceptual aspect: illogicalities in the surviving handbooks made it possible to recognize historically different layers in these works, i.e., different "original" principles combined in them.

In many other cases where *Quellenforschung* applied analogous procedures the results were, to say the least, doubtful, because the illogicalities involved were often largely imaginary. In the case of the systems of *De inventione* and the *Rhetorica ad Herennium*, however, our knowledge of the *Rhetoric* and of *De oratore* puts the conclusion of a contamination beyond doubt. The historical aspect is treated in the next section. Here the conceptual one will be examined.

The underlying principle of Aristotle's *officia*, and especially of the difference between invention and disposition, is that of a sequence of various stages of handling the material of a case, leading to the composition of a coherent speech. All means of persuasion have to be "invented" before being arranged into parts of a speech, as is clear from *Rhetoric* 3,1,1 (03b6-8) (the question of the order style - disposition, which is the reverse of the order that became traditional, is of no importance here)³⁰:

τρία ἔστιν ἃ δεῖ πραγματευθῆναι περὶ τὸν λόγον, ἓν μὲν ἐκ τίνων αἱ πῖστοις ἔσονται, δεύτερον δὲ περὶ τὴν λέξιν, τρίτον δὲ πῶς χρὴ τάξαι τὰ μέρη τοῦ λόγου, ...

... three things require special attention in regard to speeches, first, the sources of the means of persuasion, second, the style, and third, the proper arrangement of the parts of the speech.

The treatment of arrangement in 3,13-19 is somewhat unsatisfactory, for these sections are hardly connected with the treatment of invention³¹, and are to a large extent a continuation of the older scheme. But the principle itself is clearly there. It means that when an orator starts working on his prologue he has already thought out all possible means of persuasion, some of which he may use now, and the same goes for the other parts. This procedure is suited to compose a maximally coherent speech, for it enables the orator to connect the separate parts with all available material. Moreover, as Solmsen put it³², on this theory 'the stirring-up of the emotions will not be limited to the beginning and end of the speech but will permeate the whole speech, all the parts of which will be

29. Cf. especially Barwick (1922: 1-3).

30. The three stages mentioned here are probably primarily the ones that must be treated in a book on rhetoric, but the implication for the orator is also clear.

31. Cf. pp. 17, 48-49.

32. Solmsen (1938: 400).

directed toward ψυχαγωγία' (*psychagogia*).

But if an orator should work according to the contaminated scheme things are different. Starting his invention with the prologue, he cannot draw upon a complete set of arguments and other means of persuasion, which means a potential lack of cohesion with the rest of the speech. Moreover, ethos and pathos will be restricted to those parts of the speech where they are mentioned: the prologue and the epilogue. This is not to say that there were many orators actually following this procedure. The important point is that it is implied in the contaminated scheme.

This analysis of the two systems is essentially the one found in *De oratore*, where the Aristotelian scheme is used, in a slightly expanded form. Invention is treated in 2,99-306. Following this stage, all invented material should first be judged and ordered, Antonius then says in 2,308-314³³, and he continues (2,315):

hisce omnibus rebus consideratis, tum denique id, quod primum est dicendum, postremum soleo cogitare, quo utar exordio. nam si quando id primum invenire volui, nullum mihi occurrit nisi aut exile aut nugatorium aut volgare aut commune.

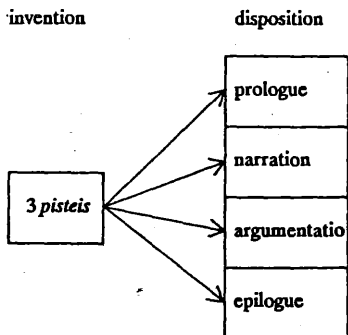
When all these things have been considered, only then, as the last stage, it is my custom to think about what is to be said first, i.e., what prologue I must use. For whenever I tried to find (*invenire*) that first, the only things that occurred to me were dry or futile or general or common.

The scheme of *De inventione* and the *Rhetorica ad Herennium*, therefore, presents a real, conceptual, contamination, as has frequently been observed³⁴. But there is a link with the absence of ethos and pathos that has, I think, not yet been described: this absence was almost a necessary condition for the contamination.

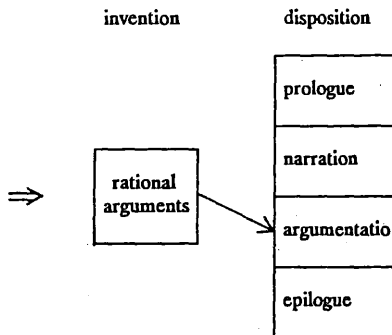
If ethos and pathos are removed from the Aristotelian system, all that is left for the first *officium* is the invention of rational arguments, i.e., of the material primarily meant for the *argumentatio* alone. This may sever the link between the other parts of the speech and invention. This change may be illustrated by the following two schemes (where, for clarity's sake, the number of the parts of the speech is assumed to be four, though *De inventione* and the *Rhetorica ad Herennium* actually have six):

33. Cf. below § 6.4, p. 205-208.

34. Cf. Barwick (1922: 3 n. 1): 'Dass die *partes orationis* mit der *inventio* nichts zu tun haben, hatte auch schon G. Thiele ... richtig erkannt, ...'; Matthes (1958: 117 n. 1): 'Dass die μέρη τοῦ λόγου ein "Fremdkörper" innerhalb der εὑρεσις sind ...'.



SCHEME 1



SCHEME 2

It must perhaps be stressed again that the first, Aristotelian system implies no restriction of certain *pisteis* to certain parts of the speech, such as of pathos to the epilogue. It therefore allows, and even favours, a distribution of *pisteis* only determined by the requirements of the case in hand: if, as often happens in practice, it is useful that the *argumentatio* should contain much ethos or pathos, this is perfectly compatible with the Aristotelian scheme.

It is of course uncertain whether e.g. Hermagoras' system really matched the second scheme. But the ultimate source of *De inventione* and the *Rhetorica ad Herennium*³⁵, which was in turn derived from Hermagoras and was still uncontaminated, probably did. This source did contain, like *De inventione* and the *Rhetorica ad Herennium*, an attempt to link the prologue firmly to the case, and for that purpose four types of cases were distinguished³⁶, each requiring a different kind of prologue. But although this does offer some link with the case itself, a connection with the material for the rest of the speech is not provided for. The rules for the prologue are therefore still unconnected with invention. Hermagoras may have given additional precepts that linked the prologue (and the other parts) firmly with this *officium*, but since the distinction between the types of cases (in the form found in *De inventione* and the *Rhetorica ad Herennium*) stems from him³⁷ it is perhaps not very plausible that he did.

However that may be, the step from the second system to a contaminated one

35. The exact relationship between the two treatises will probably always be a matter of dispute, but the fact of an (ultimate) common source is now hardly ever denied. Cf. the references in Kennedy (1972: 126 n. 32); and Barwick (1922: 6-7). An exception is Alan Edward Douglas, 'Clausulae in the *Rhetorica ad Herennium* as Evidence of its Date', *CQ* 10 (1960), 65-78; but see Kennedy's criticism (1972: 113 n. 4).

36. *Rhet. Her.* 1.5 has four types, the fifth one in *Inv.* 1.20 is not Hermagorean (Matthes 1958: 192 n. 2), and was therefore probably not in the common source of the two Latin treatises.

37. Matthes (1958: 192-195).

is only small, since the two stages are now easy to integrate. The following (simplified) scheme represents the result of the "telescoping" permitted by the second scheme above:

invention	disposition
prologue (former disp.)	
narration (former disp.)	
former inv. → argumentatio	
epilogue (former disp.)	

SCHEME 3

Matters were in fact more complicated. In particular, invention and disposition of rational arguments contained a number of elements that might be distributed in different ways, and the contamination might thus be carried through in various degrees of completeness³⁸. For instance, *De inventione* starts with general considerations on *stasis* that also belong to invention in the uncontaminated scheme, and thus still has a stage preliminary to the rules on the parts of the speech; but the *Rhetorica ad Herennium* exhibits a system where the contamination is complete: the general considerations on *stasis* are here incorporated in the treatment of *argumentatio*³⁹. Depending on the distribution of the several elements, the rules for disposition (represented as completely "empty" in the above scheme) could be very short, as in the *Rhetorica ad Herennium* (only three sections: 3,16-18!), or somewhat longer. These complications are, however, of no further importance here.

In short, the contamination consisted in the "telescoping" of invention and disposition described above, which was more or less suggested by the absence of *ethos* and *pathos*. This absence was in fact almost a necessary condition for it, for it was impossible starting from the first, Aristotelian scheme - provided, of course,

38. Cf. Matthes (1958: 113-120). The elements are (a) the distinction between different *staseis*; (b) general *topoi*; (c) *topoi* for each *stasis*; (d) *tractatio* (form of the arguments); (e) *iudicium* (*κρίσις*: the judging of the arguments found); (f) *partitio* (the order of the arguments). Element (b) is to be found in *Inv.* 1,34-49, but there is no trace of it in *Rhet. Her.* (cf. Matthes 1958: 120). About (e) and (f) cf. below, § 6.4, p. 205-208.

39. The place of the *topoi* for each *stasis* in *Inv.* 2 is not a real difference with *Rhet. Her.*, for it is prompted by considerations of composition only: cf. 1,34; 49; 2,11.

that the original flexibility inherent in it was preserved, i.e., that the invention of, e.g., all means of emotional appeal was considered potentially relevant for all parts of the speech.

The reason why the contaminated scheme was often preferred was probably didactic. The framework of the parts of the speech is, after all, an easy one, because it joins invention with the ultimate result of applying rhetoric: a speech. This reason is in fact suggested by the author of the *Rhetorica ad Herennium* himself (1,4):

... una cum oratoris officiis, quo res cognitu facilius esset, producti sumus ut de orationis partibus loqueremur et eas ad inventionis rationem adcommo-
daremus, ...

Along with the speaker's functions (*officia*), in order to make the subject easier to understand, I have been led also to discuss the parts of the speech, and to adapt these to the theory of invention.

The analysis given in this section may be illustrated from Quintilian. On the one hand, he treats the parts under the head of invention, thus employing the contaminated scheme. Nevertheless, probably under the influence of *De oratore*, he also has a separate chapter on ethos and pathos (6,2). The looseness of the connection between this chapter and the rest of his treatment of invention reveals the basic incompatibility between the concept of the three *pisteis* and the contaminated scheme.

3.4 Date of the Contamination; Handbooks in Cicero's Time

Apart from the nature of the contamination, the date of its first appearance is of interest. So is the question if it was the dominant way of organizing a rhetorical treatise by the time Cicero was writing his *De oratore*, or that other types of handbooks were also important. Since the handbooks wholly organized according to the parts of the speech present no problems in this connection⁴⁰, I will first concentrate on the two systems based on the *officia*.

The usual picture is that of a linear development, taking place in the whole of school rhetoric⁴¹: the parts of the speech originally belonged to disposition, as in Aristotle himself, but from a certain time they were treated under invention. This contamination with the scheme based solely on the parts of the speech must,

40. Below p. 91.

41. E.g. Solmsen (1941: 49), Kennedy (1963: 265-266, 313-314; 1972: 115). Matthes' account is similar (1958: 109, 117 '*die Kontamination*' [my italics]), but not really open to objections, since he only treats the branch of the tradition from Hermagoras to *Inv.* and *Rhet. Her.*

then, have taken place somewhere in the second century B.C., viz. before the common source of *De inventione* and the *Rhetorica ad Herennium*, which derived from Hermagoras, but after Hermagoras himself, since he still treated the parts under *τάξις* (disposition)⁴².

This dating of the first appearance of the contamination seems very uncertain to me. Of course *De inventione* and the *Rhetorica ad Herennium* are contaminated versions of a system going back to Hermagoras, and the change in this branch of the tradition must have taken place somewhere in between⁴³. But there may already have been contaminated handbooks in Hermagoras' time, and before: if my hypothesis of § 3.2 is correct and ethos and pathos had not become part of the rhetorical tradition, this necessary condition for the contamination (cf. § 3.3) was present in the whole of post-Aristotelian rhetoric. Moreover, the didactic reasons for preferring the contaminated option were at least as strongly present in the third century, when the level of rhetorical education was low⁴⁴. But positive evidence for either of the alternatives is lacking, and it should be admitted that we do not know when the new type of handbook first emerged.

The other aspect of the usual picture is more important: the coexistence of the two types is often implicitly ruled out⁴⁵. In general, the uncertainty stressed just now renders this doubtful; and some positive evidence is available which clearly proves it to be wrong: handbooks of both sorts were current in Cicero's time. The crucial passage is *De oratore* 1,138-145, where Crassus deals cursorily with the commonplace rules he learnt in his youth⁴⁶; Leeman-Pinkster have shown that, contrary to what has been thought, the parts of the speech are there subordinate to disposition⁴⁷ - although they seem to suppose that this only reflects Cicero's own choice of the Aristotelian arrangement adopted in book 2, thus disregarding the context that unmistakably points to the school system⁴⁸. Within

42. That Hermagoras did so has been convincingly argued by Matthes (1958: 117-121). It was already supposed by Georg Thiele (*Hermagoras. Ein Beitrag zur Geschichte der Rhetorik*, Strassburg: Trübner, 1893: 145, 152 and 113-140), but his arguments were unsound, because based on an erroneous reconstruction of Hermagoras' system of *officia* (cf. Matthes 1958: 113-114).

43. That *Rhet. Her.* 1.4, where the contamination seems to be excused, points to this, as Matthes (1958: 117) says, is probable (cf. the wording in 3,16; *Inv.* 1,30). Cf. below p. 90.

44. Above p. 79.

45. References above n. 41.

46. 1,137 *non negabo me ista omnium communia et contrita praecepta didicisse*. Cf. Antonius in 2,41: ... *Crassus heri ... posuit breviter in artis distributione idem quod Graeci plerique posuerunt, neque sane quid ipse sentiret, sed quid ab illis diceretur ostendit*.

47. L.-P. (I: 232-233); the older interpretation was that parts and *officia* are here unconnected (Barwick 1922: 7-8 [cf. my Appendix 2], Solmsen 1941: 47 n. 44). The decisive point for L.-P.'s interpretation is that it makes a passage intelligible that would otherwise be unusually obscure.

48. They tentatively link this choice with Hermagoras, and only via Hermagoras with Aristotle. But Hermagoras is not a very plausible candidate for a strong influence on *De or.*, and more important, they thus disregard the conceptual link between this choice and ethos and pathos (§ 3.3), as many other critics do.

the dialogue, this means nothing more than that in Crassus' younger years the uncontaminated form was still current, which not necessarily contradicts the usual picture. But since the contaminated form was certainly known in 91 when the dialogue is set, Cicero could easily have chosen to make Crassus refer to this instead of to a system of his youth. His choice not to do so is therefore clear proof that the uncontaminated form described by Crassus was sufficiently well known in Cicero's own time to be referred to in passing, and important enough to be represented as a very usual system and to be polemized against.

This is confirmed by *Brutus* 263 and 271, where two of Cicero's contemporaries are said to have used Hermagoras' system, and where that system is still talked about as influential. Other evidence supports this long lasting influence of Hermagoras, and although some of it may refer not to his own (uncontaminated) handbook, but to later handbooks representing (part of) his theories, it is implausible that this is always the case⁴⁹.

Some passages now appear in a slightly different light. That Crassus' presentation of the uncontaminated system in *De oratore* 1,138-145 serves Cicero's own polemical purpose was at the basis of my argument. Furthermore, the excuse for the contamination in *Rhetorica ad Herennium* 1,4 quoted above (p. 88) is often, plausibly, taken as a sign that the ultimate source of this treatise undertook the contamination himself⁵⁰; but the presence of the excuse was probably also, and more directly, prompted by the fact that the author and his potential readers were quite familiar with the uncontaminated system.

More important is Antonius' polemic in *De oratore* 2,315 against subsuming the parts under invention, which was quoted earlier (p. 85). In view of the above, its malice⁵¹ cannot be explained anymore by supposing that he emphatically introduces a scheme that was again new in Cicero's time because the contamination had intervened between Aristotle and Cicero⁵². Because Antonius' most violent criticisms in 2,78-84, as well as Charmadas' in 1,86, are also directed against the precepts for the separate parts, we may perhaps suppose that the contaminated handbooks,

49. *Brut.* 263, 271 are T6-7 Matthes. About Hermagoras' direct influence cf. Matthes (1958: 75-76), and his T5 = *Plut. Pomp.* 42 (on which cf. above n. 12). *De or.* 3,75 should probably not be taken as representing the uncontaminated system: *scribunt enim de litium genere et de principiis et de narrationibus* seems primarily meant to indicate the main features of standard theory, not a sequence of these features.

50. Above n. 43.

51. This malice is revealed by the use of the terms *volgare* and *commune*: both are technical terms for faulty prologues of a specific kind (*Inv.* 1,26; *Rhet. Her.* 1,11). School rhetoric is thus condemned in its own terms! The fact that these are, characteristically, not used in their technical sense contributes to the sarcasm: Antonius also mocks the handbooks' scholastic attempts at precision, as he often does more explicitly. (*Exile* and *nugatorium* are, as far as we can tell from the surviving material, no technical terms.)

52. This is, approximately, Barwick's explanation (1922: 9). His reconstructions are also untenable: Appendix 2 below.

though not the only ones, were gaining importance in Cicero's time⁵³. This would explain why Quintilian takes this system for granted in spite of his respect for *De oratore*, and why there seems to be no trace of the other system after Cicero. On the other hand, this conclusion is far from compelling: the contaminated system was further from the one used by "Antonius" than the uncontaminated one, and this may be sufficient explanation of the emphatic nature of his polemic - far more emphatic than Crassus' in book 1⁵⁴.

A more accurate and complete picture of the variety of rhetorical systems in the period covered by this study may now be given. First, however, it deserves some stress that the systems treated or mentioned above are the only main types supported by the evidence until now (a re-examination of the later rhetorical treatises, especially the numerous Greek ones, might bring to light some new information). At least three other types have been claimed to have existed on a significant scale, but for these, evidence is either non-existent or of a very late date, or derived from clearly non-typical cases such as Cicero's *Partitiones oratoriae*⁵⁵ (more details in Appendix 2). Moreover, the survey to be given here only comprises handbooks exhibiting a complete system or, like *De inventione*, part of a complete system. There were also separate books on the different parts of the speech; these seem to be of a relatively late date, or perhaps of purely Greek origin, for they are not hinted at by Cicero. Treatises on separate *officia* were as old as Theophrastus⁵⁶.

I now turn to the systems that actually existed as types between the fourth or fifth century and the first century B.C. The first is the one based upon the parts of the speech alone. This was the oldest one, employed by the pre-Aristotelian arts⁵⁷, but a number of the surviving handbooks from later centuries (A.D.) also use it⁵⁸, so it was probably current through the whole of antiquity.

The second one is the system based on the *officia oratoris*, with the uncontaminated and contaminated variants discussed above. As remarked earlier (p. 77), Quintilian suggests that it was more frequent and important than the first one: he says that *plurimi maxime auctores* (3,3,1: 'most authorities, and those the

53. Both 2,79-83 (about the parts) and 1,86 (*quaerebat ... libri*) must be directed against the system based on the parts only and against the contaminated system (L.-P. ad 1,86 assume that only the first is aimed at).

54. This difference also serves Cicero's characterization of his two main speakers.

55. On this treatise cf. § 5.2, p. 172-173.

56. Monographs on separate parts of the speech: Quint. 4,pr.,7; on separate *officia*: cf. the brief remark in Kennedy (1963: 268).

57. Above § 2.2, p. 13.

58. Barwick (1922: 11) and Solmsen (1941: 46 n. 43) mention the Anonymus Seguerianus (352-398 Sp.-H.), Rufus (399-407 Sp.-H.), Apsines (217-329 Sp.-H.), all Greek, and the Latin rhetorician Iulius Severianus (RLM 355-370).

most important') employed the five *officia*. Although this statement indeed shows that the system of *officia* was the dominant one, it is primarily meant to indicate that there were considerable variations within this system itself, of which the one with the fivefold division was the most important: in the following sections (3,3,4-10) Quintilian lists a number of alternative sets of *officia*. The most noteworthy among these is Hermagoras': despite his vast influence as regards *stasis* theory, his more elaborate system of *officia* was apparently not adopted by others⁵⁹. The most noteworthy omission from Quintilian's list is the task of *intellectio* (or νόησις, 'understanding', viz. of the basic facts of the case): the separation of this from invention must have been a later development⁶⁰. All these variants, however, the ones he mentions and the (later) ones he does not, may here be considered as belonging to the same main system, for the important point here is the relationship between the *officia* and the parts of the speech.

Of this second system the uncontaminated form, which treats the parts of the speech under the head of disposition, is the original one: it goes back to Aristotle. It was still current in Cicero's time⁶¹, but there seem to be no traces afterwards. The contaminated form, where the parts are the basis of invention, is better known. Its first occurrence is uncertain and may have been as early as the third, or as late as the end of the second century B.C. It was also frequently used in later times⁶².

As Solmsen has remarked, the contamination seems to have been most frequent in the branch that received most attention in the handbooks, the judicial one: sometimes one and the same author treats this according to the contaminated scheme, but the other two branches according to the uncontaminated one⁶³. As

59. Later some of them were sometimes part of invention or disposition (cf. § 6.4, p. 205 with n. 53); this may or may not be due to his influence. On Hermagoras' system Matthes (1958: 107-114).

60. Cf. Martin (1974: 213 n. 21, and 11 n. 126, 15, 26, 28). Quintilian's silence seems a more reliable argument against supposing that νόησις was part of Hermagoras' system than those advanced by Matthes (1958: 121). Cf. also § 6.3, p. 200-201 with n. 30.

61. *Rhet. Alex.* has roughly the same order as Arist. *Rhet.*, although style (c.22-28,1: 1434a33-36a12) is somewhat summarily treated. The uncontaminated scheme was also used by Hermagoras (cf. n. 42); referred to in *De or.* 1,138-145; used in *De or.* itself; and perhaps by the early Stoics (Diog. L. 7,42-43 mentions 4 *officia* and, separately, 4 parts [cf. Appendix 2, p. 325-326]; for them didactic considerations were not very urgent, and they may have drawn directly from Theophrastus).

62. Cf. Solmsen (1941: 48-50), Barwick (1922: 2). It is represented (with some variations) by the Latin treatises of Quintilian, Fortunatianus (*RLM* 81-134; also ed. by Lucia Calboli Montefusco, Bologna: Pàtron, 1979), Iulius Victor (*RLM* 373-448; also ed. by R. Giomini - M.S. Celentano, Leipzig: Teubner, 1980); and by the Greek one of Longinus (179-207 Sp.-H.; thus Solmsen 1941: 49 with n. 55, and Kennedy 1972: 638; Barwick's conclusion, 1922: 2 n. 1, is unwarranted, especially in view of the incompleteness of the passage on invention).

63. Solmsen (1941: 48-49), whose account, however, is not entirely accurate: *Rhet. Her.* indeed treats the deliberative and epideictic branch (3,1-9; 10-15) according to the uncontaminated scheme, but *Inv.* does not: 2,155-176 and 177-178 are on one level with 2,14-154, since all three provide

regards the relationship between the two main types, the development of the contaminated version of the second must have been stimulated, or even directly caused, by the uninterrupted presence of the first. This fits in with the statement in *De inventione* 2,8, where the Aristotelian and the Isocratean traditions (of which the latter probably worked with the parts alone) are referred to: *ex his duabus diversis sicuti familiis ... unum quoddam est conflatum genus a posterioribus* ('These two opposing sects, as we may call them, ... were fused into one group by later teachers')⁶⁴.

3.5 The Extant Handbooks, *Stasis* Theory and Ethos and Pathos

The foregoing sections have dealt with the overall organization of the handbooks. It is now time to investigate in what form ethos and pathos were present in them: for although they were absent as independent concepts, the handbooks did not entirely neglect them. Such an investigation requires a discussion of the details of the handbooks involved, which means that focus will have to be on the two extant ones, *De inventione* and the *Rhetorica ad Herennium*, and on the influence of *stasis* theory in this respect. The usual analysis is that the precepts for prologue and epilogue were the only parts of the handbooks where attention was paid to the indirect means of persuasion. This is essentially correct, although it may be in order to supplement it by two considerations: first, a number of the *topoi* for the *argumentatio* did refer to, or hint at, ethos and pathos, but in a very unsystematic way; second, the precepts for the prologue and the epilogue were rather rigid and arbitrary.

The structures of the two handbooks are slightly different, but the common features are far more numerous⁶⁵, the most important one being *stasis* theory. This theory, though anticipated as early as Aristotle's *Rhetoric*, received its most influential methodical form from Hermagoras, around 150⁶⁶. Hermagoras may have been influenced by Stoic theories of logic, but his own theory was by no means a mere adaptation of logical schemes, and the connection seems not very strong.

material for the *argumentatio* as promised in 1,49; book 1 as a whole is meant to be applicable to all three kinds of oratory, despite the emphasis on the judicial kind (cf. e.g. 1,11; 17; 2,12-13; 155). In Quintilian, 3,7, on the epideictic branch, contains no reference to the parts; 3,8, on deliberative oratory, contains a short treatment of them (3,8,6-12), which, however, is not systematic.

64. Thus Solmsen (1941: 49); Barwick's conclusion (1922: 43) is in the same vein, though again based on untenable reconstructions.

65. Slightly different: above p. 87. On the relationship between the two treatises above n. 35.

66. Aristotle: *Rhet.* 3,15,2-3 (16a6-20); cf. Matthes (1958: 135 with n. 2, 138). On Hermagoras' date above n. 12.

He was certainly not a Stoic himself⁶⁷: as stressed before, he endorsed emotional appeal, which was anathema to the Stoics. His elaborate system of *officia* probably had little influence, but his *stasis* theory came to determine the content of large parts of most handbooks of the next three hundred years⁶⁸.

The focus of the theory⁶⁹, in all its variants, was on judicial oratory, and on one part of the speech, the *argumentatio*⁷⁰. Its principle was to classify all possible cases into a number of categories, and to supply more or less ready-made arguments (*topoi*) for each. The details of the classification varied, but this makes little difference here. In *De inventione* all cases are, after some preliminary steps⁷¹, divided into four *staseis*⁷²; after some more steps the result is thirteen classes of cases; in the *Rhetorica ad Herennium* there are sixteen such classes. For each of these⁷³ a number of possible arguments for the accuser and for the accused are listed. (As it did by its emphasis on the parts of the speech, standard rhetoric of this time continued the approach of pre-Aristotelian instruction in this respect also: the early teachers gave their clients speeches to learn by heart, containing ready-made arguments⁷⁴.)

As a way of analysis the system is quite adequate, and it probably helped boys beginning to learn rhetoric to see the central issue of a case⁷⁵. But the exhaustiveness aimed at for such checklists of *topoi*, of all possible arguments in all possible cases, also has some disadvantages, as Antonius in *De oratore* 2 stresses

67. Volkmann (1885: 9, 207-210) and Fr. Striller (*De Stoicorum studiis rhetoricis*, Breslauer philologische Abh. I,2 [1886], 24-26) strongly associated him with Stoic concepts. This was refuted by Thiele (1893 [above n. 42]: 170-176). On the possible relationship with logic cf. Matthes (1958: 135-136).

68. His *officia*: above p. 92; his influence: cf. the reference n. 20.

69. For *stasis* theory in general see Matthes (1958); for a survey Kennedy (1963: 303-313). A recent account is Lucia Calboli Montefusco, *La dottrina degli "status" nella retorica greca e romana* (Hildesheim, New York: Olms, Weidmann, 1986).

70. It also influences the smaller parts immediately dependent on the *argumentatio*: *propositio* and *partitio*, and *recapitulatio* (*enumeratio*), which is the first part of the epilogue. This is not important here.

71. In *Inv.* only the cases *in ratione*, as opposed to those *in scripto*, are treated as having a *stasis* (cf. 1,17), although 1,10 seems to contradict this. Matthes (1958: 61, 182) takes this as Hermagoras' doctrine, but Braet thinks it possible that in Hermagoras both had *stasis* (Antoine C. Braet, *De klassieke statusleer in modern perspectief*, Groningen: Wolters-Noordhoff, 1984 [in Dutch]: 50-53). The problem is unimportant here.

72. *Inv.* 1,10. The four are, in usual terms: *constitutio coniecturalis* ('did he do it'), *definitiva* ('how should the act be defined'), *qualitatis* ('was it right or wrong in itself'), and *translativa* (where the correctness of the procedure is in question).

73. Or rather, almost each, since some subclasses are combined: *Inv.* 2,99-102 lists arguments for all three kinds of *purgatio* together.

74. Arist. *Soph. El.* 34 (183b36-184a8).

75. Thus *De or.* 2,117; 162; Kennedy (1972: 117-118).

time and again⁷⁶. One of these is that the lists are repetitive: the *topoi* given for one case are sometimes very much like those given for others. This does not make for clarity, and neither, on the part of those learning these rules, for flexibility or adaptability: the suggestion is that common features are unimportant, and that all separate lists have to be memorized. There are some cross-references, both in *De inventione* and in the *Rhetorica ad Herennium*⁷⁷, but these are unsystematic and do not remove the basic rigidity. One of Cicero's aims in his treatment of rational arguments in book 2 of *De oratore* is to provide an alternative, by giving *topoi* of another kind: abstract ones, argument-patterns that may be applied by an orator, who has first grasped all the ins and outs of a case, to find all suitable arguments himself (cf. § 4.4). Thus the resemblances between individual arguments, which were virtually neglected in school rhetoric, are at the basis of the invention of rational arguments in *De oratore*.

I will now treat the first point supplementary to the standard view mentioned at the beginning of this section: the *topoi* of school rhetoric are meant for the part of the speech where rational arguments are put forward, the *argumentatio*⁷⁸, but in fact some of them are closely related to ethos and pathos. This, and the repetitiveness just mentioned, may be illustrated by two examples of pathos mentioned in a rational context. The first is *Rhetorica ad Herennium* 2,9, which is part of the treatment of the conjectural type of case, i.e. the type where the central question is whether or not the accused has committed the crime. After the suspicion has been confirmed, the author writes, the accuser may enlarge upon the atrocity of the crime, and the defendant may try to win pity. What follows is a discussion of unquestionably rational arguments on the reliability of witnesses, so the context of these "emotional" precepts is indeed rational argumentation. This shows that such "emotional" *topoi* were not sharply distinguished from "rational" ones.

The second example is what may be termed the *topos* of disorder: the accuser can point to the dangers of leaving crimes unpunished. This has some similarity to the emotion of *timor* (fear) as treated by Antonius in *De oratore*. The difference in handling illustrates the repetitiveness just mentioned: whereas Antonius of course treats this emotion once (2,209), the *topos* of disorder occurs twice in *De*

76. E.g. 2,117; 130; 133. Cf. also Tac. *Dial.* 19,3. The claim to exhaustiveness is implicit in the system, as was remarked by Joh. Stroux, *Römische Rechtswissenschaft und Rhetorik* (Potsdam: Stichenote, 1949): 41, who also quotes Cic. *Top.* 34; cf. also the wording of *Inv.* 1,10.

77. E.g. *Inv.* 2,74; 87; 102-103; 104-105; 137; 138; 142; *Rhet. Her.* 2,21; 24.

78. Cf. e.g. *Inv.* 2,11; even the definitions of invention as a whole reveal this concentration on rational arguments: *Inv.* 1,9 = *Rhet. Her.* 1,3 *inventio est excogitatio rerum verarum aut veri similitum quae causam probabilem reddant.*

*inventione*⁷⁹, and although the differences between these occurrences are slight and inessential, there is no cross-reference.

Most of the "emotional" *topoi* are to be found among those for the *status qualitatis* (*stasis* of quality), since there the fact under consideration is not denied, but defended as having been right or inevitable or the like. Its subcategory *deprecatio* is even wholly dependent on the arousing of pity. For this some separate rules are given, but in *De inventione* reference is also made to the precepts for the epilogue⁸⁰, which comes close to a more general approach. Many more examples of *topoi* for "pathos" subsumed under rational arguments exist, both in *De inventione* and in the *Rhetorica ad Herennium*⁸¹.

As for character, this may be used for purely rational arguments from probability, particularly in conjectural cases, where a fact must be proved or disproved⁸². See e.g. *De inventione* 2,32:

... vitam eius quem arguet ex ante factis accusator improbare debet et ostendere, si quo in pari ante peccato convictus sit.

The prosecutor will have to discredit the life of the accused on the basis of his past acts, and to point it out if he has been convicted of any similar transgression in the past.

The context clearly shows that this is meant as a purely rational argument⁸³, but there are some hints that it is also useful for purposes of ethos, e.g. in 2,33:

quantum ... de honestate et auctoritate eius qui arguitur detractum est, tantumdem de facultate eius totius est defensionis deminutum

... detracting from the honour and prestige of the accused diminishes the strength of his whole defence in the same degree.

This tendency is even stronger in the corresponding precepts for the counsel for the defence (2,35-37): he has to put the defendant in as favourable a light as possible, by showing how dutifully he has rendered services to his parents, friends, and connections; if he can, by pointing to a difficult and dangerous act performed for the sake of his duty to his parents, etcetera, or to the state; he must represent

79. Viz. in the treatment of *relatio criminis* (*Inv.* 2,81 [cf. 84]; 85; 86) and of *purgatio* (2,100; 101).

80. *Deprecatio* is treated *Inv.* 2,104-109; *Rhet. Her.* 2,25-26. The reference to the rules for arousing pity, to be found in book 1, i.e. in the rules for the epilogue, is in *Inv.* 2,108.

81. The following list includes the examples given above: *Rhet. Her.* 2,9 and *Inv.* 2,22, 36, 48-49, 51 (*constitutio coniecturalis*); 2,53, 56 (*definitiva*); 2,71 (*absoluta*); 2,77 (*comparatio*); 2,81-82, 84, 85, 86 (*relatio criminis*); 2,91, 94 (*remotio criminis*); *Rhet. Her.* 2,24 (fin.), *Inv.* 2,100-102 (*purgatio*); *Rhet. Her.* 2,25-26, *Inv.* 2,104-109 (*deprecatio*).

82. Cf. pp. 38, 42.

83. 2,32, especially *ut enim animum alicuius improbare nihil attinet, cum causa quare peccaret non interessit*, ...

him as 'a most upright man' (*castissimum ... hominem*)⁸⁴; and so on. Most of the other *topoi* involving character⁸⁵, however, lack this tendency towards a link with ethos, and nowhere is it as strong as in this passage.

Thus these *topoi* involving character are, like the "emotional" ones, all supposed to be part of rational argumentation. This is hardly an adequate description of oratorical practice: it is inconceivable that these same things will not arouse sympathy in the audience. The passages just mentioned (*Inv.* 2,33; 35-37) indeed suggest this effect, but it is explicit only in *De inventione* 2,25: *ut ... oratio tamen ad animum eius qui audiet et ad animi quendam intimum sensum accommodetur* ('so that ... the speech may still be adapted to the mind of the hearer and to the deepest feelings of his mind').

In short, the invention for the *argumentatio* contains a number of *topoi* that are meant for rational argumentation, but are relevant to ethos and pathos also. This is hardly ever explicit, and these *topoi* are scattered throughout the lists of arguments; cross-references are scanty.

Now the second supplementary point may be treated: the nature of the rules for prologue and epilogue that are connected with ethos and pathos⁸⁶. The discussions of invention for both these parts contain explicit precepts about sympathy and about a number of more violent emotions. The relevant *topoi* for the prologue are concerned with *benevolentia* (goodwill, sympathy), and are divided into four classes: *ab nostra*, *ab adversariorum*, *ab iudicum persona*, *a causa*⁸⁷ ('(those deriving) from our own person, the person of the opponents, the person of the judges, from the case itself'). Those deriving from 'our own person' are mostly "ethical". But those 'from the person of the opponents' are aimed at arousing *odium*, *invidia*, and *contemptio* (hatred, jealousy, contempt)⁸⁸. They are, therefore, in the first place "emotional", but even if they might be considered relevant to "negative ethos" (negative character-drawing of the opponent⁸⁹), their relationship with *benevolentia* is at most indirect. Their subsumption under this head again reveals the tension between the traditional system and the content this system is

84. 2,35 *defensor autem primum, si poterit, debebit vitam eius qui insimulabitur quam honestissimam demonstrare. id faciet, si ostendet aliqua eius nota et communia officia; quod genus in parentes, cognatos, amicos, affines, necessarios; ... si ab eo cum magno aliquid labore aut periculo aut utraque re, cum necesse non esset, officii causa aut in rem publicam aut in parentes ... factum esse dicet ...*; etc.

85. *Rhet. Her.* 2,5 and *Inv.* 2,24-25, 28, 32-37 (*constitutio coniecturalis*); *Inv.* 2,89-90 (*remotio criminis*); *Inv.* 2,99 fin. (cf. *Rhet. Her.* 2,24) (*purgatio*); *Inv.* 2,112-113 (*de praemio et de poena*).

86. The only relevant rule for the narration is in *Inv.* 1,30.

87. *Inv.* 1,22; almost the same wording *Rhet. Her.* 1,8.

88. *Inv.* 1,22; *Rhet. Her.* 1,8. Stressing the sorry position of the defendant, prescribed *ibb.* under the head of *ab nostra persona*, may be regarded as preliminary to exciting pity, or as meant to arouse sympathy.

89. Cf. p. 7, question (iv).

made to contain⁹⁰.

The distinction between four (sometimes five) types of cases, each requiring a different sort of prologue, has been mentioned above (p. 86): the more difficult cases require an indirect prologue, *insinuatio*, others a direct one, *principium*.

The rules for the epilogue⁹¹ prescribe an *enumeratio* (recapitulation) and the arousing of several emotions: negative ones for the opponent in the part called *indignatio* (or *amplificatio*), pity for oneself in the part called *conquestio* (or *commiseratio*)⁹². The emotions themselves are not described, but a number of *topoi* are given for both parts. The emotions named for the *indignatio* are *odium* and *offensio* (hate and violent offence⁹³); the emotions actually treated in the *topoi* may be compared to *odium*, *ira*, and *timor* (hate, anger, and fear) of *De oratore*. Together with pity, which is the aim of the *conquestio*, this makes up a list of emotions not impractical, but perhaps somewhat arbitrary: a number of the emotions treated in *De oratore*, e.g., are not incorporated (*amor*, *invidia*, *spes*, *laetitia*, *molestia*: 'love', jealousy, expectation, joy, grief). The arbitrariness of the *topoi* themselves is more evident⁹⁴, particularly from the fact that the *Rhetorica ad Herennium* has ten *topoi* for *indignatio*, whereas *De inventione* has these same ten and five more besides⁹⁵. And, as Kennedy remarks⁹⁶, '*indignatio* is appropriate for a plaintiff or prosecutor, *conquestio* for a defendant', but '*De inventione* does not say so', and neither does the *Rhetorica ad Herennium*.

More details need not be given here⁹⁷. The chapters in the *Rhetorica ad Herennium* on delivery and style sometimes mention aspects of *ethos* and *pathos*⁹⁸, but

90. This is ignored by Schweinfurth-Walla (1986: 186 with n. 3). She suggests that she analyses *Inv.* (and *Rhet. Her.*), misleadingly, for she draws material from everywhere, even failing to distinguish between *Inv.* and Cicero's later views in *De or.*

91. *Inv.* 1,98-109; *Rhet. Her.* 2,47-50.

92. *Inv.* uses the terms *indignatio* and *conquestio*, *Rhet. Her.* *amplificatio* and *commiseratio*.

93. *Inv.* 1,100.

94. Cf. Kennedy (1972: 141), who compares the epilogue of Cicero's speech *Pro Quintio* to the rules: 'The techniques employed do not well illustrate the fifteen commonplaces listed in *De inventione*'.

95. Schweinfurth-Walla (1986: 188 with n. 2) says that in *Inv.* 'die loci indignationis und die loci conquestionis eng zusammenhängen und sich teilweise sogar inhaltlich überschneiden', but I can only discern two pairs of resembling *topoi* (1,103 [8th *topos*] and 109 [13th]; 105 [14th] and 108 [7th]). Her conclusion 'dass Cicero nicht streng zwischen *indignatio* und *conquestio* unterscheidet' is unsupported by the text, and denies its tendencies.

96. *I.c.* above n. 94.

97. A few more details: § 8.5, p. 292-293.

98. Especially 3,22; 4,25 (*cum ita ... sumptam*); 32 (*fides*, *gravitas*, etc.); 55 (*item mutatur ... sic: ...*). There are also connections with *ethos* and *pathos*, of varying strength, in the case of the following figures: *ratio* (4,24); *subiectio* (34); *occulatio* (37: *ignobile*); *permissio* (39); *praecisio* (41); *licentia* (50); *deminutio* (50); *descriptio* (51); *divisio* (52); *frequentatio* (52-53); *commemoratio* (58); *similitudo* (60, second example); *imago* (62); *notatio* (63-65); *sermocinatio* (65); *conformatio* (66); *demonstratio* (69); and probably others.

this is also irrelevant here.

The picture of the handbooks given until now, based on the two extant ones, is that of a system with a far from inadequate starting-point, but showing a basic rigidity and a very low level of abstraction. Some passages from the *Rhetorica ad Herennium*, however, slightly mitigate this picture.

The restriction of pathos to epilogues is qualified in the following statement, which occurs just before the treatment of this part of the speech (2,47): *quattuor locis uti possumus conclusionibus: in principio, secundum narrationem, secundum firmissimam argumentationem, in conclusione* ('We can use an epilogue in four places: in the direct prologue, after the narration, after the strongest argument, and in the epilogue'). The 'epilogues' that may be used in different places of a speech are clearly emotional passages, and although the term is somewhat strange, it is not unintelligible: it is used to denote passages sharing the most typical function of real epilogues. The statement is unambiguous in itself: pathos may be used outside the last part of the speech also. On the other hand, it is too isolated to affect the system as a whole, for such a connection between other parts and pathos is mentioned nowhere else⁹⁹. Moreover, the terminological embarrassment revealed by the ambiguous use of *conclusio* ('epilogue') shows that such remarks were alien to the system.

One of the things enhancing the rigidity of the system is the emphasis on the parts of the speech inherent in the contaminated scheme: there is a very strong suggestion that the parts should always occur in this same order. The rules for disposition in the *Rhetorica ad Herennium*, however, distinguish between two kinds of arrangement, *unum ab institutione artis profectum, alterum ad casum temporis adcommodatum* (3,16: 'one arising from the principles of rhetoric, the other accommodated to particular circumstances'). In the second, the speaker may 'begin his speech with the narration, or with some very strong argument', and the like (3,17 *ut si ab narratione dicere incipiamus aut ab aliqua firmissima argumentatione ...*). This distinction, though designated by other terms, is also known from later handbooks¹⁰⁰. Again, however, the very short treatment of disposition cannot, I think, fundamentally change the system as set out in the rest of the work.

Other passages like the two discussed are scanty at best¹⁰¹, so, despite these

99. The rules for "pathos" in the prologue (p. 97) do not refer to those for the epilogue, but are entirely self-contained.

100. Cf. Caplan (p. 184 note b), and Fortunatianus 3,1-2 (*RLM* 120,21-121,23); Mart. Cap. 5,506-507 (= *RLM* § 30).

101. The lack of coherence between the central issue of a speech and its parts is slightly diminished by *Rhet. Her.* 2,3, where some short precepts are given for the narration in a conjectural case; but this is not repeated in the treatment of other *staseis*. The emphasis on a fixed order in Hermagoras as well as in *Inv.* appears from the polemic on the digression *Inv.* 1,97.

mitigations, the general picture given above may stand.

The same is true regarding the two points supplementary to the usual analysis, illustrated earlier in this section: the second, the arbitrariness of the rules for "ethos and pathos", even strengthens this analysis, the first, the presence of ethos and pathos in some rules for the argumentation, does not modify its essence.

A general perspective on ethos and pathos, then, was lacking in the handbooks: although the resemblance between some *topoi* could have suggested it, the level of abstraction remained consistently low. The material for a treatment of the emotions was not unavailable: as is well known, the Stoics and the other philosophical schools had developed theories about them, and *De inventione* contains some general statements on emotions as causes of crimes: in this context, 1,36 defines *affectio* (which comprises, besides emotions, *morbus*, 'illness', etc.)¹⁰². Neither of these two sorts of material was directly applicable to pathos in rhetoric, but the real reason for the absence of (ethos and) pathos, as categories, is no doubt the fact that they were not incorporated in the traditional system.

All the above conclusions are based on *De inventione* and the *Rhetorica ad Herennium*, but they must have applied to most, if not all, of the handbooks based on the *officia*, since these shared the characteristics of the two handbooks vital to these conclusions: the emphasis on *stasis* theory and rational argumentation; the lack of connection between the precepts for the different parts of the speech¹⁰³; and the form and nature of the rules for prologue and epilogue, the traditional character of which is guaranteed by, among other things, the similarity between Aristotle's *Rhetoric* 3,13-19, the two handbooks discussed here, and other systems¹⁰⁴. Some handbooks were no doubt less rigid than others, but the system itself did not leave much room for essential differences. Cicero's criticism in *De oratore* was not without justification: although *stasis* theory itself was very consistent and logical and the systems based on it were fit for educating the young, they did no justice to some important aspects of oratorical practice.

3.6 The *patronus-cliens* Problem

As remarked in the introduction (p. 7, question (i)), analysis of the concept of ethos should distinguish between the speaker-advocate, the *patronus*, on the one

102. *Affectio* is thus roughly equivalent to Greek πάθος in its general sense (above p. 68). The definition itself, *animi aut corporis ex tempore aliqua de causa commutatio*, shows some resemblance to those of ἡδονή and λύπη in Arist. *Rhet.* 1,11,1 (69b33-35).

103. On this point with regard to Hermagoras see p. 86.

104. Cf. also *De or.* 2,80; Quint. 4,1,5; etc.

hand, and the client, *cliens*, on the other. This section will briefly pursue this subject as far as the traditional handbooks are concerned¹⁰⁵.

At the level of oratorical practice, a *patronus* could profit from making the distinction, especially in the domain of ethos: he could more freely enlarge upon the client's virtues than the client himself, he could take the responsibility for hazardous statements, and so forth. Kennedy¹⁰⁶ has shown that, judging from the extant speeches, in Athens these possibilities were only occasionally used. This is reflected on the theoretical level of Aristotle's *Rhetoric* and the *Rhetorica ad Alexandrum*: the first consistently supposes the identity of the pleader and the litigant, and the second only contains a few references to advocacy¹⁰⁷. Evidently, the situation of a litigant pleading his own case, which was considered standard, determined both oratorical practice and rhetorical theory. Advocacy was not unknown, but the possibilities it offered were hardly used. As far as practice is concerned some caution regarding these conclusions is in order¹⁰⁸, for there is no material from the third and second centuries to verify them, but if the situation then differed from the one in the fourth century, rhetorical theory took no account of this.

Roman trials were quite different: the appearance of a *patronus* (later, more *patroni*) was normal practice, and orators displayed considerable versatility in exploiting the possibilities this offered¹⁰⁹. One might therefore expect that Roman rhetoric recognized the distinction between *patronus* and *cliens*. But, as is particularly clear in *De inventione* and the *Rhetorica ad Herennium*, early Roman rhetoric was directly descended from Greek rhetoric¹¹⁰, and the virtual absence of the distinction (at least in these two handbooks) was apparently one of the features it had inherited¹¹¹.

Some traces of Roman practice, however, may be discerned in the two treatises. The result is inconsistency¹¹². On the one hand, the use of the term *defensor* (instead of *reus* 'defendant, accused') points to the reality of advocacy, and some passages indeed make a difference between *defensor* and defendant, such as *De inventione* 2,35-37, where it is said that the pleader must put the defendant in a

105. Fundamental: Kennedy (1968).

106. Kennedy (1968: 419-426).

107. Arist. *Rhet.*: p. 32 with nn. 112-113; *Rhet. Alex.*: Kennedy (1968: 421-422).

108. Kennedy (1968: 426).

109. See Kennedy (1968: 426-433; 1972: 139, 154, 169), May (1981; 1988: 166, and *passim*); and the *causa Norbani* (analysed below, § 8.4).

110. Caplan called *Rhet. Her.* 'a Greek art in Latin dress' (1954: vii). Cf. in particular the amusing example *Inv.* 1,35.

111. Kennedy (1968: 434).

112. The following develops Kennedy's short treatment (1968: 433). It is possible, but unlikely, that the inconsistencies were already present in their Greek predecessors.

favourable light (these sections have been paraphrased above p. 96-97)¹¹³. In some other passages, however, the wording shows that the litigant himself is supposed to plead, and sometimes the word *defensor* is even used to denote such a defendant¹¹⁴. Finally, there are a few passages where the difference is first neglected and then made, or the other way round, in the same context, as in *De inventione* 2,88-89: *defensor ... ostendet se aut non potuisse ...; ... deinde omnia facta esse ab reo quae in ipsius fuerint potestate* ('the *defensor* will show that it was not possible for him ...; ... and then that the defendant did everything in his power')¹¹⁵. Although the criteria for distinguishing between these three possibilities are sometimes hard to determine¹¹⁶, the inconsistencies are clear.

Not all of these inconsistencies are really important, for the distinction *patronus-cliens* itself is only essential if it may have some practical value. This is the case, for instance, when the character of the client is to be described, and some of the passages dealing with this actually make the distinction: *De inventione* 2,35-37 has been mentioned just now¹¹⁷.

That passage, however, is the clearest example available of a functional presence of the distinction. A *patronus* is nowhere mentioned as an independent factor. This absence is particularly striking in the rules for the prologue, where the *topoi* are derived 'from our own person, the person of the opponents, the person of the judges, and from the case itself'¹¹⁸. From what follows it is clear that 'our own person' (*nostra ... persona*) refers to the litigant, not to a *patronus*¹¹⁹. In a division like this, which is meant to be exhaustive¹²⁰, a reference to a *patro-*

113. Except *Inv.* 2,35-37 and the similar passage *Rhet. Her.* 2,5 cf. also *Inv.* 2,25; 140 (?); *Rhet. Her.* 2,4 (?); 43; 3,33; 4,50 (and cf. 2,20 with Caplan's note e). (This list, like those in nn. 114-115, is probably incomplete.)

114. This is the case in *Inv.* 2,55-56; 83; 86; 91; 101; *Rhet. Her.* 2,8 fin. (cf. Caplan's note b); 21-22. Other instances where the litigant himself is supposed to plead are: *Inv.* 1,15; 18 (? - *feci*); 104-105; 2,24; 78; 80; 106-109; 138; *Rhet. Her.* 2,6; 7 (?); 8; 9 init.; 12; 13; 14; 17; 19; 23; 26; 33; 50. (See end of n. 113).

115. Except this passage also *Inv.* 1,107-109 (or this is a clumsy change between third and first person, see n. 116); 2,28 (?); *Rhet. Her.* 2,24; 25 (see end of n. 113).

116. The use of different persons (2nd, 3rd sing.; 1st plur.) is irrelevant, unless perhaps when this occurs in one and the same passage (cf. n. 115). The frequently used plural *adversarii* seems to be "generalizing" in most cases; on the other hand it may stem from reality, since maybe 'the opposition often did consist of more than one person' (Kennedy 1968: 433; cf. the plural *Inv.* 2,74 *defensores* - or maybe this is "generalizing" also?); cf. W. ad *De or.* 2,313 about the practice of the appearance of a number of pleaders, one of whom sometimes was the litigant himself (as in the proces against Caecilius in 56). For generalizing plurals cf. also *ab nostra/adversariorum persona* in the rules for the prologue.

117. Cf. also *Rhet. Her.* 2,5; and the inconsistent passage *Inv.* 2,88-90, where the change of viewpoint occurs where something resembling the character of the defendant comes in (which may, however, be a coincidence).

118. Above p. 97.

119. Thus Kennedy (1968: 433).

120. Cf. above n. 76.

nus might perhaps be expected. But such divisions were the backbone of the traditional system: their unchanged survival, even in changed conditions, is a perfect illustration of the comparative autonomy of this tradition.

3.7 Summary

In Cicero's time there were two main types of handbooks (§ 3.4). The first, based on the parts of the speech, continued the pre-Aristotelian system, the second, based on the *officia oratoris*, derived from Aristotle. As to ethos and pathos, so much is certain that the handbooks from the end of the second century onwards did not contain anything on the subject. Nevertheless, it is possible that the early ones of the second type divided invention into three *pisteis*, as Aristotle had done, and that ethos and pathos only disappeared about 150 B.C.; but, as I have tried to show in § 3.2, it seems more probable that ethos and pathos, as independent concepts, were absent from all post-Aristotelian handbooks. This absence does not mean that no attention was paid to "ethical" and "emotional" proof at all (§ 3.5): in the handbooks based on *stasis* theory (for an important part that of Hermagoras, who wrote 150 B.C. or slightly earlier), and probably in the earlier ones also, some of the rational arguments were related to ethos and pathos, although this mostly remained implicit; and the rules for the prologue and for the epilogue, though somewhat rigid and arbitrary, were primarily aimed at indirect persuasion.

The absence of ethos and pathos made possible, and maybe even suggested, the contamination of the second type with the first one (§ 3.3): many handbooks based on the *officia* treated the parts of the speech under invention instead of under disposition. This enlarged the gap between rhetorical theory and oratorical practice. In § 3.4 I have tried to show that the date of first occurrence of this contaminated scheme must be regarded as uncertain (except for the broad limits: between early third and late second century B.C.), but that, whatever this date, uncontaminated handbooks continued to exist at least until Cicero's time (both these variants of the system based on the *officia* are referred to in *De oratore*). The diversity of rhetorical doctrines in the period discussed is, therefore, greater than implied in most accounts.

As for the distinction between speaker and client (§ 3.6), it was unimportant in Greek oratory as well as rhetoric. Although it played a rather important part in Roman oratory, early Roman rhetoric was derived directly from Greek rhetoric, and took account of it only in a very inconsistent manner.

Such is the picture of the standard rhetorical systems between Aristotle and

Cicero. *De oratore* can only be understood against this background, and in chapter 6 (§ 6.2) Cicero's attitude towards the handbooks of his time will be evaluated. He will appear to be no less hostile than Aristotle.

4. CICERO'S SOURCES I:

ARISTOTLE AND DE ORATORE

There is always money for, there are always doctorates in, the learned foolery of research into what, for scholars, is the all-important problem: Who influenced whom to say what when? (Aldous Huxley, 'The Doors of Perception', 62)

4.1 Preliminaries

In *De oratore* invention is divided into rational arguments, ethos and pathos, and accordingly the parts of the speech are treated under the head of disposition. This corresponds exactly to Aristotle's scheme in the *Rhetoric*. Even though the treatment itself will prove to contain fundamental differences also, the rhetorical background against which *De oratore* was written, as sketched in the preceding chapter, shows how remarkable this correspondence is. That it should be due to coincidence seems virtually impossible, all the more so in view of Cicero's own comments on *De oratore* in a letter from 54 B.C., in which he stresses his departure from commonplace rhetoric and the influence of Aristotle and Isocrates¹. It may therefore be asked what historical connection there was between the *Rhetoric* and *De oratore*. Had Cicero read the *Rhetoric*, or was there some intermediary source?

The nature of the question should perhaps be stressed again². Especially, there should be no confusion with the comparison of the two texts on the conceptual level, although these two approaches may be ultimately linked. The conceptual comparison will be useful to illustrate the different natures of the *Rhetoric* and

1. *Fam.* 1,9,23 (see below p. 158-159). This is relevant even if the statement on Isocrates' influence receives little support from *De or.* itself (cf. Kennedy 1972: 220-221; index Kum. s.v. Isocrates).

2. See also p. 3-4.

De oratore, and will thus contribute to a correct interpretation of both. No such contribution, however, or at most a very small one, will come from looking for the source(s) from which Cicero's drew for his Aristotelian approach. This would perhaps be different if all relevant texts had survived to throw light on *De oratore*, but even then the focus of interpretation would have to be on Cicero's text itself; because our material is in fact very scanty, it may be stated with even more confidence that the importance of the question of sources for the evaluation of Cicero's achievement, meaning and presentation seems very small. There are two reasons for pursuing the question all the same. First, earlier analyses, especially but not exclusively those belonging to *Quellenforschung*, laid considerable stress on it, and this frequently influenced or even determined the interpretation itself. Moreover, the notion that Cicero did not use Aristotle, or did not use him in a way modern scholars would, still seems to be considered a blemish by some. Therefore, a methodical treatment of the question, including an evaluation of some of the presuppositions behind the existing answers, is needed. These same things have led me to give the matter so much space here. Second, there is no reason why the question should not be posed for its own sake.

The main problem, then, is whether Cicero, when writing *De oratore* in 55 B.C., had read the *Rhetoric*. This is logically dependent on the question of the availability of that work, and accordingly the early history of Aristotle's writings must be touched upon (§ 4.6). Because this history is uncertain, however, and especially because Cicero need not have read the *Rhetoric* even if it was available, the relationship between *De oratore* and Aristotle's work will be examined separately (§ 4.1-4.5)³.

In general, the problem obviously involves many questions of method. The rest of this section is devoted to these. First some methods will be treated that are frequently employed, but that seem misguided to me. Then I will briefly touch upon the difficulties deriving from the fact that Cicero's background must have determined the way he read the *Rhetoric*, if he did. Finally, I will explain my own methods, and go into some of the problems they entail⁴.

Today's *communis opinio* is that, although Cicero at the time of writing *De oratore*

3. Separate treatment of the two questions also in Moraux (1973: 41; cf. also Tarán 1981: 724). The distinction between works available and works actually read is at the basis of Sandbach (1982): Plutarch could consult most of Aristotle's writings known to us (1982: 207), but appears not to have made extensive use of this opportunity. See also Sandbach (1985: *passim*).

4. Erhard Pahnke, *Studien über Ciceros Kenntnis und Benutzung des Aristoteles und die Herkunft der Staatsdefinition Rep. I 39* (Diss. Freiburg im Br., 1963) does not give, or claim to give, new observations on this subject (p. 87-94 presents a brief report on the "state of the art" regarding Cicero's knowledge of Arist. *Top.*, Συναγωγή Τεχνών, *Rhet.*, *Theodectea* and 'unbestimmte aristotelische Werke'). He does offer a useful list of 'Erwähnungen des Aristoteles bei Cicero' (147-148).

knew some or many of Aristotle's exoteric (i.e. published) works, he had no first-hand knowledge of any of the works that we possess now. Solmsen's opinion that he probably did know the *Rhetoric* directly is an exception⁵. It seems necessary to examine some of the assumptions behind the denial of any direct knowledge. Most are, it seems, very questionable. It is a surprise to see the ease with which even great scholars neglect questions of method, and the difficulty they have in realizing, that an ancient reader of Aristotle will often not have employed the same academic accuracy which they are obliged to employ themselves. The polemical nature of what follows is, I hope, sufficiently excused by the nature of the question in hand.

The methods that should not, in my opinion, be employed in determining if Cicero has read the *Rhetoric* may be summarized under three heads: false analogies with knowledge of other Aristotelian works; the assumption that all subjects important to Aristotle were also important to Cicero; and the assumption that Cicero, had he known the *Rhetoric*, would have taken it as his foremost authority.

As to the first of these, the following may be stated. If it is proven that Cicero did not read some of Aristotle's writings, this does not mean that he did not read others. In particular, it is almost certainly true that he did not consult Aristotle's relevant esoteric works when writing his philosophical treatises in 45-44 B.C., but that does not imply that he did not consult the *Rhetoric* when writing *De oratore*. In 55, not having planned his series of *philosophica*, he probably felt little inclination to read Aristotle's specifically philosophical works, but he may very well have been drawn towards Aristotle's rhetorical writings. This seems obvious, but it has not been so to a number of scholars⁶. Cicero's statement from 45 B.C., for instance, that *magna etiam animi contentio adhibenda est explicando Aristotele, si leges* ('a great mental effort is also required in interpreting Aristotle, if you read him')⁷, has repeatedly been taken as proof that Cicero, who knew the exoteric works and admired their style⁸, only then got to know the esoteric ones⁹. But, apart from the difficulties offered by the text and its possible incompleteness¹⁰, the statement need not refer to anything but some of

5. Solmsen (1938: 401-402).

6. E.g. Moraux (1973: 42), starting from Cic. *Top.*, and (ib.: 43) starting from *Fin.*, draws too general conclusions.

7. Cic. *Hortensius* fr. 29 Müller = 29 Ruch = 43 Grilli = 56 Straume-Zimmermann (Laila Straume-Zimmermann, *Ciceros Hortensius*, Bern, Frankfurt a.M.: Lang, 1976).

8. Cf. Guthrie (1981: 57), especially *Ac.* 2,119; and *De or.* 3,67.

9. Hermann Usener, 'Ein altes Lehrgebäude der Philologie', *SBAW* (1892), IV, 582-648 (= *Kleine Schriften* II [Stuttgart 1912-13; repr. Osnabrück: Zeller, 1965], 265-314): 636-637; Düring (1966: 39 with n. 247).

10. Cf. Straume-Zimmermann ad loc., and (despite inaccuracies of the kind rejected here) Rosanna Rocca, 'Cic. *Hort.* fr. 43 Gr.', in: *Studi Noniani* X (Univ. di Genova, Facoltà di Lettere; Istituto di Filologia Classica e Medievale, 1985), 241-244.

the more difficult works¹¹, and the *Rhetoric*, as Solmsen¹² observed, cannot have been that difficult for him.

This kind of reasoning would be more legitimate if the story were true that the *Corpus Aristotelicum* as we know it was unknown for a long time, until it reappeared in the first century B.C. Then indeed there could well be a time when Cicero learnt about the *Corpus* as a whole, whereas he was not acquainted with any of the writings contained in it before. But this story is at least partly untrue (see § 4.6), and the *Corpus* should not be treated as if it were a whole that was either known or unknown to Cicero.

The converse of this first method should not be applied either: if Cicero knew the *Rhetoric* when writing *Orator*, in 46, this does not mean that he knew it already in 55¹³.

As to the second method, it is a widespread misconception that Cicero, if he had known the *Rhetoric*, could not have refrained from treating (some of) the important subjects from that work. This amounts to denying that Cicero's viewpoint and purpose could, and actually did, differ from Aristotle's, and it is probably prompted, in Sandbach's words, by the tempting supposition that Aristotle loomed as large to those that came after him as he does to us¹⁴. An example of this kind of reasoning is found in Kennedy¹⁵: from the total absence of the theory of enthymeme and example from *De oratore* he concludes that 'the *Rhetoric* as we know it can hardly be a major direct influence'. But, important as the theory was for Aristotle, it cannot have been much of a revelation to Cicero if he came upon it in the *Rhetoric*, since the rhetorical tradition was acquainted with the main features of this theory and with its provenance¹⁶. Therefore, he had no motive for incorporating it into a work that stressed things not belonging to common rhetoric. Moreover, if some of us are more impressed by the theory of the enthymeme than by the *topoi* of *Rhetoric* 2,23-24, which do have a counterpart in *De oratore*¹⁷, Cicero may have thought otherwise. A similar mistake is made by Leeman-Pinkster¹⁸, who suppose that Cicero, had he known the *Rhetoric*, would certainly have followed Aristotle in treating the relationship between rhetoric and dialectic, as he does in 46 B.C., in *Orator* 113-117, with its well-known quo-

11. Three of the testimonies in Guthrie showing Cicero's admiration for Aristotle's style (above n. 8) are from 45-44 B.C., so he had by no means changed his mind.

12. Solmsen (1938: 402).

13. On the comparison with *Orator* cf. below p. 154 with n. 201.

14. F.H. Sandbach, *The Stoics* (Ancient Culture and Society; London: Chatto & Windus, 1975), 21-22 (quoted Sandbach 1985: 1): '... the tempting supposition that he loomed as large to the generation that succeeded him as he does to us'.

15. Kennedy (1972: 221-222).

16. Solmsen (1941: 169-171).

17. Below § 4.4.

18. L.-P. (I: 63-64).

tation of the opening sentence of the *Rhetoric* (114). But he was perhaps not interested in this relationship in 55.

Only if it can be plausibly argued that a subject from the *Rhetoric* would have aroused Cicero's interest and would have suited his purpose in *De oratore*, can its omission be taken as a sign that he did not know the work. I know of no such subject¹⁹.

The third method I propose to reject is closely related to the second one. If some subject is treated by Aristotle as well as Cicero, but the treatments are different, it should first be asked whether the difference may be explained by a difference in purpose or viewpoint. The possibility that Cicero misrepresents Aristotle's views because he did not know them at first hand cannot be excluded even then, but this should not be taken for a fact unless such an alternative explanation in terms of Cicero's purpose is impossible. Düring offers a glaring example of the neglect of this principle, when he writes the following about the sections on pathos in *De oratore* 2: 'Erst bei Cicero finden wir ein Gegenstück zur Affektlehre des Aristoteles. Der eigentliche Gesichtspunkt ist aber nirgends zu finden. Was Cicero bringt, sind nur oberflächliche Bemerkungen, und er dachte nicht daran, die Redekunst auf psychologische Einsicht zu gründen. Ich kann daher schwer daran glauben, dass er die Rhetorik des Aristoteles im Original vor sich hatte'²⁰. Cicero, characteristically, makes Antonius emphasize that his precepts are based on his own experience: from the whole atmosphere of *De oratore* it is plain that Cicero would not have given psychological theory, no matter what books he had before him²¹. As Wilkins observed²², 'divergence is not identical with ignorance'.

The methods rejected above are all directed at disproving that Cicero had first-hand knowledge of the *Rhetoric*. Their inappropriateness illustrates the difficulty of proving things at all in a field like this. But the question is further complicated by the fact that Cicero was far from a *tabula rasa* in 55. That he was steeped in rhetorical theories and controversies of his own time need not be doubted, nor that he must have been familiar with traditional accounts of the history of rhetoric, and of Aristotle's role in it. He may even have read much more authentic material

19. An example of a successful argument from such an omission is Sandbach's (tentative) inference about the Stoic silence on Aristotle's concept of εὐδαιμονία as an ἐνέργεια (1985: 25). Cf. in general his remarks on 'disregard of peculiarly Aristotelian ideas' by the Stoics (1985: 53-54) - although even he seems to suppose that because the Stoics are to be taken seriously, such disregard must be due to ignorance of the ideas involved. But they may have disregarded some ideas because they did not find them interesting or fruitful.

20. Düring (1966: 137).

21. Cf. § 8.1, p. 251; and also § 8.5. Similar arguments in Moraux (1975: 86-87) about the πότες & - and ἐντεχνοί (cf. below n. 109), and (ib.: 87) about the relationship between *Orat.* 114 and *Rhet.* 1.1.1 (54a1).

22. W. ad 2,32, rejecting the opinion of Hugo Jentsch, *De Aristotele Ciceronis in Rhetorica Auctore* (Programm Guben, I 1874, II 1875).

than we would guess²³.

It may now be asked how, with such a background, he must have read the *Rhetoric*, if he did. He was no philologist, and not much interested in questions of 'who influenced whom to say what when?'. If he knew the substance of a passage already (or if he thought he did), whether from traditional accounts or from e.g. Theophrastus, he would probably not notice if the text actually said something slightly different from what he expected. Accordingly, his report of Aristotle's opinions may be inexact, even if he has read the *Rhetoric* himself²⁴. It should perhaps be stressed that taking him to task for such inaccurate reading, or for lack of interest in Aristotle's *ipsissima verba*, is to apply standards appropriate for academic debate to something quite different. In any case, our possibilities of obtaining proof are much smaller than is sometimes implied²⁵.

The application of these considerations, like the principle adopted in interpreting the *Rhetoric* (§ 2.1), involves considerable arbitrariness. Like that principle²⁶, however, this is to be preferred to the certainty obtained by applying notions having only a slight connection with the reality they should describe²⁷.

As a consequence, one striking parallel or one glaring inaccuracy is not enough to answer the question of Cicero's knowledge of the *Rhetoric*. Accordingly, all sorts of evidence available should be used. Therefore, I will present all relevant material known to me in the rest of this chapter. Parallels between the *Rhetoric* and *De oratore* are treated in the next three sections. The statements about and allusions to Aristotle found in *De oratore* itself are examined in § 4.5. It will then be argued that all this points in a certain direction, but does not allow drawing any certain conclusions. Material extraneous to *De oratore* bearing on the relationship between Aristotle and Cicero is therefore also analysed, in §§ 4.6 and 4.7. The remaining question will appear to be the identification of other possibilities for the provenance of the Aristotelian material in *De oratore*, except the *Rhetoric* itself. This is the subject of chapter 5.

The parallels are thus treated first, because they provide the most direct information. The assessment of their value, however, is sometimes difficult, and involves some problems of its own. It seems useful to distinguish beforehand between small scale and large scale parallels, i.e., between correspondences of single formulations

23. On Cicero's reading activities in 55 B.C. cf. § 4.7.

24. Fortenbaugh (1989: § II) opposes his own hypothesis (no first-hand knowledge) to 'the idea that Cicero himself had anything like a *thorough*, firsthand knowledge of Aristotle's *Rhetoric*' (my italics). To my mind, this opposition is a false one.

25. No one would deny that Quintilian had read *De or.* on the strength of inaccuracies in paraphrasing or quoting it (2,17,5-6: see L.-P. I: 192-193).

26. Cf. p. 12.

27. Cf. the sane remarks of Gigon (1959: 151-153) on the uncertainty of identifying the exoteric works from which Cicero took some of his Aristotelian material in his *philosophica*.

or thoughts on the one hand, and correspondences of structure, such as the division of invention into three *pisteis*, on the other. This distinction is probably hard to define sharply, but it is clear enough and useful for practical purposes: structural parallels can be explained without assuming that Cicero knew Aristotle's exact wording, whereas small scale ones, if really significant, point to the use of the *Rhetoric* either in the original or via a very accurate intermediary source. To determine the value of a parallel, it must be asked whether there are other possibilities of accounting for it, besides direct or indirect dependence of *De oratore* on the *Rhetoric*.

As to small scale parallels, at least three such other explanations may account for some of them²⁸. The first is tradition. Some facts were, throughout antiquity, common knowledge with what may be vaguely termed the educated public, and some thoughts were also common. Even if Aristotle was the first to formulate a view, it sometimes became part of what was taken for granted or was generally known. An example may be found in the definition of friendship in *De inventione* 2,166: *amicitia* (sc. *est*) *voluntas erga aliquem rerum bonarum illius ipsius causa quem diligit cum eius pari voluntate* ('friendship is the wish to do good to someone for the sake of the person whom one loves, coupled with a same wish on his part'). This definition is very much like the one found in *Rhetoric* 2,4,2 (80b35-81a3: 'let *philein*, then, be defined as wishing for someone the things which we believe to be good, for his sake but not for our own ...')²⁹. It seems certain, however, that Cicero had no knowledge of the *Rhetoric* when writing it. Aristotle's definition may have been preserved by philosophical tradition, and thence have come down to Cicero, or, more likely perhaps, this view on friendship was independent of Aristotle, and widespread in its own right³⁰.

A second possibility is that some typically Aristotelian thought has been taken from one of the exoteric works Cicero knew.

And thirdly, coincidence may play its part. Some thoughts or situations may only be expressed in a limited number of ways, or even have only one natural expression. In *De oratore* 2,200 Antonius, describing the stage in a speech when he had just successfully applied pathos, says *quod ubi sensi me in possessionem iudicii ac defensionis meae constituisse ...* ('And when I felt I was in control of the trial and of my defence ...'); and Aristotle in 3,7,11 (08b13-14), naming one

28. Cf. the remarks in Sandbach (1982: 209-210, 212, 214).

29. Εἶπω δὴ τὸ φιλεῖν τὸ βούλεσθαι τι καὶ οἶεται ἀγαθὰ, ἐκείνου ἕνεκα ἀλλὰ μὴ αὐτοῦ, καὶ τὸ κατὰ δύναμιν πρακτικὸν εἶναι τούτων. [[φίλος δ' ἐστὶν ὁ φιλῶν καὶ ἀντιφιλούμενος,]] οἰόνται δὲ φίλοι εἶναι οἱ οὕτως ἔχειν οἴμενοι πρὸς ἀλλήλους. (The parallel is valid with and without the phrase Kassel regards as an Aristotelian addition).

30. Cf. *Leg.* 1,49. Cf. also the strong resemblance between *Inv.* 1,46 fin. and *Rhet.* 2,23,1 (97a13-16) (= *Fragm. trag. adesp.* 80 Nauck/Kannicht-Snell); whether this parallel came via Hermagoras (Thiele [o.c. above p. 89 n. 42]: 129; Schweinfurth-Walla 1986: 138) is uncertain (cf. Matthes 1958: 98 n. 3).

of the occasions allowing an orator to use epithets and other ornaments, says ὅταν ἔχη ἥδη τοὺς ἀκροατάς ...('when he has his hearers already in his hands (under his control) ...'). The parallel itself may be striking, but the situations are entirely different, and Antonius' wording is no less natural in the one passage than Aristotle's in the other. The correspondence is probably a mere coincidence. If we knew Cicero had read the *Rhetoric*, it could perhaps be ascribed to unconscious echoing of Aristotle's words, but this could never be proven. Neither can any proof of dependence be derived from such a parallel.

If, in some case, none of these three possibilities is plausible, and some kind of dependence of Cicero on Aristotle's *Rhetoric* is likely, it remains to assess the probabilities of indirect vs. direct dependence: are there divergences pointing to dependence via intermediate sources? A definitive conclusion about each separate case will prove impossible. Only at the end of the treatment of all small scale parallels a broad conclusion will be formulated.

The treatment of large scale, structural parallels is somewhat easier, in that one of the factors that may be responsible for some of the small scale ones, coincidence, cannot explain much here: structural correspondences in a subject like rhetoric, with its traditional and complicated systems, are not likely to be coincidental. In these cases, the question must be if there is any rhetorical or other tradition that may account for them.

In this part of the investigation, the emphasis is on Cicero's indebtedness to others, i.e., on his sources. As stressed in the introductory chapter³¹, this does not imply that he slavishly followed these sources, only that he was using others people's ideas. How he used these to build a structure that was his own, will be one of the chief subjects of chapters 6-9.

4.2 Small Scale Parallels

Here the passages I know of where parallelism may be discerned will be treated, including some uncertain cases where it has been discerned by others³². Most

31. p. 3-4.

32. I exclude, however, cases where borrowing seems very doubtful or out of the question to me: P.-H. ad 2,5 compare *Rhet.* 1,2,1 (55b28-35) (1,1,1: 54a1-4 could also be mentioned in this connection), but disputes over the proper scope of rhetoric and its relationship to other *artes* were commonplaces of second and first century debate (Von Arnim 1898: 87-114; cf. also L.-P. ad loc.). On 2,81 and 3,14,9 (15b9-17) cf. n. 53. Düring (1966: 137 n. 75): '[*De or.*] II 186 und 189 stimmt zu [*Rhet.*] II 1, 1377b23-24, doch keineswegs wörtlich'; I can see nothing but the slightest correspondence. The "parallel" passages 2,186 and 2,21,15 (95b10-11) (Schrader, mentioned by Cope

texts will have to be quoted in full, because very often only a detailed analysis can tell how close a correspondence is, and whether other explanations besides dependence of Cicero on Aristotle are possible. The order adopted here is that of occurrence in *De oratore*: I cannot hope to have achieved completeness, but have nevertheless aimed at it³².

The first pair of parallel passages is *Rhetoric* 1,1,2 (54a6-11) and *De oratore* 2,32 (translations for this section and the next may be found in Appendix 3):

τῶν μὲν οὖν πολλῶν οἱ μὲν εὐκὴ τὰτα δράσιν, οἱ δὲ διὰ συνίθειαν ἀπὸ
ἐξέως. ἐπεὶ δ' ἀμφοτέρως ἐνδέχεται, ὁρῶν ὅτι εἴη ἂν αὐτὰ καὶ ὁδοῦ ποιη-
δὲ δ' ἂν ἐπιτηγνύνουσιν, οἱ τε διὰ συνίθειαν καὶ οἱ ἀπὸ παρτομάτου, τὴν αὐτὴν
θεωρεῖν ἐνδέχεται, τὸ δὲ τοιοῦτον ἥδη πάντες ἂν ὁμολογήσαιεν τέχνης ἔργον
εἶναι.

etiam cum plerique temere ac nulla ratione causas in foro dicant, nonnulli autem
propter exercitationem aut propter consuetudinem aliquam callidius id faciunt,
non est dubium quin, si quis animadverterit quid sit quare alii melius quam alii
dicant, id possit notare: ergo id qui toto in genere scitificiis, si non plane artem,
at quasi artem quandam inveniit.

The correspondence is remarkable. Of course, observations on the character of rhetoric, and on the question if it is an *ars* (τέχνη: "art"), were common from at least Plato's time³⁴, and the terms used by Antonius, *animadvertere* and *notare* ('observe' and 'give a description'), are normal in this connection³⁵. But the coupling between chance and experience on the one hand, and the development of *ars* on the other, seems unique³⁶. There are, indeed, two closely related schemes that occur frequently: first, various forms of opposition between chance, experience,

1877 II: ad loc.) occur in quite different contexts; there is at most an unconscious echo. According to Solmsen (1938: 397 n. 21), 2,206 (*amor*) and 2,42 (80b35ff.) (φιλα) are parallel, but the correspondence is not impressive (*Inv.* 2,166 is closer to Arist.: above p. 111). The similarity between 3,175 and 3,9,5 (09b14) ἐναντιπνευστος (Cope 1877 III: ad loc.) can prove nothing either. *De oratore* 2,236 *movere risum, ... tristitiam ac severitatem mitigat et relaxat* is somewhat similar to *Rhetoric* 3,18,7 (19b3-5) δεῖν ἐφη Γοργίας τὴν μὲν σπουδὴν διαφθελεῖν τῶν ἐναντιῶν γέλωτι τὸν δὲ γέλωτα σπουδῇ, ὁρθῶς λέγων - but Rabbie is rightly cautious about dependence (L.-P.-Rabbie: 211), since remarks like these reflect common opinion. Other correspondences that are probably not significant below pp. 54, 74.

33. All parallels have been noticed before, particularly in Kassel's apparatus of parallels and in P.-H. and W. (cf. also Solmsen 1938: 397 n. 21, 401 n. 36). Giving details about who recorded which parallel has seemed superfluous.

34. Cf. L.-P. (I: 190-194).

35. Cf. *De or.* 1,109; 187-189; *Brut.* 316; *Div.* 1,12; 25; 72; 131; etc.

36. Cf. Kassel's apparatus ad *Rhet.* 54a6-11; *De or.* 2,32 is his only parallel. Neither do any parallels occur in Lausberg (1960 I: 25-26, 45-46), or in Felix Heinemann, 'Eine vorplatonische Theorie der τέχνη', *MH* 18 (1961), 105-130 (also in: C.J. Classen [ed.], *Sophistik*, [Wege der Forschung, 187; Darmstadt: Wiss. Buchges., 1976], 127-169; his fourth characteristic of τέχνη, p. 162 ff., is the closest to the viewpoint in our passages, but even there no parallels occur).

and "art" or method, are frequently found from the fifth century onwards³⁷; second, *ars* is often said to come about through observation of nature or of practice³⁸. All the many passages employing these schemes, however, lack the combination found in the passages quoted. This shows how remarkable the correspondence between this passage and the passage from the *Rhetoric* is³⁹. This means that the parallel cannot be a matter of tradition, and coincidence is very unlikely also. There is a slight possibility that Aristotle's *Gryllus* contained a like formulation, since this exoteric work was about the question if rhetoric is an art⁴⁰. It would be a remarkable coincidence if Cicero took it from there, but this cannot, at this stage, be excluded⁴¹.

The passages on *ethos* and *pathos* contain two small scale parallels that may enhance the probability that the structural parallel of the *pisteis* provides a direct link with Aristotle. Because they are not very significant in their own right, however, they are treated in the next section⁴². The following of Aristotle's and Cicero's remarks on envy and pity, however, are sometimes said to correspond (2,10,1-2: 87b24-28 and 2,209; 2,8,2: 85b13-16 and 2,211)⁴³:

φθονήσουσι μὲν γὰρ οἱ τοιοῦτοι οἷς εἰσὶ τινες ὅμοιοι ἢ φαίνονται. ὁμοίους δὲ λέγω κατὰ γένος, κατὰ συγγένειαν, καθ' ἡλικίας, κατὰ ἔξεις, κατὰ δόξαν, κατὰ τὰ ὑπάρχοντα.

invident autem homines maxime paribus aut inferioribus, cum se relictos sentiunt,

37. τύχη-τέχνη is found in many connections: Eur. *Alc.* 785-786; *IT* 89; Agathon frs. 6 and 8 (Nauck/Snell); Plato *Gorg.* 448c4-9; *Phaedr.* 265c9-d1; Arist. *EN* 1140a19-20 (quoting Agathon fr. 6); and see the numerous passages quoted ad [Hippocr.] *De arte* 4 by Theodor Gomperz (*Die Apologie der Heilkunst* [Leipzig: Von Heit, 1910²]: 108-109); on the Roman side Cic. *Inv.* 1,58 (*temere, nullo consilio-ratione*); 2,44; *De or.* 3,179 (*arte, non casu*); Quint. 2,17,42-43; 5,7,29 (*fortuna-ratione*); and cf. the many cases of opposition between *ratio* and words like *temere* in Albert Yon, *Ratio et les mots de la famille de reor* (Paris: Champion, 1933): 178-180.

Other oppositions in Plato *Leg.* 888c4-6 (φύσει-τέχνη-διὰ τύχην), *Phaedr.* 270b5-6 (τυμβή ... καὶ ἐμπειρία-τέχνη); Arist. *Poet.* 1 (1447a19-20) (διὰ τέχνης-διὰ συνθέτας). Cf also Cic. *Ac.* 2,22.

38. *De or.* 1,108-109; 146; *Orat.* 183; Quint. 2,17,9; cf. also *De or.* 2,122 *itaque si quid est in me ... ex eo est, quod nihil quisquam unquam me audiente egit orator, quod non in memoria mea penitus insederit.*

39. There are two, for our purpose minor, differences between the passages: (1) in Cicero the three ways of speaking (without method - through experience - by art) seem three successive stages, in Aristotle this is not the case (in spite of *Metaph.* 1,1: 980a27-981b6; contra Schweinfurth-Walla 1986: 20-21); (2) in Aristotle the knowledge on which the "art" of rhetoric is based is deductive, since it starts from real causes (cf. ἀνάγν), but in Cicero it is empirical and derived by induction, and rhetoric gives rules (it is immaterial whether these are abstract or loose or regarded as unimportant, etc.), not causes (this is unambiguously clear from 2,232: contra Schweinfurth-Walla 1986: 92-95).

40. On the *Gryllus* see below p. 149 with n. 174.

41. But see the overall evaluation, below p. 126-127.

42. p. 127-129.

43. As to pity, *De or.* 2,211 is the only parallel Kassel cites ad *Rhet.* 2,8!

illos autem dolent evolasce; sed etiam superioribus invidetur saepe vehementer et eo magis, si intolerantius se iactant et acquabilitatem communis iuris praestantia dignitatis aut fortunae suae transeunt.

ἔστω δὴ ἔλεος λύπη τις ἐπὶ φαινομένῳ κακῷ φθαρτικῷ ἢ λυπηρῷ τοῦ ἀναξίου τυγχάνειν, ὃ καὶν αὐτὸς προσδοκῆσειεν εἰν παθεῖν ἢ τῶν αὐτοῦ τινα, καὶ τοῦτο ὅταν πλησίον φαίνεται·

iam misericordia movetur, si is qui audit adduci potest, ut illa quae de altero deplorentur, ad suas res revocet, quas aut tulerit acerbas aut timeat, ut intuentis alium crebro ad se ipsum revertatur; ...

The obvious differences cannot be adduced against the correspondences, because they can be due to Cicero's own choice⁴⁴. But there is no clue to dependence either. As for envy, the correspondence consists of the attention paid by both authors to the status of the object of this emotion. Although such remarks are not frequent in the extant literature⁴⁵, some very similar statements nevertheless occur, one as early as Hesiod: καὶ κεραμεὺς κεραμεὶ κοῦρει ('and potter bears a grudge against potter')⁴⁶. The parallel may, therefore, be ascribed to widespread opinion, like the one between the definitions of friendship in the *Rhetorica* and *De inventione* mentioned in § 4.147. The same holds for the passages on pity: the observation that a link with his own experience may lead someone to pity is, again, not very frequently found in our extant material⁴⁸, but the idea must have been current, since it is alluded to in one of the *topoi* for the epilogue in *De inventione*⁴⁹.

The treatment of disposition, *De oratore* 2,307-332, shows some correspondences of content and wording to the *Rhetoric*. All may be due to coincidence, but their combined occurrence lends them significance. *De oratore* 2,320 resembles *Rhetoric* 3,14,6 (15a21-24)⁵⁰:

44. Above p. 109. On the differences below § 8.5, p. 289-294. A choice of Cicero's is the easiest explanation of the (slight) difference pointed out by Kroll (1903: 582 n. 2).

45. No such attention in the fragments on φθόνος in *SVF*, except III 418 (next note): see IV, index s.v. Remarks on the object are often not about his status, but about his good fortune, i.e. the reason for the envy. Fr. trag. adesp. 547,12-13 (Nauck); Pind. *Nem.* 8,21-22; Tac. *Dial.* 40,1; and the many parallels in Gudemann ad Tac. *Dial.* 23,11 (p. 375).

46. Hes. *Op.* 25-26 (cf. Verdenius ad loc.; it is quoted Arist. *Rhet.* 2,4,21: 81b16-17 and 2,10,7: 88a16); Plato *Phil.* 48b11-12 (cf. Mills 1985: 1-3); *SVF* III 418 (= Plut. *Stoic. repugn.* 25, 1046b-c); cf. in general Peter Walcot, *Envy and the Greeks. A Study of Human Behaviour* (Warminster: Aris & Phillips, 1978); Helmut Schoeck, *Der Neid. Eine Theorie der Gesellschaft* (Freiburg/München: Alber, 1966): *passim*, but esp. 21, 22, 181, 191, index s.v. 'Neid und soziale Nähe'.

47. p. 111.

48. No such link in the fragments in *SVF*: IV, index s.v. ἔλεος, οἶκτος.

49. *Inv.* 1,108, *topos* no. 7 of the *conquestio*: *septimus* (sc. *locus est*) *per quem ad ipsos qui audiunt [similem in causam] convertimus et petimus, ut de suis liberis aut parentibus aut aliquo, qui illis carus debeat esse, nos cum videant, recordentur.* An analogous *topos* for the indignatio is no.14 in 1,105.

50. It is also slightly like 3,14,1 (14b19-25) (see below, with n. 52).

τὸ μὲν οὖν ἀναγκαϊότατον ἔργον τοῦ προοιμίου καὶ ἴδιον τοῦτο, δηλῶσαι τί ἐστὶ τὸ τέλος οὗ ἕνεκα ὁ λόγος. διόπερ ἂν ἄλλον ἢ καὶ μικρὸν τὸ πρᾶγμα, οὐ χρηστέον προοίμιον.

omne autem principium aut rei totius, quae agetur, significationem habere debet aut aditum ad causam et munitionem aut quoddam ornamentum et dignitatem. sed oportet, ut aedibus ac templis vestibula et aditus, sic causis principia pro portione rerum proponere, itaque in parvis atque infrequentibus causis ab ipsa re est exordiri saepe commodius.

Both elements mentioned, the prologue as indicating the subject of the speech, and the redundancy of a prologue in some cases, do have their counterparts in school rhetoric⁵¹, and are obvious in themselves. The metaphor of *munitionem* ('paving the way'), corresponding to Aristotle's ὁδοποιήσις in the same chapter (3,14,1: 14b21), is not uncommon either⁵². But the combination of these in the same passage may be significant.

The same goes for the rejection by both authors of some commonplace rules. School rhetoric prescribed that the audience should be made attentive and receptive in the prologue, which both authors say should be done in every part of the speech and is actually easier in the prologue than anywhere else (*Rhet.* 3,14,9: 15b9-17 and *De or.* 2,323)⁵³. The rule demanding brevity in the narration is mockingly rejected by both, though in different ways (*Rhet.* 3,16,4: 16b29-17a2, *De or.* 2,326-328). Both take the *argumentatio* to be essentially one part, and reject the distinction of two separate parts 'proof' and 'refutation' (*Rhet.* 3,17,14: 18b4-6, *De or.* 2,331)⁵⁴. These close correspondences may very well be coincidental: the subject of the parts of the speech leaves little scope for variation, and censure of the traditional rules will tend to concentrate on the same points and to take

51. The first may be implied in *Inv.* 1,20 *exordium est oratio animi auditoris idonee comparans ad reliquam dictionem* (*Rhet. Her.* 1,4 is a little different). The second element belongs to the arrangement *ad casum temporis accommodatum* as mentioned in *Rhet. Her.* 3,16-17 (above p. 99); the statements on it in *Inv.* 1,21 and *Rhet. Her.* 1,6 (which are almost identical) do not match the one in *De or.*, since in the former two a prologue is said to be dispensable not in small cases but in those of the 'honourable' type: *sin honestum genus causae erit, licebit recte vel uti vel non uti principio* (*Rhet. Her.* 1,6); but this may be a coincidence, since other schoolbooks may have had other rules on this.

52. It is used by Arist. in various contexts: 2,2,10 (79a21); 2,13,7 (89b31); 3,12,3 (13b22); cf. his example of a metaphor in 3,10,7 (11b2-3). Cf. also *De or.* 2,202; *Mur.* 23; and L.-P. ad 2,320 (not yet published).

53. Note that *De or.* 2,323 is Kassel's only parallel ad 15b9-12. *De or.* 2,81 is also similar, but the correspondence between 2,323 and *Rhet.* l.c. is more marked.

54. Less significant correspondences are: (1) the employment of four parts, instead of six as in *Inv.* and *Rhet. Her.*; but this may also have been done in handbooks that have not survived (cf. Kennedy 1963: 335; ib.: 314 he takes the unfounded view of an almost exclusively linear development); (2) the division of the *topoi* for the prologue (below p. 209 n. 65); (3) *De or.* 2,321 *ex reo ... quae valeant contra falsam criminationem* - *Rhet.* 3,14,7 (15a27-28) *περὶ αὐτοῦ ... περὶ διαβολῆς λέγουσι*: this is also paralleled in *Inv.* 1,22 *ab nostra ... si ... aliquas minus honestas suspensiones injectas diluamus*.

the same form. Cicero may therefore have formulated his criticisms himself, or taken them from earlier censures of rhetoric belonging to the quarrel with philosophy. But the cumulative evidence of a number of passages in the same context, though offering no real proof of Cicero's use of the *Rhetoric*, is rather strong.

In the passages on the deliberative genre two striking parallels occur. The first is *Rhetoric* 1,4,2 (59a32-34) - *De oratore* 2,336:

ὅσα δὲ ἐξ ἀνάγκης ἢ ἔστιν ἢ ἔσται ἢ ἀδύνατον εἶναι ἢ γενέσθαι, περὶ δὲ τούτων οὐκ ἔσται συμβουλή.

sed quid fieri possit aut non possit quidque etiam sit necesse aut non sit, in utraque re (i.e. with respect to advantage as well as honour) maxime est quaerendum. inciditur enim omnis iam deliberatio, si intellegitur non posse fieri aut si necessitas adfertur; et qui id docuit, non videntibus aliis, is plurimum vidit.

Although *De inventione* and the *Rhetorica ad Herennium* contain passages that may be compared to the contexts of these two statements⁵⁵, they offer no parallels⁵⁶, nor do these seem to exist elsewhere⁵⁷. Cicero's statement *et qui ... vidit* ('he who has demonstrated this ... has seen most') is sometimes taken to refer to Aristotle, as being the person who first formulated the principle. This would strengthen the parallelism in a very notable way, for Cicero never makes vague allusions like this. But this very vagueness pleads against this interpretation, and on the whole it is far more probable that the sentence refers to a speaker who is, in some case, the first to see that some course of action is impossible⁵⁸. This does not, however, remove the remarkable parallelism itself.

The passage in *De oratore* following immediately upon the one just quoted also resembles a passage from the chapters on the deliberative branch in the *Rhetoric*: 1,8,1 (65b22-25) - 2,337⁵⁹:

55. *Inv.* 2,156 and *Rhet. Her.* 3,3 (cf. 3,2).

56. *Inv.* 2,170-175 treats *necessitudo*, but the point of view is very different.

57. *Part. or.* 83 is very similar, but Cicero probably "copied" this from *De or.*

58. P.-H. and W. have nothing to say on this matter. Rackham translates 'and the philosopher who taught this truth, which others did not discern, showed the greatest insight' (which is far to explicit anyway), adding the passage from the *Rhet.* in a note, and Grimaldi (1980: ad 59a32) also takes it thus. Courbaud and Merklin take it as referring to an orator. Arguments in favour of this second interpretation are the vagueness of this supposed allusion to Aristotle, and the fact that the wording in the preceding sections (2,334-335) is also determined by focus on a speaker. The only thing pleading against it is the use of the perfects *docuit* and *vidit* (all editors and translators rightly read *vidit* (L), not *videt* (M)), which is remarkable after the presents and futures in 334-335 (the future being used in the main clauses containing the rules); but this can be explained as a "rhetorical" perfect (K-St. 1,126), and probably expresses the *fait accompli* of the end of the debate that is suddenly there, as soon as one speaker has pointed out that a certain course of action is impossible.

59. *De or.* 2,337 init. is Kassel's only parallel in *Rhet.* 1,8.

μέγιστον δὲ καὶ κυριώτατον πάντων πρὸς τὸ δύνασθαι πείθειν καὶ καλῶς συμβουλεύειν <τὸ> τὰς πολιτείας ἀπάσας λαβεῖν καὶ τὰ ἐκάστης ἔθι καὶ νόμιμα καὶ συμφέροντα διελειν.

ad consilium autem de re publica dandum caput est nosse rem publicam; ad dicendum vero probabiliter nosse mores civitatis; qui quia crebro mutantur, genus quoque orationis est saepe mutandum.

In the passage from Aristotle, the plural 'states' is somewhat surprising, for most speakers regularly speak in one type of state only, viz. their own. In view of the variety in the constitutions of the Greek states, and of Aristotle's interest in this, however, it is quite intelligible. Cicero's singular 'state' represents the most natural adaptation of Aristotle's remark to the Roman situation, in which there was only one state that counted. This change⁶⁰ may therefore be Cicero's own. The correspondence is, again, striking, and I know of no parallels.

However, Nausiphanes, a natural philosopher from the fourth century B.C. who claimed that his teachings were best suited for becoming a good speaker, seems to have written something that is relevant. The evidence is not completely clear, for his views are almost exclusively known from Philodemus' polemic against him, and Philodemus' text is, moreover, damaged. But one of his claims seems to have been that a natural philosopher, thanks to his knowledge, could persuade any nation⁶¹. This is not really parallel to the passage from *De oratore*, but it shows that discussions of such matters did exist. On the other hand, both Aristotle and Cicero refer to knowledge needed to adapt one's way of speaking to different circumstances, whereas it is doubtful whether Nausiphanes meant this. The fact that this regards different states in Aristotle, but different behaviour of citizens in Cicero, would again be a natural consequence of the adaptation to the Roman situation. All in all, Cicero's unparalleled reference to the change in attitude of the citizens is perhaps most easily explained if we assume that he was influenced by Aristotle's wording. The parallel, therefore, remains striking, though it is again far from decisive.

The last parallel from *De oratore* 2, occurring in the passage on the epideictic branch of oratory, needs some closer analysis⁶². In the rhetorical tradition the

60. This change entails the other differences: the distinction between the state and the citizens, and the difference in character not between states, but between these citizens at various times (see below).

61. Philod. Vol. Rhet. II p. 19-20 col. XXV (Hubbell [o.c. above p. 56 n. 223]: 324 only gives a broad paraphrase). Sudhaus reads (lines 5-7) [ὡς δαμ[ο]ίω[ς] αὐ[τ]ὸς μάθ[η]ται ἂν ὁ φυ[σικ]ὸς ὁπο[ι]οῦν σὺν ἔθν[ος], but Von Arnim (1898: 56) prefers another supplement: [ὥσθ' ὁ δαμ[ο]ίω[ς] αὐ[τ]ὸς πειθ[η]ται ἂν ὁ φυ[σικ]ὸς ὁπο[ι]οῦν σὺν ἔθν[ος]. Testimonia etc. about Nausiphanes: no. 75 Diels-Kranz.

62. Cf. Peters (1907: 71-94), where much material is conveniently collected, and where some good remarks can also be found. For the analysis of these passages I have profited from a lecture by Dr. E.L.J. Poortman, and from his corresponding article on the ideal man in Greek philosophy

topics of praise were very often divided into external goods, goods of the body, and goods of the mind, and Antonius takes this as his starting point in 2,342⁶³. He first treats, very shortly, external and bodily goods together, as being not praiseworthy in themselves, but as still of some importance as providing the background for the description of the behaviour of the person eulogized: the orator can praise him by saying that he used them well. But from 343 on, Antonius concentrates on the goods of the mind, designated by *virtus* ("virtue"⁶⁴), as being the real subject of praise. Such a concentration on "virtue" is, like the tripartition of the subjects for praise, not unusual⁶⁵. It is in 343-344, the beginning of this treatment of *virtus*, that parallels to Aristotle's treatment of the epideictic genre occur (1,9,3-6: 66a33-b7)⁶⁶:

καλὸν μὲν οὖν ἐστίν, ὃ ἂν δι' αὐτὸ ἀρετὸν ὄν ἐπαινετὸν ᾖ, ἢ ὃ ἂν ἀγαθὸν ὄν ᾗδῃ ἢ ὅτι ἀγαθόν. εἰ δὲ τοῦτό ἐστι τὸ καλόν, ἀνάγκη τὴν ἀρετὴν καλὸν εἶναι· ἀγαθὸν γὰρ ὄν ἐπαινετὸν ἐστίν. ἀρετὴ δ' ἐστὶ μὲν δύναμις, ὡς δοκεῖ, ποριστικὴ ἀγαθῶν καὶ φυλακτικὴ, καὶ δύναμις εὐεργετικὴ πολλῶν καὶ μεγάλων, καὶ πάντων περὶ πάντα. μέρη δὲ ἀρετῆς δικαιοσύνη, ἀνδρεία, σωφροσύνη, μεγαλοπρέπεια, μεγαλοψυχία, ἐλευθεριότης, πραότης, φρόνησις, σοφία. ἀνάγκη δὲ μεγίστας εἶναι ἀρετὰς τὰς τοῖς ἄλλοις χρησιμωτάτας, εἴπερ ἐστὶν ἡ ἀρετὴ δύναμις εὐεργετικὴ. διὰ τοῦτο τοὺς δικαίους καὶ ἀνδρείους μάλιστα τιμῶσιν· ἡ μὲν γὰρ ἐν πολέμῳ ἡ δὲ καὶ ἐν εἰρήνῃ χρῆσιμος ἄλλοις. εἴτα ἡ ἐλευθεριότης· ...

virtus autem, quae est per se ipsa laudabilis et sine qua nihil laudari potest, tamen habet pluris partis, quarum alia est <alia> ad laudationem aptior. sunt enim aliae virtutes, quae videntur in moribus hominum et quadam comitate ac beneficentia positae; aliae, quae in ingenii aliqua facultate aut animi magnitudine ac robore. nam clementia, iustitia, benignitas, fides, fortitudo in periculis communibus iucunda est auditu in laudationibus; (344) omnes enim hae virtutes non ipsis tam, qui eas habent, quam generi hominum fructuosae putantur. sapientia et magnitudo animi, qua omnes res humanae tenues ac pro nihilo putantur, et in excogitando vis quaedam ingenii et ipsa eloquentia admirationis habet non minus, iucunditatis minus; ipsos enim magis videntur, quos laudamus, quam illos, apud quos laudamus, ornare ac tueri.

(⁶³De ideale mens in de Griekse filosofie (t/m Aristoteles)', *Lampas* 18, 1985, 27-42).

⁶³. Cf. *Rhet. Her.* 3,10 *laus igitur potest esse rerum externarum, corporis, animi*, and already *Rhet. Alex.* 1,9-10 (1422a4-11). (Cf. Solmsen 1941: 176 n. 84). The division was older than Plato (Franz Dirlmeier [übers., komm.], *Aristoteles, Nikomachische Ethik* [Werke in deutscher Übersetzung, Bd. 6], Darmstadt: Wiss. Buchges., 1974⁶: 281-282). In Cicero's time, it was well known and frequently appeared in philosophical discussions (cf. *De or.* 3,115; *Top.* 89; and *Part. or.* 38; 74); more specifically, it was known as Peripatetic (*Fin.* 3,43; Cicero's attribution of it to Aristotle is probably based on exoteric works: Gigon 1959: 153).

⁶⁴. Latin *virtus*, as well as Greek καλόν, ἀρετή, and ἀγαθόν, are notoriously hard to translate. In most of the following I will drop the quotation marks.

⁶⁵. *Rhet. Alex.* 35,3-16 (1440b15-41b14); *Inv.* 2,178; and *De or.* 2,46, where it seems to be presented as well-known. (Cf. also *Arist. Rhet.* 1,9,33: 67b26-33; 36: 68a3-6; *Isocr.* 9,45). Cf. Peters (1907: 83-85, 90-91).

⁶⁶. The Ciceronian passage is Kassel's only parallel ad 66b1-5.

Two elements correspond: (a) virtue as being laudable in itself⁶⁷, and (b) the distinction between virtues that benefit others, i.e., "social virtues", and those that only serve their possessor. Element (a) occurs in various forms elsewhere: virtue is frequently said to be praised, or to be sought after, for its own sake. It is found in Aristotle, but it is not markedly Aristotelian in itself: similar thoughts are to be found in Plato and in Stoic sources, and especially its occurrence in *De inventione* shows that it was well known in Cicero's time⁶⁸.

Element (b), however, seems unique, although this distinction has been equated with the Aristotelian-Peripatetic division into moral and intellectual virtues (ἀρεταὶ ἥθικαὶ and διανοητικαὶ), found in the *Ethica Nicomachea* and elsewhere⁶⁹. To this division it has a complicated relationship. In Aristotle, although there is a large overlap between the moral and social, and accordingly between the intellectual and non-social virtues, the two divisions are definitely different. In the first place, the overlap is not complete: σωφροσύνη ('temperance') is a moral virtue, but can hardly be considered a social one⁷⁰. Secondly, the criteria for classification for the two divisions show fundamental differences, which are well brought out by the (modern) designations 'moral' and 'social'. Moreover, whereas the distinction between moral and intellectual virtues is an absolute one, the criterion for the social virtues entails a gliding scale, for Aristotle says that justice and courage are most praiseworthy, followed by liberality.

As to Cicero, his way of presenting the material, though clear and consistent in itself, might encourage the identification of his division with the one into moral and intellectual virtues: he employs two groups instead of a gliding scale⁷¹, and the virtue of temperance, which makes the identification impossible in Aristotle, does not occur⁷². But his wording shows that his criterion is fundamentally the

67. Cicero's mention of this is much simpler than that of Aristotle, but this does not tell against dependence, direct or indirect. It is exactly what is to be expected if Cicero has used the *Rhetoric*: a shortened version, excluding the intricacies of Aristotle's use of the related terms τὸ καλόν, ἀγαθόν, and ἀρετή.

68. Plato *Phil.* 20d1-21a2 is similar in thought, though not in wording. Stoics: *SVF* III 38-48. The characteristic wording appears *Inv.* 2,159 *quod aut totum aut aliqua ex parte propter se petitur, honestum nominabimus*; cf. *Arist. Protr.* B.42 (Düring); *EN* 1,6,10 (1096b16-19); 1,7,3-8 (1097a25-b21); *EE* 8,3,3 (1248b18-19); *Cic. Fin.* 2,44-45; 48; 5,68.

69. The equation in Peters (1907: 73, 81). For the ἀρεταὶ ἥθικαὶ and διανοητικαὶ cf. *EN* 1,13,20 (1103a4-10); 2,1,1 (1103a14-18); the statements on Aristotelian-Peripatetic doctrine in *Cic. Fin.* 2,40 and [Plut.] (= Aetius) *Plac. philos.* 874F seem to refer to this division. Panaetius was probably influenced by this division: cf. A.A. Long, *Hellenistic Philosophy* (London: Duckworth, 1974): 212-213.

70. Σωφροσύνη is a moral virtue: *EN* 1,13,20 (1103a6-7); 2,7,3 (1107b4-6) (book 2 is about moral virtues); moreover, in the treatment *EN* 3,10-12 (1117b23-19b18) there is no trace of social rather than moral standards determining the acceptance of this virtue, or the rejection of the corresponding vice of ἀκολασία (cf. especially 3,11,8: 1119a11-20; 3,12,2: 1119a23-27).

71. A gliding scale is implied some lines further down, in 2,346-347.

72. On the absence of *temperantia* and the inclusion of eloquence cf. next note.

same as the one in the *Rhetoric*: it is also meant to distinguish between socially useful virtues, which are most appropriate for a eulogy, and other ones.

The likeness of Cicero's distinction to the division into moral and intellectual virtues can of course not be denied: it is probably due to the fact that this Peripatetic division was well known, and Cicero may even have identified the two divisions. However, the important point is that his own classification cannot be explained as a simple development of the moral/intellectual-scheme: it is much closer to the one found in the *Rhetoric*, and shares its essential criterion, which is not attested elsewhere⁷³. The combination of (a) and (b) strengthens the correspondence⁷⁴. It seems, therefore, probable that Cicero was directly or indirectly drawing on the passage from the *Rhetoric*, which he modified under the influence of the other, better known, Peripatetic scheme, without, however, destroying its essential features.

Quotations represent a special type of small scale parallelism. The last parallel between *De oratore* and the *Rhetoric* is of this kind, and occurs in the treatment of prose rhythm in 3,173-198. In 182-183 Crassus reports the opinions of Aristotle on the choice of suitable rhythms (*Rhet.* 3,8,3-7: 08b30-09a23). The inaccuracy of this report has been one of the main arguments in favour of a lack of direct knowledge of the *Rhetoric* on Cicero's part, and the greater accuracy of the paraphrase of the same passage in *Orator* 192-193 has been the main argument for the notion that in 46 he had gained (indirect) access to that work⁷⁵. A treatment of all the differences and inaccuracies is the only way of judging the strength

73. There are some inessential differences. The absence of *temperantia*, the Latin equivalent of σωφροσύνη, is remarkable; but it speaks in favour of, rather than against dependence on the *Rhet.*, since this absence may be due to Cicero's identification of the division found there with the intellectual/moral-scheme, but is hard to account for starting from contemporary theories: temperance was well known as one of the four (Stoic) cardinal virtues (cf. *Inv.* 2,159-165). The inclusion of *eloquentia* can hardly be derived from Aristotle's short mention in *Rhet.* 1,6,14 (62b22-23); it is probably indirectly due to Stoic doctrine, but the notion of eloquence as a virtue was well known, and Cicero may have added it himself: it is not to be taken as a sign of Antiochus' influence (as Kroll 1903: 594 maintains). Cicero's *magnitudo animi* (2,344, cf. 343) is not Aristotle's μεγαλοψυχία as defined in *Rhet.* 1,9,11 (66b17), it is closer to the concept as it appears in *EN* 4,3 (1123a34-25a35); but Cicero's use of the term is obviously primarily influenced by Stoic doctrine (cf. *Off.* 1,15; 61; and Ulrich Knoche, *Magnitudo animi*, [*Philologus Suppl.* 27,3; Leipzig: Dieterich, 1935]: 49-50, esp. n. 220); this difference with the *Rhet.*, however, is only a matter of terms.

74. There are some other correspondences, but these may be due to coincidence: (a) the two passages are virtually the only ones offering such extensive lists of mental virtues (cf. Peters 1907: 78, 81, 91); on the other hand, *De or.* 2,46 seems to present such an approach as normal; (b) *De or.* 2,348 *est etiam cum ceteris praestantibus viris comparatio in laudatione praeclara* is similar to *Rhet.* 1,9,38-39 (68a21-26) (the closest parallel I know is *Rhet. Her.* 3,13 fin.).

75. This is Usener's reconstruction (above n. 9; see below p. 154 with n. 201). He was followed by Angermann (1904: 9-10).

of these arguments⁷⁶. The relevant texts are *Rhetoric* 3,8,4-5 (08b32-09a8) and *De oratore* 3,182-183:

τῶν δὲ ρυθμῶν ὁ μὲν ἡρώδης σεμνὸς καὶ <οὐ>⁷⁷ λεκτικὸς καὶ ἀρμονίας δεόμενος, ὁ δ' ἰαμβὸς αὐτῇ ἐστὶν ἡ λέξις ἢ τῶν πολλῶν διὸ μάλιστα πάντες τῶν μέτρων λαμβεῖα φθέγγονται λέγοντες. δεῖ δὲ σεμνότητι γενέσθαι καὶ ἐκστῆσαι ὁ δὲ τροχαῖος κορδακικώτερος· ὅλοι δὲ τὰ τετράμετρα· ἔστι γὰρ τροχερός ρυθμὸς τὰ τετράμετρα. λείπεται δὲ παιάν, ᾧ ἐχρῶντο μὲν ἀπὸ Θρασυμάχου ἀρξάμενοι, οὐκ εἶχον δὲ λέγειν τίς ἦν. ἔστι δὲ τρίτος ὁ παιάν, καὶ ἐχόμενος τῶν εἰρημέκων· τρία γὰρ πρὸς δύο· ἐστὶν, ἐκείνων δὲ ὁ μὲν ἐν πρὸς ἕν, ὁ δὲ δύο πρὸς ἕν, ἔχεται δὲ τῶν λόγων τούτων ὁ ἡμιόλιος· οὗτος δ' ἐστὶν ὁ παιάν. οἱ μὲν οὖν ἄλλοι διὰ τε τὰ εἰρημέκων ἀφετέοι, καὶ διότι μετρικοί· ὁ δὲ παιάν ληπτέος· ...

nam cum sint numeri plures, iambum et trochaicum frequentem segregat ab oratore Aristoteles, Catule, vester, qui natura tamen incurrunt ipsi in orationem sermonemque nostrum; sed sunt insignes percussiones eorum numerorum et minuti pedes. quare primum ad heroum nos [dactylici et anapaesti spondi pedem] invitāt; in quo impune progredi licet duo dumtaxat pedes aut paulo plus, ne plane in versum aut in similitudinem versus incidamus: 'altae sunt geminae, quibus', hi tres heroī pedes in principia continuandorum verborum satis decore cadunt. (183) probatur autem ab eodem illo maxime paeon, qui est duplex. ...

Aristotle continues by recommending the first paeon (–vuv) for the beginning of a sentence, and the fourth (vuv–) for the end. This is accurately reported in what follows in *De oratore* 3,183. The cruxes are in the text quoted.

Some of the differences are, though notable, not significant for the question in hand. The first is Cicero's insertion of a parenthetical remark in the middle of the report, just mentioned, of Aristotle's preference for the fourth paeon for sentence endings: he says that the cretic (–v–) is virtually equivalent to this paeon (vuv–). Since Cicero clearly indicates that this remark is not part of his description of Aristotle's views⁷⁸, no clue to Cicero's knowledge of the *Rhetoric* is to be found here.

A second difference between the two passages is Cicero's use of the term *trochaeus*. This denotes not what we call trochee (–v), but the tribrach (vuv). Nevertheless, Cicero uses it to represent Aristotle's τροχαῖος (*trochaios*), which

76. Nevertheless, the earliest such treatment I know of is part of a very recent article by Fortenbaugh (1989: §§ III and IV). I do not share his conclusions, but the following analysis is, to a high degree, based on his treatment of the non-corresponding elements of the two passages. Some good remarks on the unsatisfactory nature of Cicero's treatment (which, however, does not affect the question of the relationship with Aristotle) in L.P. Wilkinson, *Golden Latin Artistry* (Cambridge UP, 1963): 138-139.

77. I adopt Kassel's text (the conjecture is Victorius') without much confidence that it is right, but all other solutions seem equally unsatisfactory. The sentence should, I think, contain a clearer rejection of the dactyl (cf. p. 125 with n. 90).

78. This is clear from 3,183 *atque illi philosopho ordini placet a superiore paeane, posteriore finire. est autem paeon hic posterior ... par fere cretico, ...*; it is confirmed by 3,193 in *paeane illo posteriore, quem Aristoteles probat, aut ei par cretico*.

does denote our trochee⁷⁹. Since Cicero himself very probably mistook the Greek τροχᾶτος to mean tribrach⁸⁰, this confusion is just as easily explained by Cicero's own reading as by an intermediary source, for such a source must be supposed to have been a Greek one⁸¹.

A third divergence is the absence of anything like Aristotle's remark on the early use of the paeon. *Orator* 193 does report it, and although this is done without Thrasyarchus' name, he does appear elsewhere in this work: whereas in *De oratore* 3,173 Isocrates, on the strength of a statement of his pupil Naucrates, is said to have been the inventor of prose rhythm, in *Orator* (174-175) Isocrates' claim is rejected, and Thrasyarchus is accorded this honour. Do these differences prove an advanced knowledge of the *Rhetoric* in 46? To my mind, they do not: Aristotle's mention of Thrasyarchus cannot have given rise to the idea that he invented anything⁸², so this notion must have come from some other source Cicero came to know before writing *Orator*⁸³. And the omission of Aristotle's remark in *De*

79. W. ad 3,182 *hi tres*, and thus, following him, Rackham and Fortenbaugh (1989: beginning of § III); also Courbaud. My (and their) statement on the meaning of *trochaeus* is based on *Orat.*, where the word occurs five times, and clearly denotes the tribrach (191 [bis]; 193; 194; and [ex coni.] 217; it does not occur in any of Cicero's other writings). P.-H. state that Cicero later, in *Orat.*, distinguishes between *trochaeus* and *choreus*, which then denote the tribrach and the trochee respectively. They thus suggest that in *De or.* the term *trochaeus* covers both, which cannot be correct: Cic. uses *chorios* (M. Friedrich, Kum.; *choricos* L.; *choreos* edd. pl.) already in *De or.* 3,193, and the terms probably mean the same in the two works. The meaning of the terms is rightly stressed by Fortenbaugh, for *trochaeus* is often taken simply to mean 'trochee' (Merklin, with n. 242; Moraux 1975: 88 n. 18; Adolf Primmer, *Cicero numerosus. Studien zum antiken Prosarhythmus* [SAW 257, 1968]: 292).

80. That he did so, follows under any hypothesis about the origin of the more accurate report of the passage from the *Rhet.* in *Orat.* (1) If it derives from first-hand knowledge, Cicero rendered Aristotle's τροχᾶτος by *trochaeus*. (2) If it derives from an intermediary source, this is not the same as the one for the passage in *De or.*; and since it is improbable that both Cicero's sources made the same mistake (interpreting Aristotle's τροχᾶτος as tribrach, and thus using τριβραχῶς), both contained τροχᾶτος, which was rendered by Cicero by *trochaeus* in both cases.

81. I do not see why, as Fortenbaugh suggests (1989: beginning of § III), it would be more easily explained by an intermediary source - unless it be supposed that this source left out Aristotle's explanation δηλοῖ δὲ τὰ τετράμετρα ἔστι γὰρ τροχαιὸς βυθμὸς τὰ τετράμετρα, and that this remark would have helped Cicero to understand that τροχᾶτος meant trochee, not tribrach. But an argument analogous to the one in the previous note shows that this is improbable.

82. Fortenbaugh (1989: § IV) is not completely clear on this. He mentions Cicero's change of opinion as regards the invention of prose rhythm, and states that an advanced knowledge of *Rhet.* 3,8 'cannot be the whole story'. If this is correct, as I believe it is, it must surely mean that no conclusions as to Cicero's knowledge of the *Rhet.* can be deduced from this point.

83. Cf. Douglas (1973: 104), Fortenbaugh (1989: § IV): in *Brut.* 32 Cicero still regards Isocrates as the inventor, so he became acquainted with this source in 46, between *Brut.* and *Orat.* The conclusion that this source may have been Theophrastus' *Περὶ λέξεως* seems possible from Dion. Hal. *Dem.* 3,1, despite the arguments of G.M.A. Grube ('Thrasyarchus, Theophrastus, and Dionysius of Halicarnassus', *Alph* 73 (1952), 251-267: 261-266; ib.: 255-260 he does, however, prove that Dion. Hal. *Lysias* 6,1-3 is not about style). H.C. Gotoff, 'Thrasyarchus of Calchedon and Ciceronian Style', *CPh* 75 (1980), 297-311, argues that Cicero's view of Thrasyarchus' style was probably not based on direct knowledge of his speeches.

oratore may, obviously, have been Cicero's own choice.

Three other differences, however, concern the accuracy of Cicero's paraphrase without turning on questions of terms or of choice on Cicero's part. (1) Aristotle rejects iambic rhythm as being not dignified enough, and trochaic rhythm because it is too much like the *cordax* (a sort of dance), i.e. too tripping. But the reason Cicero gives for the rejection of both is, that their beat is too marked, and that their feet are too short⁸⁴. This resembles the reason for Aristotle's rejection of trochaic rhythm, and it does so closely enough to suppose that it was meant as a paraphrase for it: even if he knew what the *cordax* was⁸⁵, Cicero would not have wanted to trouble his readers with such bookish facts. But the important point is, that the reason Aristotle gives for the iamb is not mentioned at all. (2) Cicero says that Aristotle recommends heroic, i.e. dactylic, rhythm⁸⁶, though in fact he rejects it⁸⁷. (3) Cicero omits Aristotle's comparison of rhythms. Since this comparison is made in order to justify the rejection of all other rhythms in favour of the paean, including the rejection of heroic rhythm, it could not be combined with Cicero's (wrong) statement that Aristotle recommends heroic rhythm. Accordingly, this omission is not just a matter of economy, but one of consistency⁸⁸. Three such divergences from Aristotle may seem ample proof that Cicero cannot have read the *Rhetoric* himself. In my opinion, however, they are not.

My reason for this opinion is that the three mistakes are not independent (as already remarked regarding the third one), but seem to derive from one consistent, if faulty, interpretation of Aristotle's passage, probably based on quick and inaccurate reading. If this is correct, as I will presently try to show, there is no reason why this interpretation should have been made by the author of an inter-

84. 3,182 *sed sunt ... pedes*. The reason is not explicitly ascribed to Aristotle, but the sequel *quare ... invitat ...* leaves no doubt about this. Moraux' account (1975: 88 n. 18) is confused: he suggests that *qui natura tamen incurunt ... nostram* is the reason Cicero adduces for the rejection, whereas it is in fact meant to show that the rejection is remarkable.

85. Even in 46, when he gave a more accurate report of Aristotle's views, he had some difficulty with it: *Orat.* 193 *cordacem appellat* reflects Aristotle's δ δὲ τροχαῖος καρδιακώτερος.

86. He does not, however, say that Aristotle recommends it as the *most* suitable rhythm, as is suggested by most translations of *primum* in 3,182 *primum ad heroum nos invitat* ('primarily' Rackham, 'avant tout' Courbaud, 'vor allem' Merklin). This would contradict the beginning of 183 (: the paean is the rhythm most favoured by Aristotle), which is actually the sequel of *primum ... invitat*: this link is indicated by *autem*, which continues *primum* (cf. K.-St. 2,69; 588; Sz. 731 [with 490]; L.-P. ad 2,21): 'therefore he firstly recommends heroic rhythm But the rhythm he favours most strongly ...'.

87. Moraux (1975: 88), Fortenbaugh (1989: § III). The latter adds that Cicero does, but Aristotle does not say that the use of heroic rhythm should be restricted to two feet or a little more. Such a restriction is consistent with what Aristotle says in 08b32 (μέχρι του) (as F. himself notices); it might even have been suggested by ἀπερείτου, which could possibly be interpreted as 'must be abandoned' (after using them) (cf. LSJ s.v. ἀφίημι, II.2.a). But in fact Cicero does not suggest that the remark stems from Aristotle: the use of *illo* at the beginning of the next sentence in 183 even suggests the contrary.

88. These are, virtually, Fortenbaugh's words (1989: § III).

mediary source, rather than by Cicero himself.

It has been rightly observed that, as Aristotle demands a certain dignity (σεμνότης) and calls the heroic rhythm dignified (σεμνός), Cicero's statement that Aristotle recommends this rhythm is not entirely without support⁸⁹. But, because the difference between the perspective of a reader and that of a philologist is almost invariably neglected, it has not been recognized that the text of the *Rhetoric* itself, if not read with the utmost care, may encourage such a statement. In the first place, in the text as it is transmitted to us, the first sentence contains no clear rejection of heroic rhythm, and this may have been the same in some or all of the copies available in antiquity⁹⁰. Moreover, this rhythm is said to possess dignity, and because the sentence demanding this same quality follows very soon, the parallelism between the words involved (σεμνός - σεμνότης) strongly suggests that a link between the two is what Aristotle means. The ensuing interpretation of the first two sentences may, then, be paraphrased as follows: 'heroic rhythm is dignified, and whereas iambic rhythm, belonging as it does to everyday speech, is not, it is this dignity of the former that is required'. This could have given rise to Cicero's remark that Aristotle recommends the dactyl (the above point (2)). Aristotle's following phrase, about the trochee, obviously marks this rhythm as lacking the dignity demanded in the preceding sentence. In the interpretation under discussion, the iamb had likewise been opposed to the dignity of the dactyl, which establishes a link between iambic and trochaic rhythm: 'the trochee is *also* unfit, because it is too tripping' - compare Cicero's report of one reason for the rejection of both (point (1) above)⁹¹. Because these lines have thus already identified one rhythm as fit for use, the following λείπεται δὲ παιάν (‘what remains is the paean’) will not be interpreted as ‘what remains as the only appropriate rhythm is the paean’ (which is what Aristotle meant). It will be taken as ‘what remains to be discussed is the paean’, which is, in itself, a perfectly possible interpretation of the Greek⁹². Aristotle's following rejection of the other rhythms in favour of the paean (09a6-9) will then be taken as a relative one, the paean being the first choice, the dactyl the second⁹³. The omission of the comparison of rhythms (above point (3)) then becomes a matter of economy only.

This interpretation is a strained one, especially concerning the last step just

89. W. ad 3.182 *invitat*, Moraux (1975: 88 n. 18), Fortenbaugh (1989: § III).

90. Cf. n. 77. Though Fortenbaugh (l.c. prev. note) notices this point, he, like most scholars before him, fails to pursue this line of analysis centred on the reader.

91. Note also that Aristotle groups iamb and trochee together in his comparison of the ratios of the various rhythms (ἐστὶ δὲ τρίτος ὁ παιάν ...): this may also have encouraged handling them together.

92. Cf. Plato *Crat.* 413d8-9 μετὰ γὰρ δικαιοσύνην τί ἡμῖν λείπεται; ἀνδρείαν οἶμαι οὕτω διτλήθεμεν.

93. Dactylic rhythm as a second choice is exactly what Cicero says: n. 86.

described, about the comparison, but it may have suggested itself to a reader going through the passage once. The only mistake needed is the stressing of the parallelism between *σεμνός* and *σεμνότης* ('dignified'-'dignity'). All three divergences noticed in Cicero's account follow from this. Of course, it need not have been Cicero who has read the passage thus, it may have been someone else, from whom he derived his own paraphrase. The passage does not, therefore, prove that Cicero read the *Rhetoric*, but neither does it prove, or even support, the assumption that Cicero has not read it at all. The only certain thing that emerges is that if he did, he did not study it carefully.

The results of this long section may now be summed up. Six parallels are noteworthy, four from book 1 of the *Rhetoric*, two from book 3⁹⁴:

- | | | |
|---|----------------------------|-------------------------|
| (1) 1,1,2 (54a6-11) | - <i>De or.</i> 2,32 | (rhetoric as an "art") |
| (2) 1,4,2 (59a32-34) | - <i>De or.</i> 2,336 | (deliberative genre) |
| (3) 1,8,1 (65b22-25) | - <i>De or.</i> 2,337 | (id.) |
| (4) 1,9,3-6 (66a33-b7) | - <i>De or.</i> 2,343-344 | (division of "virtues") |
| (5) 3,8,4-5 (08b32-09a8) | - <i>De or.</i> 3,182-183 | (prose rhythm) |
| (6) Some remarks on disposition (3,14; 3,16; 3,17 | - <i>De or.</i> 2,320-331) | |

Because book 3 did not go together with books 1 and 2 in at least some copies of the *Rhetoric*⁹⁵, a separate assessment of the two groups of parallels must be given.

The four parallels from book 1 are all striking, and even show considerable correspondence of wording. Note, also, the fact that in *De oratore* (3) immediately follows (2). It is impossible that four such close correspondences should have come by way of scattered remarks in a number of manuals or anthologies, and improbable that the first one came via the *Gryllus*, which was noticed as a possibility when the parallel was analysed in isolation. Accordingly, there is obviously some dependence on the *Rhetoric* (whether or not including book 3) in its entirety. Since all differences are easily accounted for by Cicero's preferences and background, this dependence may very well have been a direct one. If it was not, Cicero must have read something like a paraphrase or epitome of Aristotle's work. The possibility of an epitome is consistent with the places in the *Rhetoric* where the parallels are from, since all four are near the beginning or end of a passage: (1) from the beginning of the whole work, (2) from the beginning and (3) from the end of the chapters on the deliberative genre, and (4) from the beginning of

94. The absence of parallels from *Rhet.* 2 is not significant: the structural parallel of the three *pisteis* is strongly linked with this book, and there are two small scale parallels there, which will be mentioned in § 4.3 (p. 127-129).

95. Cf. p. 158 and Appendix 4.

the treatment of the epideictic branch of oratory. But such an intermediary source, whether paraphrase or epitome, must have contained very accurate reports of Aristotle's own words.

As for the two parallels from *Rhetoric* 3, (6) is perhaps of doubtful value. But (5) is a quotation, and it points to the same conclusion as the parallels from book 1: Cicero either knew a rather accurate paraphrase or epitome, or he knew the *Rhetoric* itself. The inaccuracy of the quotation shows that he did not make a thorough study of it, but that is hardly a surprise.

The small scale parallels, therefore, show that Cicero knew the *Rhetoric*, as a whole or in two parts, or had a quite accurate intermediary source (or two such sources for the two parts). This conclusion must, of course, be scrutinized again after the other material has been investigated.

4.3 Structural Parallels I: the *Pisteis*

Cicero, through Antonius, frequently emphasizes that the account of invention as presented in *De oratore* is essentially different from that of school rhetoric. This is no empty claim. The division into three *pisteis* is, as described above (§§ 3.2 and 3.3), far removed from traditional theories of invention; and instead of the arid lists of *topoi* for each type of case (see § 3.5), Cicero offers a system of abstract *topoi*, which constitutes an alternative way of discovering rational arguments. Both these structural features of *De oratore* have a counterpart in the *Rhetoric*. This section briefly treats some of the aspects of the first one that are of especial importance to the question of Cicero's source, and that have not been mentioned in the foregoing. The next section will be devoted to the second one, and to the related, complicated problem of Cicero's *Topica*.

Of course, the fact that the parts of the speech are treated under the head of disposition is also a structural parallel, and one that is of some importance in itself. As argued in § 3.3, however, this is tightly bound up with the concept of the three *pisteis*. Moreover, some of the handbooks in Cicero's time also used this uncontaminated scheme (§ 3.4). This parallel, therefore, has no independent value for the question of sources.

The significance of the parallel of the three *pisteis* is considerable in its own right⁹⁶, but it is enhanced by the correspondence between Aristotle's and Antonius'

96. It is often minimized (Düring 1966: 137, quoted above p. 109; Moraux 1975: 86-87) or neglected (Angermann 1904; Pahnke [o.c. above n. 4]: 90). Kroll (1903: 582 n. 2) notices the parallelism between 2,206-211 and the *Rhet.*, but takes it for granted that the *Rhet.* is 'nicht direct benutzt'; he thinks (ib.: 582-585) that the inclusion of ethos and pathos is due to Antiochus (cf.

motives for including pathos as a separate, and important, means of persuasion. This appears from *Rhetoric* 2,1,4 (77b31-78a6) and *De oratore* 2,178.

οὐ γὰρ ταῦτα φαίνεται φιλοῦσι καὶ μισοῦσιν, οὐδ' ὀργιζομένοις καὶ πρῶτος ἔχουσιν, ἀλλ' ἢ τὸ πᾶσαν ἕτερα ἢ κατὰ τὸ μέγεθος ἕτερα· τῷ μὲν γὰρ φιλοῦσιν, περὶ οὗ ποιεῖται τὴν κριτὴν, ἢ σὺν ἀδικεῖν ἢ μικρὰ δοκεῖ ἀδικεῖν, τῷ δὲ μισοῦσιν τοῦναντίον· καὶ τῷ μὲν ἐπιθυμοῦσιν καὶ ἐβέλπειν ὄντι, ἐάν ἢ τὸ ἐσόμενον ἴδῃ, καὶ ἐσσεσθαι καὶ ἀγαθὸν φαίνεται, τῷ δ' ἀπάθει καὶ δυσχεραίνοντι τοῦναντίον.

plura enim multo homines iudicant odio aut amore aut cupiditate aut iracundia aut dolore aut laetitia aut spe aut timore aut errore aut aliqua permotione mentis quam veritate aut praescripto aut iuris norma aliqua aut iudicii formula aut legibus.

In itself, that is, as a small scale parallel, this would perhaps not be significant: it is true that the parallels between φιλοῦσι/μισοῦσιν and odio/amore ("love"/hate - hate/"love"), and between ὀργιζομένοις and iracundia ('are angry' - 'anger') are not irrelevant, since they both diverge from the typical pair in school rhetoric, pity and hate; but the other emotions mentioned are not parallel. Even combined with the principle of the three *pisteis* the correspondence between the above texts may be a matter of coincidence, both independently deriving from the nature of pathos⁹⁷. On the other hand, the reason adduced for employing pathos, the change of judgement, is not found in the passages on the epilogue in the two extant school-books. The correspondence therefore slightly strengthens the probability, that the structural parallel of the inclusion of ethos and pathos derives from (direct or indirect) dependence on Aristotle⁹⁸.

An important factor contributing to the parallelism of the treatments of invention is the coupling of the division into three *pisteis* with that into *πίστεις ἀ-καὶ ἐν τεχνῶν* ("non-technical" and "technical" means of persuasion, also called "inartificial" and "artificial"). The latter division has been mentioned in passing (p. 15), in connection with *Rhetoric* 1,2,2-3 (55b35-56a4), where Aristotle's treatment of invention begins, and where both divisions are at once introduced and coupled. Cicero likewise introduces them together, in *De oratore* 2,115-117⁹⁹.

below p. 164-165 with n. 2)

97. The similarity between the sentences preceding the ones quoted is far less striking, and can still more easily have been derived from the principle of the three *pisteis*. It cannot, therefore, strengthen the parallelism.

98. The rough correspondence between the sequences of treating the separate emotions (cf. below p. 243) may also strengthen it.

99. For the technical and non-technical means of persuasion cf. also *De or.* 2,119-120; 163; 173. It is unlikely that *rebus et sententiis* in 2,145 refers to this distinction, as P.-H. and W. ad loc. think: cf. L.-P. ad loc. (roughly, 'content' and 'style', but it is probably not parallel to *instructam ornatamque*, as they think: these are virtually synonyms, cf. *Cael.* 39).

τῶν δὲ πίστεων αἱ μὲν ἀτεχνοὶ εἰσιν αἱ δ' ἐντεχναί. ἀτεχνὰ δὲ λέγω ὅσα μὴ δι' ἡμῶν πεπóρισται ἀλλὰ προὔπηρχεν, ὅλον μάρτυρες βάσανοι συγγραφαὶ καὶ ὅσα τοιαῦτα, ἐντεχνὰ δὲ ὅσα διὰ τῆς μεθόδου καὶ δι' ἡμῶν κατασκευασθῆναι δυνατόν· ὥστε δεῖ τοῦτων τοῖς μὲν χρῆσασθαι τὰ δὲ εὐρεῖν. τῶν δὲ διὰ τοῦ λόγου ποριζομένων πίστεων τρία εἶδη ἐστίν· αἱ μὲν γάρ εἰσιν ἐν τῷ ἡθελῆναι τοῦ λέγοντος, αἱ δὲ ἐν τῷ τὸν ἀκροατὴν διαθεῖναι πως, αἱ δὲ ἐν αὐτῷ τῷ λόγῳ, διὰ τοῦ δευκνύναι ἢ φαίνεσθαι δευκνύναι.

ita omnis ratio dicendi tribus ad persuadendum rebus est nixa: ut probemus vera esse ea quae defendimus, ut conciliemus eos nobis qui audiunt, ut animos eorum ad quemcumque causa postulabit motum vocemus. (116) ad probandum autem duplex est oratori subiecta materies: una rerum earum quae non excogitantur ab oratore, sed in re positae ratione tractantur, ut tabulae, testimonia, pacta conventa¹⁰⁰, quaestiones, leges, senatus consulta, res iudicatae, decreta, responsa, reliqua, si quae sunt, quae non reperiuntur ab oratore, sed ad oratorem a causa atque a reis deferuntur; altera est, quae tota in disputatione et in argumentatione oratoris conlocata est. (117) ita in superiore genere de tractandis argumentis, in hoc autem etiam de inveniendis cogitandum est.

Note, apart from the correspondence in content, the verbal parallel between Aristotle's ὥστε δεῖ τοῦτων τοῖς μὲν χρῆσασθαι τὰ δὲ εὐρεῖν ('thus the first ones must be used, the second ones must be invented'), and Cicero's *ita in superiore genere de tractandis argumentis, in hoc autem etiam de inveniendis cogitandum est* ('thus with the first type one must think about the handling of the arguments, but with the second also about inventing them'). And maybe *reliqua* ... (116: 'and others ...') is an echo of ὅσα τοιαῦτα ('and the like')? It can hardly come from school rhetoric, for the lists offered there pretended to be inclusive. But it can come from Cicero's own brain, of course.

Aristotle treats the non-technical means of persuasion in *Rhetoric* 1,15, where he counts five of them: νόμοι μάρτυρες συνθηκαὶ βάσανοι ὅρκιοι (1,15,2: 75a24-25: 'laws, witnesses, agreements, evidence extracted under torture, and oaths'). Cicero's list, found in the passage just quoted, is much longer, but will presently be found to show a fundamental correspondence with Aristotle's.

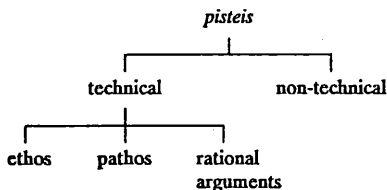
But, apart from the correspondence, the two passages quoted also show an important difference between the divisions of Aristotle and Cicero¹⁰¹, which may be clarified by the following two schemes¹⁰²:

100. For *pacta conventa* (not *pacta, conventa*) see L.-P. ad 2,100.

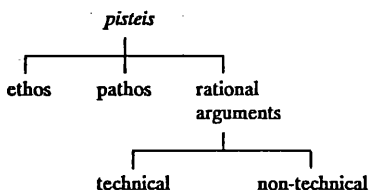
101. Only Moraux (1975: 86-87, following Jentsch [o.c. above n. 22] II: 23) and Schweinfurth-Walla (1986: 31-32) recognize it. The two divisions are (often implicitly) identified by the following authors: Cope (1867: 205-206), Volkmann (1885: 176-177), P.-H. and W. ad 2,116, Solmsen (1938: 397-398, 1941: 187), Lausberg (1960 I: 191), Kennedy (1972: 221), Martin (1974: 29 and n. 27, 96 and n. 22), Grimaldi (1980: ad 55b35 πίστεων), L.-P. (III: 103 and ad 2,116).

102. For clarity's sake, I have not kept the order of presentation of the authors.

Aristotle:



Cicero:



In Aristotle the non-technical means of persuasion are opposed to ethos, pathos and rational arguments together, whereas in Cicero they are only one branch of rational arguments. This difference is significant, and must be explained. But first a comparison with school rhetoric is in order, for against that background the correspondence between Aristotle and Cicero will prove to be much more striking than this difference.

The distinction between technical and non-technical means of persuasion is pre-Aristotelian¹⁰³: it is already made in the *Rhetorica ad Alexandrum*, where the non-technical ones are called ἐπίθετοι πίστεις ('supplementary means of persuasion')¹⁰⁴. Quintilian, however, talks about *illa partitio ab Aristotele tradita* (5,1,1: 'that division handed down by Aristotle'), and this may mean that it was known to later rhetoricians only through Aristotle. But however that may be, the largest part of school rhetoric of Cicero's time employed the *stasis* system, and the division of arguments in this system is based upon the division into many

103. Solmsen (1941: 44-45). This can, however, not be derived from Dion. Hal. *Lysias* 19,1 (30,20-31,3 U.-R.), as Marx did. The passage mentions the ἐντεχνοὶ πίστεις ethos, pathos and rational arguments (above p. 57), which implies the whole Aristotelian division as shown here, and this probably derives from direct or indirect knowledge of the *Rhet.* (p. 57). However, Marx (o.c. above p. 10 n. 2: 322) took it as representing Isocrates' doctrine. Riposati (1947: 41 with n. 3, where he mistakenly refers to Marx' edition of *Rhet. Her.*) follows Marx without comment, and mentions Isocrates besides *Rhet. Alex.* as having known the division.

104. *Rhet. Alex.* 7,2 (1428a16-23) and 14,8-17,2 (1431b10-32b4). Cf. e.g. Kennedy (1963: 88). Occurrence of a notion in the *Rhet. Alex.* is not always a certain indication of its pre-Aristotelian existence, because it is sometimes held that the work derives many of its ideas from the *Rhet.* (especially Buchheit [o.c. above p. 29 n. 98]: 189-231; cf. also Barwick 1966/67: 230-233). In the case in hand, independence from Aristotle is very probable because of the difference in terminology, the length of the treatment and the difference in content (*Rhet. Alex.* counts four πίστεις ἐπίθετοι: δόξα τοῦ λέγοντος, μαρτυρία, βάσανος, ὄρκος; cf. p. 51-53). Barwick's reconstruction of these matters (1922: 36-37) is highly implausible.

types of cases (cf. § 3.5), which means that the arguments were treated only for each type. This makes the system incompatible with the division found in Aristotle and Cicero, which is valid for all arguments and thus for all cases together, and is thus at a higher level of abstraction. So the division into technical and non-technical means of persuasion could not be adopted in the same form by the *stasis* system: some of the non-technical ones were useful for one type of case, others for other types. Accordingly, Aristotle's non-technical means of persuasion were divided between several *staseis*.

Nevertheless, Aristotle's treatment seems to have left its traces. His νόμοι ('laws') belonged to Hermagoras' ζητήματα νομικά ('legal questions'), which probably included Aristotelian material from *Rhetoric* 1,15 in one of its subclasses, ῥητὸν καὶ ὑπεξαίρεσις (about conflicts between letter and intent of a law)¹⁰⁵. The *Rhetorica ad Herennium* shows similar incorporation of material about laws into a 'legal *stasis*'¹⁰⁶. But the other non-technical means of persuasion were treated under the conjectural *stasis*, and the lists were somewhat different from Aristotle's, as appears from both extant first century handbooks. The *Rhetorica ad Herennium* (2,9-12) does treat *testes* and *quaestiones* (witnesses and evidence extracted under torture), which also occur in Aristotle (μάρτυρες, βάσανοι), but it also treats, in one and the same context, *argumenta* and *rumores* (arguments and rumours), which have no counterpart in the *Rhetoric*. *De inventione*, when treating this same conjectural *stasis*, lists (2,46) evidence extracted under torture, testimonies, and rumours; the polemic in 2,47 against those who take these as not requiring art (technique), testifies to the fact that some still took them as "non-technical" ("artificial").

So the handbooks preserved clear traces of the Aristotelian distinction, but the part it played was only a minor one. Quintilian's remark *illa partitio ab Aristotele tradita consensum fere omnium meruit* (5,1,1: 'that division, handed down by Aristotle, gained the approval of almost all <writers on rhetoric>'), is therefore only partly true. Of the surviving works on rhetoric, only Cicero's *De oratore*, *Partitiones oratoriae* and *Topica* give the Aristotelian division its original value, as being a division of means of persuasion at the most general level, instead of one

105. Matthes (1958: 183). The way this material came down to Hermagoras is of course unknown. Cf. also Karl Barwick, 'Zur Erklärung und Geschichte der Staseislehre des Hermagoras von Temnos', *Philologus* (1964), 80-101: 81-82. Volkmann (1885: 75) already made the coupling between the στάσις νομική and the πύσις ἀτεχνος (cf. also Martin 1974: 29). It may be noted that both Volkmann and Barwick do not only mention νόμοι, but, too generally, all πύσις ἀτεχνος as included in Hermagoras' category of legal questions.

106. *Rhet. Her.* 1,19-23; 2,13-18. In *Inv.* this is different: laws are to be found partly under the *constitutio negotialis* (1,14; 2,62-68: for this somewhat strange category cf. Quint. 3,6,57-60, and Matthes 1958: 151 et alib.), and partly under *in scripto ... controversia* (1,17; 2,116-154). *Inv.* 1,17 *deinde considerandum est, in ratione an in scripto sit controversia* should therefore not, as Kennedy does (1980: 95), be taken as Cicero's then version of Aristotle's bipartition into πύσις ἀ- and ἐντεχνος. Cf. also the polemic in 2,47 (mentioned here at the end of the paragraph).

on the level of one *stasis* only¹⁰⁷. Of these three Ciceronian works, I will now concentrate upon *De oratore*, which shows the closest correspondence to the *Rhetoric*. The *Partitiones oratoriae* and especially the *Topica* will be treated in the next section.

Now the correspondence between the *Rhetoric* and *De oratore* as regards the non-technical means of persuasion is made more remarkable by the fact that Cicero, like Aristotle, includes laws (*leges*, νόμοι). Since these had been separated from the other non-technical means in school rhetoric, this inclusion indicates that the role of the non-technical means in Cicero cannot have been a simple adaptation of commonplace rules, based on a vague knowledge of the role of the division in the Aristotelian scheme¹⁰⁸.

The differences between Cicero and Aristotle on the one hand, and school rhetoric on the other, are, therefore, rather large, and much more important than the difference between the two authors illustrated by the schemes given above¹⁰⁹. Nevertheless, this difference must not be neglected. In fact, Cicero even mistakenly ascribes his own scheme to Aristotle, for Antonius, when talking about a young orator to be instructed in the use of rational argument, says (beginning with a contrast between the school system and the "Aristotelian" one; 2,162-163):

illuc eum rapiam, ubi non seclusa aliqua acula teneatur, sed unde universum flumen erumpat; qui illi sedes et quasi domicilia omnium argumentorum commonstret et ea breviter inlustret verbisque definiat. (163) quid enim est in quo haereat qui viderit omne, quod sumatur in oratione aut ad probandum aut ad refellendum, aut ex sua sumi vi atque natura aut adsumi foris? ...

I will hurry him off to the place where no small branch is kept confined, but from where the whole stream bursts forth; to the person who will point out to him the seats and, so to speak, the dwelling-places of all arguments, and will briefly explain them and define them in terms. For at what point can he be at a loss who has understood that everything adopted in a speech, either for proving or for disproving, is derived either from the essence of the case or taken from outside? ...

'The person who ...' must be Aristotle, in view of Antonius' preceding acknowledgment that he is the originator of the approach to rational argumentation offered here. So Antonius says that Aristotle divided rational arguments into technical

107. In *Orator* the division is very shortly mentioned, in 122, not in the sections on invention (44-49).

108. This observation is taken from Solmsen (1941: 187). Note that in *Rhet. Alex.* νόμοι were likewise not among the ἐπιθετοὶ πρῶτοι; Cicero's inclusion cannot have been based either on the (non-rhetorical) tradition from which the system of *topoi* in *De or.*, *Part. or.*, and *Top.* is drawn: cf. § 4.4.

109. Moraux (1975: 86-87) attaches too much weight to the difference between Cicero and Aristotle, taking no account of the much larger difference with the rhetorical tradition.

and non-technical ones. Cicero obviously thought that his scheme was identical with Aristotle's.

Of course, this mistake, and the difference between Aristotle and Cicero, may derive from an intermediate source. But need that be so, or can it be explained on the assumption that Cicero did read the *Rhetoric*? I think it can. This, however, is best postponed to the end of the next section¹¹⁰, for the explanation depends on an assessment of the tradition behind Cicero's *Topica*.

If it may for the moment be assumed that such an explanation exists, the following can be stated on the basis of the material hitherto examined. Cicero's handling of the means of persuasion shows a remarkable correspondence to Aristotle's views. The most important parallel is the division of invention into three *pisteis*, i.e., the inclusion of ethos and pathos as means of persuasion in their own right, and on one level with rational arguments. The coupling of this tripartition with the distinction between technical and non-technical means strengthens the correspondence, as do the two small-scale parallels noted above, viz. between *Rhetoric* 2,1,4 and *De oratore* 2,178 (p. 127-128), and *Rhetoric* 1,2,2-3 and *De oratore* 2,115-117 (p. 128-129). The conclusion reached on the basis of the small scale parallels is, therefore, strongly supported by this structural parallel: Cicero must have had access either to a work containing a fairly accurate report of the content of the *Rhetoric*, or to Aristotle's work itself.

4.4 Structural Parallels II; Cicero's *Topica*

The parallel of the abstract *topoi* for rational arguments presents a complicated puzzle, because the question of the origin of the system found in *De oratore* involves the well-known problem of Cicero's *Topica*. Before going into this question of origin, however, I must first sketch Cicero's view as presented by Antonius. This is not very problematic in itself. As described in § 3.5 (p. 94), school rhetoric gave lists of ready-made arguments, *topoi*, for the various types of cases. Cicero repeatedly ridicules this system as childish. His alternative consists of *topoi* of a very different kind. These *topoi* are abstract argument-patterns, to be used by an orator to find all possible arguments in a case - including the ones offered by school rhetoric. The system is more flexible, and also more fruitful in that not only standard arguments may thus be found, but many more: these abstract *topoi*, Antonius says in 2,117, are like sources, the arguments given by school rhetoric like small streams deriving from them. Cicero's approach thus removes the need for the long and involved lists of school-*topoi*: he simplifies rational

110. p. 144.

invention by putting it on a more abstract level.

Now if an orator is to devise all his arguments himself with the aid of such argument-patterns, he must of course have a thorough command of his material. This is exactly what Crassus in book 1 says that an orator should have, a demand which he exemplifies by the necessity of knowledge of legal matters¹¹¹. *De oratore* thus offers a coherent view of the invention of rational arguments, and the *topoi* of 2,163-173 are an essential part of this view.

As the inventor of abstract *topoi* Cicero, through Catulus (2,152) and Antonius (2,160; 162-163), mentions Aristotle¹¹². Such *topoi* are indeed found in *Rhetoric* 2,23, and in Aristotle's *Topics*, and the reference to Aristotle is therefore essentially correct. By naming Aristotle, however, Cicero also suggests that his treatment in 2,163-173 derives from him. This is a serious difficulty, for the list of *topoi* he presents does not resemble what is found in the *Topics*, and though the resemblance to *Rhetoric* 2,23 is somewhat greater, the difference is still considerable: at most nine of Cicero's sixteen *topoi* are paralleled there, and most of Aristotle's 28 *topoi* have no counterpart in Cicero¹¹³.

But the famous problem of Cicero's *Topica* (written in 44 B.C.) makes matters even less clear. This work purports to present the essentials of Aristotle's *Topics*, but it does not. In fact, the list of *topoi*, the treatment of which constitutes the bulk of the treatise, is for the greater part identical to the list in *De oratore*: the *topoi* for "intrinsic" arguments (corresponding to the technical means of persuasion) are completely identical, even in the way they are listed¹¹⁴; only those for "extrinsic" arguments (corresponding to the non-technical means) are different¹¹⁵. So we are presented with a list of *topoi* that is twice, both in *De oratore* and in the *Topica*, linked with Aristotle, in one of these cases more specifically with his *Topics*, but, except for the general concept, exhibiting no strong similarity to Aristotle's *topoi*, whether in the *Rhetoric* or in the *Topics*.

111. Cf. L.-P.-Nelson, especially 19, 21, 115.

112. About 2,152 and 160 see also below p. 143-144, and § 4.5, p. 147-151; about 2,162-163 above p. 132-133.

113. Cf. also Thielscher (1908: 57-66; Barwick 1963: 74 exaggerates the correspondence between *De or.* and *Rhet.* 2,23). Some of the similarities are strong, others decidedly weaker. *De or.* 2,165 *ex vocabulo* only shares its name with *Rhet.* 2,23,29 (00b16-25), no.28 ἀπὸ τοῦ ὀνόματος (the numbers for the *topoi* from the *Rhet.* are Roemer's). The following pairs are similar: *De or.* 2,164 *definitione* - no.7 (*Rhet.* 2,23,8: 98a15-28) ἐξ ὁρισμοῦ; 165 *partitione* - no.9 (§ 10: 98a29-32) ἐκ διαυρέσεως and no.12 (§ 13: 99a6-9) ἐκ τῶν μερῶν; 167 *ex coniunctis* - no.2 (§ 2: 97a20-23) ἐκ τῶν ὁμοίων πτώσεων; 168 *ex similitudine* - no.16 (§ 17: 99a32-b4) ἐκ τοῦ ἀνάλογον ταῦτα συμβαίνειν; 169 *ex contrario* - no.1 (§ 1: 97a7-19) ἐκ τῶν ἐναντίων; 171 *ex causis* - no.24 (§ 25: 00a29-35) ἀπὸ τοῦ αἰτίου; 171 *ex iis ... quae sunt orta de causis* - no.13 (§ 14: 99a9-17) ἐκ τοῦ ἀκολουθοῦντος; 172 (three forms of comparison) - no.4 (§§ 4-5: 97b12-27) ἐκ τοῦ μᾶλλον καὶ ἥττον.

114. Not only the overall order of the listing is identical, but even the way and order of introducing the groups of *topoi* are exactly the same: cf. especially *De or.* 2,163 with *Top.* 8.

115. See also below p. 141-142.

This peculiar situation may seem to indicate that Cicero cannot have read the *Rhetoric*, and it therefore needs some closer inspection here. First I will look at some external aspects of Cicero's *Topica* that have been taken to be relevant to the problem, such as the circumstances of composition. These will prove to be of no help. Next, I will concentrate on the content of the work, in particular the system of *topoi* that is also found in *De oratore*. It will appear (as already commonly assumed) that Cicero is drawing on some philosophical tradition. This leads to the third point: can Cicero's source for his *topoi* have provided him with the genuinely Aristotelian material examined here in the preceding two sections? Although this will prove to be highly improbable, the question must, finally, be asked whether the difference between Cicero's system of *topoi* in *De oratore* and in the *Topica* on the one hand, and Aristotle's in the *Rhetoric* on the other, shows that Cicero cannot have read the *Rhetoric*.

Although many pertinent observations have been made on the first point, the external aspects of the *Topica*, they are nowhere brought together, so it seems in order to state some points afresh¹¹⁶. Our sources of information about the circumstances of composition are the prologue of the *Topica* (1-5), and a letter to Trebatius, to whom the work is dedicated (*Fam.* 7,19). The prologue tells us that Cicero and Trebatius were in the library of Cicero's Tusculan villa, when Trebatius hit upon Aristotle's *Topics*. Cicero, when asked what it was, explained that it contained a system for inventing arguments. This aroused Trebatius' interest, and he asked for further explanation. Cicero advised him to read the book for himself, or to ask some teacher of rhetoric, but Trebatius found the books too obscure, and the teacher was not acquainted with the system. When Cicero was on his way to Greece - he would soon change his mind and return -, travelling from Velia to Rhegium, he finally found the time to compose a treatise to explain Aristotle's theory to Trebatius. This he did, so he writes (*Top.* 5), while on board ship, and without the help of books, relying only on his memory.

The last part of this account is frequently taken literally. This would make any evidence from the *Topica* worthless, since in that case any divergences from Aristotle's *Topics* may be due to lapses of Cicero's memory. The exact correspondence of the intrinsic *topoi* with those in *De oratore*, however, makes it hard to accept, and, what is more, Immisch has convincingly demonstrated that Cicero's claim to have written from memory is a literary *topos*, and not meant to be taken

116. Especially Immisch (1929: 116-118) is very illuminating. On the one point I disagree with him (cf. below n. 122), he does call attention to an important question.

literally: it is significantly absent from the letter to Trebatius¹¹⁷. The evidence from the *Topica* is, therefore, to be taken seriously.

Furthermore, it is of some importance to note that Cicero himself was in no doubt about authorship and title of the work Trebatius found in his library. As for the title, in the phrase *incidisti in Aristotelis Topica quaedam* (*Top.* 1: 'you hit upon certain Topics of Aristotle'¹¹⁸), the words *Topica quaedam* ('certain Topics') reflect Trebatius' ignorance of the work, not, as has been claimed, doubt about the title - Cicero even says that it was 'this title' that aroused Trebatius' interest (*Top.* 1: *qua inscriptione commotus*)¹¹⁹. As for the authorship, it is sometimes said that Cicero doubts it, because he writes *rhator autem ille magnus haec, ut opinor, Aristotelia se ignorare respondit* (*Top.* 3): but this need not mean 'but that important rhetor said that he did not know these works, which are, as I think, Aristotelian ...'; it may be translated by 'but that important rhetor obviously [or: 'probably'] said that he did not know these Aristotelian works'. Because the focus in the preceding sections, and in what immediately follows, is on Aristotle, it is highly implausible that Cicero would express doubts about the authorship, and this second translation must surely be the right one¹²⁰.

But can the work in his library actually have been Aristotle's *Topics*, as he says? It has been claimed that this is impossible, because the *Topics* is about 7

117. Immisch (1929: 116-118). The *topos* was taken literally by Thielscher (1908: 53-54), but also by many authors writing after Immisch: Philippon (RE VII A [published 1948]: 1169), Solmsen (1938: 401 n. 37), Ripsati (1947: 294-295 n. 6 = 1973: 433-444 n. 14; 1961: 261 n. 29), Hubbell (Loeb ed. 1949: 377), Düring (1950: 67), Borneque (Budé ed. 1960²: 61-62), Barwick (1963: 75), Grube (1965 [above p. 5 n. 10]: 172 n. 2), Kennedy (1972: 259).

118. Transl. Hubbell (Loeb ed.).

119. Thielscher (1908: 53) took *quaedam* as a modification of the title ('eine Topik' [his italics]); he thought that the *Rhet.* was the source, and even holds (ibid., 67) that this could be referred to by 'eine Topik' because it contained many *topoi*. The explanation given here is Wallies', quoted by Ripsati (1947: 298 n. 1 = 1973: 438 n. 16). Fortenbaugh (1989: n. 13) calls attention to the stylistic purpose of the use of *quaedam* ('contributes to a kind of conversational style'). Stump's view (1978: 21-22) is not unlike Thielscher's, but based on a phrase from the letter to Trebatius (*Fam.* 7,19): *ut primum Velia navigare coepi, institui Topica Aristotelea conscribere*. There *Topica Aristotelea* could, she says, mean '*topoi* of Aristotle', instead of being a title. But such a use is not found elsewhere in Cicero (nor, as far as I know, in other authors). Moreover, it is not supported by *Top.* 1, as she thinks: if *Topica* meant '*topoi*' there, the explanation of the term *loci* in § 7 would be a bit strange, and the effect of *quaedam* would probably be destroyed; and, most important, *qua inscriptione* shows that *Topica* was the title of the work.

120. The words *ut opinor* are taken to refer to *Aristotelia* by Thielscher (1908: 53), Hubbell (Loeb ed., in his transl., though he does not mention this in the intr., p. 377), Sandbach (1982: 213), Fortenbaugh (1989: § II). Ripsati (l.c. prev. note) and probably Immisch (1929: 117) take the sentence in the way defended here. The interjection (*ut*) *opinor* can modify one word (Cic. *Sest.* 118; *Phil.* 1,27), but it most frequently modifies a whole sentence; in the last case it mostly, though not invariably, takes second place (cf. e.g. Merguet's *Lexicon* of Cicero's speeches: more than 90 cases of (*ut*) *opinor*; less than 5 modify words; of the rest, approx. 50 are in second place [if connectives etc. are not counted]); here the position of *ut opinor* may be determined by the fact that it modifies the report of the embedded predication *haec ... ignorare*: it takes second place there.

times as long as Cicero's own *Topica*¹²¹, while Cicero says that he is rendering Aristotle's work¹²². But this neglects the fact that Cicero writes that the work in his library contained 'several books' (*Top.* 1: *pluribus libris explicata*; cf. 2 *illis libris*; 3 *libris*), that is, at least three¹²³. This means that the work, whether Aristotle's *Topics* or something else, contained much more material than Cicero's *Topica*, and that Cicero was aware of this. This is consistent with Trebatius' request: *mecum ut tibi illa traderem egisti* (*Top.* 2: 'you asked me to tell you about *these matters*'). These words should not be taken too generally, as a request for something not strongly connected with Aristotle: he is at the centre from the beginning¹²⁴. They do suggest, however, that the request is not for a complete report of the content of Aristotle's work, but for an explanation of the essentials. After all, Trebatius at first asked for an oral explanation, and he can hardly have expected Cicero to read eight whole books, or even three, with him.

So the difference in size does not show that the work in Cicero's library was not Aristotle's *Topics*, and we cannot know whether it really was¹²⁵. The discrepancy of content only shows that if it was, Cicero did not consult it, or did so only very superficially, and derived his system from another source. If it was not, there may, as Sandbach suggests¹²⁶, 'have been some spurious work in circulation, falsely ascribed to Aristotle'. This is, as he readily admits himself, speculative, but such speculation may serve as a reminder of how little we really know.

Since the external information, therefore, fails to give us any clues to the relationship between the *Topica* and Aristotle's *Topics*, we must concentrate on the treatment of the *topoi* themselves (8-78). That the last part of the treatise (79-

121. Arist. *Top.* (without *De sophisticis elenchis*) fills 188 pages in the OCT ed., Cic. *Top.* 26½.

122. Immisch (1929: 117): 'wie konnte ... Cicero von sich aus darauf verfallen, diese kontaminierte und dem wirklichen Aristoteles sehr ferne Darstellung der Disziplin gäbe das umfängliche Originalwerk des Aristoteles wieder?' (his italics).

123. Thus Thielscher (1908: 53) (about his conclusions cf. n. 119).

124. Grube (l.c. above n. 117) holds that the words are sufficient indication of a divergence from Aristotle; so does Stump (1978: 21-22; she supports her view by the letter to Trebatius: above n. 119). This neglects that 'the focus ... is on Aristotle' (Fortenbaugh 1989: n. 12), which fact, however, does not tell against the interpretation proposed here (as Fortenbaugh suggests): a promise of a report of the whole of the *Topics* (which he defends) and a promise of a very general treatment, not strongly connected with Aristotle, are not the only possible alternatives.

125. Philippon (l.c. n. 117) puts forth another argument. He claims that the reference to Aristotle's style, *dicendi ... incredibili quadam cum copia tum etiam suavitate* (*Top.* 3), shows that Cicero cannot have read the *Topics*. But nothing can be derived from it. The *Topics* can, indeed, hardly have given rise to this judgement, but Cicero is talking about Aristotle's works in general. His admiration for their style, which was based on his knowledge of exoteric works, would not have vanished because he read one or two more difficult treatises. After all, the letter to Trebatius shows that he was aware that the subject made his own *Topica* difficult also: *librum ... scriptum quam planissime res illa scribi potuit*, where Shackleton Bailey ad loc. rightly detects 'a defensive note'. Cf. in general p. 107-108.

126. Sandbach (1982: 213).

100) is very much unlike anything found in Aristotle is of no value, because Cicero himself states that he wrote more than he had promised (*Top.* 100). It is true that it is not unambiguously clear what part of the work he considers as additional, but it seems certain that these 22 sections were no part of the original plan, for the treatment of the *topoi* themselves ends in § 79: *expositis omnibus argumentandi locis ...* ('Now that all *topoi* of argumentation have been set forth ...').

This treatment of the *topoi* is divided into an introductory part (8-25), in which all *topoi*, intrinsic and extrinsic ones¹²⁷, are named and an example for each is given, and a part where they are treated more extensively (26-78). As is well known, this second discussion shows Stoic influence¹²⁸. Even this second treatment, however, is sometimes considered not to belong to the original design. It can readily be left aside here, for the first treatment is already decisive: as remarked earlier, the whole of the list of *topoi* is sufficiently far removed from Aristotle's *Topics* to preclude the notion that Cicero adapted that work himself¹²⁹: in that case he would not have claimed that his *Topica* contained essentially Aristotelian material¹³⁰.

It must now be asked, what source(s) Cicero has used, or rather, what kind of source: its general nature is more important here than the exact provenance of the material.

Two pieces of evidence, which have not been mentioned yet, are important here. In the first place, there is Cicero's *Partitiones oratoriae*. It is an elementary work, written in the form of a catechism: Cicero answers the questions of his son. The intrinsic *topoi* for invention, presented in § 7, are abstract ones, and

127. The extrinsic *topoi*, therefore, do belong to the system (they are announced in § 8, and, like the other *topoi*, shortly treated in 9-24, viz. in 24). So the original plan does not end at 71, as Hubbell (Loeb ed.: 378) thinks: he says that at the beginning of the full treatment of the extrinsic *topoi* in 72-78, at 72, 'Cicero apologizes to Trebatius for going beyond his original plan', but what Cicero apologizes for is that the extrinsic *topoi* will not interest Trebatius very much; he even indicates that they belong to the system: *totam rem efficiamus*.

128. Most markedly in 53-57, where Cicero states 'the five ἀναπόδεκτοι συλλογισμοί as formulated by the Stoics' (Hubbell, Loeb ed.: note ad 54; see there).

129. Barwick (1963: 75) considers the second treatment an addition, from Stoic sources, by Cicero himself, but he acknowledges the difference between Aristotle and Cicero's first treatment. Riposati (1947: 297 = 1973: 436-437), however, holds that *Top.* 25-26 'ist wie ein zweites Proömium, das Cicero die Möglichkeit gibt, den Rahmen über den topischen Entwurf hinaus zu erweitern und in die aristotelische Materie Anmerkungen aus anderer Richtung einzuschieben'; this is confused, for the system described in 8-25 is complete, and already un-Aristotelian. (Cf. also next note).

130. Riposati (1947) seems to suppose that Cicero himself made a selection from Aristotle's *Topics*, and combined it with Stoic and other elements. All the other hypotheses he dismisses as contradicting the prologue of the work (1947: 298 = 1973: 438-439), without noticing that this prologue promises nothing more than (the essence of) Aristotelian theory.

show a strong similarity to the system of *De oratore* and the *Topica*¹³¹: only two of the *topoi* mentioned there are missing¹³².

The second piece of evidence is of a very late date. It is the system of *topoi* of the fourth century rhetor, orator and philosopher Themistius, as reported by Boethius (480-524/6) in his *De topicis differentiis*¹³³. The differences with the system found in Cicero are numerous, but the basic correspondence is obvious all the same¹³⁴. Many of the differences actually look like changes made in a number of stages, in order to make the system theoretically and philosophically more adequate from the point of view of, among others, (later) Aristotelianism¹³⁵. Where did this system come from? Can he, directly or indirectly, depend on Cicero? In Themistius' time the Greek-speaking part of the empire did develop some interest in Roman history and Latin culture: Eutropius' *Breviarium ab urbe condita*, a short history of Rome until 364 A.D., was translated into Greek by Paeianius, around the year 380; and Ammianus Marcellinus, whose mother tongue was Greek, even wrote his *Res gestae* in Latin - with many reminiscences of Cicero and other classics. Nevertheless, it is very improbable that Themistius took his system from Cicero's *Topica*, whether directly or indirectly. He was the author of paraphrases,

131. In *Part. or.* 7 the sentence *tum ex toto ... aut minorum* is rightly deleted by all eds. as interpolated from the *Topica*. The treatment of the *topoi* is noteworthy: (1) it is very short, and consists of nothing but a listing of the *topoi*: there are no explanations, and no examples; (2) the order of the *topoi* is different from the one in *De oratore* and the *Topica*. Feature (1) may be connected with the prologue of the work: young Cicero asks his father if he may question him in Latin about things he has already learnt in Greek (*Part. or.* 2 *visne igitur, ut tu me Graece soles ordine interrogare, sic ego te vicissim eisdem de rebus Latine interrogem?*). He is, therefore, perhaps supposed to be familiar with the system. (The emphasis with which the *topoi* in *De oratore* are brought forward precludes the notion that the same was true of most of Cicero's readers.) Feature (2), the divergent order of the *topoi*, seems determined by practical considerations, for in § 9 the order of the rational arguments to be employed in a speech (at least in a *thesis*) is said to be *idem fere quem exposui locorum*.

132. These are the *topoi ex vocabulo* (*De or.* 2,165: called *notatio* in *Top.* 10; 35-37) and *ex coniunctis* (*De or.* 2,167; *coniugatio* in *Top.* 12; 38).

133. This work is available in the *Patrologia Latina* (ed. J.-P. Migne) vol. 64, col. 1173-1216. No critical edition exists. Stump (1978) offers a very clear translation, with valuable notes and substantive essays.

134. Themistius' system is set out in *De top. diff.* book 2, 1186D-1196B (1194B-1196B is a summary, cf. the scheme in Stump 1978: 196). Book 3 first describes the system of Cicero's *Topica* (1195C-1200C), and then compares the two systems (1200C-1205/6B). Riposati's account is highly inaccurate (1947: 44-45). He virtually reproduces the second of Boethius' diagrams (in the inaccurate version of the *PL* ed., 1203/4C: cf. Stump 1978: 136 note 61), as reproducing Themistius' system. In fact it is one of the three diagrams used to elucidate the comparison between Cicero and Themistius: the almost exact correspondence here is no measure of the real one, for the diagram only presents one step in Boethius' procedure of comparison. Themistius' own system can, and should, be taken from book 2. The real correspondence is much smaller than R. suggests, but it is still obvious.

135. The *topos* called *a causis* or *ab efficientibus* is a good example: Themistius divides this into four *topoi*, corresponding with the four Aristotelian causes. The great number of changes shows that some or most of them were probably made earlier.

of, and perhaps commentaries on, a number of Aristotle's works, and as such he belonged to the Aristotelian tradition of which Alexander of Aphrodisias (ca. 200 A.D.) is perhaps the best known representative. Themistius' material for his system of *topoi* must, therefore, have been derived from this Greek tradition, which shows no Roman influence: among Alexander's commentaries is one on the *Topics*, and this contains no reference to Cicero¹³⁶.

From the close correspondence between *De oratore*, the *Topica*, and the *Partitiones oratoriae*, it would be no unreasonable guess to suppose that the system used by Cicero derives from some (philosophical) tradition. The evidence of Themistius makes this conclusion almost certain. This tradition may have originated in the work on *topoi* in the early Peripatos: Theophrastus, as well as his successor as head of the school, Strato, and perhaps his fellow-"pupil" of Aristotle, Eudemus, wrote on the subject¹³⁷. Theophrastus even seems to have started the tendency of systematizing *topoi*, a tendency that is reflected in the accounts of both Cicero and Themistius¹³⁸. It should, however, not be concluded that the tradition was known to everyone: although *De inventione* shows traces of a similar approach¹³⁹, Cicero's presentation of the principle of abstract *topoi* in *De oratore* shows that it was unknown, or virtually unknown, in connection with rhetoric, and this is confirmed by the prologue of the *Topica*, where (§ 3) the rhetorician whom Trebatius turned to is said to have been unfamiliar with the system.

As remarked above, however, the exact provenance of Cicero's *topoi* will not concern us here. It is enough to ask whether Cicero's source, which probably claimed to present the gist of Aristotle's theory of *topoi*, might also have contained the really Aristotelian material found in *De oratore*. In that case we would have

136. If Themistius had been influenced by Cicero, some hint at this in Boethius' work would also be expected, but there is none. A Latin tradition deriving from Cicero's *Topica* did exist (cf. the brief remarks in Borneque [Budé ed. 1960²]: 63; Stump 1978: 208). Alexander's commentary on Arist. *Top.* is available in Maximilian Wallies (ed.), *Commentaria in Aristotelem Graeca (CAG)* II, 2 (Berlin, 1891). Cicero is never mentioned in it, but the work on *topoi* by Theophrastus and Strato is (Th.: fr. 38-41 in Andreas Graeser, *Die logischen Fragmente des Theophrast*, Berlin/New York: De Gruyter, 1973; Strato: fr. 30 Wehrli), and perhaps that by Eudemus (fr. 25 Wehrli: cf. next note).

137. Theophrastus: titles no. X-XI and fr. 38-45 in Graeser (o.c. above n. 136; see also his commentary ad loc.); cf. also Regenbogen (*RE* Suppl. VII: 1381). Strato: some of the logical fragments 19-31 Wehrli. Some of the fragments of Eudemus' *Περὶ λέξεως* (25-29 Wehrli) touch upon subjects related to *topoi*, but it seems doubtful if they point to actual work on this subject, as Stump (1978: 208-209 with n. 10) supposes (cf., however, Graeser o.c.: 108). The indexes in Wehrli's Vol. X list no other Peripatetic as having written on *topoi*.

138. Cf. Stump (1978: 205-214), Graeser (o.c. above n. 136: titles XI, with his commentary).

139. *Inv.* 1,34-43 (esp. 37-43) contains some concepts that resemble the abstract *topoi*, and which may go back to Hermagoras (Matthes 1958: 89, 120, 142-143). But they by no means represent a direct borrowing from a philosophical system like the one under discussion here, for the whole system in 1,34-43 contains many *topoi* that are far from abstract, such as *victus* and *studium* (1,35; 36).

to assume that the author, who followed the *Rhetoric* closely enough in some places to provide Cicero with strong verbal reminiscences of Aristotle (§ 4.2 above), abandoned this approach in the case of the *topoi*, and recorded a traditional system of Aristotelian origin instead of Aristotle's own *topoi*. Such a change in approach is possible, especially if the *topoi*-tradition was a strong one in the circles of this author, but it is perhaps not very probable. There is, moreover, also positive evidence that strongly supports the alternative hypothesis, viz. that the source from which Cicero drew his really Aristotelian material was different from the source for his *topoi*.

This evidence consists of the treatment of the *topoi* for extrinsic arguments¹⁴⁰. It has been argued in the previous section that the correspondence between *De oratore* and the *Rhetoric* on that score is very remarkable, and cannot have been derived from school rhetoric. But the source for his *topoi* cannot have provided Cicero with this material either, for it handled the extrinsic arguments very differently.

This is clear from the correspondence between the *Partitiones oratoriae*, the *Topica*, and, to a certain extent, Themistius. In the *Partitiones*, all extrinsic arguments treated fall under the head of *testimonia*. This is of course a very general term (something like 'testimony, proof, token'¹⁴¹), but the division of all these "testimonies" into divine and human ones¹⁴² shows that the treatment is completely alien to the approach in *De oratore*, where a very practical list of extrinsic arguments is given (2,116, quoted p. 129: 'documents, testimonies, agreements, evidence extracted under torture, laws, decrees of the senate, judicial precedents, magisterial decisions, opinions of jurisconsults, and perhaps others'). In the *Topica* extrinsic, or non-technical, arguments are likewise said to depend on *testimonia*¹⁴³, which are divided into those deriving their authority from circumstances, and those deriving it from virtue; both groups are then again subdivided, the second one into those depending on the gods and those depending on human beings¹⁴⁴. This last subdivision is remarkably like the main division of the *Partitiones*¹⁴⁵.

Themistius, besides intrinsic and extrinsic *topoi*, also has a class intermediate between the two¹⁴⁶. Moreover, his criteria for distributing the *topoi* into these

140. These belonged to the system: above n. 127.

141. OLD s.v..

142. *Part. or.* 6 *Testimionum quae sunt genera? : : Divinum et humanum: ...*

143. *Top.* 73 *haec ergo argumentatio, quae dicitur artis expert, in testimonio posita est.*

144. This account of *Top.* 73-78 (that leaves out some irrelevant details) is essentially Ripo-sati's (1947: 154; cf. the table, before his p. 1), which is, I think, clearly the right one. But the passage is quite complicated, and Thielscher, who offers a different analysis, does so only hesitantly (1908: 56-57).

145. I think this is true in spite of the frequency of divisions into divine and human (mentioned Kroll 1918b: 97-98).

146. Boethius *De top. diff.* 1186D; 1192B-1194A.

three classes are quite unlike Cicero's and Aristotle's for their distribution into two. Nevertheless, some very valuable evidence can be extracted from his system. The first of his extrinsic *topoi* is *rei iudicium* ('judgement about a thing'), and this is of a different nature from all his other *topoi*, extrinsic as well as intrinsic and intermediate ones. The description given by Boethius is worth quoting: 'Arguments from judgment provide a witness, as it were, and are topics which are not according to the art; they are altogether separate and seek nothing other than opinion and general report'¹⁴⁷. This is a clear trace of the original extrinsic ('non-technical', 'inartificial') *topoi*, and the only one in Themistius' system: his other extrinsic ones are totally unlike Cicero's, but correspond, more or less, with some of Cicero's intrinsic ones. This link is confirmed by the significant fact that Boethius employs the term *inartificiales* ('non-technical') only here¹⁴⁸.

It is, therefore, revealing that the report of this only trace of the extrinsic *topoi* in Themistius, *rei iudicium*, contains a reference to witness (*testimonium*): this is in remarkable correspondence with the terminology found in the *Partitiones* and the *Topica*. It seems inevitable that this correspondence goes back to the tradition behind all three works. This, in turn, means that the form of the extrinsic *topoi* found in these two Ciceronian works is the one employed in this tradition. So the source Cicero drew on for his system of *topoi* treated the extrinsic *topoi* very differently from the way Aristotle did. The Aristotelian form they have in *De oratore* can, therefore, not be derived from this source.

It appears, then, that Cicero preferred, at least for his *De oratore*, Aristotle's version of the non-technical means of persuasion to the version of the *topoi* tradition, a version that was based upon divisions not very useful for oratorical practice.

It is time to sum up, and to ask what all this means for the question of Cicero's knowledge of the *Rhetoric*. Cicero took his system of *topoi*, which he thought to be Aristotelian, from a source that belonged to a philosophical tradition. This source did not contain the other Aristotelian material found in *De oratore*. How did the combination found in *De oratore* arise? And does Cicero's mistake in

147. Boethius *De top. diff.* 1195A, as transl. by Stump (1978: 61). (This *topos* is also treated 1190C.) I do not follow her, however, in supplying the translation of *inartificiales*: she renders it by 'not according to the art [of topics]'. It is not improbable that Boethius meant this (cf. Stump: 200), but it may obscure the origin of the term: it is obviously ultimately derived from the term ἀτεχνον πλότευς. The Latin text is as follows: *ex rei vero iudicio quae sunt argumenta quasi testimonium praebent et sunt inartificiales loci, atque omnino disiuncti, nec rem potius quam iudicium opinionemque sectantes*.

148. Cf. Stump (1978: 199-202). She rightly identifies *rei iudicium* with Cicero's entire category of extrinsic *topoi*, though the link she suggests (ib.: 202 with n. 60) with Aristotle's *Topics* 8,1 (156b20-23) is not likely to be a historical one: the inclusion of extrinsic *topoi* in dialectic should, historically, be explained by influence from rhetorical systems of *topoi* (Aristotle's?).

attributing the system of *topoi* to Aristotle preclude the possibility that he took his Aristotelian material from the *Rhetoric* itself?

It is, of course, quite possible that Cicero used an epitome of Aristotle's *Rhetoric* that only briefly touched upon the subject of *topoi*. He may, then, have supplied the material for this subject from the philosophical tradition he knew. This is plausible in itself. The question is, if it need be true. The answer must, I think, be in the negative: Cicero could have written as he did if he had read the *Rhetoric*.

In this connection, account must be taken of Cicero's obvious familiarity with the system of *topoi* that he employs. This familiarity appears from the fact that he used it three times, with apparent ease. And if he had not known the system well, he would probably not have chosen it for a subject to write upon as a pastime in 44 B.C.: even though the claim to have written the *Topica* without the help of books is only a literary commonplace¹⁴⁹, it can be considered certain that he spent very little time writing it, and that his interests were at that time more philosophical than rhetorical¹⁵⁰.

If he read the *Rhetoric*, this familiarity with a system of *topoi* which he thought to be Aristotelian, and whose principle was in fact identical with that of Aristotle's system¹⁵¹, probably discouraged a thorough study of the relevant chapters of Aristotle's work. If he turned to Aristotle's own treatise, he must have done so to learn new things, not to refresh his memory. So Cicero's lack of exact knowledge of what Aristotle wrote on *topoi*, whether in the *Topics* or in the *Rhetoric*, is no proof that he cannot have seen the text of the *Rhetoric* himself.

His familiarity with the system of abstract *topoi* may also explain a curious feature of two references to Aristotle in *De oratore*. As said at the beginning of this section, both Catulus and Antonius connect the *topoi* with Aristotle. Catulus, in 2,152, says that Aristotle devised them for argumentation in philosophical discussions and in oratory: *Aristoteles ... posuit quosdam locos ex quibus omnis argumentatio non modo ad philosophorum disputationem, sed etiam ad hanc orationem, qua in causis utimur, inveniretur* ('Aristotle has laid down certain "places" [i.e., *topoi*], from which all arguments may be found, not only for philosophical debate, but also for the kind of speech we use in causes'). This suggests that the reference is to Aristotle's *Topics*, but in 2,160 Antonius, though he is a bit vague about it, seems to mention the *Rhetoric* as the work he knows Aristotle's theories from¹⁵².

149. Above p. 135-136.

150. Cf. *Top.* 1 *maiores nos res scribere ingressos, C. Trebati, et his libris quos brevi tempore satis multos edidimus digniores, e cursu ipso revocavit voluntas tua*, with Hubbell's note in his Loeb ed.

151. Some differences of outlook and definition (cf. Stump 1978: 205-214, esp. 211-212) are irrelevant here.

152. Below p. 148; for modern opinions on the references see there n. 169.

So no distinction between the two works as regards the *topoi* is suggested. Now if Cicero had read the *Rhetoric*, or a paraphrase or epitome that contained Aristotle's own *topoi*, in the way suggested in the previous paragraph, he will have recognized a list of *topoi* not unlike the one he knew, which he supposed derived from the *Topics*. He will have concluded that the systems of the *Topics* and the *Rhetoric* were (essentially) the same. This seems a plausible explanation of the apparent identification of the systems of the two works, suggested in Catulus' and Antonius' remarks.

The explanation announced at the end of § 4.3 may now also be given: if Cicero had read the *Rhetoric*, could he have made the mistake of ascribing his own subdivision of *pisteis* to Aristotle (cf. the schemes on p. 130)? He can, and the explanation depends, again, on his familiarity with the post-Aristotelian system of *topoi*: this familiarity may have led him to misinterpret Aristotle, and to suppose that in the *Rhetoric*, as in the system of *topoi* he knew, it was rational arguments that were divided into intrinsic and extrinsic, or technical and non-technical ones. In this connection, it is to be noted that the *Rhetoric* itself is not very clear on the point. First, it expounds its scheme only once, viz. in the introduction of the several means of persuasion and their relationship to each other in 1,2,2-3 (p. 129), and this relationship is nowhere touched upon again¹⁵³. Second, the place of the treatment of the non-technical means of persuasion in 1,15 may also obscure their relationship with the other means: it follows the eleven chapters on rational arguments. This effect is strengthened by the fact that Aristotle writes that the non-technical means 'properly belong to forensic oratory' (1,15,1: 75a23-24: ἵδιαί γὰρ αὐταὶ τῶν δικανικῶν): this couples them closely with chapters 1,10-14, which contain the material for the technical, rational arguments in this branch¹⁵⁴.

In short: if the source from which Cicero took his genuinely Aristotelian material also contained Aristotle's ideas on *topoi* as found in the *Rhetoric*, the existence of a different tradition of abstract *topoi*, which he also thought to be Aristotelian, probably interfered with his reading of this source. Under the influence of this tradition, he may have overlooked the differences between the system he was to employ, which he knew quite well, and Aristotle's, and accordingly he may have ascribed both the *topoi* and the subdivision of rational arguments into technical and non-technical ones to him. This he may have done whether his Aristotelian source was the *Rhetoric* itself or a paraphrase or epitome. From the *topoi*, there-

153. It is true that in Aristotle testimony may concern the character of the speaker (which is impossible in Cicero's scheme): *Rhet.* 1,15,18 (76a23-29). But this passage, though clear, is the only hint that this is so.

154. Some stray remarks in 1,15 itself show that some of the material could be useful in other branches: Hellwig (1973: 158 n. 164; cf. 170-171 with n. 214) mentions § 3 (75a26), § 14 (76a1-7) and § 16 (76a15).

fore, no proof as to the nature of this source can be deduced.

4.5 Aristotle in *De oratore*

The result of the preceding section, long as it was, is largely negative as regards the central question of this chapter. Cicero did not take his really Aristotelian material from the same source as his pseudo-Aristotelian abstract *topoi*, and no additional conclusions about his use of the *Rhetoric* can be drawn. So the conclusions reached at the end of § 4.3 are still valid: Cicero had read either the *Rhetoric*, or a paraphrase or epitome that contained rather accurate quotations. The other available material must now be looked at.

As to *De oratore* itself, parallels are not the only information it can supply about its relationship with the *Rhetoric*. It also contains some more or less conscious hints by the author. Some of these may be found in the *mise en scène* of the dialogue in book 2. First, however, some of the explicit references to Aristotle will be examined.

Aristotle's name is mentioned in fifteen places in *De oratore*¹⁵⁵. Since most of these contain very general information only, not more than a few are potentially relevant here¹⁵⁶. The passages on prose rhythm, where Cicero reports Aristotle's opinions, though not very accurately, have been treated already¹⁵⁷. They contain no hint as to where Cicero found the information for his report.

In the debate between Scaevola and Crassus in book 1, Aristotle is twice mentioned. In his *laus eloquentiae* (praise of eloquence) in 1,30-34¹⁵⁸, Crassus had connected eloquence with, among many other things, *sermo facetus ac nulla in re rudis* ('elegant discussion, ignorant of no subject'). Thus he had, though unobtrusively, hinted at his universal conception of the ideal orator, which is the main subject of the third book: this connection amounted to the claim that the orator must be master not only of matters of rhetoric, but of all subjects. Scaevola resists Crassus' ideas in the speech that follows in 1,35-44, and argues against this claim in sections 41-44. The relevant part here is 43, where he says that

155. Twice by means of an adjective (3,71; 80), 13 times by his name: 1,43; 49; 55; 2,43; 58; 152; 160 (twice; only once counted here); 3,62; 67; 141; 147; 182; 193. Indirect reference: 2,162 *qui illi sedes* ..., cf. above p. 132 (not in 2,336 *et qui* ..., cf. above p. 117 with n. 58).

156. The others (9) concern (a) Aristotle's school and, very generally, his philosophy (2,58; 3,62; 67 [cf. also c]); (b) his work on rhetoric in general, and the division into three kinds of oratory, which was generally ascribed to him (cf. *Inv.* 1,7; Solmsen 1941: 180-181) (2,43; 3,141); (c) his admirable style and his ability to argue on both sides of an issue (*in utramque sententiam dicere*: cf. below p. 169) (1,49; 3,67 [cf. also a]; 71; 80; 147).

157. § 4.2 (p. 121-126). Aristotle is mentioned 3,182; 193.

158. Cf. L.-P. (I: v-vii) about the structure of the first part of book 1.

even rhetoric is, properly speaking, part of the domain of the philosophers:

Peripatetici autem etiam haec ipsa, quae propria oratorum putas esse adiumenta atque ornamenta dicendi, ab se peti vincerent oportere, ac non solum meliora sed etiam multo plura Aristotelem Theophrastumque de istis rebus quam omnis dicendi magistros scripsisse ostenderent.

But the Peripatetics would demonstrate that even those very things that you think are the orators' own special subjects, the basic means and the ornaments of speaking, should be obtained from them, and they would show that Aristotle and Theophrastus have written not only better, but even much more, about these matters than all the teachers of rhetoric taken together.

This part of Scaevola's argument is answered by Crassus in 1,54-55¹⁵⁹:

... orator ..., cum illis cognitionem rerum concesserit, ..., tractationem orationis ... sibi adsumet; hoc enim est proprium oratoris quod saepe iam dixi: oratio gravis et ornata et hominum sensibus ac mentibus accommodata. quibus de rebus Aristotelem et Theophrastum scripsisse fateor. sed vide ne hoc, Scaevola, totum sit a me. nam ego quae sunt oratori cum illis communia non mutuo ab illis; isti quae de his rebus disputant oratorum esse concedunt. itaque ceteros libros artis suae nomine, hos rhetoricos et inscribunt et appellant.

The orator, when he has left theoretical knowledge of things to them [*i.e.* the philosophers], will make claim to their treatment in speech; for the orator's own special subject, as I have repeatedly said before, is this: dignified and graceful speech that is adapted to feelings and thoughts of people in general. I acknowledge that Aristotle and Theophrastus have written about these matters. But you might consider, Scaevola, if this point does not wholly support my case. For what the orator and they share, I need not borrow from them, but these two concede that the things they have to say about these matters belong to the orators. Accordingly, they give their other books the name of the subject involved, but these they call by the title of 'On Rhetoric'.

That Aristotle had written at considerable length about rhetoric¹⁶⁰ was of course well known¹⁶¹. Crassus' answer shows that it was also generally known that he

159. Crassus' reply is analysed in L.-P. (I: 127-130); in 1,55 (and below in 2,160), for the sake of consistency, I write *Aristotelem* instead of *Aristotelen*, although the second form may be the correct one (cf. L.-P. ad 1,55).

160. Cf. also 2,43 and 3,141. The phrase *quibus de rebus* in 1,55 must refer to the *proprium* of an orator, *i.e.* rhetoric. Kassel (apparatus ad *Rhet.* 77b15) quotes the passage in such a way, as to suggest that it refers back to 1,53 *quis enim ... revocandis*, which is about pathos: he takes it as a testimonium on *Rhet.* 2,1-11, and evidently thinks Crassus says that he knows that Aristotle has written on the playing upon the feelings (a similar interpretation already in Angermann 1904: 8). That this cannot be right follows from (1) the structure of what precedes: 1,54 *atqui* marks an incision in the argument; (2) the structure of what follows: *quibus de rebus* refers to the same things as *his rebus* in *quae de his rebus disputant* (1,55).

161. Scaevola's wording *Peripatetici (...)* *ostenderent* is determined by the dialogue and the context (cf. also Crassus' reply). Regenbogen's conclusion (*RE* Suppl. VII: 1522) that the work on rhetoric of Aristotle and Theophrastus was *not* generally known misses the point completely - as

had done so in a work called *Rhetoric*¹⁶². This is no surprise, but it is of some importance for what follows here that it is explicitly stated in *De oratore* itself.

The most important passages where Aristotle is mentioned have already been analysed in part (p. 143-144): 2,152 and 2,160. Both belong to an "excursus" on Greek philosophy and culture, occasioned by Antonius' references to abstract *topoi*. It is begun by Catulus in 152, and 160 is part of Antonius' reaction to Catulus' interruptions (Antonius' mention of Diogenes the Stoic and Critolaus the Peripatetic refers to the famous embassy of philosophers to Rome in 155 B.C.)¹⁶³:

Tum Catulus: ... sed Aristoteles, is quem ego maxime admiror, posuit quosdam locos ex quibus omnis argumentatio non modo ad philosophorum disputationem, sed etiam ad hanc orationem, qua in causis utimur, inveniretur; a quo quidem homine iam dudum, Antoni, non aberrat oratio tua, sive tu similitudine illius divini ingenii in eadem incurris vestigia, sive etiam illa ipsa legisti atque didicisti, quod quidem mihi magis veri simile videtur; plus enim te operae Graecis dedisse rebus video quam putaram¹⁶⁴.

Then Catulus said: ... But Aristotle, whom I admire very much, has laid down certain "places" [i.e., *topoi*], from which all arguments may be found, not only for philosophical debate, but also for the kind of speech we use in causes; and for a long time now, Antonius, your own exposition¹⁶⁵ has not deviated from the views of this same man - perhaps you walk in his footsteps because of your likeness to his exceptional mind, or perhaps you have even read these things themselves, and made yourself acquainted with them, which seems more like the truth to me: for I can see that you have devoted more attention to Greek things than I had thought.

[Antonius:] Critolaum istum, quem simul cum Diogene venisse commemoras, puto plus huic nostro studio prodesse potuisse. erat enim ab isto Aristotele, a cuius

does Düring (1966: 91 n. 2, 124 n. 30), who copies Regenbogen both in his inaccurate way of quoting and in his conclusion.

162. It seems certain that *hos rhetoricos et inscribunt et appellant* can only refer to the *Rhetoric*, and not to any of the other rhetorical works of Aristotle - although a shadow of a doubt remains concerning the *Gryllus*, about which so much is uncertain: it was also titled *Περὶ βηρυλλίου*. The argument against a reference to the *Gryllus* is that it probably only dealt with the question if rhetoric is an art (cf. below, n. 174), and that it very probably had only one book (Diog. L. 5,22, no.5; the anonymous catalogue, no.5, mentions three books, but this is probably wrong; Moraux 1951: 202; cf. also the garbled title: *Περὶ πολιτικῆς ἢ Γρύλλος γ'*). The *Theodectea* had no second title, was probably also in one book (Diog. L. 5,24, no.82; the anonymous catalogue again has three books: cf. Moraux 1951: 202), and almost certainly largely consisted of material that came from Theodectes, not from Aristotle (fragments: 125-135 Rose; cf. Solmsen [o.c. above p. 72 n. 304]: 144-151; Moraux 1951: 98-101; Barwick's thesis about the work, 1966/67: 47-55, seems untenable). The *Συναγωγή τεχνῶν* did not contain Aristotle's own ideas (cf. especially *Inv.* 2,6-7; cf. the references below n. 168).

163. About the form *Aristotelem* cf. n. 159.

164. *putaram* is better attested (LH) than *putaramus* (A, E corr., edd.; *putaremus* E ante corr.) (L.-P. ad loc.).

165. Sutton translates this by 'your own style', which is certainly wrong and misleading: it is clear from the context itself that Catulus refers to Antonius' exposition in *De oratore*, and this is unambiguously confirmed by Antonius' reply: 160 *a cuius inventis*

inventis tibi ego videor non longe aberrare. atque inter hunc Aristotelem, cuius et illum legi librum, in quo exposuit dicendi artis omnium superiorum et illos, in quibus ipse sua quaedam de eadem arte dixit, et hos germanos huius artis magistros hoc mihi visum est interesse, quod ille eadem acie mentis, qua rerum omnium vim naturamque viderat, haec quoque aspexit quae ad dicendi artem, quam ille despiciobat, pertinebant; illi autem ...

[Antonius:] As for Critolaus, who, as you have mentioned, came (to Rome) together with Diogenes, I think he could have been of greater use (than Diogenes) to this pursuit of ours. For he was from the school of the same Aristotle, from whose ideas I do not, in your opinion, far deviate. And between this Aristotle (of whom I have read both the book in which he set forth the theories of speaking of all his predecessors, and those books in which he gives his own opinions about the same art) on the one hand, and these specialist teachers of this art on the other, this seems to me to be the difference, that he looked with the same acumen, by which he had discerned the essential nature of everything, at the things pertaining to the art of speaking also, though he despised it; whereas they ...

Catulus' reference to *topoi* that are useful both for philosophical dispute and for speeches points to the *Topics*¹⁶⁶. Since Cicero must, for his *topoi* in *De oratore*, have used the same source that he later employed in his *Topica*, and since that source contained a reference to Aristotle's *Topics*¹⁶⁷, it can indeed be assumed that Cicero in 55 already knew about the existence of this work. Antonius, in the passage quoted, mentions the *Συναγωγή τεχνῶν* (*Synagôgê Technôn: Summary of the Arts*), the survey of the handbooks made by, or for, Aristotle¹⁶⁸, and then *illos* (sc. *libros*), in quibus ipse sua quaedam de eadem arte dixit ('those books in which he gives his own opinions about the same art'). This obviously includes the *Rhetoric*. This has been doubted¹⁶⁹, but since the existence of this work has been alluded to in *De oratore* itself, viz. in 1,55 quoted above, such doubts are unjustified. Besides the *Rhetoric*, Antonius may very well mean the *Topics* also¹⁷⁰, but the question if that is really the case should not be pressed: the vagueness of the statement must be deliberate. But his claim to have read Aristotle is clear, and is also implicit in 2,162-163 (above p. 132).

What does Catulus mean when he says that Antonius has kept close to the views of Aristotle? This must refer to the abstract *topoi*, that have been at the

166. As already remarked above, p. 143. Thus P.-H. and W. ad loc., Moraux (1973: 41 with n. 35; 1975: 83 with n. 6), Fortenbaugh (1989: § II). The remark in L.-P. (I: 61) is inexact, in that it confuses 1,152 and 1,160 (cf. below n. 169).

167. Same source: above p. 134 with n. 114; p. 140; reference to the *Topics*: *Top.* 1, cf. above pp. 136; 137 with n. 124.

168. Cf. Douglas (1955; 1957a). There is a slight possibility that the *Theodectea* is meant (as Düring 1950: 39 n. 1 thinks).

169. Düring (1950: 38-39; probably the *Topics*); L.-P. (I: 61 'offenbar die *Topica*, nicht die *Rhetorica*'); cf. above n. 166). A reference to the *Rhetoric* has been assumed by P.-H. and W. ad loc. (see next note), Solmsen (1938: 401), Barwick (1963: 74), Kennedy (1972: 221), Douglas (1973: 106 n. 31), Moraux (1973: 41 with n. 36; 1975: 83-84 with n. 7).

170. P.-H. and W. ad loc. assume that both the *Rhet.* and the *Topics* are meant.

centre of Antonius' discussion up till now, and are in fact what Catulus is talking about¹⁷¹. This is confirmed by the fact that the other Aristotelian features, discussed in §§ 4.2-4.3, cannot be meant. When Catulus says that Antonius follows Aristotle closely, he can hardly mean the few verbal parallels, even apart from the fact that such a reference would be quite alien to the atmosphere of the dialogue; and the division into technical and non-technical means of persuasion is not important enough either. Antonius' three *pisteis* have also been thought a plausible candidate, but this is impossible because of 2,179: there Catulus appears to be surprised when Antonius begins his discussion of ethos and pathos, so he had not yet understood their place in the theory of invention¹⁷².

Antonius' statement that Aristotle despised rhetoric is somewhat surprising. After all, Aristotle wrote on the subject at considerable length, and Antonius does acknowledge this. The remark probably derives from the biographical tradition about Aristotle, which also emphasized his rivalry with Isocrates: *Aristotele et Isocrate ..., quorum uterque suo studio delectatus contempsit alterum* (Cic. *De officiis* 1,4: 'Aristotle and Isocrates, who both took pleasure in their own pursuit and despised each other's')¹⁷³. Perhaps Aristotle's *Gryllus*, an exoteric work that may have been known to Cicero, also pointed in this direction: its subject was the question if rhetoric is an art, and it perhaps only contained arguments to the contrary¹⁷⁴.

Again it must be asked if this indicates that Cicero cannot have read the *Rhetoric*. Would he not have concluded from it that Aristotle did not despise the subject at all?¹⁷⁵ I am afraid my argument is becoming somewhat repetitive, but I think this is not the case. The *Rhetoric* itself does contain numerous disparaging

171. Thus Kennedy (1972: 221). Why Cicero makes no difference between the *Topics* and the *Rhetoric* as far as the *topoi* are concerned has been tentatively explained above, p. 143-144.

172. Cf. below p. 194-195. An inconsistency between Catulus' two statements is unnecessary and implausible: his role in 2,179 is well thought out (cf. again p. 194-195). P.-H. ad 2,152 assume that the *pisteis* and the small scale parallels are meant, and Schweinfurth-Walla (1986: 121, 128) takes Catulus to refer to the *pisteis* only.

173. Cf. also *De or.* 3,141; and *AABT* T 31-33.

174. Lossau (1974) argues that it contained arguments on both sides, but that Aristotle's own opinion was that rhetoric is an art, and that this opinion was also expressed. His reconstruction is very plausible in itself, but far from certain. It is ultimately based on Quint. 2,17,14 (= fr. 69 Rose), especially Quint.'s statement that Aristotle's arguments against rhetoric as an art were developed (only) *quaerendi gratia*, 'for the sake of investigation'. That this statement is based upon the *Gryllus* itself, as Lossau (p. 14) vehemently maintains, and is not Quint.'s own conclusion from the existence of Aristotle's *Rhet.*, seems uncertain (it is doubtful whether Quint. really knew Aristotle's writings well; above p. 58-59 with n. 235). Lossau's view may receive some support from the notion that Aristotle did use the method of arguing both sides of a case (Lossau: 16-18), but L.-P. (I: 67) rightly object to jumping to the conclusion that Aristotle's dialogues reflected this (cf. Lossau: 18-19). Finally, we do not really know if the *Gryllus* was a dialogue: Düring (1957: 442) rightly points out that the common identification between exoteric works and dialogues lacks a foundation; cf. also Flashar (1983: 180-181).

175. This is claimed by Fortenbaugh (1989: § II with n. 11).

remarks on commonplace rhetoric, and some on the inferiority of certain parts of rhetoric and public speaking. A good example is 3,1,5 (03b36-04a1), about delivery: *δοκεῖ φορτικὸν εἶναι, καλῶς ὑπολαμβανόμενον* ('rightly considered, it seems vulgar'¹⁷⁶)¹⁷⁷. Even for a modern reader, this may create the impression that Aristotle was basically at odds with rhetoric - an impression I am not so sure is wrong. To an ancient reader familiar with the biographical tradition alluded to just now, this would strengthen what he had heard already¹⁷⁸. So there is no reason why Cicero, if he had read the *Rhetoric*, could not have written that Aristotle despised rhetoric.

What, then, do the two passages, and especially 2,160, tell us about Cicero's knowledge of Aristotle's *Rhetoric*? Antonius' claim to have read it is part of his portrait drawn by Cicero in *De oratore*. We can be certain that the historical Antonius had not read much - Cicero says so in *Brutus*¹⁷⁹ -, and this was in fact what people thought, as Cicero tells us in the prologue to the second book (2,1-11). Cicero does not contradict this reputation, but skilfully incorporates it into a very different picture¹⁸⁰. This reputation, he says in this prologue, was exactly what Antonius aimed at. He was convinced that any hint of bookishness would discredit him with the general Roman public, and thus lessen the effectiveness of his speeches. In point of fact, Cicero says, he was well versed in Greek culture. In the body of the second book this construction is gradually developed, with almost palpable irony, into a convincing portrait: in the course of the discussion, Antonius drops his *dissimulatio* ('pretended ignorance'). The passage under discussion is an important step in this development¹⁸¹. Catulus suggests that Antonius knows more about 'Greek things' than he had expected, and Antonius acknowledges this, claiming, or rather more or less confessing, that he has read, among other things, Aristotle's *Rhetoric*.

But this is not the whole story. In view of Antonius' reputation, and of Cicero's acknowledgement in *Brutus* that Antonius was not thoroughly educated, we may conclude that Cicero's attractive fiction was meant to be, and no doubt was,

176. Thus Freese and others. The transl. 'is thought vulgar, and rightly so considered', preferred by Cope (1877 III: ad loc.) and others, seems less apt, because Aristotle has just complained that delivery is so important in practice: this implies that it is not generally considered vulgar - the one who does so is Aristotle himself.

177. Cf. 1,1,3-9 (54a11-b22) on the irrelevancy of emotional appeal (cf. above p. 17-18); and the context of the sentence quoted, 3,1,4-7 (03b32-04a19).

178. Cf. also the picture in *De or.* 3: Aristotle is one of the philosophers (3,62; 67), and these despise rhetoric: 3,59, and especially 3,72 *philosophi eloquentiam despexerunt*, where they are even said to despise eloquence (*eloquentia* is a rather elevated term, particularly in book 3).

179. *Brut.* 214 ..., *quos parum his instructos artibus vidimus, ut Sulpicium, ut Antonium*.

180. Cf. L.-P. (I: 93-94; II: 186-188).

181. The first important step is marked by 2,59-61, where Antonius confesses to have read Greek historians - when he has no better things to do. Any knowledge of philosophers, however, he emphatically disclaims. Our passage goes one step further.

recognized by his readers as such. An historical dialogue like *De oratore* was perfectly suited for such literary play¹⁸². It follows, not only that most of the opinions expressed by Crassus and Antonius and the other partners in the dialogue were Cicero's own, but also that such hints as Antonius' about his knowledge of Aristotle's work were meant to point to Cicero's own "sources"¹⁸³. Cicero, by way of Antonius, strongly suggests, if not claims, that he has read the *Rhetoric*.

Another aspect of the literary play in *De oratore* is also relevant here: the sketch of the situation of the dialogue of book 2, the "mise en scène". The first book shows that these situations are carefully chosen by Cicero so as to set the scene and atmosphere for what is to come. The place for the discussion chosen in 1,28 is the shadow of a plane-tree, with an explicit reference, by Scaevola, to the plane-tree in Plato's *Phaedrus*¹⁸⁴. Cicero even goes further: in 1,29 this place is made comfortable in a Roman way by cushions¹⁸⁵, and this combination of Greek and Roman in the mise en scène prefigures the contents of the dialogue¹⁸⁶: a more or less Socratic discussion, with a tension between ideal and practice, that is, between the Greek, theoretical, approach and the Roman, practical one¹⁸⁷.

The introductory conversation in 2,12-28 resumes this antithesis between Greek and Roman somewhat more sharply, thus foreshadowing the frequent rejection of Greek rhetorical systems in favour of a more practical way of working¹⁸⁸. The situation in which the discussion takes place is described in 2,20: *porticus haec ipsa ubi inambulamus* ('this very colonnade, where we are walking'). That the reference to walking is no coincidence is shown in 3,121, where Crassus calls the discussion of book 2 *huius ambulationis antemeridianae* ('this morning walk'). It is hard not to see in this a hint to περιπατεῖν (*peripatein*: 'walk up and down'), and to the tradition that the name 'Peripatetics' derived from the fact that Aris-

182. Cf. L.-P. (I: 90-91; II: 186-187). See especially *Fam.* 9,8,1 and *Rep.* 1,16.

183. This consequence of the openly fictional character of Cicero's portrait of Antonius is ignored by Fortenbaugh (1989: § II). Schweinfurth-Walla (1986: 208, cf. 128-131) makes mention of the question if Antonius' statement about the *Rhetoric* can be equated to 'Ciceros eigener Meinung' - a rather infelicitous expression.

184. Cf. L.-P. (I: 65-67 and ad 1,28). Plane-trees were also generally associated with Plato's Academy: Görler (1988: 222).

185. L.-P. (I: 76-77).

186. At least until 1,98, where a new mention of the place of discussion may help to indicate the incision in the dialogue, which is already quite clear from the nature of the intermediary discussion in 1,96-112 (cf. L.-P. I: 189-190).

187. Görler (1988: 224 n. 29) rightly notices that in 1,98 'there is not a hint of doubt that Crassus' *palaestra* is to be mentally associated with the Athenian Academy and Lyceum'. We may add that the context probably determines which of the two associations is stronger.

188. Cf. on the mise en scène L.-P. (II: 183, 202-203); and on the practical way of working below § 6.3.

tote gave his lectures while walking¹⁸⁹.

Thus Cicero not only claims, via Antonius, to have read the *Rhetoric*, but also connects Antonius' exposition with Aristotle via the *mise en scène* of book 2.

4.6 The Availability of the *Rhetoric*

If Cicero is to have read the *Rhetoric*, it must have been available to him. In fact, all arguments advanced in this chapter would be without value if it were not. Moreover, as remarked earlier (p. 108), a number of current arguments against a direct knowledge of the *Rhetoric* are partly dependent on the question of availability. Unfortunately, however, there is no *communis opinio* about this problem that I might refer to, so, in view of its importance, I must give a brief account of it here.

The lack of agreement between scholars is not surprising, since the early history of Aristotle's writings is rather mysterious, and the scanty evidence lends itself to various interpretations. Accordingly, there seems hardly any hypothesis, on any of the details, that has not been advanced in the past century and a half. Nevertheless, as some of the evidence, viz. the ancient catalogues of Aristotle's writings, yields virtually no information at all to the unprepared reader, one is forced to rely on previous scholarship. In the last forty years the situation has significantly improved by the work of Moraux and Düring, but many issues are still unclear, and some reconstructions that prove, on inspection, to lack all foundation, are still established as the truth. To try to disentangle this whole jungle would be beyond my competence, and it would also be irrelevant here. I will confine myself to an attempt at reaching some conclusions concerning the availability of the *Rhetoric* to Cicero.

There are three sources of information on the early fate of Aristotle's esoteric works¹⁹⁰: the ancient reports on it; the writings of authors of the period that contain remarks on the availability and use of Aristotle's work, or show traces of dependence on it; and the ancient catalogues of Aristotle's writings¹⁹¹. I will

189. Cicero knew this tradition: *Ac.* 1,17 *qui erant cum Aristotele Peripatetici dicti sunt quia disputabant inambulantes in Lycio* (cf. *AABT* T 71a, b [= *Ac.* *Lc.*], c, e; 72; cf. also above n. 187). The principal association of *ambulatio* etc. with the Peripatos is of course not disproved by passages like *Plin. Nat.* 12,9 in *ambulatione Academiae*.

190. Moraux (1973: 4-5). On the distinction esoteric-exoteric (and some modern misunderstandings about it) Düring (1957: 441-442).

191. As to papyri, none with (parts of) works of Aristotle earlier than the first century A.D. are known, as appears from (1) the material up till 1 April 1964: Roger A. Pack, *The Greek and Latin Literary Texts from Greco-Roman Egypt* (Ann Arbor: Univ. of Michigan Press, 1965²): 26-27 (on the closing date p. 165); (2) the surveys in *Aegyptus* 42 (1962) - 68 (1988), where only one

treat the first two together. The catalogues, which are only important here for a point of detail, will be touched upon in the last part of this section.

The best known element from the ancient reports is the famous story of the discovery of Aristotle's moth-eaten books in Scepsis in Asia Minor. After Aristotle's death his books went to Theophrastus. Theophrastus bequeathed his library to Neleus, who took it to his home town, Scepsis, depriving the rest of the world of almost all of Aristotle's unpublished works. His heirs, in turn, were ordinary people, and when the kings of Pergamum were building up a library and were searching for books everywhere, the books were hidden in a damp cellar, where they were damaged by moisture and moths. Eventually, at the beginning of the first century B.C., they were rediscovered and sold to a rich book-collector, a citizen of Athens called Apellicon of Teos, who published them - full of errors, for he very carelessly restored the damaged texts. After Apellicon's death, Sulla took Athens, and carried off Apellicon's library as part of the booty to Rome. There some booksellers had copies made, very bad ones like those of Apellicon. However, the famous grammarian Tyrannion also got access to the books. He prepared more careful copies¹⁹², and gave them to Andronicus, who finally edited Aristotle's works as we now have them.

This story derives from the accounts of Strabo and Plutarch¹⁹³. How much of it is true? It has been defended by some as essentially right, whereas others hold that all of Aristotle's writings were widely known during the whole of antiquity¹⁹⁴. Today, most scholars are sceptical about the whole and about details, and there are indeed many reasons for doubt. So much is certain, that Theophrastus' library was inherited by Neleus¹⁹⁵, but even the question if he really took it to Scepsis seems to have no certain answer. Apellicon¹⁹⁶, from whom this part of the story may come, is not exactly a trustworthy witness: Posidonius reports

Aristotelian papyrus is mentioned! (viz. in 1966: no. 11304). (Dr. K.A. Worp has been so kind as to help me find my way to these sources.)

192. The paraphrase of Felix Grayeff, *Phronesis* 1 (1956), 105-122: 105, is erroneous: he transfers Apellicon's mistake to Tyrannion.

193. Strabo 13,1,54 (C608-609); Plut. *Sulla* 26,1-2. All relevant evidence in *AABT*, especially T 14, 42, 66, 74-75.

194. Düring (1950: 37): it was defended by 'Bignone and the Italian school'. Flashar's account (1983: 191-192) is rather uncritical.

195. See Theophrastus' will, Diog. L. 5,51-57: 5,52 τὰ δὲ βιβλία πάντα Νηλεῖ. It is, of course, even possible to doubt (as Tarán 1981: 726 seems to do) that Theophrastus' library contained Aristotle's own copies; but it seems rather probable that it did.

196. The testimonies about Apellicon, as far as they directly concern the Scepsis-find, are in *AABT* T 66; Athen. 5,53 (214c-215a), the end of the Posidonius-fragment of which T 66a is part (cf. next note), tells the rest of his story.

that he illegally obtained old documents to satisfy his antiquarian hunger¹⁹⁷. Besides, there is a rival story found in Athenaeus, that Neleus sold all the books to king Ptolemy for the library in Alexandria¹⁹⁸. The claim that the library of Apellicon contained the only copies of Aristotle's writings is, therefore, doubtful. A look at the second kind of evidence, the writings of authors of the period, will confirm this doubt.

As to traces of dependence in these authors on Aristotle's works we now possess (esoteric works)¹⁹⁹, these are very hard to judge: most of the relevant texts from the Hellenistic age are not extant in the original, and the case of *De oratore* has shown how difficult the matter can be even if a text is available. It used to be taken for granted, for example, that the Stoics used much Aristotelian material, but recently Sandbach has convincingly argued that the evidence for this assumption is very meagre. This is not to say that they cannot have consulted any of the esoteric works, only that we cannot assume with any certainty that they did²⁰⁰. Another frequently held opinion is that Cicero did not get to know the *Rhetoric* until 46 B.C., and this has become one of the myths that are transmitted from scholar to scholar. However, the assumptions behind this claim have, on inspection (§ 4.1), been found to be inadequate²⁰¹. Positive proof that Cicero did consult

197. Posidonius ap. Athen. 5,53 (214de) (= FGH 87F36 = Posid. fr. 253 E.-K. = fr. 247 Theiler; also = AABT T 66a). The point that Apellicon may have invented the story is Gottschalk's (1972: 339-342); his contention that the only person who knew about the provenance was Apellicon (ib.: 339) is quite possibly true, but need not be so; nevertheless, Gottschalk's scepticism is reasonable enough. Why Düring (1957: 393) is so sure that Neleus really took the books to Scepsis, whereas he doubts the following part of the story, I do not know.

198. Athen. 1,4 (3ab) (= AABT T 42d): παρ' οὗ (sc. Νηλέως) πάντα ... πριάμενος ὁ ἡμεδαπὸς βασιλεὺς Πτολεμαῖος, Φιλάδελφος δ' ἐπύκλην, μετὰ τῶν 'Αθήνηθεν καὶ τῶν ἀπὸ 'Ρόδου εἰς τὴν καλὴν 'Αλεξάνδρειαν μετήγαγε.

199. Cf. Moraux (1973: 8-11), Guthrie (1981: 62-63 with 62 n. 1). Of course I only present a small selection of the evidence.

200. Sandbach (1985). His conclusion is that it seems more probable that 'Aristotle was not a significant influence on early, that is on third-century, Stoicism' (ib.: 56-57), but he rightly insists even more on the uncertainty of the evidence to the contrary. Even if his first conclusion is not accepted in all of its consequences, the second, I think, is unobjectionable.

201. The claim is often taken for granted; it is sometimes corroborated by an argument, originating from Usener, that Tyrannion's book *On Accents*, which is assumed to have been written just before Cicero's *Orator*, shows that, early in 46, Tyrannion had no knowledge of the *Rhet.* either. Düring's statement about *On Accents* is especially misleading (1950: 38; repeated 1966: 124): 'H. Rabe and Usener have shown that in this work Tyrannion betrays no knowledge of Aristotle's περὶ λέξεως, which in our Corpus forms the third book of the *Rhetoric*'. Rabe has done nothing of the sort: in his dissertation (*De Theophrasti libris Περί λέξεως*, Bonn 1890: 27-36, esp. 31-36) he argued that the third book of the *Rhetoric* was coupled to books 1 and 2 by Andronicus - and for that argument he is referred to by Usener (o.c. above n. 9: 636). Usener himself was the originator of the Tyrannion-argument.

This argument, though followed by many (even Moraux 1973: 37-44 does not contradict it), is completely without foundation. It entirely depends on the failure of Tyrannion to mention Aristotle in his treatise on Greek accents, a work probably (though not undisputably) identical with

the *Rhetoric*, however, has not been found either in the previous sections. In general, evidence from dependence on Aristotle is altogether scanty, and frequently unreliable²⁰².

There are, however, some reports on the availability of Aristotle's treatises that are more useful, most of them in Cicero's works. Already in *De inventione* he says that Aristotle made available the opinions of others on rhetoric, and also his own (2,7: *atque hic quidem ipse et sese ipsum nobis et eos, qui ante fuerunt, in medio posuit, ut ceteros et se ipsum per se cognosceremus*). This alludes to the *Συναγωγή τεχνῶν* (*Summary of the Arts*) and to the *Rhetoric*. Even if, as seems certain, Cicero had not then consulted the *Rhetoric* himself, this strongly suggests that it was available somewhere. *De oratore* 2,160, where Antonius says he knows the *Rhetoric*, points to the same conclusion. Of course this is a fiction, in that the real Antonius did probably not know the work²⁰³, but would Cicero have written it if the Scepstis-story were true, and many readers would have known that the fiction was impossible? Another interesting passage is *De finibus* 3,7-10²⁰⁴, where Cicero describes a (fictional) chance meeting he had with Cato in 52, in the library of the young Lucullus. He had gone there to use some books, he writes - 'as I used to do'²⁰⁵. What books? Some *commentarii*, 'note-books', of Aristotle, that he knew were there²⁰⁶. With *commentarii* Cicero means esoteric works, for in the fifth book of the same *De finibus*, he contrasts them with-exoteric ones²⁰⁷. The library of young Lucullus was the one he had inherited from his father, who had brought many books with him from Asia Minor, probably

the one mentioned by Cicero in *Att.* 12,6,2 (a letter commonly dated Summer 46 B.C.). Now *GL* IV 529,2-530,17 preserves part of Varro's report on this work of Tyrannion. It appears that Tyrannion defended the existence of a middle accent, apart from acutus, gravis, and perispomenon, and also adduced a number of authorities for this opinion, among whom Theophrastus but not Aristotle. Usener (o.c.: 634-636) holds that if he had known *Rhet.* 3, he would have mentioned it, because there three accents, ὀξεῖα, βαρεῖα and μέση, are distinguished. But in fact Aristotle (3,1,4: 03b29-30) says: πῶς (sc. δεῖ χρῆσθαι) τοῖς τόνοις, ὅλον ὀξεῖα καὶ βαρεῖα καὶ μέση - that is all. Even if this is really about accents (it is more likely to be about absolute pitch), there is not even a hint of an explanation, and the perispomenon is not mentioned at all. This is hardly something Tyrannion would have wanted to appeal to as an authoritative statement. Moreover, the date of Cicero's letter is probably not 46, but around 31 May 45 (cf. Shackleton Bailey, *Att.* vol. V: 352).

202. Sometimes it may, however, be used in combination with other evidence: below, p. 156 with n. 213.

203. Above, p. 150-151.

204. On this passage Moraux (1973: 39-41), from whom my account is drawn.

205. *Fin.* 3,7 *nam in Tusculano cum essem vellentque e bibliotheca pueri Luculli quibusdam libris uti, veni in eius villam ut eos ipse ut solebam depromerem*.

206. *Fin.* 3,10 *commentarios quosdam ... Aristotelios, quos hic sciebam esse* ('Note-books' is Rackham's transl. in his Loeb ed.; cf. also Tarán 1981: 737 with n. 44).

207. *Fin.* 5,12 *de summo autem bono quia duo genera librorum sunt, unum populariter scriptum quod ἑξωτερικόν appellabant (sc. Aristoteles et Theophrastus), alterum limatius quod in commentariis reliquerunt,* (Note that this is part of the dialogue in book 5, which takes place in 79 B.C.)

collected many more, and made the contents of this library available to all who wanted to use it²⁰⁸. The treatises of Aristotle in his possession were, therefore, available to Cicero, and to anyone else; and since Lucullus obtained them somewhere, they must have been available before, probably in Greece²⁰⁹.

Philodemus' reference to Aristotle paraphrased in § 2.5 (p. 56) is also significant: his statement that the rhetoricians have made use of almost everything from the *Rhetoric*, except (ethos and) pathos, is not qualified by any comment on the restricted circulation of Aristotle's works. This implies that the *Rhetoric* had been, and still was, available²¹⁰.

Many, if not all, of Aristotle's works must also have been in the Alexandrian library: apart from the rival story, mentioned above, that Neleus sold Theophrastus' library to a Ptolemy²¹¹, there are other indications for an Alexandrian interest in Aristotle²¹², and at least some of the esoteric works were actually used there²¹³. Also, copies of some, and perhaps many, treatises were brought to Rhodes by Aristotle's pupil Eudemus²¹⁴. Finally, it is implausible that there were no copies in the library of the Peripatos itself²¹⁵.

We may now return to the tale of the find in Scepsis. There may indeed have been such a find. In any case, the story can hardly be entirely false, and it seems most probable that Apellicon, whether in Scepsis or somewhere else, did acquire an interesting collection of Aristotle's writings, perhaps even of Aristotle's own

208. Plut. *Lucullus* 42,1-2. Further references in Moraux (1973: 40 n. 33).

209. Cf. also Cic. *Att.* 4,16,2 ἐξωτερικὸς (54 B.C.) and *Fin.* 5,10-14 (= *AABT* T 76a and b respectively); Sandbach (1985: 73 n. 65) on the *EN*.

210. The fact that Philodemus in his *Περὶ οἰκονομίας* extensively quotes from the pseudo-Aristotelian *Oeconomica*, which is transmitted in our *Corpus*, may also indicate that the *Corpus* was available, as Moraux says (1973: 41 with n. 34; on the *Oeconomica* cf. Regenbogen, *RE* Suppl. VII: 1521-1522; Flashar 1983: 292). But arguments based on the idea that the *Corpus* was a unity are extremely hazardous (above p. 108).

211. *Athen.* 1,4 (3ab), quoted n. 198. Cf. also Lord (1986: 143).

212. Moraux (1973: 12-15).

213. Düring (1950: 40-64) on the zoological writings; Moraux (1973: 15 n. 36). Although there is 'little firm evidence of a knowledge of *our Poetics* at any time between Theophrastus and the fourth century A.D.' (Else [o.c. above p. 63 n. 263]: 337 n. 125; his italics), D.J. Allan rightly argues against dogmatic exclusion of the use of the *Poetics* in Alexandria (p. 264 of 'Aristotelian Influence upon Literary Scholarship During the Hellenistic period', in: *Proceedings of the World Congress on Aristotle. Thessaloniki August 7-14, 1978* vol.1 [Athens: Publ. of the Ministry of Culture and Sciences, 1981], 260-264; the first of his positive arguments, however, ib.: 263, lacks foundation; and the second one, ib.: 264, is inconclusive, as he admits himself). Cf. also Brink (1963: 140 n. 2).

214. Moraux (1973: 9-10), Sandbach (1985: 58, 66 n. 8).

215. Moraux (1973: 15-16), Lord (1986: 139-140). It should be noted (Sandbach 1985: 3) that books were not yet very common in the third century: the availability in these three places should therefore not, as regards the early period, be interpreted as meaning an availability to all as illustrated above for first century Rome.

manuscripts²¹⁶. As for the faulty "edition" of Apellicon²¹⁷, this may indeed have existed, but, as appears from the availability of the works illustrated just now, it was certainly no *editio princeps*. These conclusions are confirmed by a reference to Apellicon in Posidonius²¹⁸: the acquisition of Aristotle's library is mentioned, but the editorial work is not²¹⁹.

The following elements of the story, then, may be taken as true. Apellicon obtained part or whole of Aristotle's library, possibly also containing manuscripts. The collection was taken to Rome by Sulla, where Tyrannion, in some way or other, worked on it, and where booksellers made faulty copies²²⁰.

However, whether or not Tyrannion really furnished Andronicus with copies must remain uncertain. This element is conspicuously absent from Strabo's version, and Plutarch (or his source) may have invented it in order to connect the story with the edition of Andronicus, which had by then become standard²²¹. As for this edition, it seems almost certain that Cicero cannot have profited from it, since it was not finished in his lifetime²²². This disputed point, however, is of

216. Guthrie (1981: 64) remarks that the very fact that Aristotle's works and thoughts were to some extent known, directly and indirectly, confirms, to a certain degree, the genuineness of the manuscripts: a falsification would easily have been recognized as such.

217. Cf. Moraux (1973: 33 with n. 1) (cf. below n. 219).

218. Posidonius L.c. above n. 197 (cf. n. 196).

219. Moraux (1973: 28-31; he thinks that there was probably no edition by Apellicon at all); cf. Tarán (1981: 728 n. 19).

220. About the fate of the collection after Apellicon acquired it Strabo (and, partly, Plutarch) may be relied upon (cf. Gottschalk 1972: 338): Strabo had attended lectures of Tyrannion.

221. Strabo would have known about it (prev. note, and Tarán 1981: 734); but it must be admitted that his silence may be due to his anti-Peripatetic bias. On the connection Tyr.-Andr. cf. Moraux (1973: 52); Tarán's arguments for the reliability of Plutarch's report (1981: 727, 730) carry little weight. (Of course, Andronicus probably had information about Apellicon's find, even if not through Tyrannion.) There was no edition by Tyrannion, as has been thought by some: see Düring (1957: 394, 413), Moraux (1973: 34-35 with n. 5, where references to older literature exhibiting this opinion may be found). Gottschalk (1972: 339 n. 1) notes 'that Tyrannion never had charge of Sulla's library, as Düring suggests' (Düring 1957: 421) - this suggestion of Düring goes even further than Usener's reconstruction (o.c. above n. 9: 636-638), on which cf. Moraux (1973: 37-44), and above n. 201.

222. It is a matter of debate whether it was finished before 50 or after 40 B.C. Düring is the best known recent defender of the later date: he thinks Andronicus worked in Rome between 40 and 20 (1950: 64-70; 1957: 420-425; 1966: 37, 40-41 with n. 250). Moraux represents the other opinion: he thinks that Andronicus worked at Athens, before 50 (1973: 45-58). Full references on the different opinions in Moraux (1973: 45-46 nn. 1, 2). The positive arguments on both sides seem inconclusive (cf. Tarán 1981: 731-735). Against an early date Cicero's silence on the matter has been adduced (e.g. Düring 1950: 68; 1957: 421) but this is no insuperable difficulty, as Moraux argues (1973: 55-56; cf. Guthrie 1981: 63 with n. 4). But Cicero's remark in *Top.* 3 seems decisive: *eum philosophum ... qui ab ipsis philosophis praeter admodum paucos ignoretur* - Cicero, who knew Tyrannion (*Att.* 2.6,1 [59 B.C.], etc.: *AABT* T 74c), and who must therefore have known about the Scepsis-find (thus Guthrie 1981: 61 with n. 4), would not have written this if Andronicus had already finished his edition, or if he was known to be working on it. But this does not prove Düring's view, since it is not the only alternative to Moraux: Andronicus may, e.g., have worked

little importance here: it has been established in the foregoing that some, or perhaps even most, of Aristotle's esoteric works were available in Rome in Cicero's day, and also, in view of the remark in *De inventione* and Antonius' claim in *De oratore* 2,160, before that.

Apellicon's library, brought to Rome by Sulla, may even have played an important part for Cicero. That, however, will be treated in the next section.

Two of the sources of information on the availability of Aristotle's esoteric treatises have now been discussed: the stories about Aristotle's library, and the writings of others showing dependence on Aristotle or containing reports about the availability. The third source is the most difficult one: the ancient catalogues of Aristotle's works. Because the picture obtained from the other kinds of evidence is fairly clear for the purpose of this discussion, and the treatment of the catalogues is of a rather technical nature, I will not enter into the matter deeply. Here I only give the conclusions reached in Appendix 4.

There were copies of the *Rhetoric* only containing the first two books. The third book was known as a separate treatise, under the name *Περὶ λέξεως* (*On Style*). It is mostly assumed that this was the only form in which the *Rhetoric* was known at first, and that only with Andronicus' edition the three books were united so as to form the treatise with which we are now familiar. This may be true, but it is quite possible that, well before the first century, there were already copies containing all three books together.

Therefore, if Cicero read "the *Rhetoric*", it may have been in a copy with only the first two books. His material from *Rhetoric* 3 (see p. 126-127) may then have come directly from *Περὶ λέξεως* (*On Style*), from an epitome, or from another source. He may, however, have used a text very much like ours.

4.7 Faustus' Library: Taking a Walk in Cumae?

If Cicero wanted to consult Aristotelian writings, they were available to him. But did he use that opportunity? There is one source for answering this question that has not been treated yet: Cicero's letters²²³.

The passage from the letter to Lentulus (*Fam.* 1,9,23), which has been mentioned at the beginning of this chapter (p. 105), may now be quoted in full:

in Athens, and his edition may have appeared ca. 40 or very shortly before.

223. Aristotle is mentioned in: *Att.* 2,1,1 (ca. 3 June 60); 4,10,1 (22 April 55); 4,16,2 (ca. 1 July 54); *Q. fr.* 3,1,19 (Sept. 54); 7: *Aristophaneo* MSS.; Shackleton Bailey suggests *Aristoteleo*; 3,5,1 (Oct.-Nov. 54); *Fam.* 1,9,23 (Dec. 54); *Att.* 12,40,2 (9 May 45); 13,28,3 (26 May 45); 13,19,4 (29 June 45); *Fam.* 7,19 (28 July 44).

scripsi ... Aristotelio more, quem ad modum quidem volui, tris libros in disputatione ac dialogo 'de Oratore', quos arbitror Lentulo tuo fore non inutilis. abhorrent enim a communibus praeceptis atque omnem antiquorum et Aristoteliam et Isocratiam rationem oratoriam complectuntur.

I have composed ... three volumes in the form of an argument and dialogue *On the Orator*, in the manner (at least as far as I wanted to) of Aristotle. I think your son will find them of some use. They do not deal in the standard rules, but embrace the whole theory of oratory as the ancients knew it, both Aristotelian and Isocratic.²²⁴

'In the manner of Aristotle' concerns the form of *De oratore*, not the incorporation of Aristotelian material²²⁵. Such incorporation is referred to by *Aristoteliam ... rationem oratoriam complectuntur* ('they embrace the whole theory of oratory as the ancients knew it, both Aristotelian ...'). Like the passages in *De oratore* directly referring to the *Rhetoric*, dealt with in § 4.5, it is an important indication of Cicero's awareness that *De oratore* contained crucial Aristotelian material. It does not, however, tell us where he obtained this.

The information from the letters most relevant here is about Cicero's work on *De oratore*. In a letter to Atticus (who was also his publisher) from 15 or 16 November, 55, he writes: *de libris oratoriis factum est a me diligenter. diu multumque in manibus fuerunt. describas licet.* (*Att.* 4,13,2: 'I have not been idle over the work on oratory. It has been in my hands much and long. You can copy it.')

So we know when the work was finished²²⁶. We do not know, however, when it was begun²²⁷. It need not be doubted that Cicero was very well versed in the subject already, and he may have written the work in, say, six months. It appears from the letters that he did not wholly refrain from politics in 55²²⁸, but that

224. Transl. Shackleton Bailey, except for *Aristotelio more, quem ad modum quidem volui*: he translates this by 'in the manner (so at least I intended) of Aristotle' (my italics), like most others. Then, however, *Aristotelio more* must refer to style, which is unattractive (it can hardly also refer to 'continuous exposition', as he holds in his comm.). Both interpretations are, of course, grammatically possible (I take *quidem* to be restrictive [*OLD* s.v., 1d], but it can also be emphatic [ib., 2b]; as to the fact that in Shackleton Bailey's transl. *more* and *modum* refer to the same thing, cf. Sz. 563 'Wiederaufnahme durch Synonyme').

225. What Cicero means exactly is a matter of dispute. Cf. Kennedy (1972: 209), who, like others, thinks that it refers to the form of Aristotelian dialogues. L.-P. (I: 67-69) argue that the reference is to the school exercise of *in utramque partem disputare*, which was, according to Cicero, introduced by Aristotle (below p. 169 with n. 18).

226. That the reference in this letter is to *De oratore* is certain from the letter to Lentulus just partly quoted, where Cicero lists his recent works.

227. Attempts to link remarks in the letters about literary plans with activities on *De oratore* are pure speculation (e.g. Taylor 1949: 219-220; L.-P. (I: 17-21, 21-22)).

228. See especially *Fam.* 7,1,4-5; he held the speech *In Pisonem* in September. Cf. L.-P. (I: 17-21), where the *communis opinio*, that *De oratore* was the product of an involuntary *otium*, is effectively disproved.

he also frequently devoted himself to study and writing²²⁹.

Particularly interesting is his stay in Cumae in April, from where he wrote (*Att.* 4,10,1) the famous phrase

ego hic pascor bibliotheca Fausti.

I am living here on Faustus' library.

Faustus is Faustus Sulla, the son of Sulla the dictator, who had brought Apellicon's library to Rome! It seems probable that the son's library mainly consisted of these very same books²³⁰. We do not know how Cicero came to have access to the library²³¹, but that is irrelevant here. Neither is it completely certain if Aristotle's writings were still part of the library in 55²³². We may, however, conclude that it is far from impossible that Cicero had Aristotle's works at his immediate disposal when he was staying in Cumae, where he was possibly working on *De oratore*. He certainly had enough time there to indulge his appetite for books: he arrived at Cumae around the 12th of April, and left again, for Pompei,

229. *Q.fr.* 2,8,1-2 (shortly after 11 Feb.); *Fam.* 1,8,3 (prob. Feb.); *Att.* 4,6,3-4 (around 19 April); 4,10 (22 April); 4,11,2 (26 June); and cf. *Fam.* 7,1,4-5 (Sept.). (For the datings cf. in general Shackleton Bailey; the dates of *Att.* 4,6 and 4,11 given here were convincingly established by Taylor 1949: 218-219, and accepted Shackleton Bailey *Att.* vol. II: 233-235.)

230. This probability is partly dependent on an evaluation of Faustus: he was, it seems, not the kind of person much interested in books - we never hear of him in this connection. Moraux (1973: 39) also says 'Faustus, der nicht sehr viel von Büchern verstand'. But we cannot be really sure, of course. (Cf. also next note; on Faustus in general Fr. Münzer, *RE* IV s.v. Cornelius no.377, 1515-1517).

231. He may have had Faustus' permission to use it: although they were not always on friendly terms (Cicero's 13th dictum in *Plut. Reg. et imp. apophth.* 205C is not at all kind about Faustus; the same story *Plut. Cic.* 27,3; cf. also *Att.* 9,11,4), they probably were at other times (Cicero supported him in 66, when a prosecution threatened: cf. Jane W. Crawford, *M. Tullius Cicero: The Lost and Unpublished Orations*, Hypomnemata 80; Göttingen: Vandenhoeck & Ruprecht, 1984: 61-63). But Faustus may have sold the library: in 49 he was in deep financial trouble (*Att.* 9,11,4), and this may have been true earlier, since the games in honour of his father in 60, and perhaps his election to an augurate, before 57, will have cost him a lot of money. We know that at one time he had to sell part of his property, and although the story we know this from (*Plut.* II. cc.) gives no date, he may have sold the library well before 55. If so, it was probably to a lover of books with whom Cicero was on friendly terms: if he had sold it to Cicero, this would probably have become part of the Scepsis story in Strabo and Plutarch. (Shackleton Bailey ad *Att.* 4,10,1 says Faustus 'appears to have sold his library to C.', but he is more cautious in his *Select Letters*) (Münzer's remark on the question, [o.c. prev. note]: 1516 l. 42ff., is uncritical: without expressing any doubt, he combines *Plut.* II.cc. with *Att.* 4,10,1 and says the library was sold.)

232. H. Usener (*Kleine Schriften* III [cf. above n. 9]: 153) rejects this: '... die Apellikonische <Bibliothek> war sicher in Rom, sie enthielt nicht Lektüre für einen Landsitz'. Moraux (1973: 39) rightly qualifies this as 'blosse Vermutung'. The designation 'Faustus' library' indicates, especially if it was really sold (cf. prev. note), that it was a substantial collection, recognizable, at least to Atticus, by its name only; also, Faustus was probably not the sort of man to possess more than one substantial library (above n. 230). It seems probable, therefore, that the library was not split up. The Scepsis story also seems to imply that Tyrannion used Apellicon's library exactly as it was brought to Rome. Again, however, we cannot be certain.

on the 26th²³³.

Others have, of course, noticed all this before. The rest of the letter, however, is hardly ever mentioned in this connection²³⁴ (4,10,1-2):

... ego hic pascor bibliotheca Fausti. fortasse tu putabas his rebus Puteolanis et Lucrinensibus. ne ista quidem desunt, sed mehercule <ut> a ceteris oblectationibus deseror et voluptatibus cum propter aetatem >um²³⁵ propter rem publicam, sic litteris sustentor et recreor maloque in illa tua sedecula quam habes sub imagine Aristotelis sedere quam in istorum sella curuli tecumque apud te ambulare quam cum eo quocum video esse ambulandum. sed de illa ambulatione fors viderit aut si quis est qui curet deus. nostram ambulationem et Laconicum eaque quae circa sunt velim quo<ad> poteris inuisas ...

I am living here on Faustus' library - you perhaps think it's on these Puteolan and Lucrine commodities. Well, I have them too. But seriously, while all other amusements and pleasures have lost their charm because of my age and the state of our country, literature relieves and refreshes me. I would rather sit on that little seat you have underneath Aristotle's bust than in our Consuls' chairs of state, and I would rather walk with you at your home than with the personage in whose company it appears that walk I must. But as for *that* walk, chance and the gods, if any of them is interested, must provide. As for *my* walk and my Laconian bath and its environs, I should be grateful if you would keep an eye on them as far as possible ...

Does this contain a hint that Cicero was reading Aristotle? Perhaps the reference to his bust indicates that Atticus and Cicero both knew about the content of the library²³⁶, and that Cicero did consult some of Aristotle's works there. This is of course mere conjecture, but can it really be a coincidence that Cicero continues with *ambulare* ('walk'), and thrice repeats the word (or a cognate)? This certainly looks like another playful reference to περιπατεῖν (*peripatein*, 'walk up and down'), and the tradition that Aristotle walked while lecturing²³⁷.

If Cicero was really reading Aristotle, it may of course have been something else, not the *Rhetoric*²³⁸. The case for the above suggestion, and its connection with *De oratore*, however, is much strengthened by the fact that the *mise en scène* of the second book, examined above (p. 151-152), seems to contain exactly

233. Arrival: the 12th is Taylor's plausible estimate (1949: 219, 221) (*Fam.* 5,12 to Lucceius was written around the 12th, from Cumae or on the way to it; Shackleton Bailey in his *Select Letters* gives 'Cumis' as the place of writing, thus correcting 'Antii' in his major edition). Departure on the 26th is certain: *Att.* 4,9,2. Note that the other extant letter to Atticus written in Cumae during this period mentions writing: *Att.* 4,6,3 (around the 19th of April: above n. 229).

234. It is mentioned by Kennedy (1972: 222), whose account (ib.: 221-222), however, is unsatisfactory (cf. above p. 108; moreover, he partly relies on the Scepis story; his hypothesis of another version of the *Rhet.* is not supported by any evidence).

235. I adopt Shackleton Bailey's text. It is of no importance here if it is exactly right.

236. Cicero probably knew about the Scepis find in any case: above n. 222.

237. Cf. above n. 189. Cicero repeatedly refers to 'conversational walks' (Shackleton Bailey: *Att.* 1,18,1; *Fam.* 2,12,2), but that does not, of course, exclude a *double entendre* here.

238. E.g. political writings: cf. *Q. fr.* 3,5,1.

the same hint to περιπατεῖν. Admittedly, this all remains conjectural, and the indications collected here may indicate no more than that Cicero himself was aware that he was working with Aristotelian material. However, the possibility can definitely not be excluded that Faustus' library provided him with a copy of the *Rhetoric*, and thus with the Aristotelian material we found in *De oratore*—and perhaps even with part of his inspiration for his different approach to rhetoric.

4.8 Summary and Preliminary Conclusions

The evidence of *De oratore* itself as to the sources of its Aristotelian material strongly points to Aristotle's *Rhetoric*. Some important features of its structure correspond to Aristotle's ideas, and cannot have come by way of the rhetorical tradition: the principle of the three *pisteis* and the handling of the non-technical means of persuasion (§ 4.3). (The system of *topoi*, though based on an essentially Aristotelian principle, does not go back directly to Aristotle, although Cicero seems to have thought so: § 4.4.) The small-scale parallels treated in § 4.2 show that the Aristotelian material probably came to Cicero either directly through the *Rhetoric*, or indirectly through an epitome or paraphrase containing rather accurate quotations of Aristotle's words.

Cicero himself hints at Aristotle: he connects the whole of book 2 with Aristotle by the *mise en scène*, and even claims, through Antonius, to know the *Rhetoric* (§ 4.5). It may be asked why Cicero does nevertheless not mention Aristotle in the passage about *ethos* and *pathos*. This is not difficult to answer. In this passage, he avoids all hints of technicality. This goes even for the small part where "rules" for the several emotions are given, since these rules are not explained at a theoretical level, and are emphatically claimed to derive from Antonius' practice²³⁹. So the absence of a reference to Aristotle in this section, even though it owed its existence to him, is not surprising at all. Cicero's (indirect) claim to have read the *Rhetoric* is not affected by it.

There were, indeed, Aristotelian works available in his time: the famous story about the loss of Aristotle's works and their rediscovery in Scepsis is at least exaggerated, and probably untrue in a number of details also. The *Rhetoric* may very well have been among the Aristotelian works available to Cicero, but we do not know exactly what form it had. Book 3 existed as a separate treatise *Περὶ λέξεως* (*On Style*), and a number of copies of the *Rhetoric* only contained the first two books, but it is far from certain that, as is commonly assumed, all pre-Andronic copies were of that kind: there may have existed copies containing

239. Cf. § 6.2, p. 196-198; § 8.1, p. 251.

the three books together (§ 4.6). If Cicero has actually read the work, it may have been in either of the two forms, but if he read books 1 and 2 in a copy not containing book 3, he still knew something of the contents of this book (Περὶ λέξεως). The inaccuracy of Cicero's paraphrase of Aristotle's opinions on prose rhythm from this third book may stem from a separate epitome, but, as argued in § 4.2, it may also stem from Cicero himself.

The most colourful information comes from a letter to Atticus (§ 4.7): Cicero perhaps had the library from Scepsis at his disposal in 55. In this letter he seems, again, to be hinting at Aristotle.

In view of the *communis opinio* that Cicero had not read the *Rhetoric*, the most important result of this chapter (especially §§ 4.1-4.5) is perhaps that the proofs that have been advanced for this opinion are, to say the least, doubtful. Some of them prove nothing at all, others only prove that Cicero did not read the *Rhetoric* with the precision of a philologist - something we might have guessed anyway.

Nevertheless, the results of this chapter go somewhat further: much evidence seems to point to direct knowledge, or at least knowledge of a work containing accurate paraphrases of Aristotle's wording. The uncertainty of reconstructions in matters like these must, however, again be emphasized. There are many hints, but no proofs, and there is every reason to use all material available to us. This chapter has treated the link between *De oratore* and the *Rhetoric* only on the basis of material directly pertaining to both. Another approach must now supplement this: are there other ways through which Cicero may have obtained the Aristotelian material, especially the concept of ethos and pathos? This is the question treated in the next chapter.

5. CICERO'S SOURCES II:

THE PROVENANCE OF THE ARISTOTELIAN MATERIAL

... scholarship, like Nature, abhors a vacuum ...
(Eric R. Dodds, *The Ancient Concept of Progress*, 9)

... ἐὰν μὴ τις τὸν μοναχῇ τρόπον κατηγαπηκῶς
τοῖς ἄλλοις κενῶς ἀποδοκιμάξῃ, οὐ τεθεωρηκῶς
τί δυνατόν ἀνθρώπῳ θεωρῆσαι καὶ τί ἀδύνατον,
καὶ διὰ τοῦτο ἀδύνατα θεωρεῖν ἐπιθυμῶν.
(Epicurus, *Letter to Pythocles*, 94)

In the previous chapter the correspondences between the *Rhetoric* and *De oratore* have been evaluated. The most obvious candidate for the provenance of the Aristotelian material in *De oratore* seems to be the *Rhetoric* itself, and nothing was found that might plausibly be said to contradict this. In this chapter other candidates will be examined. These are, in the first place, the philosophical schools, since the rhetorical tradition did not take account of ethos and pathos, as described in chapter 3. There the fate of the Aristotelian division with the rhetoricians was examined, and in that the following sections investigate its fate with the philosophers, they also supplement that chapter.

5.1 The Academy: the Problem

Philosophers from the Academy have been accorded a decisive influence on *De oratore* by *Quellenforschung*. Much of the essentials were traced back to Philo of Larisa, head of the Academy from ca. 110, or to his successor Antiochus of Ascalon (head ca. 85-67), and especially the last hypothesis was taken for granted for some time¹. The arguments used then now sound for the most part unconvincing,

1. Philo: Von Arnim (1898: 96-111); Antiochus: Kroll (1903) (he was already taken as the source for the *Topica* by Maximilian Wallies, *De fontibus topicorum Ciceronis*, Diss. Halle, 1878 [which I have not seen]). The dates of Antiochus' scholarchate are uncertain: cf. Georg Luck, *Der Akademiker*

but even if one of the two theses is correct, this primarily concerns the parts of *De oratore* that deal with the concept of the philosopher-orator, which dominates book 3. A link between Philo or Antiochus and rhetorical ethos and pathos has not been seriously claimed². The concept of the three *pisteis* in *De oratore* seems, therefore, not to be of Academic origin.

One problem remains: *De oratore* 1,87. It is part of a report, by Antonius (1,82-93), of debates between the rhetor Menedemus and the Academic philosopher Charmadas, which allegedly took place in 102 B.C.³ The following is part of Antonius' paraphrase of Charmadas' criticism of rhetorical education:

ipsa vero praecepta sic includere solebat, ut ostenderet non modo eos illius expertes esse prudentiae quam sibi adsciscerent, sed ne hanc quidem ipsam dicendi rationem ac viam nosse. caput enim esse arbitrabatur oratoris, ut et ipsis apud quos ageret talis qualem se ipse optaret videretur; id fieri vitae dignitate, de qua nihil rhetorici isti doctores in praeceptis suis reliquissent; et uti ei qui audirent sic adficerentur animis, ut eos adfici vellet orator; quod item fieri nullo modo posse, nisi cognosset is qui diceret quot modis hominum mentes et quibus et quo genere orationis in quamque partem moverentur; haec autem esse penitus in media philosophia retrusa atque abdita, quae isti rhetores ne primoribus quidem labris attigissent.

But he used to mock the rhetorical precepts themselves by showing, not only that the rhetoricians had no share in the wisdom they claimed for themselves, but that they did not even know the true method of speaking. For he held that it was the essence of an orator, both that he should appear to those before whom he argues his case as such a man as he himself wishes to appear - which happens through the distinction of his life, about which those teachers of rhetoric had written nothing in their precepts; and that those who listen to him should be emotionally affected in the way the orator wants them to be affected - which was also something that could not happen at all, unless the speaker knew in how many ways, and in what ways, and by what sort of speech people's minds were moved in each direction; but these things, he said, were hidden out of sight in the centre of philosophy, and those rhetoricians had not even had a superficial glance at them.

The reference to ethos and pathos is clear⁴. It is also brought out by the wording, for the description of ethos here strongly resembles the one in book 2: compare, for example, *talis qualem se ipse optaret videretur* ('that he should appear ... as such a man as he himself wishes to appear') with *si ... adsequeretur, ut talis videatur, qualem se videri velit* (2,176: 'if he succeeds in appearing as such a

Antiochos (Noctes Romanae, 7; Bern/Stuttgart: Haupt, 1953): 16-17; Mette (1986/87: 21-22).

2. Only Kroll (1903: 582-585) thought that the inclusion of ethos and pathos was also due to Antiochus; but cf. Solmsen (1938: 399): 'I have not found a shred of evidence that either Philo of Larisa or Antiochus of Ascalon took an interest in rhetorical $\psi\upsilon\chi\alpha\lambda\omicron\gamma\iota\varsigma$ '; and (ib. n. 32) his justified rejection of *Tusc.* 4,43 and 4,55, which had been adduced by Kroll, as proofs for such an interest.

3. For this date cf. L.-P. ad 1,82 *pro consule*.

4. 1,87-89 is one of Solmsen's testimonies (above, p. 81 n. 14).

man as he wants himself to appear')⁵.

Can this mean that Cicero's source for the Aristotelian approach to ethos and pathos was Academic after all, and is the passage intended as a hint for his readers about this provenance? The first of these questions needs some further investigation, but the answer to the second one must be negative. The anti-rhetorical context is too familiar, and the place of ethos and pathos as parts of invention are, at this stage of *De oratore*, too unfamiliar: the hint would be lost to almost all contemporary readers. That these readers lacked the frame of reference to connect Charmadas' statement with invention also comes to the fore in book 2, at the beginning of the treatment of ethos and pathos. In 2,179-181 Catulus, in spite of the announcements in the previous parts of the book, is surprised that Antonius at this point, i.e. following the treatment of the invention of rational arguments, intends to treat ethos and pathos, and this surprise is meant to mirror the readers' reactions⁶. Accordingly, if readers did link the passage quoted just now with other statements in *De oratore*, it would be with the earlier passage where Charmadas appears (1,47), where Crassus says that when he was in Athens, he read Plato's *Gorgias* with him. In fact, many of Charmadas' arguments in the passage under discussion (1,82-93) can be paralleled in Plato⁷, and the passage quoted shows some correspondences to the demand in the *Phaedrus* for a rhetoric based on *psychagogia* (ψυχαγωγία, 'influencing men's souls'). Therefore, the associations in 1,87 would be "Platonic" rather than "Aristotelian", and are probably meant to be. The choice of the formulation, with its reference to ethos and pathos, must have been determined by the wish to prepare the reader, step by step, and in general terms, for what is to come in book 2. The function of the passage is like that of 1,17, in the prologue, where the playing upon the feelings is mentioned as important for an orator, but where no connection is made with invention or with ethos.

Although the passage is not meant as a hint for the reader, it may reflect the provenance of the concept of the three *pisteis*. Can the Academy have transmitted Aristotle's views on invention to Cicero?⁸ Charmadas' connection with the quarrel between rhetoric and philosophy is confirmed elsewhere⁹, and this sets the back-

5. Cf. also *vitae dignitate* with 2,182 *probari ... vitam; dignitate hominis, rebus gestis, estimatione vitae* (cf. also 2,213). Only ethos of the speaker is mentioned, whereas in 2,182-184 the distinction between speaker and client is taken into account (§ 7.2; cf. § 3.6), but that is unimportant: the same happens, for brevity's sake, in 2,115; 176; 178.

6. Below § 6.2, p. 194-195.

7. Cf. Barwick (1963: 33), L.-P. (I: 173, and ad 1,86, where they compare *Phaedr.* 266d, esp. 266d9 τὰ κομψὰ τῆς τέχνης - *nugis*).

8. This is virtually Barwick's suggestion (1963: 76-78, esp. 78).

9. A very brief note on this quarrel above p. 79-80. Charmadas' role: Sext. Emp. *Adv. Math.* 2,20 (where the name is spelled Χαρμίδας). Cf. also the likeness between Charmadas and Carneades apparent from *Orat.* 51. Almost nothing else is known about him, except for his extraordinary memory

ground for the evaluation of his criticisms. It is very probable that the second (and first) century philosophers did, like Plato, criticize the rhetoricians about the lack of adequate teachings on the playing upon the feelings, which was so important in practice. The question must be, what the nature of this criticism was: can it have been technical, in that a different, Aristotelian, organization of invention was said to be superior to the doctrines of the rhetoricians, i.e. criticism like that given by Cicero in *De oratore* 2¹⁰? Or did Cicero, as a step in the preparation of his readers for the Aristotelian concept of invention, mould Charmadas' Platonic criticism into the almost technical form it has in *De oratore* 1,87?

To answer this question, I will now look at the relationship between the Academy and rhetoric.

5.2 The Academy and Rhetoric

The Academic philosophers probably did have the opportunity to get to know Aristotle's threefold division of invention: Arcesilaus, head of the school from about 265, had attended lectures of Theophrastus, whose rhetorical system was probably based upon Aristotle's¹¹, and the *Rhetoric* was probably available if they wanted to consult it¹². The question is if they adopted it. The evidence we have suggests that they did not. Before 110, when Philo became head of the school,

(*De or.* 2,360; et alib.): he is mentioned in Philod. *Index Ac.* (probably col. 23,8 [p. 84 Mekler] and 25,21 [p. 89 M.], and perhaps 23,24 [p. 85 M.] and 35,35 [p. 112 M.]), Sext. Emp. *Pyrh. hyp.* 1,220 (= Eusebius *Praep. Ev.* 14,4,16) (Χαρμίδας), Suda π 1707 p. 141,22 Adler (<Χ>αρμίδας Reines, 'Αρμίδας Adler). Cf. also L.-P. (I: 173).

Charmadas cannot be included in Sext. Emp. *Adv. Math.* 2,12 (= Critolaus fr.32 Wehrli), who mentions as earlier opponents of rhetoric οἱ περὶ Κριτόλαον τὸν Περιπατητικὸν καὶ πολλὸν πρότερον οἱ περὶ Πλάτωνα: οἱ περὶ Πλάτωνα cannot refer to the second century Academy (as Wehrli ad loc. thinks) or to Charmadas in particular (Kroll 1903: 586 n. 1), but only to Plato himself and possibly his contemporary followers. This is clear from πολλὸν πρότερον, and also from the expression οἱ περὶ ...: cf. Michel Dubuisson, οἱ ἀμφὶ τινα - οἱ περὶ τινα; *l'évolution des sens et des emplois* (Diss. Liège, 1976-77; repr. Ann Arbor: Univ. Microfilms Intern., 1985): 135-137.

10. 2,179-181 (implicitly); 201. Below § 6.2, p. 194-196.

11. Theophrastus and Aristotle: cf. below p. 181. Arcesilaus had heard Theophrastus: Diog. L. 4,22; 29-30 (= T1a Mette); Philod. *Index Ac.*, col. 15,3-10 (p. 55-56 Mekler; = T1b Mette) (cf. also Eusebius *Praep. Ev.* 14,6,4 = T2,42-45 Mette). Diog. L. 4,29 seems to connect his attendance of Theophrastus' lectures (as opposed to his going over to the Academy) with the intention of his brother Moereas to make him a rhetorician, but this contradicts the story of his going to Athens without Moereas' knowledge (Diog. L. 4,43; cf. Philod. *Index Ac.*, col. 17,4-16 [p. 63-64 M.] = T1b Mette).

12. Above § 4.6. If Solmsen's reconstruction of post-Aristotelian rhetoric, which I rejected above (§ 3.2), is nevertheless right, the third century Academy could also know the *pisteis* from contemporary rhetorical theory.

they seem not to have occupied themselves with rhetoric at all, and after Philo had introduced rhetorical teaching into the curriculum of the Academy, the system employed in this teaching was probably close to school rhetoric, at least with respect to ethos and pathos. In order to corroborate these statements, I will now briefly examine the evidence for both periods separately.

Quintilian reports that those who wrote on rhetoric after Theophrastus were primarily the Stoics and the Peripatetics¹³, which implies that the Academy contributed nothing, or next to nothing, to the subject. This is confirmed by the extant testimonies and fragments: these show no trace of rhetorical interest¹⁴. The famous Carneades, who lived ca. 213-128, played an important part in the quarrel between rhetoric and philosophy¹⁵, and this also precludes any genuine rhetorical activity. Decisive evidence is Cicero's report, in *Tusculan Disputations* 2,9, that Philo introduced rhetorical instruction into the Academy, for this implies that this had not been part of Academic teaching in the period before him¹⁶.

However, one aspect of the teachings of the Academics, the earlier as well as the later ones, was considered relevant for the orator: their habit of arguing

13. Quint. 3,1,15: above p. 79.

14. 'Old Academy': Speusippus, Xenocrates, Polemo, Crates, Crantor; see Mette (1984) for references on the first four, and for Crantor Mette (1984: 8-40). Cf. in general the negative judgement on the *copia & varietas dicendi* of four of them in *De or.* 3,67. Of Speusippus and Xenocrates, both of whom did not come after Theophrastus (Speusippus died in 339, Xenocrates in 314), some interest in rhetoric is attested. Speusippus even wrote on it: Diog. L. 4,5 mentions the titles Τεχνῶν Ἐλεγχος α' and Τεχνικὸν α' (TL, lines 51, 53 in Leonardo Tarán, *Speusippus of Athens. A Critical Study with a Collection of the Related Texts and Commentary*; Philosophia Antiqua 39; Leiden: Brill, 1981; see his commentary, p. 195); but in view of the first title his outlook was probably Platonic. Xenocrates' views on the nature of rhetoric (fr. 13, 14 Heinze) do not imply that he wrote or worked on the subject (though he may have done so: Diog. L. 4,13, title 41, Περὶ τέχνης α'; but his *libri de ratione loquendi*, Cic. *Ac.* 2,143, were about logic, as the context shows; cf., as Heinze does, Diog. L. 4,13, title 60, τῆς περὶ τὸ διαλέγεσθαι πραγματείας βιβλία δ).

'Middle' and 'New Academy': Arcesilaus (the evidence in Mette 1984: 41-94), Lacydes, Telecles and Euandrus, Hegesinus, Carneades, Carneades son of Polemarchus, Crates of Tarsus and Clitomachus (the evidence for all these in Mette 1985); on the succession see Mette (1985: 50, 121). As to Arcesilaus, cf. above n. 11, and about his *contra omnia dicere* below p. 168-169. Mette's statement (1985: 131) 'galt Carneades doch überhaupt als vorzüglicher Kenner der Rhetorik' is certainly not warranted by Cic. *Orat.* 51. Clitomachus F8 Mette (= Sext. *Emp. Adv. Math.* 2,20) concerns rhetoric: it shows that he took part in the quarrel with the rhetoricians.

15. This part is not well attested directly, but that is probably due to the fact that Carneades left no writings. The participation of his pupils (cf. Cic. *Orat.* 51) Clitomachus and Charmadas (Sext. *Emp. Adv. Math.* 2,20, where Carneades is probably hinted at) must reflect their master's views: cf. *De or.* 1,45-47 (thus Von Arnim 1898: 89-90; Barwick 1963: 25). Carneades' dates: Diog. L. 4,65.

16. Thus Von Arnim (1898: 104-105). Barwick (1963: 17, cf. 39) disagrees, but on insufficient grounds. On *Tusc.* l.c. cf. below p. 170.

both sides of a question (*in utramque partem dicere*)¹⁷, a habit Cicero also, rightly or wrongly, associates with Aristotle¹⁸. Another habit, that of arguing against any opinion held by someone else (*contra id quod quisque se sentire dixisset disputare*) can be considered a variant of this, since anyone able to demolish a thesis can also demolish its opposite, and can thus argue both sides of a question. The two habits are sometimes distinguished, but more often regarded as equivalent, especially by Cicero, who thinks them both very useful for the orator. He associates them, correctly as far as we know, with Arcesilaus and Carneades¹⁹. We should not, however, assume that these two Academic philosophers employed the habit with the aim of teaching their pupils to speak²⁰: Carneades' hostility to rhetoric makes this all but impossible. Others, and especially later figures like Cicero, might consider it useful for orators²¹, but for them the habit, in whatever form, was an instrument and an expression of their scepticism²².

This habit of arguing both sides of an issue is, in fact, the most important thing Cicero appreciates about Academic teaching, as far as rhetoric is concerned. He also connects the abstract *topoi* for rational invention, as given in *De oratore*, with it, since these are the instrument for finding all possible arguments, those in favour and those against a point of view²³. Moreover, in *De oratore* the similarity he repeatedly emphasizes between the older Peripatetics (i.e. Aristotle and

17. *in utramque partem dicere* is the usual formulation, although a number of variants exist (designations found in *De or.*: 3,80 *in utramque sententiam ... dicere*; 107 *in utramque partem disseri*). The technique is of course quite old: cf. Protagoras 80 A20, B6a Diels-Kranz; the *Dissoi Logoi*, 90 Diels-Kranz.

18. *Orat.* 46, and cf. below with n. 24; cf. also above p. 159 n. 225. Düring ad *AABT* T 32c (= *Orat.* Lc.) links this with Arist. *Top.* 1,11 and book 8; W. ad 3,80 (tentatively) with *Rhet.* 1,1,12 (55a29-30) τὰναντία δὲ δύνασθαι πείθεσθαι.

19. In *De or.* 3,80 (cf. 67-68) Carneades and Arcesilaus are mentioned together as representing the second habit, as opposed (though, for the orator, essentially equivalent) to the Aristotelian habit of arguing both sides (cf. e.g. *N.D.* 1,11 where Arcesilaus and Carneades are likewise coupled). In *De or.* 2,161, however, Carneades is associated with *in utramque partem dicere*, like Arcesilaos in Eusebius, *Præp. Ev.* 14,4,15; 14,7,15 (= Arc. T3 Mette) (cf. e.g. *Cic. Div.* 2,150). The usefulness of both methods also appears from *De or.* 2,102, although it is not emphasized there: in order to learn all the facts of a case from his client, Antonius argues the opponent's case.

20. Von Arnim (1898: 81, 84-87) takes it to imply this (although he does not equate this with rhetoric in a technical sense); so does Kennedy (1963: 323). But 3,80 by no means implies that Carneades made his pupils do rhetorical exercises, as Kennedy Lc. says.

21. Not only Cicero did so consider it: below n. 61 on *Ac.* 2,115.

22. Cf. e.g. *De or.* 3,67 *Arcesilas primum ... ex variis Platonis libris sermonibusque Socraticis hoc maxime arripuit, nihil esse certi, quod aut sensibus aut animo percipi possit; quem ferunt eximio quodam usum lepore dicendi aspermatum esse omne animi sensusque iudicium primumque instituisse ... non quid ipse sentiret ostendere, sed contra id, quod quisque se sentire dixisset disputare*; cf. Mette (1984: 89-90). Cicero seems to recognize this in *Tusc.* 2,9, where he distinguishes the philosophical from the rhetorical usefulness of the habit.

23. *De or.* 1,158; 2,155-161 (the context, especially 157 and 159, shows that the sections on Carneades, 160-161, are concerned with the usefulness for the invention of rational arguments); 3,67-68; 78; 145. Cf. also *Parad. stoic.* 2; *Brut.* 119-120. See also L.-P. (I: 68).

Theophrastus) and the New Academy of Arcesilaus and Carneades, if specified at all, also concerns this *in utramque partem dicere*²⁴. Other similarities in the field of rhetoric are not implied, and they are even excluded in *Brutus* 120, where, after emphasizing the usefulness for an orator of the Academy and Peripatos, Cicero says:

quamquam ea ipsa Peripateticorum Academicorumque consuetudo in ratione dicendi talis est, ut nec perficere oratorem possit ipsa per sese nec sine ea orator esse perfectus.

However, the actual habit of Peripatetics and Academics with respect to oratorical discourse is such that it could never produce the perfect orator, nor on the other hand could the perfect orator be produced without it.

Cicero, therefore, certainly did not link the Academy with any technical aspect of rhetoric, let alone with the generally discarded, Aristotelian threefold division of invention.

As to the second period to be discussed, it has already been noticed above that Philo, head of the school from 110 to ca. 85²⁵, introduced rhetorical teaching into the Academy: *Philo ... instituit alio tempore rhetorum praecepta tradere, alio philosophorum* (*Tusculan Disputations* 2,9: 'Philo instituted the practice of teaching at one time the instructions of the rhetoricians, at another those of the philosophers')²⁶. There are no direct testimonies about the form of these teachings²⁷, but a picture of it can probably be gained from Cicero's *Partitiones oratoriae*, which will be treated below²⁸. Philo's successor Antiochus, if he engaged in rhetoric, did not adopt Aristotle's three *pisteis*, for he is known to have agreed with the Stoics in rejecting emotional disturbance²⁹. But he probably did not occupy

24. Cicero's appreciation of the Peripatos mainly concerns Aristotle and Theophrastus (below p. 177-178). The similarity between the Peripatos and the New Academy is specified *De or.* 3,80; 107; *Fin.* 5,10 (where, however, the difference between the two methods is emphasized); *Tusc.* 2,9. It is mentioned but not specified *De or.* 3,71; cf. 3,109; 147; 1,98. Cf. also L.-P. (I: 62).

25. On his dates Mette (1986/87: 21-22).

26. Cf. *De or.* 3,110, which reports that Philo handles *hypotheses*.

27. The *ὑποθετικὸς λόγος* in Philo F2,43-44 Mette (= Ar. Did. ap. Stob. 2,7,2, p. 41,23-25 Wachsmuth) only vaguely resembles rhetorical *ὑποθέσεις* (contra Mette 1986/87: 24). He may also have connected *θέσεις* with his rhetorical teachings (Barwick 1963: 17), but this tells us nothing about the technical part of these teachings.

28. Metrodorus of Scepsis (*De or.* 2,360; 365; 3,75: cf. L.-P. ad 1,45), who was originally an Academic philosopher, abandoned philosophy to take up politics and teach rhetoric (cf. Strabo 13,1,55 [C609]). Unfortunately, nothing can be deduced from this (contra Barwick 1963: 39 with n. 3); it would be interesting to know more about it.

29. This follows from *Ac.* 2,135. Kroll (1903: 584), who tries to escape the conclusion drawn here, introduces the manoeuvre of distinguishing between Antiochus the philosopher and Antiochus the rhetorician (cf. above n. 2). Luck (o.c. above n. 1: 48) declares: 'wissen wir doch aus Cic. *fin.* 5,7; 9ff.; 74, wie hoch er [i.e. Antiochus] die Rhetorik der Peripatetiker geschätzt hat'; but only

himself with rhetoric at all. First, there is not one testimony on such activities. Second, Cicero, when describing his stay in Athens in *Brutus* 315, writes:

cum venissem Athenas, sex mensis cum Antiocho ... nobilissimo et prudentissimo philosopho fui studiumque philosophiae ... hoc rursus summo auctore et doctore renovavi. eodem tamen tempore Athenis apud Demetrium Syrum veterem et non ignobilem dicendi magistrum studiose exerceri solebam.

Arriving at Athens I spent six months with Antiochus, the wise and famous philosopher ..., and with him as a distinguished guide and teacher I took up again the study of philosophy ... But at the same time at Athens I zealously used to do rhetorical exercises under the direction of Demetrius the Syrian, an experienced teacher of eloquence not without some reputation.

From this contrast between philosophical and rhetorical activities it is plain that Antiochus had nothing to do with rhetoric³⁰.

Since the restriction of the Academy's usefulness for the orator in *Brutus* 120, quoted above, is not confined to any one period of the school, it also concerns Philo and Antiochus³¹. This not only illustrates my conclusion about the latter, but also indicates that the rhetorical teachings of the former were not very useful. We may here add the well-known passage *Orator* 12, where Cicero explicitly acknowledges his debt to the Academy:

fateor me oratorem ... non ex rhetorum officinis, sed ex Academiae spatiis extitisse.

I confess that I have not come forth as an orator from the workshops of the rhetoricians, but from the spacious walks of the Academy.

From the above general considerations, one might reasonably conclude that this refers to Cicero's specifically philosophical schooling (and to its importance for his oratory), not to his rhetorical education. This is precisely what the context

5,7 may point to this, and that only under the extremely doubtful assumption that everything found in that section stems from Antiochus.

30. Cf. also the claims of Antiochus as paraphrased *Ac.* 2,114: *disputandi et intellegendi iudicium ... et artificium*, i.e. dialectic, is mentioned, rhetoric is not. Antiochus' style was probably not very good, at least not in Cicero's eyes, despite *Plut. Cic.* 4,1 ἀφικόμενος δ' εἰς Ἀθήνας Ἀντιόχου τοῦ Ἀσκαλωνίτου διήκουσε, τῇ μὲν εὐροίᾳ τῶν λόγων αὐτοῦ καὶ χάριτι κηλούμενος, ὃ δ' ἐν τοῖς δόγμασιν ἐνεωτέρειζεν οὐκ ἑταιρών. The absence of an explicit negative judgement of his style in Cicero is probably due to Cicero's respect for the man; but positive judgements are significantly absent from his numerous mentions of Antiochus, sometimes strikingly so, e.g. *Brut.* 315 (just quoted); *Leg.* 1,54; *Fin.* 5,75; *Att.* 13,19,5. The only other positive evaluation also comes from Plutarch, and also seems suspect to me: *Luc.* 42,3 δευρὼν εἰπεῖν. (*Plut. Cic.* 1c. is taken at his word by John Dillon, *The Middle Platonists*, London: Duckworth, 1977: 61, 105; by John Glucker, *Antiochus and the Late Academy*, Hypomnemata 56; Göttingen: Vandenhoeck & Ruprecht, 1978: 111, 380; and apparently by Luck [o.c. above n. 1]: 20).

31. It may be noted here that Cicero seems to have had decidedly less respect for the successors of Antiochus: cf. *Fin.* 2,2; *N.D.* 1,11. Perhaps *N.D.* 2,1 points to a negative judgement of the styles of all Academics from, say, Antiochus.

requires. Cicero explains why he has, in the preceding sections, used Plato's theory of ideas to illustrate the meaning of 'ideal orator', and defends his use of such philosophical concepts; and he adds that Academic, or any other, philosophy is not quite enough to make a good orator³².

Apart from all this indirect evidence, there is also Cicero's *Partitiones oratoriae*, written between 54 and 52³³, to give us an impression of Academic rhetoric as instituted by Philo. Its form is that of a catechism, Cicero answering the questions of his son, which indicates the elementary nature of the work. Near the end, Cicero says: *expositae sunt tibi omnes oratoriae partitiones, quae quidem e media illa nostra Academia effluerunt* (139: 'You now have had set before you all the divisions of oratory, that is those which have sprung from that school of ours, the Academy'³⁴). This statement need not mean that Cicero cannot have made some adaptations himself, or filled in a number of details³⁵, but there is no reason to doubt its general truth: the system as a whole must be Academic, as well as most of the divisions. The question of the exact provenance of the details, however, is of no importance here, since the main principles and divisions are sufficiently clear for drawing conclusions on Academic rhetoric.

Some of the divisions are quite unusual, especially that of the system as a whole into *vis oratoris*, *oratio*, and *quaestio* ('faculty of the orator, speech, question'), corresponding, respectively, to the *officia oratoris*, the parts of the speech, and the division into types of questions. No parallels for this arrangement are known³⁶, and the system involves a number of repetitions quite unlike those in school rhetoric: the parts of the speech are treated in the sections on *vis oratoris* (under disposition), and again, more extensively, in those on *oratio*. This system may well have been devised to take account of all important subjects of school rhetoric, but to avoid some of its intricacies and illogicalities, and especially, to avoid the choice between the contaminated and uncontaminated systems³⁷. Such objectives may indeed have been characteristic of the newly instituted Academic

32. Thus Douglas (ad *Brut.* 119; 1973: 98 n. 9). The statement is, however, often wrongly understood as referring to rhetorical education: Kennedy (1963: 327-328), L.-P. (I: 43, cf. 39).

33. Brady B. Gilleland, 'The Date of Cicero's *Partitiones oratoriae*', *CPh* 56 (1961), 29-32. His arguments are quite convincing: the alternative, 46 B.C., is impossible. On *Part. or.* cf. also above p. 138-142; and the brief but lucid remarks in Kennedy (1963: 328-330).

34. Transl. adapted from Rackham's (Loeb ed.).

35. Therefore, the parallels between *Part. or.* and the *Rhet.* (cf. Kennedy 1963: 329), though noteworthy in themselves, offer no clues: they may have come from other sources, or (especially the first two) may belong to the details added by Cicero, if he read the *Rhet.*: (a) The deduction of the three kinds of oratory (*Part. or.* 10) strongly resembles *Rhet.* 1,3,1-3 (58b1-8) (cf. Hinks 1936: 175); (b) on 83 cf. above p. 117 n. 57; (c) 'epideictic (70-82) and deliberative <oratory> (83-97) are given unusually extensive treatments' (Kennedy l.c.); (d) the precepts for deliberative prologues (13) correspond to *Rhet.* 3,14,12 (15b32-34); there may be others.

36. Mart. Cap. (and Diog. L.7), both of a very late date, are only partly parallel: cf. Appendix 2, p. 324-326.

37. Cf. above, §§ 3.3 and 3.4.

rhetoric, and the unusual arrangement of the system thus corroborates Cicero's statement about its provenance.

As to invention, this is not along Aristotelian lines, and there is no trace of the three *pisteis*. Nevertheless, non-rational persuasion does get a larger share than in normal school rhetoric, for invention is divided into rational proof and playing upon the feelings: *ut inveniat quemadmodum fidem faciat eis quibus volet persuadere et quemadmodum motum eorum animis afferat* (5: '(his aim is) to find out how he can induce belief in those he wants to persuade, and how he can arouse their emotions'). This distinction, however, between emotional and rational persuasion, is a straightforward way of taking account of the non-rational aspect of oratory, and an influence of the threefold Aristotelian scheme is improbable³⁸. This is confirmed by the relative unimportance that is attached to the emotions, in spite of the distinction, witness the statement in *Partitiones* 4:

Cic. filius: quid? orationis quot sunt partes?

Cic. pater: quattuor. earum duae valent ad rem docendam, narratio et confirmatio, ad impellendos animos duae, principium et peroratio.

Cic. junior: And how many parts of the speech are there?

Cic. senior: Four. Of these, two serve to expound the case, the narration and the argumentation, and two to stir the feelings, the prologue and the epilogue.

- 'which is', as Solmsen aptly said, 'precisely the doctrine which Cicero has contrived to avoid in the *De oratore*'³⁹. In accordance with this doctrine, the actual treatment of the emotions is not given under invention, but postponed to the treatment of the epilogue. And in the recapitulation of the important aspects of rhetoric, at the end of the treatise (139-140), pathos is not even mentioned⁴⁰.

All in all, the *Partitiones oratoriae* presents school rhetoric with a difference, but is still far removed from the approach found in Aristotle and in *De oratore*⁴¹.

38. The distinction may belong to a separate tradition; it can be traced back to Plato's *Phaedrus*: G.L. Hendrickson, 'The Origin and Meaning of the Ancient Characters of Style', *AJPh* 26 (1905), 249-290: 249-267 (although it should probably not be connected with style as closely as Hendrickson advocates). Cf. also Quint. 3,5,2.

39. Solmsen (1938: 399 n. 32).

40. Later in the treatise there are some modifications of the statement made in section 4, but they are non-committal like the ones in *Inv.* and *Rhet. Her.* (pp. 95; 99-100): *Part. or.* 27 (on *amplificatio*, which may be used in several places); 47 (on variety in the structure of arguments).

41. Cf. below p. 197 n. 19 on the function of *Part. or.*

5.3 The Academy: Conclusions

From the material examined in the preceding section, the conclusion is inevitable that rhetoric as taught by the Academy was different, but not very different from school rhetoric, and that it did not owe any debt to the Aristotelian concept of invention. So the real Charmadas, or any other Academic philosopher, cannot have criticized the rhetoricians at a technical-rhetorical level, by demanding a different, Aristotelian, approach to invention: this would mean that Academic strictures of the rhetoricians' teachings would also hold for their own⁴². This conclusion is in line with the nature of the quarrel between rhetoric and philosophy, for a philosopher like Charmadas would probably not have wanted to enter into technical details, since that would be taking his opponents' teachings too seriously.

The Academy is, therefore, not the source of Cicero's Aristotelian material. This conclusion, reached on the basis of an examination of ethos and pathos, is corroborated by the results of the previous chapter. If Cicero did not know the *Rhetoric* itself, it has been argued there, it is almost inevitable that his source was a work that contained quite accurate paraphrases of Aristotle's own wording, and it is not easy to see why Charmadas, Philo or Antiochus would have wanted to write such an epitome or paraphrase.

The only foundation in reality for Charmadas' role in *De oratore*, then, must have been his participation in the quarrel with rhetoric. His criticisms of rhetorical education may very well have contained "Platonic" viewpoints: the associations in *De oratore* point to that (p. 166), and Cicero's fiction is often very near reality. These criticisms he may have expressed on the occasion of debates not unlike the fictional ones described in *De oratore*, or he may have written a polemic pamphlet, perhaps in the form of a dialogue⁴³. It is remotely possible that in such a pamphlet he gave his reproach the form it has in *De oratore*, that is, that he also ridiculed the absence of ethos and pathos. In that case, he must have done so in non-technical, general terms, without making any connection with invention, like his fictional counterpart in *De oratore*. It is, however, far more probable that his strictures, whether uttered in debates or in pamphlets or both, were purely "Platonic", and that he mocked the rhetoricians for their neglect of emotional appeal. It can hardly be a coincidence that his claim in the crucial passage *De oratore* 1,87,

42. So one should not, as Kennedy (1963: 327) does, talk of a 'rhetoric ... of Charmadas'.

43. This is Kroll's suggestion (1903: 586 n. 1; 1940: 1086). Cf. L.-P. (I: 173): 'Es ist denkbar, dass er sich dort den zeitgenössischen Redner Menedemos als Dialogpartner erwählt hatte und dass Cicero das Werk für das "Gespräch" 84-92 benutzte'. Von Arnim (1898: 90), on the role of Carneades, plausibly states: 'Dass Sextus adv. rhet. 20 Kleitomachos und Charmadas nennt, erklärt sich daraus, dass Carneades die Beweisführung nicht schriftstellerisch bearbeitet, sondern nur mündlich vorgetragen hatte'; accordingly, it seems probable that Clitomachus and Charmadas did put their criticisms down in writing.

that the philosophers have something essential to offer, only concerns pathos, not ethos⁴⁴. The reference in *De oratore* 1,87 to the couple ethos and pathos, then, comes from the pen of Cicero himself, who has thus successfully woven one of his preparatory hints for his readers into a passage having its proper function in the structure of book 1.

Charmadas' censure of standard rhetoric in *De oratore*, not only that in 1,87 but all of it taken together, and combined with the like view expressed by Scaevola (cf. p. 145-146)⁴⁵, is important in the rest of the work. It is answered in book 3 by Crassus' concept of the ideal orator: the knowledge demanded of this philosopher-orator is almost universal. Thus *De oratore* meets the philosophical criticism of rhetorical education in general, of which Charmadas' in *De oratore* is a reflection. This universal knowledge, though this remains implicit in book 3, of course comprises knowledge pertaining to ethos and pathos as treated in book 2, and so Charmadas' more specific, "Platonic", reproach is also answered. It seems very probable that the Academic criticism was one of the things that induced Cicero to look for new approaches to rhetoric, and in a way history repeated itself: "Platonic" criticism was met by an "Aristotelian" approach.

To sum up, although the Academy probably made Cicero look for a different, more "philosophical" rhetoric, it did not provide him with his Aristotelian material. The form of Charmadas' statements in *De oratore* 1,87, an allusion to ethos and pathos, is almost certainly Cicero's own. It prepares the reader for what is to come, but does not yet hint at the way ethos and pathos will be assimilated into the rhetorical system: only in the course of book 2 their inclusion into invention comes to the fore.

5.4 The Younger Peripatos

We have already seen that, according to Quintilian⁴⁶, the most important writers on rhetoric after Theophrastus were Stoics and Peripatetics. In *De inventione* 2,7, Cicero also reports that 'the successors of Aristotle left us many rhetorical precepts' (*ab hoc [sc. Aristotele] autem qui profecti sunt ... permulta nobis prae-*

44. It may also be due to Cicero that Charmadas' claim in 1,87 is for philosophy in general, not for Academic philosophy only; but another explanation (Barwick 1963: 32 n. 1) is possible.

45. In 3,68 (where Crassus is speaking) Charmadas must be included in ... *Carneades, cuius ego ... multos auditores cognovi Athenis* (though this is in itself inessential in 3,68); Scaevola is there also mentioned as having heard Carneades, which is probably no coincidence! (Of course, we cannot draw any conclusions about the real Scaevola: the link is in all probability Cicero's.)

46. Above, p. 79: Quint. 3,1,15.

cepta dicendi reliquerunt). It must, therefore, be asked if Cicero can have taken his Aristotelian material, in particular that on invention, from these successors, especially since unspecified Peripatetic sources are nowadays sometimes postulated for a variety of things⁴⁷. In the next section Theophrastus as a possible source will be looked at, here the focus will be on the other members of the school.

What was the nature of Peripatetic writings on rhetoric? In view of Quintilian's statement, the extant evidence is surprisingly scanty. Apart from Theophrastus, whose rhetorical works covered the whole field but who was best known for his contributions in *Περὶ λέξεως* (*On Style*), only Demetrius of Phaleron is known to have written on rhetoric in general⁴⁸. Since he did not very long survive Theophrastus, he cannot be among those meant by Quintilian. Eudemus, who was about as old as Theophrastus, and Hieronymus of Rhodes (ca. 290-230), wrote on style⁴⁹. That is all relevant material reported, until Critolaus' participation - firmly on the side of the philosophers - in the quarrel between rhetoric and philosophy. To this may be added "Demetrius" *On Style*, that has Peripatetic leanings, although the author is unknown⁵⁰. The scantiness of evidence is no coincidence, for the tendency of Peripatetic activity in this period is very clearly towards popular writings such as biographies, and away from more technical subjects like rhetoric as a whole⁵¹. The interest in style is the only trace of rhetoric left, and this is in line with the emphasis on literary history and poetical criticism⁵².

Quintilian's statement, therefore, in all probability reflects the influence of

47. E.g. Kroll (1903: 578; 1918b: 93 [cf. below p. 265 n. 78]), Leeman (1963: 92, who calls the theory in *Inv.* 'mainly Peripatetic'), Kennedy (1972: 259, 'Peripatetic and Stoic sources' for the *Topica*).

48. Cf. Wehrli (1959: 122, 125). Demetrius: fr.156-173 Wehrli; of the titles in fr.74 (= Diog. L. 5,80-81), no.6 is *Περὶ ῥητορικῆς α'β'*; and nos. 25, 26 and 34 (*Περὶ πίστεως α'*, *Περὶ χάριτος α'*, *Περὶ καυοῦ α'*) can very well denote rhetorical writings (pace Wehrli vol. IV: 60-61: cf. L.-P.-Rabbie: 190, and G.M.A. Grube, *A Greek Critic: Demetrius on Style* [Phoenix Suppl. 4, Univ. of Toronto Press, 1961]: 52-53); see in general Grube (o.c.: 52-55). Heraclides Ponticus, who was earlier still (ca. 380-315), wrote *Περὶ τοῦ ῥητορεῖν ἢ ἱστοραγοῦρας* (title in Diog. L. 5,88; only one, barely intelligible, fragment: fr.33 Wehrli, from Philod. *Index Ac.*); but this was probably Platonic and anti-rhetorical, as Wehrli (ad fr.33) thinks; it is therefore improbable that fr.10 (= Antiphanes fr.113 Kock, from Athen. 4,12 [134bc]) points to a rhetorical handbook (Barwick's reconstruction of this handbook, 1922: 39-43, must be rejected in any case: cf. Appendix 2 with nn. 8, 17).

49. Dates: Wehrli ad Eudemus fr.2-6 (p. 77); and ad Hier. fr.1-7 (p. 29). Hieronymus' fr.50-52 are about stylistic criticism; Eudemus' *Περὶ λέξεως* (fr.25-29) may have been about style, but should perhaps be taken as a treatise on logic.

50. Cf. Solmsen, 'Demetrios *Περὶ ἐμπνεύσεως* und sein peripatetisches Quellenmaterial', *Hermes* 66 (1931), 241-267 (also in: 1968, 151-177; and in: Stark ed. 1968: 285-311); Grube (o.c. above n. 48); Kennedy (1963: 284-290).

51. See the lucid account in Wehrli (1959), on this point especially 122, 125.

52. Wehrli (1959: 122-125).

Peripatetic theories of style only⁵³.

This, however, only characterizes the Peripatetics' rhetorical activity in the third century, for in the second century there was probably very little such activity at all: Critolaus, head of the school from ca. 175⁵⁴ was one of the most forcible opponents of rhetoric⁵⁵, and Ariston the younger and Diodorus of Tyrus, the two pupils of his that we have some information about, joined him in his attacks⁵⁶. What happened at the end of this second century is not clear, and we do not even know who Critolaus' successor was⁵⁷. In any case, after the quarrel with the rhetoricians, it is quite improbable that the Peripatetics started occupying themselves with the subject of their opponents: if they had done so, it would have been remarkable, like Philo's institution of rhetorical teaching, and we would probably have a testimony about this also⁵⁸. If they nevertheless did, like Philo, they probably confined themselves to what had been the strong point of older Peripatetic theory, that is, the theory of style. Independent contributions, like the reintroduction of Aristotle's theory of invention, are hardly conceivable⁵⁹.

Cicero himself offers some evidence that, to my mind, strengthens the above conclusions so as to be beyond reasonable doubt. In the first place, his appreciation of the Peripatetics mainly concerns the "older" Peripatos, that is, Aristotle and

53. Cf. Kennedy (1972: 137 n. 50) for a similar view of Peripatetic rhetoric. Von Arnim (1898: 81-83) claims that the Peripatetics occupied themselves with rhetoric, on the ground that they handled *theseis*. In fact, though Hermagoras and other rhetoricians mentioned *theseis*, i.e. 'general questions', they only treated *hypothesesis*, 'specified questions': *stasis* theory was devised only for these (cf. Matthes 1958: 60-61, 126, 129-132, 133 [ff.]). Cicero does connect Peripatetic handling of *theseis* with *in utramque partem dicere* and *topoi* (*Orat.* 46; *De or.* 3,107; 109), but this is not technical rhetoric: cf. above, p. 168-169. *Theseis* are general questions, and the proper subject for the philosophers (cf. especially *De or.* 3,109-110), albeit that it represented for some a rather low level of philosophizing (Strabo 13,1,54 (C609) [treated above § 4.6]: θέσεις ληκνέειν, transl. by H.L. Jones [Loeb ed.] by 'to talk bombast about commonplace propositions'); cf. also Arist. *Top.* 1,11 (esp. 104b34-36).

54. Wehrli ad Critolaus fr. 1-2.

55. Critolaus fr. 25-39 Wehrli.

56. Wehrli vol. X, p. 75-91 (Ariston fr. 1-5, Diod. Tyr. fr. 6).

57. The only list of diadochs we have, *Vita Menagiana* 9 (Düring's numbering: *AABT* p. 82), is certainly wrong: cf. Moraux (1973: 28 n. 68, 53 n. 20). Whether Diodorus did really succeed Critolaus (as is sometimes taken for granted) is quite uncertain, and that Erymneus was head of the Peripatos after him is a mere guess.

58. Note that *De or.* 3,109-110 mentions both the Peripatos and the Academy, but that rhetorical activity is only mentioned in the case of the latter (Philo). This virtually implies that the Peripatos did not engage in such activities. On the other hand, it should not be forgotten that the dramatic date of *De or.* is 91 B.C., and that Cicero avoids anachronisms: the passage provides no evidence of the absence of Peripatetic writings on rhetoric after that date.

59. About *Tusc.* 4,43, which offers no proof to the contrary, below p. 266-267 with n. 85.

Theophrastus⁶⁰. The few remarks that concern the contemporary members of the school are unspecific, or associate them with *in utramque partem dicere*, but this habit is far more firmly associated with Aristotle and with the New Academy⁶¹. Moreover, the statement in *Brutus* 120 quoted above (p. 170), that Academic and Peripatetic philosophy is not enough to bring an orator to perfection, also excludes contemporary Peripatetic rhetoric as having any influence on the technical level⁶². Most telling, perhaps, is *De oratore* 2,160, which was quoted in the preceding chapter (p. 147-148): Antonius, who in 159 had explained that Diogenes the Stoic had nothing to offer for the orator, declares that Critolaus, being a member of Aristotle's school, 'could have been of greater use (than Diogenes)' - a malicious way of saying that he was of no use at all⁶³. Of course, this does not explicitly disparage other Peripatetics, but the passage, with its examination of the usefulness of all three members of the embassy of 155 B.C., the Stoic Diogenes, the Peripatetic Critolaus and the Academic Carneades, functions as a general comparison of the rhetorical merits of the three schools. Cicero could not have written in this way about Critolaus if he had found the contemporary Peripatos of much use to the orator.

All this excludes that Cicero's division of invention goes back to independent

60. In *De or.* 3,67-68 Aristotle and Theophrastus are contrasted with their successors (they are probably also meant in 3,107 and 109, though these passages are not specific on the point), and no other Peripatetic is favourably mentioned in *De or.* (about Critolaus below, this page). Cf. also *Div.* 2,4 *cumque Aristoteles itemque Theophrastus ... cum philosophia dicendi etiam praecepta coniunxerint, nostri quoque oratorii libri in eundem librorum numerum referendi videntur. ita tres erunt 'De oratore', quartus 'Brutus', quintus 'Orator'*; *Fin.* 1,6, where Aristotle and Theophrastus are the only Peripatetics mentioned; and ib. 5,10 on the rhetorical precepts of Aristotle and Theophrastus, in a passage (5,7-14) that contrasts them with all later members of the school. *Fin.* 4,10, on *topoi* (cf. *Orat.* 127) probably also concerns Aristotle and Theophrastus alone. They are mentioned together in *De or.* at 1,43; 49; 55 (cf. *Orat.* 62; and below p. 181).

61. On the association with the Academy and Aristotle above p. 168-170; e.g. *De or.* 3,145-147. As to the Peripatos, cf. *De or.* 3,107 ... *de universo genere in utramque partem disseri copiose licet. quae exercitatio nunc propria duarum philosophiarum, de quibus ante dixi, putatur* (cf. *Tusc.* 2,9, although there the focus is also on the older Peripatos; the very general claim *Ac.* 2,115 *Peripateticis, qui sibi cum oratoribus cognationem esse ... dicant* must also concern *in utramque partem dicere*). *De or.* 3,109-110 implies that the contemporary Peripatos is associated with *theseis*, which Cicero associates in turn with *in utramque partem dicere* (above n. 53): cf. *Brut.* 119-120 (and perhaps *Orat.* 127; on *Fin.* 4,10 cf. prev. note). About Cratippus (on whom Moraux 1973: 223-256) *Brut.* 250 and *Tim.* 2. Cicero's mention of Staseas in *De or.* 1,104-105 is rather sarcastic.

62. Cf. *Orat.* 12: after the sentence quoted on p. 171, Cicero likewise adds that philosophy, whether Academic or of another school, is not enough for an orator in forensic practice.

63. Wehrli's interpretation (ad fr.11) of *De or.* 2,159-160 (= Critolaus fr.10) is wrong in two aspects: (1) the context shows that Antonius is not concerned with Critolaus' style (which is praised fr.11 = *Fin.* 5,14), but with his possible contributions to rhetoric; (2) Critolaus is not praised and connected with Aristotle's rhetorical teachings, for the text does not say 'he managed to be of greater use' (i.e., he could be, and actually was, of greater use), but 'he could have been of greater use' (cf. K-St. 1,171 a). The implication is that he was not willing to be of use to rhetoric.

rhetorical theory of post-Theophrastean Peripatetics. It does not, however, exclude two other possibilities.

First, Cicero may have drawn his early material on style, including the Aristotelian borrowings, from these Peripatetics. In fact, in *Orator* Hieronymus of Rhodes is once named in the passage on prose rhythm (*Orat.* 190)⁶⁴. If Cicero indeed used Hieronymus or some other Peripatetic who quoted him, it follows from the above considerations that his source for the other Aristotelian material must have been a different one.

Second, some Peripatetic contemporary or near-contemporary of Cicero's can have made a paraphrase or epitome of Aristotle's *Rhetoric*. This would presuppose a wish to return to the master's doctrines, and this is indeed the direction that Peripatetic philosophy in the first century took. It is true that this tendency is usually explained by the impulse Andronicus' edition, which probably appeared after Cicero⁶⁵, gave to the interest in Aristotle's own works, but this is not very plausible. Of course, the real *hausse* of Aristotelianism was called forth, and made possible, by Andronicus' work, but it is improbable that Andronicus, before his edition was finished, was unique in his interest in the authentic words of Aristotle. He was rather the ultimate product of such an interest in wider circles. The (alleged?) edition of Apellicon, the work of Tyrannion on the library that was said to come from Scepsis, and the eagerness of the Roman booksellers to make copies from that library betray such an increasing interest, independent from Andronicus. That members of the Peripatos would be the first "classisizing" Aristotelians is, moreover, very probable⁶⁶.

There is of course no name we can attach to a possible epitome or paraphrase of the *Rhetoric*, but that is irrelevant. The point is that the Aristotelian rhetorical material cannot have come by way of independent Peripatetic writings on the subject, but that a "classisizing" paraphrase or epitome by a member of the school from the early first century is one of the possibilities to explain Cicero's Aristotelian leanings in *De oratore*.

64. See below p. 181-182. On Hieronymus also above p. 176 with n. 49. Angermann (1904: 9), in order to prove that Cicero's reference to Aristotle in the sections on prose rhythm is due to a Peripatetic source, adduces the likeness between *De or.* 3,184 and "Demetr." *Eloc.* 41. But this likeness is slight.

65. Above p. 157 n. 222.

66. Cf. also Moraux (1973: 57, 181-182): Ariston from Alexandria, who first belonged to the Academy under Antiochus but became a member of the Peripatos, may be the author of the commentary on Aristotle's *Categories* discussed in Moraux (182-185). If this is indeed correct, it is to be taken as sign of the tendency here sketched: Moraux (57) uses it to prove that Andronicus' edition was early, but that presupposes the usual explanation that all interest in the authentic Aristotle was post-Andronician (cf. Tarán 1981: 734-735). (I leave aside the question as to how far the reports are trustworthy that Critolaus already wanted to return to Aristotle's doctrines [except, of course, where rhetoric was concerned]. It strongly depends on the difficult problem of Antiochus' influence: cf. Wehrli ad Critolaus fr.11).

5.5 Theophrastus

As remarked above, Cicero's appreciation of the Peripatos mainly concerned Aristotle and Theophrastus (p. 177-178). Theophrastus wrote extensively on rhetoric⁶⁷, and may have followed and quoted his master in a number of things. It will be argued here, in the first place, that Cicero may well have known and used some of his rhetorical works, and secondly, that the parallels between *De oratore* and the *Rhetoric* may have come through him. Finally, the several possibilities of Cicero's use of either Theophrastus or Aristotle or both will be examined more closely. It will appear that Theophrastus is a serious candidate for being the source for at least part of Cicero's Aristotelian material in *De oratore*.

As to Cicero's acquaintance with Theophrastus, as early as 60 B.C. Cicero wrote to Atticus, 'Please bring me Theophrastus' *On Ambition* from my brother Quintus' library' (*Att.* 2,3,4: Θεοφράστου περὶ φιλοτιμίας *adfer mihi de libris Quinti fratris*). About the same time he also seems to have read at least one of Theophrastus' treatises on political philosophy⁶⁸. Since Plutarch records that Cicero 'used to call Theophrastus his own special delight'⁶⁹ (*Plut. Cicero* 24,3 τὸν δὲ Θεόφραστον εἰώθειν τρυφῆν ἰδίαν ἀποκαλεῖν), he may even have read many of his works. As the rhetorical writings would interest him much at this stage of his life, it is extremely likely that he read at least some of these. This goes especially for *Περὶ λέξεως* (*On Style*), which was rather well known.

Apart from this external information, there is also some evidence from Cicero's works that points to acquaintance with Theophrastus. It concerns the work *On Style* just mentioned. As Stroux has pointed out⁷⁰, there is very good reason to trust the exactness of Cicero's remarks in *Orator* about Theophrastus' four virtues of style ('Ἑλληνισμός/*Latinitas*, σαφήνεια, πρέπον, κατασκευή⁷¹: correctness of language, clarity, appropriateness, ornateness). As these four virtues are already at the basis of the treatment of style in *De oratore*⁷², and as Crassus himself points to Aristotle and Theophrastus as his authorities, especially for the sections

67. Regenbogen (*RE* Suppl. VII: 1523).

68. *Att.* 2,9,2 (16 or 17 April 59) *nihil me existimaris neque usu neque a Theophrasto didicisse, nisi brevi tempore desiderari nostra illa tempora videris* (cf. *Fin.* 5,11). *Att.* 2,16,3 (29 April or 1 May 59) probably points to knowledge of one or more ethical works. Cf. also *Fam.* 16,17,1 (probably from 46).

69. Transl. Perrin (Loeb ed.).

70. Ioannes Stroux, *De Theophrasti virtutibus dicendi* (Lipsiae: Teubner, 1912): 9-28, especially 9-13.

71. Stroux uses the term κατασκευή, Solmsen (o.c. above n. 50: 241) prefers κόσμος or κεκοσμημένον.

72. Cf. *De or.* 3,37 *quinam igitur dicendi est modus melior ..., quam ut Latine, ut plane, ut ornate, ut ad id, quodcumque agetur, apte congruenterque dicamus?*

on prose rhythm⁷³, Cicero may, in 55, have known Theophrastus' *On Style*. It is notable that his name is again coupled with Aristotle's in the passage on prose rhythm in *Orator*, for example in 172:

cuius (sc. Isocratis) auditor Theodectes in primis, ut Aristoteles saepe significat, politus scriptor atque artifex hoc idem et sentit et praecipit; Theophrastus vero eisdem de rebus etiam accuratius.

Isocrates' pupil Theodectes, a highly accomplished and skilled writer, as Aristotle often indicates, holds the same opinion and recommends the same; and Theophrastus wrote about these same things even more accurately.

And indeed, it seems quite possible that the parallels between *De oratore* and the *Rhetoric* have come by way of Theophrastus. The small scale ones may be based upon quotations in his work, and this goes especially for the sections on prose rhythm, in view of the coupling, just noticed, of the names of Aristotle and Theophrastus in this connection. As for the parallel of the *topoi*, since Cicero took these and his Aristotelian material from different sources (§ 4.4), this needs no explanation here⁷⁴. It is unknown whether Theophrastus adopted Aristotle's principle of the three *pisteis*, but this does seem very probable⁷⁵.

Finally, we may attempt to describe the possibilities for Theophrastean influence somewhat more precisely. The coupling of names in *Orator*, as in the passage just quoted, is an important clue.

In this work, Aristotle and Theophrastus are mentioned together in connection with prose rhythm four times (172, 194, 218, 228), and the only other relevant names in this context are Isocrates and Thrasymachus, who used prose-rhythm⁷⁶, and Theodectes, Ephorus and Hieronymus of Rhodes, who wrote on it⁷⁷. All these figures, except Hieronymus (ca. 290-230), are earlier than Theophrastus⁷⁸. This

73. *De or.* 3,148 *censebo tamen ad eos, qui auctores et inventores sunt harum sane minutarum rerum, revertendum*. The only earlier writers mentioned in the sections on prose rhythm (except for Isocrates as the first to use it, and his pupil Naucrates as the authority for this claim, both in 173) are Aristotle and Theophrastus.

74. Theophrastus wrote on *topoi*, but the Stoic elements in Cicero's *Topica* seem to indicate that he cannot have been the source of this work (but cf. above p. 138 with n. 129).

75. He did write a work *Περὶ τῶν ἀρέτων πόντων α'*, but that tells us nothing about the three *pisteis* (above p. 82 n. 22). Nothing more is known about this work: cf. Regenbogen's brief note (*RE* Suppl. VII: 1525); his identification of the *ἐντέχνοι πόνταις* with rational argumentation, however, neglects the probability that Theophrastus adopted Aristotle's division into three *pisteis*.

76. Thrasymachus in 175; Isocrates 167, 172, 174-176, 190, 207, 235.

77. Hieronymus only in 190; Theodectes 172, 194, 218; Ephorus 172, 191-192, 194, 218.

78. About Hieronymus' dates above n. 49. Theodectes (Kennedy 1963: 80-81) was a contemporary of Aristotle. Ephorus probably died around 330-325; more details are unknown (cf. Felix Jacoby, *Die Fragmente der griechischen Historiker*, II C, Berlin: Weidmann 1926: 22-25); fragments in Jacoby

makes it quite plausible that most of these passages go back to his *On Style*⁷⁹. The fact that Theodectes and Ephorus are only mentioned together with him, or in his neighbourhood, is noteworthy, and is easily explained if we suppose that Cicero knew about them only through Aristotle and Theophrastus⁸⁰.

The mention of Hieronymus in 190 of course casts some doubt upon this hypothesis: *elegit ex multis Isocrati libris triginta fortasse versus Hieronymus Peripateticus in primis nobilis, plerosque senarios, sed etiam anapaestos; quo quid potest esse turpius?* ('The eminent Peripatetic Hieronymus culled from the numerous works of Isocrates some thirty verses, mostly iambic senarii, but also anapaests; what could be more open to censure?') The whole of the material may have come through him (he must have known and used Theophrastus' *On Style*) or from a later source that used both Theophrastus and Hieronymus. This is the first suggestion made in the preceding section (p. 179): the material on style may stem from a Peripatetic source later than Theophrastus. But this is far from certain: if all the material came from such a source, more names later than Theophrastus would perhaps be expected, not only this one mention of Hieronymus. Cicero may have drawn his brief report on Hieronymus from this writer himself, or from some doxographic source, while deriving the bulk of his material directly from Theophrastus' *On Style*.

In general, there is no reason why Cicero should not himself have consulted this work of Theophrastus. There is no proof that he really did, but, as in the case of Aristotle, the arguments sometimes adduced against first-hand knowledge of Theophrastus are unconvincing⁸¹.

Theophrastus' *On Style* may therefore be the source of Cicero's report, in *De oratore*, of Aristotle's opinions on the subject of prose rhythm⁸². This may, in a way that escapes us now, be the cause of the inaccuracies of this report (p. 124-126). Knowledge of Theophrastus, however, does of course not exclude first hand knowledge of *Rhetoric* book 3. If Cicero knew both, his inaccurate rendering of Aristotle may have been determined by his familiarity with Theophrastus (as has been suggested p. 110). However that may be, it is quite uncertain whether Theophrastus really quoted Aristotle extensively, and whether Cicero could really have drawn his report of Aristotle's view, inaccurate as it is, from Theophrastus. He

(o.c. II A), and in Ludwig Radermacher, *Artium Scriptores* (SAW 227.3, 1951): 195-197.

79. Düring (1950: 39) also notices this (though without mentioning Hieronymus), but one of his strongest arguments seems very doubtful: after quoting *Orat.* 218, where Aristotle, Theophrastus, Theodectes and Ephorus are named together, he writes that 'the *περὶ λέξεως* of Ephorus is a treatise which Theophrastus in his *περὶ λέξεως* particularly likes to contradict'. Düring might have done his readers the service of quoting some evidence for this contention. Since he does not, I cannot escape the impression that this is a conclusion from older *Quellenforschung* drawn from ... Cicero's *Orator*!

80. Cf. above p. 123 n. 83 about the possible provenance of the mention of Thrasyllus.

81. E.g. Fortenbaugh's arguments (1989: Appendix), especially those about *Orat.* 218.

82. Cf. Kennedy (1972: 225): 'Similarities between Cicero and Aristotle's discussion of style probably come by way of Theophrastus'.

may have read *Rhetoric* 3 (whether separately or together with 1 and 2⁸³), even if he knew Theophrastus' *On Style*.

Analogous conclusions hold for books 1 and 2 of the *Rhetoric*. Cicero mentions Theophrastus' *Rhetoric* together with Aristotle's treatise of the same name in *De oratore* 1,55 (p. 146-147), and he may have known it. But again, we cannot be certain if Theophrastus quoted Aristotle accurately enough to provide Cicero with the small scale parallels.

To sum up, it is probable that Cicero knew some of Theophrastus' rhetorical works, in particular *Περὶ λέξεως* (*On Style*). For his treatment of prose rhythm in *Orator* he probably used this last treatise, and it may also have been the source from which he drew the report of Aristotle's opinions on prose rhythm in *De oratore* 3,182-183. The other Aristotelian material may have come from the other works of Theophrastus. Nevertheless, Cicero may have read Aristotle's *Rhetoric* also: it is perhaps not very likely that Theophrastus quoted his master with such exactness, that Cicero could have drawn the striking small scale parallels with the *Rhetoric* from him.

5.6 Other Sources

The two other important philosophical schools, the Epicureans and the Stoics, can of course not have provided the source for Cicero's Aristotelian material. For the Epicureans Cicero had some respect (his friend Atticus was one of them), but their rejection of public life and rhetorical studies made them useless for the orator⁸⁴. The Stoics rejected emotional involvement as well as emotional appeal, and as to their rhetoric in general, Cicero's malicious estimate of Cleanthes' and Chrysippus' treatises is well known: *scripsit artem rhetoricam Cleanthes, Chrysippum etiam, sed sic ut si quis obmutescere concupierit nihil aliud legere debeat* (*De finibus* 4,7: 'Cleanthes and Chrysippus too wrote an *Art of Rhetoric*, but of such a sort that it is the one book to read if anyone should wish to keep quiet'⁸⁵). The well-known case of the Stoic Rutilius Rufus, who was innocent but was condemned by the jury because he refused to do anything but present the facts, is told in

83. Cf. p. 158 and Appendix 4.

84. *De or.* 3,63-64; *Brut.* 131. Cf. the brief surveys in Kennedy (1963: 300-301) and Kroll (1940: 1081). Robert N. Gaines ('Philodemus on the Three Activities of Rhetorical Invention', *Rhetorica* 3, 1985, 155-163) reconstructs Philodemus' theory of invention, but notes that his views were 'unique in antiquity' (ib.: 156); in general, Philodemus and his master Zeno of Sidon, in their more positive approach to rhetoric, seem to have been exceptions among Epicureans (cf. Hubbell [o.c. above p. 56 n. 223]: 250-252).

85. Transl. Kennedy (1963: 291).

De oratore as an example of the unpractical nature of Stoic teaching where real life is concerned⁸⁶. If they knew and used Aristotle's *Rhetoric*⁸⁷, therefore, they did not adopt the principle of *ethos* and *pathos*.

It should perhaps be stressed, however, that the importance Quintilian gives to Stoic rhetoric (Quint. 3,1,15, quoted p. 79) should not be played down too easily⁸⁸. Their rhetorical system as a whole, it is true, in that it was based upon the *officia* and the parts of the speech⁸⁹, was not different from the standard one. But it may well have been partly due to their influence that this basically Aristotelian way of dividing rhetoric did in fact become standard. Moreover, their work on grammatical theory was important for the development of theories of style. Their contributions to rhetoric, therefore, were probably not negligible, even if it was in itself only an unimportant part of their activity, and even if they had no taste for practical oratory and the theory of invention along Aristotelian lines⁹⁰.

The only candidates for Cicero's Aristotelian source not yet named here, as far as I know, are most conspicuous for their obscurity, and for the frequency with which they are, nevertheless, postulated as sources: doxographic handbooks, that is, surveys of doctrines, theories and factual information drawn from earlier treatises or again from earlier such surveys. It must be said that the procedure of postulating or reconstructing such sources is very often entirely defensible, in view of the nature of, and situation concerning, these handbooks: they have for the most part completely disappeared, but must have been extensively used. Nevertheless, suppositions of this kind can be made too lightly. In some cases they are too much an easy way out of the difficulties of accounting for the complex interplay of traditions, individuals and other factors⁹¹.

To answer the question whether material from the *Rhetoric* may have been transmitted to Cicero by a doxography, we must roughly know the nature of such and related works. Biographical material was especially subject to the process of

86. The Rutilius affair: *De or.* 1,227-230 and *Brut.* 115. Cf. also above p. 82 n. 21, and *De or.* 3,65-66; *Brut.* 94 (with *Rep.* 5,11); *Brut.* 101.

87. The Stoic theory of the four *πάθη* is sometimes claimed to derive from Aristotle, especially *Rhet.* 2, e.g. Pohlenz (o.c. p. 82 n. 21: I, 149; II, 81-82); but see Sandbach (1985: 29-30; cf. 31).

88. As Kroll (1940: 1080, 1082) tends to do.

89. *Diog. L.* 7,42-43; cf. Appendix 2, p. 325-326.

90. On Stoic rhetoric in general Pohlenz (o.c. above p. 82 n. 21: I, 52-53; II, 31), Kroll (1940: 1081-1083), and Kennedy (1963: 290-299, with many references).

91. I give two examples, both drawn from instructive and useful articles: Moraux (1975: 87 on the quotation of the first sentence of the *Rhet.* in *Orat.* 114 [on the nature of his argument above, p. 109 with n. 21]): 'Cicéron n'utilise pas directement la *Rhétorique*; il en cite une phrase qu'il a dû trouver dans un recueil, dans un florilège ou dans un manuel quelconque'; Fortenbaugh (1989: § II): 'Most likely Cicero is using a handbook which contained selections from the *Rhetoric* or close paraphrases or both', and elsewhere.

successive transmission, and to ensuing distortions and embellishments: the biographical tradition of Aristotle⁹² is a clear example. Of the more strictly doxographic works, many concerned philosophy, like those of which Diels attempted a reconstruction⁹³. We know, however, of such works in other branches also, and where Aristotle is concerned, quotations from the zoological writings, which have been examined by Düring⁹⁴, were frequently drawn from such manuals.

Were there doxographic works about rhetorical theories also? As far as I know, no proof of this has been found. It seems probable to me that information on predecessors was, in general, given in remarks in rhetorical handbooks, which contained a system of their own and were not primarily meant to give such information. *De inventione* may be typical: the remarks found there on Aristotle and others are obviously drawn from the handbooks where young Cicero found his system; they are of a very general nature, and many of them occur in the introductory sections. Indeed, the low level of rhetorical education in the third century B.C. makes it improbable that the rhetoricians of that age did anything but offer ready-made systems. They had little reason to survey the opinions of earlier writers on the subject. After the beginning of the quarrel with the philosophers, the second century writers on rhetoric were probably chiefly interested in defending their own systems. In order to do that, remarks on Aristotle, and others, would be of more help when given in the rhetorical handbooks themselves, like they are in *De inventione*, than when issued in a separate manual. Even for Quintilian's time, his extensive remarks on the opinions of others are obviously one of the untypical features of his *Institutio Oratoria*. Accordingly, if there were doxographic works on rhetoric, they were probably not very numerous.

Since style had been disconnected from the rest of rhetoric in the early Peripatos⁹⁵, the fate of this subject may very well have been different, and it may have been described in more than a few doxographic works. Cicero's mention in *Orator* 190 of Hieronymus of Rhodes may, as remarked above⁹⁶, derive from such a manual.

So far my argument is based on general considerations only. Since more is known about doxographic handling of the zoological treatises of Aristotle, a comparison with their fate may be useful. From Düring's thorough examination⁹⁷ two things are clear. First, names of writers who wrote epitomes of these treatises, or who used such epitomes, are known to us; as to rhetoric, this is only the case (and even then to a more limited extent) in the field of style - and that only if

92. Düring (1957).

93. Hermann Diels, *Doxographi Graeci* (Berlin 1879; repr. Berlin: De Gruyter, 1958).

94. Düring (1950).

95. Above p. 176.

96. Above pp. 179; 182.

97. Düring (1950).

conjectures like that about Hieronymus of Rhodes are correct. Second, many of the quotations from the zoological writings were, as Düring says, 'originally excerpted and compiled with a certain aim': he mentions 'typical definitions', enumerations, lexicographic abstracts, and excerpts coupled with or made for proverbs and etymologies⁹⁸; and other quotations may be connected with a taste for strange phenomena, that is reflected in a vast amount of so-called paradoxographic literature, which is one of the popular fields in which the Peripatos was active⁹⁹. There was no such special reason for quoting from the *Rhetoric*, except for a specialist, who might have wanted to quote Aristotle's definition of rhetoric, or the like.

The fate of the zoological treatises, or any other group of Aristotle's works, cannot, therefore, be taken as a model of the fate of treatises like the *Rhetoric*. The fact that the two characteristics of the tradition concerning the zoological writings just mentioned are lacking in the case of the *Rhetoric*, on the contrary supports the general impression given above: the number of potential readers and writers of manuals about rhetorical doctrines was much smaller than that of doxographic literature in other branches¹⁰⁰. Aristotle's definition of rhetoric, and other definitions also, may have been excerpted, but that is still far from a report of Aristotle's system as a whole.

Still more specific information may be derived from Quintilian's reports on the opinions of previous rhetoricians. In a number of remarks he says or implies that they are based on his own research¹⁰¹, and there is no reason to doubt this, especially since it is supported by the reports themselves¹⁰². In his review of previous systems of *officia oratoris* in 3,3¹⁰³, the earliest author mentioned, except for one stray mention of Thrasyllus, is Hermagoras¹⁰⁴. The situation is roughly the same in his "doxography" of *stasis* theory in 3,6: although some earlier names are mentioned, specific information was obviously available only about Hermagoras

98. Düring (1950: 53).

99. Above p. 176 with n. 51; Wehrli (1959: 103-104).

100. Cf. the vanishing (as far as the Peripatos is concerned) of the genre of botanical writings, apparently 'da eine paradoxographische Behandlung der Pflanzenwelt kaum in Frage kam' (Wehrli 1959: 103).

101. 2,15,37; 3,1,22 *electuris quae volent facienda copia fuit, sicut ipse plurimum in unum confervo inventa, ubicumque ingenio non erit locus, curae testimonium meruisse contentus*; 12,11,8 *quaeque antea scierim quaeque operis huiusce gratia potuerim inquirere*.

102. That Quintilian collected his material himself is also the opinion of Kennedy (1972: 501-502, 506-507) and of Joachim Adamiets, *M.F. Quintiliani Institutionis Oratoriae Liber III* (München: Fink, 1966): 17-18.

103. mentioned above p. 91-92.

104. Hermagoras: 3,3,9. The remark on Thrasyllus (§ 4) may be indirectly derived from a misunderstanding of Arist. *Rhet.* 3,1,7 (1414a14-16). Athenaeus, Hermagoras' contemporary and rival, is also mentioned (§ 13). Many references are vague, and give no clue for dating the opinions reported (*quidam* in §§ 5, 10, 15; *non pauci* § 11; cf. also §§ 8, 12, 13, 15).

and those who came after him¹⁰⁵. Even in the chapter on definitions of rhetoric (2,15), a subject quite suitable for doxographic treatment, the remarks on authors older than Hermagoras seem almost restricted to those Quintilian knows directly¹⁰⁶. All this confirms that Quintilian collected his material himself, and there are no hints that there were doxographic works covering the authors he mentions. More important here, it also indicates that, in the course of his researches, he did probably not come upon any doxographic work covering the period before Hermagoras¹⁰⁷. So there were, in all probability, no such works in Cicero's time.

Finally, we may note that Quintilian, despite his extensive reports of earlier opinions, employs the contaminated system of *officia* without discussing alternatives, and seems unaware of the possibility of linking ethos and pathos with invention¹⁰⁸. Even if he had doxographic works at his disposal, therefore, these did not mention the organization of the material employed by Aristotle. The same was most probably true for any such works in Cicero's time, if they existed at all.

Nevertheless, the possibility that Cicero has obtained his Aristotelian material from doxographic sources can perhaps not be wholly excluded. If so, he must have used one epitome or paraphrase for the material from *Rhetoric* 1 and 2: as argued in § 4.2¹⁰⁹, it is improbable that he drew on more than one such source for this portion of Aristotle's work. But the above considerations, I think, show that this possibility is only very slight, and in any case much less probable than commonly assumed. That Cicero has drawn from a manual for his material from *Rhetoric* book 3, however, is quite possible, for, as remarked earlier, the situation with respect to style may have been a special one.

5.7 Conclusions

In one of his remarkable essays, E.R. Dodds wrote, 'scholarship, like Nature, abhors

105. Cf. Adamietz (o.c. above n. 102: 110). See the survey of Quint.'s "doxography" on p. 358-363 of Erling B. Holtmark, 'Quintilian on Status: A Progymnasma', *Hermes* 96 (1968), 356-368.

106. Plato (§§ 5, 10, 18, 24-31), Isocrates (§§ 4[1], 33), Theodectes (§ 10), Chrysippus (& Cleanthes) (§ 34). Aristotle is mentioned in §§ 13, 16 (and 10), but direct knowledge of the *Rhet.* is not very probable (above p. 58-59 with n. 235).

107. This is confirmed by the fact that he does sometimes give an explicitly second-hand report: 3,6,29. Note that there the *plures auctores*, from whom Quintilian knows that some writers only recognized one *stasis*, have not mentioned any names; this would be peculiar in the case of doxographic works.

108. Cf. above p. 88. He is aware of the fact that the parts of the speech do not offer a way of working: 3,9,6-9, especially § 6 *verum ex his quas constitui partibus non, ut quidque primum dicendum, ita primum cogitandum est*. This makes the omission of any discussion of the relationship between *officia* and *partes* even more remarkable.

109. p. 126.

a vacuum'. Scholarship on Cicero's sources is no exception. Of course, after so many pages, it is somewhat disappointing not to be able to present certain conclusions. I have emphasized before, however, that I think uncertainty is preferable to filling up its vacuum with specious certainties. We do not know for certain how Cicero obtained his material from Aristotle's *Rhetoric*, even if his claim to offer something essentially different from school rhetoric, and to have incorporated important Aristotelian material, is borne out by the approach to invention presented in *De oratore* 2.

The uncertainty just mentioned can, however, be qualified: not all solutions that have been proposed are plausible or even possible, and not all possibilities are equally probable. As to the form of the *Rhetoric* in and before Cicero's time, there were certainly copies only containing books 1 and 2, and book 3 was separately known as *Περὶ λέξεως* (*On Style*), but it is quite possible that copies did then also exist that contained all three books together. As to the source(s) for Cicero's Aristotelian material, there are four candidates that have been found to merit serious consideration:

- (1) the *Rhetoric* itself: as a whole, or one of its two parts separately;
- (2) Theophrastus: either all material (from his numerous rhetorical works) or that corresponding to *Rhetoric* 3 only (from his *Περὶ λέξεως* [*On Style*]);
- (3) the later Peripatos: either the material from *Rhetoric* 1 and 2 (through an epitome almost contemporary with Cicero), or the material on style, or both;
- (4) a "doxographic" source, that is, an epitome or paraphrase (in one of the three variants mentioned under (3)).

In § 4.4 it has been argued that, in determining the provenance of Cicero's Aristotelian material, the problem of the *Topica* need play no part; and in §§ 5.1-3, that the Academy, whether Old or New, cannot have been Cicero's source.

A number of combinations of (1)-(4) are of course possible, since the material from books 1 and 2 and that from book 3 need not have come from the same source. As the theory of style was the most popular part of rhetoric outside the rhetorical tradition in its stricter sense, the material from book 3 (that is, the material on prose rhythm and perhaps¹¹⁰ that from the sections on disposition) is more likely to come from a source different from the *Rhetoric* than the material from books 1 and 2 (the four parallels examined in § 4.2, and the parallel of the three *pisteis*).

The considerations in § 5.6 make (4), a doxographic source, less probable than the other three. I would say that the possibility that the material from books 1 and 2, i.e. the most important material as far as this study is concerned, came

110. Cf. above p. 127 and p. 115-117.

from such a source may practically be excluded. As to (3), this is more likely; but it is not the most attractive possibility, because if the Peripatos of the early first century became interested in the authentic Aristotle, the *Rhetoric* was not the most obvious choice for a paraphrase. Hypothesis (2), that Cicero drew the material from Theophrastus, is far more probable; it derives some further support from the consideration that Theophrastus may well have frequently named Aristotle as his authority.

A definitive choice between the four alternatives cannot, I think, be made. The small scale parallels (§ 4.2), however, are quite close, and do suggest that Cicero may have read the *Rhetoric* himself. The advantage of this solution is obvious: all parallels (§§ 4.2-4.3) are most naturally explained, as are Cicero's own suggestions and references (§ 4.5): in *De oratore* he virtually claims to have read the *Rhetoric*. As we have seen, the inexactness of the report of Aristotle's position with respect to prose rhythm does not disprove this: as repeatedly emphasized in chapter 4, it should not be forgotten that Cicero cannot have wished to analyse Aristotle's text with the meticulousness of a modern philologist. That the *Rhetoric* was indeed available in Cicero's time has been argued in § 4.6 - and a letter to Atticus (§ 4.7) may hint that he actually worked on Aristotle during a stay in Cumae in April 55. And I must say that I cannot help wondering why Cicero would have consulted manuals and handbooks, the dryness of which he frequently censures, if he could read the *Rhetoric* itself.

But I cannot, and do not want to, pretend to have proven that Cicero did indeed consult the *Rhetoric*, and that the three other possibilities can be excluded. I have, however, stressed the probability that he did, because of the trend of today's scholarship on the problem. Starting from questionable assumptions (§ 4.1), sometimes even implying that Cicero should have kept as close to Aristotle as possible, it is inclined to choose the - somewhat paradoxically easy - solution of postulating an unknown rather than a known source. The awareness of the scantiness of our information is thereby perverted into a new dogmatism¹¹¹. Solmsen's fifty year old judgement shows more common sense¹¹²: '... the *Rhetorica* cannot, after all, have been very heavy reading to him. But if anyone feels differently and thinks that Cicero, though conscious of a definite agreement with Aristotle on points of principle, carefully refrained from reading the *Rhetoric*, I am unable to refute him.'

111. It is remarkable that the trend is so different in the case of Stoicism: there, on the contrary, many links with Aristotle are postulated that are, as Sandbach (1985) has shown, for the most part without foundation. Perhaps a vestige of Mommsenian anti-Ciceronian bias determines the totally different attitude in the case of Cicero?

112. Solmsen (1938: 402).

6. THE ROLE OF THE PISTEIS IN DE ORATORE

ille se profecisse sciat, cui Cicero valde placebit.
(Quintilian, *Institutio Oratoria* 10,1,112)

For Tullie, late, a toomb I gan prepare:
When Cynthie, thus, had mee my labour spare.
Such maner things becoom the ded, quoth hee:
But Tullie liues, and styll alyue shall bee.
(Nicholas Grimald)

6.1 Introduction

As mentioned before¹, Cicero was rather satisfied with *De oratore*, and indeed not without reason. This is not to say that the work contains no faults or unclaritys, but in general it is consistently and carefully structured. Because this structure, however, rather than taking the form of a straightforward exposition, is often supported by literary means, and because of the complexity of the subject itself, a description of the place of ethos and pathos in the work cannot be confined to an analysis of Cicero's version of these concepts. This chapter is devoted to answering some preliminary questions about the role of the three *pisteis* in the structure of Antonius' exposition on invention, and in that of *De oratore* in general. Whereas the conceptual analyses to be given in chapters 7 and 8 call for a comparison with Aristotle, the general questions here must involve Cicero's polemic against the standard rhetorical handbooks of his time. The next section treats the main features of this polemic.

The scheme given on p. 191 is meant as a frame of reference, to be used here and in later chapters².

1. p. 3 with n. 6.

2. Some of the questions it may raise will also be treated in these chapters: cf. e.g. § 9.2 on the place of wit.

- 2, 99-306 **Invention:**
 99-113 getting to know the case
 114-177 rational arguments
 178-181 introduction to ethos and pathos
 182-184 ethos
 185-211a pathos
 185-188 introduction
 189-196 the need of feeling emotions yourself, if you want to
 arouse them in others
 197-203 the case of Norbanus: an example from Antonius' practice
 showing the importance of ethos and pathos
 204 short transitional discussion
 205-211a rules for each of the relevant emotions
 211b-216a the handling of ethos and pathos
 211b-212 influence of ethos on pathos and vice versa
 213 -215a structure of passages based on ethos and pathos
 215b-216a effects of the various emotions (and ethos) on each other
 216b-290 wit
 291-306 final general instructions
- 2, 307-332 **Disposition**
 307-315 preliminary choice and distribution of arguments, ethos and pathos
 316-332 the parts of the speech (prologue, narration, proposition and argumen-
 tation, epilogue)
- (2, 333-349 **The deliberative and epideictic genres)**
- 2, 350-360 **Memory**
- (2, 361-367 **Final conversation of book 2)**
- (3, 1-18 **Prologue and mise en scène of book 3)**
- 3, 19-212 **Style**
- 3, 213-227 **Delivery**
- (3, 228-230 **Final conversation)**

6.2 The Difference from and Attitude towards the Handbooks

De oratore incorporates many concepts from standard rhetoric, and the main structure of books 2 and 3 is even based on the traditional five *officia oratoris*. But there are fundamental differences with the school system also, not only, as has been thought³, in the parts where a synthesis between rhetoric and philosophy is aimed at, but also in the purely rhetorical parts. Here I will concentrate on the two divergent aspects of the theory of invention that have been mentioned before: the handling of invention of rational arguments and the presence of ethos and pathos.

For the rational arguments the handbooks gave repetitive lists of *topoi*, being ready-made arguments for numerous types of cases, but Antonius gives a number of abstract *topoi* for deriving all possible arguments (§§ 3.5; 4.4).

As for ethos and pathos, they received no systematic treatment in school rhetoric, there were only some rather arbitrary rules in the sections on the two parts of the speech where, in oratorical practice, non-rational appeal was most openly used, that is, prologue and epilogue (§§ 3.2; 3.3; 3.5). In contrast to this procedure, Cicero's approach, like Aristotle's, is perhaps most concisely characterized by four catchwords: it is conceptual and systematic, explicit, and practical. As two of the three *pisteis*, ethos and pathos are independent concepts, receiving a systematic treatment; and whereas the handbooks showed some traces of ethos and pathos in their lists of rational arguments, without marking them as such⁴, Antonius is very explicit and clear about their place in the *officium* of invention; all of which, of course, is quite practical, since there was probably hardly any case, especially in the Roman courts, where character played no part and where no appeal was made to the feelings of the judges, and that not only in prologue and epilogue.

Some of the handbooks of Cicero's time, besides showing these two essential characteristics of all handbooks, exhibited the so-called contaminated system of *officia oratoris*, as described earlier (§ 3.3): they treated invention according to the parts of the speech. Cicero's incorporation of ethos and pathos into his system entailed the choice of the uncontaminated system, where the parts of the speech fall under the head of disposition. This also contributes to bringing the system closer to practice: it implies a first stage of inventing all possible means of persuasion, before a second one of arranging them in the several parts of the speech and of thus producing a coherent whole⁵. The second main rhetorical system, the one that did not employ *officia* but was organized according to the parts of the

3. E.g. Kroll (1903: 552-554), Leeman (1963: 114, 121). Douglas' wording (1973: 122) is very strange: 'traditional rhetorical matter *forces itself in*' (my italics).

4. § 3.5.

5. Cf. p. 84-85.

speech, was also used in Cicero's time⁶, but it was of course even less suited for his purposes than the contaminated system of *officia*.

Cicero's views, in this case those on the rhetorical handbooks of his time and on the value and limitations of rhetorical theory in general, cannot be extracted from one or two of the relevant remarks in *De oratore* only. Crassus and Antonius are the mouthpieces of different aspects of a complex attitude, and their standpoints are often complex themselves. An interpretation should therefore be based on a synthesis of the views of the two main speakers⁷.

The differences from the traditional handbooks, both those concerning the broad philosophical outlook, and those related to the rhetorical system as such, are a major recurring theme in *De oratore*. As for the first, Crassus repeatedly ridicules the claims of teachers of rhetoric that their training is enough, and that no philosophical education is needed, for example in 3,54:

... omnes istos me auctore deridete atque contemnite, qui se horum, qui nunc ita appellantur, rhetorum praeceptis omnem oratorum vim complexos esse arbitrantur neque adhuc, quam personam teneant aut quid profiteantur, intellegere potuerunt.

On my authority you can laugh and sneer at all people who think they have covered all the skill of orators by the rules of those rhetors, as they are now called, and who have not so far been able to understand what part they have taken upon themselves, and what they are actually claiming.

Even the superior system presented by Antonius in the second book, Crassus implies a little later in 3,70, could not claim to be sufficient⁸.

As for the polemic against the traditional rhetorical systems, this is primarily Antonius' province. The malicious censure of the contaminated scheme in 2,315 has been analysed in chapter 3⁹, as well as 2,78-84, where Antonius makes fun of the common precepts, and where the heavy attack against the rules for the parts of the speech seems directed both at the contaminated system, and at the system employing not *officia oratoris* but only these parts¹⁰.

Both features of the common theory of invention mentioned above, the elaborate system of ready-made *topoi* and the neglect of ethos and pathos, are also severely criticized. The rejection of the standard approach to rational argumentation is even a very prominent theme in the parts of the second book leading up to and directly following Cicero's own system of *topoi* in 2,163-173. The tone is quite unfriendly, as the following example shows (2,162), where Antonius, though granting

6. Cf. pp. 78; 91.

7. Cf. with the following L.-P. (I: 210; their emphasis is slightly different).

8. Cf. also 3,24; 75; 81; 92.

9. pp. 85 and 90-91.

10. p. 90-91 with n. 53 (also on Charmadas, 1,86); on 3,75 (Crassus) cf. p. 90 n. 49.

that the school system is useful for beginners, depicts all its further claims as utterly ridiculous:

ego autem si quem nunc plane rudem¹¹ institui ad dicendum velim, his potius tradam adsiduis, uno opere eandem incudem diem noctemque tundentibus, qui omnis tenuissimas particulas atque omnia minima mansa ut nutrices infantibus pueris in os inserant.

But, for that matter, if I wanted someone who was completely untrained to be instructed in speaking, I would prefer to send him to those industrious people, who, having only this task, hammer the same anvil day and night, and who, like wet nurses feeding baby boys, put everything into their mouths in tiny morsels, chewed small.

Note the comparison of giving ready-made arguments with giving the very smallest morsels of food to boys who cannot yet speak (*infantibus*)!¹²

In the passages on ethos and pathos the attitude towards the handbooks is slightly different, in that these had nothing to offer on the subject at all. They are censured for that in 1,87, via Charmadas, but that passage can be connected with Cicero's alternative approach of invention only by hindsight, as has been argued earlier (p. 165-166): readers cannot but have taken it as a general point of criticism. The opening sections of the treatment of ethos and pathos, however, repeat the criticism, in an implicit but unmistakable way: after his first introductory sentences, in which he announces his intention of treating ethos and pathos, Antonius is interrupted by Catulus (2,179):

'paulum' inquit Catulus 'etiam nunc deesse videtur iis rebus, Antoni, quas exposuisti, quod sit tibi ante explicandum quam illuc proficiscare, quo te dicis intendere.' 'quidnam?' inquit. 'qui ordo tibi placeat' inquit Catulus 'et quae dispositio argumentorum, ...'

'There is one small thing, Antonius,' said Catulus, 'that still seems to be missing from your treatment, and you must explain it before embarking on the subject you have announced.' 'What is it?' he said. 'What order and arrangement you think the arguments should have', said Catulus, ...

Catulus expects that with the end of the treatment of rational argumentation, invention has been brought to a close, and that disposition should now follow, as

11. For *plane rudem* (L) instead of *rudem plane* (M, Kum.) see L.-P. ad loc.

12. Cf. the censures 2,133-142 (esp. 140); 145; 160; indirect criticism in 2,119; 120 (*excogitationem non habent difficilem*); 150; 175. Similes like the one used here in 2,162 were old: cf. Arist. *Rhet.* 3,4,3 (07a6-8); and Elaine Fantham, *Comparative Studies in Republican Latin Imagery* (Univ. of Toronto Press, 1972): 150.

it did in the (uncontaminated) school system¹³. This is obviously meant to mirror the expectation of some, or perhaps most, of Cicero's readers, and it enables Antonius to drive his point home, and to clarify his unusual approach (2,180-181):

... sed ... mihi videris ante tempus a me rationem ordinis et disponendarum rerum requisisse. nam si ego omnem vim oratoris in argumentis et in re ipsa per se probanda posuissem, tempus esset iam de ordine argumentorum et de conlocatione¹⁴ aliquid dicere; sed cum tria sint a me proposita, de uno dictum, cum de duobus reliquis dixerō, tum erit denique de disponenda tota oratione quaerendum.

... but I think you have asked me for an account of order and arrangement too early. For had I said that the power of an orator lay entirely in arguments and in proving the case itself, then it would now be time to say something about the order of the arguments and their arrangement; but since I have claimed a part for three things, and have spoken of one of these, it is only after I have spoken about the other two that the question of arranging the whole of a speech must be treated.

Note that with *de disponenda tota oratione* ('arranging the whole of a speech') Antonius once more emphatically includes ethos and pathos, besides rational arguments, as belonging before disposition.

For some time this implicit criticism of the handbooks is not taken up¹⁵, and a significant shift of emphasis in the attitude towards rhetorical theory takes place in the sections on pathos: Antonius asserts that in stirring the emotions the role of *ars* ('technique', 'theory') is only a minor one - if you are to set the judges on fire the essential thing is to be aflame yourself. This emphasis is reflected in the composition of the treatment (cf. p. 191): the introduction and a long passage on *ipse ardere* ('to be aflame yourself') lead to the climax of the dramatic description of Antonius' speech for Norbanus. Only at the end of this description Antonius again mentions standard rhetoric: in 2,201 he contrasts his use of ethos and pathos, which brought him victory, with what the handbooks have to offer on such cases: dry and unpowerful rules about defining the point at issue, *minuere maiestatem* ('treason'). In the context of what precedes, the first implication of this criticism is that it could not be otherwise, since a successful application of pathos depends on a speaker's own emotions, not on technique or rules. This is the point picked up in Sulpicius' reaction in 2,204:

13. From *ante ... intendere* it follows that he has understood (as most readers will have) that ethos and pathos do require treatment. His surprise concerns its place: he probably expects it in the treatment of prologue and epilogue, under disposition.

14. After *conlocatione* Kum. and some other editors read *rerum*; but this *rerum* is not in A, despite the claims in all *apparatus*, and its only support is therefore its addition to H by a late hand (cf. about H: Charles Henry Beeson, *Lupus of Ferrières as Scribe and Text Critic. A Study of his Autograph Copy of Cicero's De oratore*, Cambridge Mass.: The Medieval Academy of America, 1930: p. 32).

15. Except for one small hint, the use of *anceps* in 2,186: below p. 255.

quae cum abs te modo commemorarentur, equidem nulla praecepta desiderabam; ipsam tamen istam demonstrationem defensionum tuarum doctrinam esse non mediocrem puto.

When you mentioned these things [i.e. the things you did in the Norbanus case], I needed no rules at all; I think that description you gave of your own methods of defence is quite a good instruction¹⁶.

Nevertheless, Antonius' rejection of the rules of "art" is of course not only a statement concerning the primacy of practice over a theoretical approach, and it does imply a criticism of the handbooks for not giving rules about pathos at all. And indeed, Antonius answers Sulpicius as follows (2,204):

atqui si ita placet, inquit, trademus etiam quae nos sequi in dicendo quaeque maxime spectare solemus.

Nevertheless, if you like, he said, I will also tell you what principles in speaking I am accustomed to follow, and what are the most important things I bear in mind.

- and he proceeds to give something very much like a concise sketch of an art, by describing a number of emotions and briefly indicating ways of arousing them, and by giving some further instructions about their handling.

This may seem paradoxical: on the one hand, Antonius plays down the importance of "art", in whatever form, and in 2,204 emphasizes the importance of his own vast experience; on the other, he censures the handbooks for not giving an "art" of pathos, and gives the outlines of one himself. But the paradox is only apparent, for he does not claim that rules and technique are totally unimportant, only that "art" is far from sufficient. So the handbooks' failure to discuss ethos and pathos is a matter for reproach - all the more so since they pretend to be complete¹⁷ -, but even an ideal "art", which does give instructions about them, can never be enough: the decisive factors in pathos are the experience of an orator, and his ability to identify with his case and to feel the emotions himself that he

16. Some details: (1) *demonstratio* is 'description' etc., not 'demonstration' (*OLD* and *TLL* s.v.), so *demonstrationem defensionum tuarum* can only refer to Antonius' description in the dialogue, not also (as L.-P. ad loc. say) to the real speech. (2) Therefore, *abs te ipso commemoratam* (read in L after *tuarum*; M lacks the whole phrase *demonstrationem d. tuarum abs te ipso c.*) makes no sense: it is obviously a gloss on *ipsam ... istam*. (3) For plurals of abstracts such as *defensionum* cf. K.-St. 1,77-78, Lebreton (title below p. 226 n. 14: 36-37) (cf. *N.D.* 2,26 *frigoribus*, rendered by Pease ad loc. by 'different kinds of cold'): it cannot mean 'defences' and refer to the Aquilius-case in 2,194-196 also, for the context points to the Norbanus case only. (4) *ipsam tamen istam* (M) is to be preferred to *istam enim ipsam* (L) as being the *lectio difficilior*; the contrast implied by *tamen* is that between 'Antonius gave no rules' and 'what he said was as good as rules'.

17. Above p. 94-95 with n. 76.

wants to arouse in others¹⁸.

These same two aspects are present in Antonius' treatment of rational arguments, for in spite of the criticism of the handbooks' system of *topoi* mentioned above, implying that a better "art" is necessary, the role of such an "art" is said to be a preliminary one only: even if the orator has at his disposal the abstract *topoi* Antonius offers, his talent and his own effort are more important still. This is especially emphasized in what may be termed Antonius' *laus diligentiae* ('eulogy of *diligentia*' - *diligentia* combines the notions of carefulness and energy), which ends as follows (2,150):

ars demonstrat tantum ubi quaeas, atque ubi sit illud quod studeas invenire; reliqua sunt in cura, attentione animi, cogitatione, vigilantia, adsiduitate, labore; complectar uno verbo, quo saepe iam sumus usi, diligentia, qua una virtute omnes virtutes reliquae continentur.

Technical rules ("art") only show you where to look, and where the thing you do your best to find is; the rest is a matter of care, mental concentration, thinking, alertness, persistence, and hard work; I will sum it up in one word that I have often used already, *diligentia*, a virtue that comprises all other virtues.

All this suggests that, in Cicero's view, the function of rhetorical theory was to be a frame of reference¹⁹. Even traditional rhetorical rules can fulfil this role, for he makes Crassus say as much in 1,145:

... istorum artificum doctrina ..., quam ego si nihil dicam adiuvaré, mentiar; habet enim quaedam quasi ad commonendum oratorem, quo quidque referat et quo intuens ab eo, quodcumque sibi proposuerit, minus aberrat.

If I were to say that the theory of these experts is of no help, I would be lying; for it has some features that may, so to speak, remind the orator of the standard he must apply on each occasion, and of what he must keep in view to keep close to his goals.

It is in fact Crassus' role to take up some subjects discussed by Antonius and show the other side of the coin²⁰. If Antonius plays down the importance of "art"

18. L.-P. ad 2,204 *atqui si* ... agree that the paradox is only apparent, but their explanation, 'die "praecepta" sind nur einige auf der Erfahrung beruhende Beobachtungen', is unsatisfactory: it denies the genuinely "technical" character of the *praecepta* in 2,205-216 and leaves the criticisms of standard rhetoric in the air (Antonius' emphasis on practice [and not 'natura' L.-P.] is a tangible overstatement, also designed to be in tune with his *ethopoia*).

19. Thus Barwick (1963: 10). Cf. L.-P. (I: 210). *Part. or.*, presenting an improved version of the school system (above p. 172-173), is obviously written to provide such a frame of reference.

20. There is, in the end, no contradiction between Antonius' and Crassus' views. Von Arnim (1898: 97-98): 'Während Crassus den eigenen Standpunkt Ciceros umfassender und vollkommener vertritt, wirkt doch auch Antonius seinerseits zur Darstellung dieses Standpunktes mit. Nicht in dem, was er positives über die rednerische Bildung vorbringt, sondern hinsichtlich dessen, was er von ihm ausschliessen will, wird er besiegt und überwunden'.

to emphasize the need of being emotionally involved oneself, Crassus softens this in his treatment of delivery. In 3,215 he says somewhat drily, *ac sine dubio in omni re vincit imitationem veritas; sed ea si satis in actione efficeret ipsa per sese, arte profecto non egeremus* ('And no doubt reality always does better than imitation; but if it was sufficiently successful on its own we would indeed have no need of technique'). But we do need technique ("art"), he proceeds, to bring out our emotions more clearly, emotions 'that must in the first place be expressed - or imitated - by delivery' (3,215: *animi permotio, quae maxime aut declaranda aut imitanda est actione*)!

Antonius' insistence on practical experience, from which he has learnt the rules he gives, also represents only one side of Cicero's ideas: Crassus' demand for a broad philosophical education includes knowledge of psychology, a claim he supports by referring to pathos! See for example 1,60²¹:

quaero ..., num admoventi possit oratio ad sensus animorum atque motus vel inflammandos vel etiam extinguendos, quod unum in oratore dominatur, sine diligentissima pervestigatione earum omnium rationum, quae de naturis humani generis ac moribus a philosophis explicantur.

I ask you ..., is it really possible that a speech be applied to inflame minds to emotion²², or to quench them again - the most important thing in an orator! -, without a thorough examination of all the accounts of the natural character and behaviour of the human race, as brought forward by the philosophers?

Cicero's technique of dividing the several aspects of his own views between Antonius and Crassus is one of the things that make *De oratore* difficult but attractive. As with many successful literary techniques, it serves several purposes, none of which creates the impression of being accidental or secondary. It serves the *ethopoiia*, the portrayal of the different characters, contributes much to the liveliness of the dialogue, and it is an ideal means of giving all aspects, including potentially contradictory ones, their full due. This last point must have been attractive to Cicero not only for theoretical reasons (*in utramque partem dicere*, 'arguing both sides of an issue!'): he obviously found it difficult to choose one point of view he could defend without qualification, and tried to find a synthesis,

21. Cf. 1,17 (Cicero speaking in his own person); 48; 53 (so even in Crassus' 'minimal thesis' concerning the demands on an orator: cf. L.-P. I: 127-137); 69; 165; 3,72; 76. Charmadas makes the same claim in 1,87 (cf. § 5.1). Antonius' statement in 2,68 is very similar, but is, not surprisingly, mitigated by himself immediately. Cf. Barwick (1963: 11).

22. L.-P. ad *sensus ... motus* state 'sensus' cher 'Stimmung' (ἡθος), geg. *motus ... πάθος*; but the equation ἡθος - 'Stimmung' is incorrect (above pp. 62, 64-65), and, moreover, a mood can hardly be said to be inflamed (cf. p. 62). That *sensus* can, and so must, mean 'emotion' here (constituting an hendiadys with *motus*) is clear from 2,189: *non mehercule unquam apud iudices aut dolorem aut misericordiam aut invidiam aut odium dicendo excitare volui, quin ipse in commoventis iudicibus his ipsis sensibus, ad quos illos adducere vellem, permoverer*. (Note that just before this the emotions have been referred to by *motus*!).

in the case discussed here between theory and practice. This synthesis, of course, remained an ideal. Cicero himself was one of the very few in his time who could claim to be skilled in oratory and politics, as well as having a fairly good grasp of abstractions and philosophy.

To sum up the main points²³, in *De oratore* the traditional rules of rhetoric are criticized at two levels²⁴. Crassus demands a much broader education, and ridicules the notion that rhetorical precepts and training can make a good orator; and there is criticism of a more technical nature. Even on this technical level, "art", in whatever form, is said to be insufficient: talent, experience and getting emotionally involved oneself are more important. Nevertheless, a much better "art" is needed than what the common handbooks have to offer: such an "art" should give better rules where the standard system is unsatisfactory (as in the case of rational arguments), and it should offer precepts where they are needed but the standard system offered none (as in the case of ethos and pathos).

Of course more points are added to standard theory, or altered, than the two treated above²⁵. Other important additions are the treatment of humour in oratory, by Caesar Strabo, as an "appendix" to invention (2,216-290)²⁶; and the incorporation of a discussion of prose rhythm into the theory of style (3,173-198). As to ethos and pathos, it is now time to look somewhat deeper into the question how, and how far, they are incorporated into the structure of *De oratore*.

6.3 The *Pisteis* in the Structure of *De oratore*

In 2,99 the technical part of *De oratore*, organized according to the five *officia oratoris*, begins²⁷. Its structure, roughly outlined above (p. 191), may now be discussed somewhat more fully. The first questions to be answered are, how the concept of the three *pisteis* is introduced, whether it fits into the structure of what precedes the treatment of ethos and pathos in 2,178-216, and how the readers are prepared for this treatment. The question of the relationship with what follows the discussion of ethos and pathos will be touched upon at the end of this section.

23. See also Von Arnim (1898: 97-99), Barwick (1963: 5-6, 10, 32-33).

24. Note that Charmadas' censure of the rhetorical rules, in 1,86-87, contains these same two aspects, cf. especially 87 *ipsa vero praecepta includere solebat, ut ostenderet non modo eos illius expertes esse prudentiae quam sibi adsciscerent, sed ne hanc quidem ipsam dicendi rationem ac viam nosse*.

25. Cf. Barwick (1963: 71-79, 'Kritik an den Lehrbüchern der Schulrhetoren').

26. On this see now Edwin Rabbie's contribution to L.-P. vol. III; and on its place after ethos and pathos below § 9.2.

27. On the structure of 2,1-98 see L.-P. (II: 6-7).

sidered'). This is, like the approach in *De oratore*, quite practical in itself, but its effect is spoiled by the contaminated scheme: after this preliminary stage, invention starts with the prologue, and no connection with this first stage is made³². How little difference the place of *stasis* theory makes if the contaminated scheme is employed, may be illustrated by a comparison with the *Rhetorica ad Herennium*, where *stasis* theory was part of the treatment of the *argumentatio*, and thus came *after* the prologue: the rules for the prologue are nevertheless almost identical to those given in *De inventione*³³.

A recognition of the preliminary stage of "invention A" and a mention of a right order of working is thus not entirely alien to school rhetoric, but the school system itself had hardly integrated these notions³⁴. But Antonius in his following treatment of "invention B" consistently proceeds along these lines. And immediately at the start of this invention proper, the division into three *pisteis* is introduced - of course without any technical term corresponding to this Greek one (2,114-115):

cum igitur acceptae causae genere cognito rem tractare coepi, nihil prius constituo quam quid sit illud, quo mihi sit referenda omnis illa oratio, quae sit propria quaestionis et iudicii; deinde illa duo diligentissime considero, quorum alterum commendationem habet nostram aut eorum quos defendimus, alterum est accommodatum ad eorum animos, apud quos dicimus, ad id quod volumus commovendos. (115) ita omnis ratio dicendi tribus ad persuadendum rebus est nixa: ut probemus vera esse ea quae defendimus, ut conciliemus eos nobis qui audiunt, ut animos eorum ad quaecumque causa postulabit motum vocemus.

Well then. When, after having found out to which type the case I have accepted belongs, I start working on the matter, the very first thing I determine is the point to which I must relate all elements of the speech that concern the issue and its judgement only; after that I very carefully consider the following two elements: the first being the element that recommends ourselves or those we are defending; the purpose of the second being to move the minds of our audience in the direction we want to. (115) So the whole technique of speaking is based upon three means to persuade: that we should prove that the things we defend are true, that we should render the audience favourably disposed towards us, that we should induce their minds towards any emotion the case may demand.

In retrospect, it may be observed that Cicero has prepared his readers for the important place *ethos* and especially *pathos* were to obtain. Already in the prologue to the first book (1,17), speaking in his own person, he has stated that to become an orator, one must be able to play upon the audience's feelings, and therefore

32. The introduction of different types of cases, requiring different kinds of prologue, is of no help either: above p. 86.

33. Young Cicero (like his source, undoubtedly) was therefore only paying lip-service to a more practical approach when he wrote *qui bene exordiri causam volet, eum necesse est genus suae causae diligenter ante cognoscere* (*Inv.* 1,20) (about this *genus suae causae* see prev. note).

34. Things may of course have been slightly different in the handbooks based upon the uncontaminated system of *officia*, but indeed only slightly: above p. 86 about Hermagoras.

be thoroughly acquainted with all human emotions. This has also been one of the important points of Crassus' claims about the orator's knowledge in book 1, as described above³⁵. Moreover, the wording of Charmadas' critique in 1,87 even came very close to the distinction of ethos and pathos as *pisteis* besides rational arguments³⁶. And as recently as in 2,32, Antonius has mentioned the possibility of finding precepts *ad pertractandos animos hominum et ad excipiendas eorum voluntates* ('for playing upon people's feelings and catching their goodwill'). But as concerns the unfolding of Cicero's ideas, only at this point, in 2,114-115, are ethos and pathos transformed into an integral part of a systematic approach, and only from this point on a description in terms of three *pisteis* is really meaningful.

In the exposition that follows, the concept of the three *pisteis* is mentioned several times: in 2,121 (*quibus ex locis ad eas tris res, quae ad fidem faciendam solae valent, ducatur oratio, ut et concilientur animi et doceantur et moveantur*: 'from what sources a speech must be drawn so as to attain the only three factors in winning belief, that the minds are won over, instructed, and moved')³⁷; in 128-129³⁸; and in 176. Nevertheless, Cicero obviously expected some of his readers still not to have understood the place of the concept and the ensuing unusual place of ethos and pathos. Catulus' expression of surprise in 2,179, treated above (p. 194-195), serves the purpose of stressing it once more, and unambiguously.

So ethos and pathos are well woven into the fabric of Antonius' approach to invention. On the conceptual level, the uncontaminated scheme enables their incorporation, and they are moreover completely integrated into the sequence of stages that Antonius frequently emphasizes. In other words, the three *pisteis* are indeed what they are claimed to be: they form the organizing principle of invention. On the level of Cicero's communication with his readers, they are carefully prepared, in the passages preceding the actual treatment of ethos and pathos, for the place the two means of persuasion will occupy in the system, and for their importance.

This leaves the question whether they are also integrated into what follows. The passage on wit, which comes immediately after that on ethos and pathos, is a problem better tackled after an analysis of these two concepts. It will appear, as indicated in the scheme on p. 191, that it is indeed closely connected with inven-

35. Cf. p. 198 with n. 21.

36. §§ 5.1-5.3.

37. Fantham (1973: 268) quite wrongly equates *ad fidem faciendam* here with *ἐξόπιστον ποιῆσαι τὸν λέγοντα* in Arist. *Rhet.* 1,2,4 (56a5-6); *ad fidem faciendam* (like 3,104 *ad fidem orationis faciendam*) refers to the purpose of all three *pisteis*, *ἐξόπιστον* ... to the purpose of (Aristotelian) ethos (cf. p. 33).

38. The order in 2,121 and 128-129 (ethos-arguments-pathos) is different from that in 114-115, no doubt as a means of variation. The complete misinterpretation of 128-129 by Dihle is due to the neglect of this obvious fact (Albrecht Dihle, *Hermes* 83, 1955: 306).

tion, and, wit being linked with ethos as well as pathos, that its position is no coincidence³⁹.

The closing passage on invention (2,291-306) is concerned with the determination of the weak and strong points of a case, and ends in some conversational sections on mistakes an orator can make, in which account is taken of ethos, pathos, and arguments (303-306)⁴⁰. Its beginning also takes explicit account of the three *pisteis*, at the same time continuing the emphasis on the sequence of stages and the appeal to Antonius' practice: *ego ... cum ad causam sum adgressus atque omnia cogitando, quoad facere potui, persecutus, cum et argumenta causae et eos locos, quibus animi iudicium conciliantur, et illos, quibus permoventur, vidi atque cognovi, tum constituo quid habeat causa quaeque boni, quid mali* (2,291: 'When I have undertaken the case and have explored everything in thought as far as I can, when I have seen and found out the arguments of the case, and the *topoi* by which the minds of the judges are won over, and those by which they are moved, then I determine what the strong and weak points of the case in hand are'). The next section (292) takes up this reference to the three *pisteis*.

So the role of the three *pisteis* as the organizing principle of invention is again taken full account of, and this is again clearly brought out for the reader. After this, however, explicit mentions of the triad are few: it occurs in 2,310, where it is presented as a principle hardly needing any more clarification; in 2,319; and in Crassus' treatment of amplification (3,104)⁴¹. This does not mean that the principle is neglected or even abandoned in some or all of the other *officia*: for some of these a direct link with invention is not to be expected in whatever form, for others the incorporation of the principle may be accomplished without explicit reference to the now familiar triad, or be left unaccomplished because of a, deliberately, sketchy presentation.

Of the other *officia*, it of course disposition that should be most affected by the inclusion of ethos and pathos into invention: it makes an important difference whether the "*inventa*" ('things invented'), to be distributed in this *officium*, are only rational arguments, or comprise a complete set of means of persuasion for the whole of the speech. Memory, treated after disposition⁴², shows no trace of the triad, as was to be expected: the memorizing technique mentioned there is applicable in the same form to arguments, ethos and pathos. In Crassus' treatment

39. Cf. § 9.2 about these points.

40. 2,304-305 is about mistakes concerning ethos and pathos (a brief remark about this on p. 286), although neither of the two is explicitly mentioned. 306 then recalls the triad with *in ipsis autem argumentis*

41. 2,310: below p. 206-207; 319: p. 208; 3,104: p. 203-204 and p. 217-218.

42. About this place of memory cf. p. 247 of D. den Hengst, 'Memoria, thesaurus eloquentiae', *Lampas* 19 (1986), 239-248 (in Dutch).

of style the *pisteis* are once mentioned (3,104)⁴³, but they have left no further trace. This is not surprising either: the vast majority of the figures of speech, for example, may be employed for any of the three *pisteis*, and the three styles, that are quite unimportant in *De oratore* anyway, cannot be straightforwardly coupled with the three *pisteis*, as will be shown in § 6.5. The treatment of the last *officium*, delivery, does have some connection with invention, since the emphasis is on the expression of emotions. Crassus' modification of Antonius' view on the emotional involvement of the orator in 3,215 has been mentioned above (p. 197-198), and there is one further reference to Antonius' exposition, when Crassus uses as an example a verse of Pacuvius also used by Antonius⁴⁴. But as a whole, the treatment of delivery is deliberately loose. Therefore, the fact that no real connection with invention is made should not tempt us to assume that there is any inconsistency.

Apart from the *officia*, there is the treatment of the two non-judicial branches of oratory in 2,333-349. It is quite short, containing only general reflections about and principles for deliberative and epideictic⁴⁵ speeches, and no reference is made either to rational arguments or to ethos and pathos as such. As far as epideictic speeches are concerned, this is in accordance with the principle of analogy put forward by Antonius in 2,69-70: if an orator has learnt to speak in the most difficult genres, the judicial and the deliberative, he can handle all other rhetorical challenges also, without needing separate rules⁴⁶. In 2,333 this principle is extended to the deliberative genre: most of the rules given for judicial speeches also apply to the epideictic as well as the deliberative branch⁴⁷. This principle of analogy explains the absence of precise references to earlier rules: only the distinctive characteristics of the other branches are touched upon. This is not to say that, in the passage on deliberative oratory at least, ethos and pathos go totally unmentioned: there are a number of remarks on the importance of authority (which is,

43. Cf. below p. 217-218.

44. 3,217 *et ea, quae tu dudum, Antoni, protulisti*: 'Segregare abs te ausus'; this refers to 2,193.

45. The epideictic genre in *De or.* only covers panegyrics, as it does in Aristotle's *Rhet.*; cf. Hinks (1936: 174-175), Solmsen (1941: 180-181).

46. Cf. also 2,71-73; 44-50; 62-64; cf. L.-P. (II: 235-236).

47. 2,332 contains the "rules" for the (judicial) epilogue. Then 333 begins: *neque sane iam causa videtur esse cur secernamus ea praecepta, quae de suasionibus tradenda sunt aut laudationibus*, which means 'there seems to be no reason to treat the rules for deliberative and laudatory speeches separately from those given for judicial speeches'; Courbaud and Merklin translate it thus; Rackham wrongly takes it to mean '... separately from each other', for he translates the following *sunt enim pleraque communia* by 'as they are for the most part common to both' (my italics); the transition from 332 to 333 would thus become so short as to be unintelligible, and, moreover, *secernere A aut B* cannot mean 'separate A from B'.

in Cicero, a part of *ethos*) and of playing upon the audience's feelings⁴⁸, and *facetiae* ('humour(ous remarks)'⁴⁹) are mentioned in such a way, as to make implicit reference to the earlier discussion (2,340)⁵⁰; in general, the tone is in accordance with the earlier emphasis on non-rational persuasion. It is only to say that there is no explicit, systematic, reference to them, and that this is no breach of principle⁵¹.

So it remains briefly to speak of disposition, the only *officium* that may be expected to show not a few traces of the concept of the three *pisteis*. This is the subject of the next section.

6.4 Disposition and the *Pisteis*

In *De oratore*, as in some of the handbooks of Cicero's time, disposition includes a treatment of the parts of the speech, the rules for which given in school rhetoric are notoriously intricate and scholastic. Since Antonius takes knowledge of these standard rules for granted and offers alternatives that are only slightly different, a complete analysis of this part of *De oratore* would require a very long and detailed discussion. This would take us too far afield, and I will confine myself to some points bearing on the position of the *pisteis*.

The parts of the speech are treated in 2,315-332; before this, in 307-314, some rules of a more general character are touched upon. School rhetoric also contained such general rules⁵²: at least some handbooks treated *krisis*, the judging of the merits of all arguments found, and the selection of those to be actually used (*κρίσις*, *iudicium*: 'judgement'), and *diairesis*, their distribution (*διαίρεσις*, *partitio*)⁵³. The first, *krisis*, also occurs in *De oratore*, immediately after the

48. Authority: 2,339 (on authority as a part of Cicero's *ethos* cf. p. 245-246); *pathos*: 3,333-340 *passim*, especially 337 *maximae pars orationis admovenda est ad animorum motus nonnumquam*

49. On the term L.-P.-Rabbie 185: "Witzigkeit" oder auch "Witze".

50. *nullo autem loco plus facetiae prosunt* ...: this would be quite abrupt without the earlier treatment.

51. The treatment of epideictic (i.e. panegyrics) contains no reference to *ethos*, which is perhaps a little surprising: there is such a reference in Arist. (above p. 29). The explanation may be that the emphasis in the treatment of *ethos* (2,182-184) is different: there, especially in the case of the speaker, indirect ways of giving a good impression are stressed (below § 7.2, esp. p. 231); the relationship between *ethos* and panegyrics is therefore rather complicated, and Cicero probably regarded an exact treatment of this relationship superfluous.

52. Cf. also p. 87 with n. 38.

53. *κρίσις*: Hermagoras: Matthes (1958: 187-188); other parallels (including *De or.* 2,309) ib. (187 n. 4). *διαίρεσις/partitio*: Hermagoras (Matthes 1958: 188-189; he cites no parallels!); *Rhet. Her.* 3,18 (inadequately handled by Matthes 1958: 191); the system presented in *De or.* 1,138-145;

introduction of disposition. In most cases, Antonius says, the weakest arguments should be totally discarded (308b-309). As in school rhetoric, this only concerns rational arguments (308 *ea, quae probandi et docendi causa dicenda sunt*, 'the things to be said in order to prove and instruct'). But then Antonius proceeds as follows (310):

et quoniam, quod saepe iam dixi, tribus rebus homines ad nostram sententiam perducimus, aut docendo aut conciliando aut permovendo, una ex tribus his rebus res prae nobis est ferenda, ut nihil aliud nisi docere velle videamur, reliquae duae, sicuti sanguis in corporibus, sic illae in perpetuis orationibus fusae esse debebunt. nam et principia et ceterae partes orationis, de quibus paulo post pauca dicemus, habere hanc vim magno opere debent, ut ad eorum mentes, apud quos agetur, permanere possint⁵⁴.

As I have already frequently said, we bring people over to our point of view by three things, by instructing or conciliating or moving them. Well, one of these things we must openly avow to do, so that we may seem to aim at nothing but instructing, but the other two must, even as blood in the body, flow throughout the whole of the speech. For it is essential that the prologues as well as the other parts of a speech, about which I will presently say a few words, should have the power to seep into the minds of the judges.

This concerns putting, unobtrusively, as much ethos and pathos as possible into passages concerned with (or, ostensibly concerned with) rational argumentation. In 311-312 another way of weaving ethos and pathos into a speech is discussed⁵⁵, the insertion of passages based on these two means of persuasion only. Such passages, even if they are most at home in prologue and epilogue, should not be confined to these, Antonius says. They must be used wherever possible, and the trials where amplification is most effective are those giving most opportunities for using pathos. Note that this last point, together with the passage quoted, constitutes the explicit recognition of the emotional component of "argumentation" and of amplification so conspicuously absent from school rhetoric, where all this is, implicitly and vaguely, supposed to be part of rational arguments⁵⁶.

and cf. Quint. 5,12,14 (on *De or.* 1,138-145 cf. above p. 89-90; 1,142 *inventum non solum ordine, sed etiam momento quodam atque iudicio dispensare atque componere*, where *momento ...componere* must denote distributing the arguments: *iudicio* then denotes the judgement the orator must employ in doing this, rather than, as Matthes 1958: 187 n. 4 and L.-P. ad loc. assume, to the technical term *κρίσις/iudicium*).

54. About the text cf. n. 56.

55. 2,311 *sed his partibus orationis ...* clearly marks a new subsection.

56. School rhetoric: §'3.5, p. 95-97. Only Courbaud's translation offers a clear and correct interpretation of 2,310-312, others, either by their punctuation or by their translation or commentary, breed confusion or reduce the passage to utter vagueness. Three points are important: (1) In 310 the clause *quoniam ... permovendo* is metacommunicative: it does not give a reason for the statement following, but introduces the three *pisteis* as the background of the next sentence (cf. Flacc. 31 *hoc est apud Graecos, quoniam de eorum gravitate dicimus, prope maius ... quam Romae triumphasse*); the semi-colon put before *reliquae duae* in many editions obscures this structure. (2)

So 2,310-312 offers principles for what may be called *krisis* of ethos and pathos. These are said to be always useful if the case allows them, whether interwoven with argumentation or in separate passages. The difference between this, where only the case itself imposes a vague restriction on the use of ethos and pathos⁵⁷, and *krisis* of rational arguments, where a rigorous selection was recommended, is notable but not surprising. Arguments are evaluated and weighed against each other, and weak ones may be refuted, but when the mind is influenced by irrational means, there is hardly any evaluation at all.

The passage also offers something comparable to a first stage of *diairesis*: the sentence *reliquae duae ... in perpetuis orationibus fusae esse debebunt* (310: 'the other two must ... flow throughout the whole of the speech'), and what follows, amount to general reflections on the distribution of ethos and pathos in the speech.

Of course the passage is rather loosely stated, and does not expressly hint at the concepts of *krisis* and *diairesis*. The essential equivalence with both concepts, however, is unmistakable, all the more so since what precedes (308b-309) is clearly *krisis* of rational arguments, and what follows (313-314) concerns more specific remarks on *diairesis*.

That these following two sections (2,313-314), which are about the distribution of the material remaining after the *krisis* stage⁵⁸, are meant to be equivalent to *diairesis* of school rhetoric is clear from the remarkable correspondence with the relevant passage in the *Rhetorica ad Herennium*, 3,18. Both passages prescribe placing the strongest elements at the beginning and at the end, with the less strong points in the middle⁵⁹. But the difference is essential: the "elements" to be thus distributed in *Rhetorica ad Herennium* are rational arguments, in the part of the speech *argumentatio*, but the passage in *De oratore* concerns the distribution

In the final phrase of 310, L had *movendas permanare*, M *movendas permovere*, both of which are impossible. Any solution must remain uncertain, but the meaning is not affected. (3) 310 is about the combination of arguments with ethos or pathos in one passage, 311 is about passages based upon ethos and pathos only. P.-H.'s commentary and Rackham's punctuation are totally inadequate, and Schweinfurth-Walla (1986: 190) misrepresents Cicero's text by her conclusion that 'Antonius ... eine Trennung logischer und emotionaler Überzeugungsmittel fordert'.

57. There is also a sort of minimal requirement (cf. p. 305): in a particular case, some particular emotions must be aroused.

58. 2,313 begins as follows: *atque etiam in illo reprehendo eos qui, quae minime firma sunt, ea prima conlocant*. Here, *atque etiam* marks the beginning of a new subsection, and Courbaud's translation is correct: 'J'ajoute que ...' (cf. K.-St. 2,17-18; Sz. 478; *etiam* is not to be connected with one of the following words, as in P.-H., Rackham, Merklin). Also, *in illo* probably refers to the content of *qui ... conlocant* (thus Courbaud; cf. 3,184 *ego illud adsentior Theophrasto, qui putat ...*), or is possibly anticipatory of *in quo* in the following sentence. It can hardly be 'in respect of the "collocatio locorum" as it is generally taken (W., P.-H. [?], Rackham, probably Merklin): that disposition is the overall subject needs no clarification at this point, and it would make *illo* refer back over much too long a distance; moreover, *in illo* and *in quo* are clearly meant to be parallel.

59. The parallelism is noticed by P.-H. There are numerous other similarities.

of *pisteis* of all three kinds, over the whole of the speech⁶⁰.

So 2,308-314 offers a treatment of the general rules for disposition that incorporates standard concepts, but adapts them so as to cover ethos and pathos besides rational arguments:

- 308-309 *krisis* of rational arguments
- 310-312 "*krisis*" and preliminaries about *diairesis* of ethos and pathos
- 313-314 *diairesis* of all three *pisteis*

In 2,315 Antonius starts dealing with the prologue - but not without first having given the sarcastic warning quoted earlier (p. 85)⁶¹: a prologue is bound to be a failure if its composition is not preceded by invention and the general considerations on the disposition of the speech⁶². The sequence of stages is thus again emphasized. This is also the case in the treatment itself (2,315-325). The rules proper take up less than half of this treatment (320-324), and the stress of the preliminaries in 315-319 is upon the coherence of the prologue with the rest of the speech, which is said to be brought about by using means of persuasion of all three kinds: *sumetur ... ex iis rebus, quae erunt uberrimae vel in argumentis vel in iis partibus, ad quas dixi degredi saepe oportere* (319: 'the prologue will be derived from the materials that are most abundant, either in the arguments or in the things that, as I said, one must frequently make use of in digressions'). The point about coherence is again taken up and enlarged upon in the closing section (325).

The form of the rules in 320-324 is for the most part not unlike that in school rhetoric: the content of a prologue may be derived from the defendant, the opponent, the matter in hand or the audience. But then Antonius says (324):

maxima autem copia principiorum ad iudicem aut adadiendum aut incitandum ex iis locis trahetur, qui ad motus animorum conficiendos inerunt in causa.

But the largest supply of prologues to win over or to excite the judge will be derived from those elements in the case that are fit to bring about emotions.

Pathos, which did not receive much attention in the usual theories of the pro-

60. This is not explicitly stated, but nevertheless clear: (1) there is no hint that ethos and pathos are discarded again after their emphatic introduction in 310-312; (2) *Rhet. Her.* 3,18 concerns the part *argumentatio*, *De or.* 2,313-314 the whole speech: contrast *statim re narrata* there with 2,313 *statim ut dici coepta est* (cf. also *quam celerrime; initio ... in reliqua causa; 314 in oratione; ad perorandum*).

61. Cf. also p. 90-91.

62. Antonius is not this specific, but *hisce omnibus* (!) *rebus consideratis* must, in view of all other references to a sensible sequence of working, refer not only to what immediately precedes, but to invention also.

logue⁶³, is here put in the limelight, because Antonius introduces it after, and thus outside, the conventional fourfold scheme⁶⁴.

From these points it might seem that the *pisteis* are consistently, and clearly, taken account of. The part most similar to standard rules (2,321-323), however, is much less successful in this respect, for it presents two problems. First, *ethos* is not explicitly mentioned, neither outside the fourfold scheme in 321-323 as *pathos* is, nor inside it. It is only, implicitly, present in the rules concerning the first two divisions of the scheme, the points to be derived 'from the defendant' and 'from the opponent' (321):

ex reo ... quae significant bonum virum, quae liberalem, quae calamitosum, quae misericordia dignum, quae valeant contra falsam criminationem; ex adversario < rursum > isdem ex locis fere contraria.

The subjects to be derived from the defendant are those that show him to be a good man, to be generous, to be in a sorry plight, to be deserving of pity, those that may help in demolishing a false incrimination; those from the opponent, on the other hand, are for the most part contrary to these, and derived from the same points.

The reason for the absence of an explicit reference to *ethos* is not hard to find: as is clear from the treatment of *ethos* itself (2,182-184), such a reference would no doubt have involved the use of the word *benevolentia* ('goodwill'). Such a description of *ethos*, with a term familiar to the reader as a standard category of the prologue in school rhetoric, might have suggested that *ethos* was to be identified with the prologue, which is contrary to Cicero's intentions. But although this confusion has been avoided, the absence of *ethos* as such does not make for clarity either. Moreover, the term *benevolentia* could, apparently, not be totally avoided, for it is used in the fourth division of the scheme, the points to be derived 'from the audience'⁶⁵.

63. Cf. p. 97-98.

64. If only the content is taken into account, 2,324 might be thought to continue the fourth division of 321-323, *ex iis ... apud quos agetur* (322); but that has been brought to a close by the *praeritio* in 323, *nam et ...*, and *maxima autem copia principiorum* clearly marks the beginning of a separate subject. (Why Courbaud [note at 2,324] should think that *ex iis locis ...* refers to 2,114-152, I cannot understand.)

65. In Cicero the triad *benevolos/attentos/dociles facere* is thus subordinate to the category *ab iudicum persona*, and as such to the division into *ab nostra/adversariorum/iudicum persona/a causa* (for these terms cf. *Inv.* 1,22-23 and *Rhet. Her.* 1,6-8); this corresponds to Aristotle's classification (*Rhet.* 3,14,7: 15a25-b4 - although the structure of §§ 7-11: 15a25-b27 is not wholly clear). In *Inv.* and *Rhet. Her.* (Ilcc.) the relationship of the two divisions is reversed, the second being subordinate to *benevolos facere* (Hermagoras' classification is unknown: the contrary arguments of Thiele [o.c. above p. 89 n. 42: 114] and Matthes [1958: 194] are both indecisive). This does not, however, mean that Cicero took his classification from Aristotle, for the relationship between the two divisions varied: e.g., Quint. 4,1,5-7 is like *Inv.* and *Rhet. Her.*, in Dion. Hal. *Lysias* 17,2-4 (p 28,1-11 U.-R.) only the second division is (loosely) used, and in Anon. Seg. 7 and 9-18 (353-356

The second problem concerns the distinction between *patronus* and *cliens*. The fact that Antonius uses the description 'from the defendant' (*ex reo*) for the first of the four heads, instead of 'from our own person' (*ab nostra persona*), used in school rhetoric (§ 3.6), shows that Cicero was aware of this distinction, which is confirmed elsewhere, especially in the sections on *ethos* (§ 7.2⁶⁶). In the rules of 2,321-323, however, the *patronus* is nowhere to be found. The reason is obscure⁶⁷: Cicero can hardly have meant that (*ethos* of) the *patronus* should play no part in a prologue - in his first famous speech, for example, *Pro Roscio Amerino*, he had started by making capital out of introducing himself⁶⁸. In short, the point is unclear.

These two problems mean that 2,321-323 is not well in line with the rest of invention and disposition. Its main difference with the conventional rules of school rhetoric is the emphatic rejection of the need for the standard rule that the audience should be made attentive and receptive (*attentum ... et docilem*). This, Antonius says (323), is actually much easier in the prologue than in the rest of the speech. This polemic (which resembles Aristotle's⁶⁹) shows that Cicero intends to leave no doubts about his position with regard to school rhetoric. This very intention, however, is probably the cause of the two unclarities just analysed. In a technical passage like this, Cicero's ambitious aims are difficult to realize simultaneously: keeping standard rules as a 'frame of reference'⁷⁰, criticizing them, and giving his own coherent view, and all this within a very short space and without entering into too much technical detail.

The inaccuracies at the conceptual level, however, are not very significant on the "rhetorical" level, for the reader can hardly go astray: the passage is quite short (2,321-323), and the concept of the *pisteis*, as well as the emphasis on a sequence of stages in handling the material of a case, is clearly brought to the fore in what precedes and in what follows. Moreover, the polemic against school rhetoric keeps the inconsistencies somewhat in the background. Therefore, despite the obscurities of these three technical sections, the passage on the prologue as a whole cannot have left many readers in doubt about the essentials of Cicero's

Sp.-H.) the divisions are mentioned side by side; cf. also *Rhet. Her.* 3,11-12 (about the epideictic branch).

66. See especially p. 232.

67. Of the four heads, only the fourth, 'from the audience' (for which, as has just been remarked, the term *benevolentia* is employed), may be meant to include (*ethos* of) the *patronus*. If it is, this is not made clear.

68. Inferences about Cicero's rhetorical theories from his oratorical practice are dangerous in general, but not in this case, where there is also support from his theoretical recognition of the distinction between *patronus* and *cliens*. Cf. also (e.g.) the prologue of *Pro Murena*, where Cicero uses his authority as a consul.

69. Above p. 116.

70. See above p. 197.

views.

The passage on the narration (2,326-330) consists almost wholly of comments on the standard rules⁷¹. The lack of a firm connection with the *pisteis* is therefore neither surprising nor confusing. The comment on the rule that demands brevity, moreover, is in accordance with the tone of what precedes: the demand is in fact all but rejected, because brevity 'destroys the quality most important for a narration, that it should be entertaining and designed to persuade' (326: *eam virtutem, quae narrationis est maxima, ut iucunda et ad persuadendum accommodata sit, tollit*).

But there is a divergence from school rhetoric in the passage on disposition that is even more conspicuous than the others: the omission of almost all that may still have been said about the part of the speech *argumentatio*. After the treatment of arguments under invention and that of *krisis* and *diairesis* earlier under disposition, there would not have been very much to say, but the passage is short even then: it is over after only one section (2,331)⁷². This shortness is in marked contrast with the length of the treatment in *De inventione* and *Rhetorica ad Herennium*: in the contaminated system⁷³ it includes the complete theory of rational argumentation and all the lists of *topoi*⁷⁴. This difference cannot have escaped Cicero's readers, and the passage, because of its very shortness, is a strong reminder of the principles adopted by Antonius.

The passage on the epilogue, which mentions emotional appeal as its proper function⁷⁵, is even shorter (2,332). This also serves to stress the contrast with school rhetoric, now not only with the contaminated but also with the uncontaminated version. Since ethos and pathos were not separately treated, all handbooks must, like *De inventione* and the *Rhetorica ad Herennium*, have given the rules for arousing pity and hatred in their discussion of the epilogue⁷⁶. The total absence of this from *De oratore* is an eloquently tacit reference to the fact that such rules have been given under invention, and have been firmly tied to that stage of handling the material of a case. Antonius' final sentence on the epilogue is:

71. The framework of the passage is formed by the three qualities commonly prescribed for a narration, brevity, plausibility and clarity (2,326-328; 328; 329). 330 may be compared to *Inv.* 1,30 and *Rhet. Her.* 3,17.

72. The first sentence of 2,331 mentions, in non-technical terms, the *propositio* (cf. *Inv.* 1,31 and *Rhet. Her.* 1,17 [the first part of the *partitio/divisio*], and cf. Quint. 4,4 and 4,5).

73. Also in the handbooks based on the parts of the speech only.

74. About the place of the *topoi* in *Inv.* 2 see p. 87 n. 39.

75. The *enumeratio* (cf. p. 98) is left out, probably because self-evident.

76. This is clear in the case of the contaminated system (and the one based on the parts only); for the uncontaminated one cf. Scheme 2 on p. 86. On the rules for the epilogue p. 98.

omniaque cum superioribus orationis locis tum maxime extremo ad mentes iudicum quam maxime permovendas et ad utilitatem nostram vocandas conferenda sunt.

And everything, both in the preceding sections of the speech and especially in the last one, should be aimed at affecting the judges' minds as much as possible and at thus bringing them to a point of view that is to our advantage.

Thus his last statement on disposition⁷⁷ once more emphasizes the approach characteristic of *De oratore*: pathos, although its most typical place is indeed the epilogue, should also be used elsewhere.

All in all, the passage on disposition is for the most part in complete harmony with the principle of the *pisteis* and the ensuing relationship between invention and disposition. (This was quite different in Aristotle, which shows how different in nature the two works are!) The short technical portion of the discussion of the prologue is obscure in this respect, which is probably mainly due to the polemic with school rhetoric. The rest, however, contains so many explicit and implicit references to the principles adopted earlier, that no real difficulty results. Through the conspicuous brevity of the discussions of the last two standard parts of the speech, *argumentatio* and epilogue, the passage ends by putting these principles in the limelight once more.

6.5 The *Pisteis* and the Three Styles from *Orator*

The meaning of the three *pisteis* in *De oratore* is often obscured by an inexact comparison to *Brutus* and *Orator*. In the two latter works, both written in 46, an orator is said to have three tasks to perform: *probare* or *docere*; *delectare*; and *movere* or *flectere* ('to prove' or 'to teach'; 'to charm, please'; and 'to move' or 'to influence'). These are called *officia oratoris* ('tasks, functions of an orator' - not to be confused with the set of *officia* consisting of invention, disposition, etc.). In *Orator*, Cicero's last major rhetorical treatise, his probably best-known rhetorical theory is formulated: these three tasks are linked with the three well-known styles, the plain, the middle and the grand style (*genus tenue*, *genus medium* and *genus grande*). It is common to equate these three tasks with the three *pisteis* of *De oratore*, which Cicero often refers to⁷⁸ by *docere*, *conciliare*, *movere* ('to

77. The statement is much like 2,311-312.

78. These designations for the *pisteis* are, however, not to be taken as technical terms: below p. 235 about *conciliare*, p. 236 about pathos.

teach, to conciliate, to move')⁷⁹. It is the aim of this section to show that this is a mistake, since however striking the resemblance between the two divisions, the difference between them is essential.

I will first describe the difference in function between the two divisions; then give a number of arguments to show that they should be kept apart; and finally, assess their mutual relationship. It deserves some stress that the purpose of all this is an analysis of Cicero's ideas, and that my arguments are based on these ideas, as found in his works, not on any theory about the history of the concept of the three styles. A delineation of this history should take account of the difference between *pisteis* and tasks that is, as described below, to be found in Cicero's texts. The reverse procedure is to be rejected.

The functions of the divisions in *De oratore* on the one hand and in *Orator* and *Brutus* on the other are completely different⁸⁰. The three *pisteis* are a subdivision of invention, *probare-delectare-movere* belong to the analysis of style or, especially in *Brutus*, to the evaluation of the performance, as a whole, of individual orators. Accordingly, the latter are called *officia oratoris*, 'tasks of an orator'⁸¹, but the former are never so designated⁸², and could not be: rational arguments, ethos and pathos are means to persuade the audience, and are referred to by expressions like *eas tres res, quae ad fidem faciendam solae valent* ('the only three things that serve for inducing belief')⁸³. The division in *De oratore* is concerned primarily with content⁸⁴, that in *Orator* with style and its effect on the audience.

In view of the structure of books 2 and 3 of *De oratore*, which is based upon

79. The equation is found, among many others, in W. ad *De or.* 2,115, Kroll (1940: 1101), Solmsen (1941: 178-179 [with n. 89]), Douglas (1957b: 24-25), Quadlbauer (1958: 62, 80, 90, notwithstanding his p. 86), Brink (1963: 83, a rather inaccurate passage), Leeman (1963: 119), Kennedy (1972: 207, 248, 255, 258 with n. 140; 1980: 80-81, 100), Fantham (1973: 273-275), L.-P. (I: 63, where the equation is implicit; III: ad 2,115), Gill (1984: 156); but it is conspicuously absent in Spengel (1852: 481). The difference between *conciliare* and *delectare* (see below) is recognized by Kroll ad *Brut.* 185, Michel (1960: 155-156) and Schottländer (1967: 136-137), but none of them makes a distinction between *pisteis* and tasks.

80. Surprisingly, this is not noticed in any of the literature I have seen. Konrad Adam, *Docere - delectare - movere. Zur poetischen und rhetorischen Theorie über Aufgaben und Wirkung der Literatur* (Diss. Kiel, 1971): 109 n. 12 even goes so far as to characterize *De or.* 2,182-184 as 'Theorie des genus medium'.

81. *Brut.* 197; 198; *Orat.* 69.

82. The word *officium* occurs only once in the passage on ethos and pathos: 2,192 *fides, officium, diligentia*, where the meaning is different. In the whole of Cicero's rhetorical works, except at the three places mentioned n. 81, it either concerns the definition of an orator (e.g. *De or.* 1,82 *de officio et de ratione oratoris disputabat*), or moral or social obligations (as in 2,192 just quoted).

83. *De or.* 2,121; the other descriptions are in 2,115; 128-129; 310; 3,104; cf. also 2,292, and the wording in 2,182; 212; 216; 291. (Other passages concerning the three *pisteis* contain no descriptions.)

84. See below p. 215-216 ('Thirdly ...').

invention, disposition, etc., this difference in function is important, and can hardly have escaped ancient readers. Nevertheless, this is not enough to show that the difference is essential, for it does allow the assumption that the two divisions are only two manifestations of one and the same concept, approached from the side of content and from that of style. In that case the difference in function would only be one of emphasis, reflecting Cicero's shift of interest, between 55 and 46, to questions of style, caused by his controversy with his Atticist critics. Such a view is of course encouraged by the identity, or rather, as will be argued below, virtual identity, of the terms used for two of the elements of both divisions, *probare/docere* and *movere/flectere*.

It has frequently been observed that the three styles, which are connected with the three tasks in *Orator*, only play a minor part in *De oratore*⁸⁵, and are not in any way connected with the three *pisteis*⁸⁶. Although this is an important observation, it provides no argument for a real difference between *pisteis* and tasks, since it might reflect the difference in function only. The following arguments, however, do show that the difference is more essential than one of function alone.

The first argument is based on *Orator*. This is of some importance, because it seems reasonable that those who suppose that the *pisteis* and the tasks are merely variants of one division, must regard this work as reflecting Cicero's final views about it. In *Orator*, the division into tasks, *probare-delectare-flectere*, is quite important⁸⁷, but it has not supplanted that into arguments, ethos and pathos. To be sure, the short passage on invention (44-49) only treats rational arguments, and the three *pisteis* from *De oratore* are therefore not incorporated as such. But ethos and pathos are separately discussed in 128-133, and no connection with the tasks that might be thought to correspond to them, *delectare* and *flectere*, is

85. They are only mentioned 3,177; 199; 212, and where they are made part of a system (3,210-212), Cicero avoids absolute terms and uses comparatives (3,212 *figurarum orationis plenioris et tenuioris et item illius mediocris*). The shortness of the treatment may be considered 'as a playing down of something conventionally important in rhetoric' (Elaine Fantham, 'On the Use of *genus-Terminology* in Cicero's Rhetorical Works', *Hermes* 107, 1979, 441-459: 449-450 [cf. 445-446]); cf. also Hendrickson (o.c. above p. 173 n. 38: 271). Kennedy's contention (1963: 280) that in 3,212 'the three styles are ... associated with kinds of oratory' is misleading.

86. Thus Douglas (1957b: 24-25), Quadlbauer (1958: 84 with n. 219; cf. 86 with n. 233: the fact that the middle style has not yet acquired its own characteristic of *suavitas*, as it has in *Orat.*, also shows that it cannot then have been connected with a special function). Adam (o.c. above n. 80: 108 n. 11, cf. above n. 80) flatly denies this lack of connection. *De or.* 2,129 might, in retrospect, be considered as a hint of a connection between *pisteis* and styles, but this is certainly not meant to be an absolute one: *harum trium partium prima* (i.e. ethos) *lenitatem orationis, secunda* (i.e. arguments) *acumen, tertia* (i.e. pathos) *vim desiderat* (Douglas 1973: 118 n. 62 judges the passage similarly; about Dihle's analysis cf. above n. 38).

87. *Orat.* 69-112, especially 69; cf. also 20-21; 63; 65.

made or implied, nor are the middle and the grand style mentioned⁸⁸.

In the second place, the term *delectare* is not compatible with *ethos*⁸⁹. Its meaning is 'to give pleasure'⁹⁰, and in *Orator* this concerns aesthetic pleasure, which is very different from *ethos*⁹¹. In fact, none of the elements mentioned in *De oratore* 2,182-184, where this means of persuasion is discussed, can be associated with it; I only mention *valet ... multum ad vincendum probari mores et instituta et facta et vitam* (2,182: 'it is a very important contribution to winning a case that approval should be given to character, habits, deeds and life ...'); and *conciliare* ('to render favourably disposed'), which is often taken as the term most characteristic of *ethos*⁹²: both are quite different from giving aesthetic pleasure.

An important point is that these two arguments reinforce each other. In *Orator*, the word *conciliare* is rare, and is nowhere used as a synonym for *delectare*. This is of course not remarkable in itself, but it is noteworthy that it does occur at the very place where *ethos* is touched upon⁹³: (128) ... ἠθικὸν ... *come, iucundum, ad benevolentiam conciliandam paratum* ('... the "ethical" element ... is good-natured, pleasant, and aimed at winning goodwill').

Thirdly, if we look at the terms in *De oratore* 2,182-184 that may refer to style (besides to content, delivery, general tone, etc.)⁹⁴, *ethos* turns out to be described in terms two of which are, indeed, characteristic of the middle style (*placidus, suavis*)⁹⁵, but one of which, *summissus*, is very closely associated with

88. Gill (1984: 156) (among others) thinks that in *Orat.* 128-133 *ethos* and *pathos* are associated with the middle and grand styles. But no such association is explicitly made, and in view of the explicitness of all other references to the three tasks and styles, none can be meant. Cf. also 120, where *delectatio* is different from *auctoritas* (which may be regarded as part of *ethos*).

89. Cf. Schottländer (1967: 136-137); the difference between *delectare* and *conciliare* is also noticed by Kroll and Michel (above n. 79).

90. Cf. its frequent connection with *voluptas*, e.g. *De or.* 3,25; *Brut.* 188; 276.

91. I.e., different from *ethos* in all its versions (as described § 1.2).

92. It is often even, wrongly, taken as a technical term: below p. 235.

93. It occurs twice elsewhere in *Orat.*, in 122 and 162.

94. Content, delivery and general tone are certainly also referred to by these terms: below p. 230-231. Note that the phrase *genus dicendi*, used in *De or.* 2,213 to refer to *ethos* and *pathos*, is not a technical term denoting 'style', not in *De or.* (e.g. 2,365), but not even in *Orat.*; cf. Fantham (o.c. above n. 85).

95. *placida*: 2,183; the word is used in *Orat.* 92 to describe the middle style (*oratio ... sedate placideque liquitur [labitur?]*), but it is no technical term: its only other occurrence in Cicero's rhetorical works concerns delivery (*Brut.* 276). *suaviter*: 2,184; cf. *Brut.* 276; *Orat.* 69; 91; 92 (cf. Mamoojee 1981: 230).

Other terms used in the sections on *ethos* are stylistically unspecific: (1) *lenitas* (2,182; 212)/*lenis* (183; 184; 211; 212) is used in Quintilian 12,10,59-60 to denote the middle style, but in *De or.* 3,28 and in *Brut.* 317 it characterizes Laelius and Cotta respectively, both of whom spoke in the plain style (*Brut.* 86-89, cf. Quint. 12,10,39; and *Brut.* 201, 317 [see the other terms used], *De or.* 3,31); and in *Orat.* 56 and *De or.* 2,211 it is coupled with *summissus* (see next note); (2) *verborum comitas* (2,182) primarily concerns the expression of character by (the pronunciation of?) words, not a specific style; cf. *TLL* s.v. *comitas* 1792, 19ff., where *Brut.* 132 is a comparable instance, but where none of the (few) occurrences betrays a technical term; cf. also *TLL* s.v.

the plain style⁹⁶. Obviously, then, these words are not used with a technical, stylistic meaning here, and ethos is not connected with one style.

A fourth argument can be deduced from *De oratore* 3,104-105, a passage that is better treated below⁹⁷.

Because the two divisions are fundamentally different but still remarkably similar, it may be useful to go into their relationship somewhat deeper. In order to do this, I will first analyse the relationship between the three styles and the three *pisteis* as it can be inferred from *De oratore*, and then compare this with the description in *Orator*. In the course of these analyses some connections will have to be assumed that are not found as such in Cicero's texts, especially because, as has been remarked just now, the three styles are unimportant in *De oratore*. The picture that will emerge is, therefore, not to be taken as an interpretation of his writings, but as a sketch of some consequences of his views, mainly aimed at clarification of what he does say.

The most direct connections between *pisteis* and styles are, of course, between rational arguments and the plain style, ethos and the middle style, and pathos and the grand style. They represent, it seems, the most natural styles for each of the three *pisteis*. From the description of pathos in *De oratore* 2 it is clear that, in Cicero's view⁹⁸, the grand style is in fact the only style that fits this means of persuasion: in 188, for example, an emotional passage in one of Crassus' speeches is said to have contained 'a flow of the most grand and very best words' (*flumen gravissimorum optimorumque verborum*)⁹⁹.

As for ethos, the second and third arguments given above illustrate that *delectare* is stylistically more restricted than ethos: the favourable description of

comis 1786, 65ff., which yields the same conclusion (cf. especially *Orat.* 128 [ethos] and *De or.* 1,35 [L.-P. ad loc.]).

96. *summissa*: 2,183; 211; in *De or.* it occurs twice elsewhere: 2,115; 3,212 *alias contentius, alias summissius*; and in the other rhetorical works only in *Orat.*, 10 times, of which 6 directly concern the plain style (72; 76; 82; 90; 99; 101), 3 indirectly (26; 91 bis), and 1 concerns ("plain") content. Cf. also *summissio* (*Orat.* 85), *demissus* (*Orat.* 81; 196; cf. *De or.* 2,182; 3,218; and cf. *Rhet. Her.* 4,11; 13; 14), and *remissus* (though this is, again, often not used to denote style alone) (e.g. *De or.* 2,95; 193; *Brut.* 317, about Cotta, cf. prev. note; *Orat.* 59; cf. *remissio* *De or.* 2,212; 3,227; already in *Rhet. Her.*: 3,23 *sermo est oratio remissa* ...).

97. Below p. 217-218. A fifth argument may be derived from the shift in terminology in *Orat.* as compared to *Brut.*, described below p. 219-220.

98. Views as to the relationship of pathos and style differed: *De sublimitate* gives an example of silence as 'high' and emotional (*De subl.* 9,2 ἡ τοῦ Αἰαντος ἐν Νεκύῃσιν σωπὴ μέγα καὶ παντὸς ἐψηλότερον λόγου). See Quadlbauer (1958) (whose account, however, seems open to objections).

99. Cf. also 2,183 *fortis oratio*; 190-191; 196; 197 *vi et dolore et ardore animi*; 2,211 *haec (sc. pars orationis), quae suscipitur ab oratore ad commutandos animos atque omni ratione flectendos, intenta ac vehemens esse debet*; 212; and the style in which Antonius "imitates" his speech in the case of Norbanus in 2,199-200 (below § 8.4, pp. 272; 276; 281).

the characters of speaker and client can be in the plain and in the middle style. In the second case, the pleasant effect of the style contributes especially to ethos of the pleader: *tantum ... efficitur sensu quodam ac ratione dicendi, ut quasi mores oratoris effingat oratio* (2,184: 'the effect of a certain taste and subtleness in a speech is so strong as to mould, so to speak, an image of the character of the orator'). The grand style is not appropriate for ethos, as is especially clear from 2,183, where ethos is contrasted with the more vehement tone of pathos¹⁰⁰; if a life is described in the grand style, provided it is done well, it will no doubt evoke emotions like *amor* ("love": 'fervent partiality')¹⁰¹.

So the style of pathos can only be grand, that of ethos either plain or middle. The passage on *ornatus* ('ornateness') contains a clue to the styles appropriate for rational arguments. In 3,104-105 Crassus says:

summa autem laus eloquentiae est amplificare rem ornando, quod valet non solum ad augendum aliquid et tollendum altius dicendo, sed etiam ad extenuandum atque abiciendum. id desideratur omnibus iis in locis, quos ad fidem orationis faciendam adhiberi dixit Antonius, vel cum explanamus aliquid vel cum conciliamus animos vel cum concitamus. (105) sed in hoc, quod postremum dixi, amplificatio potest plurimum, ...

But the highest excellence of eloquence is to amplify something by ornatness. This is capable not only of magnifying things and of raising them, by the speech, to a higher level, but also of minimizing and lowering them. This technique is required in all elements that, as Antonius has said, are employed in order to induce belief in a speech: whether we expound something, or conciliate the judges' minds, or excite them. But in the activity I named last, amplification has the greatest power ...

Here, at the only point in book 3 where the *pisteis* are recalled, amplification is said to be appropriate to all three, even if it is most powerful in the case of pathos. Furthermore, it is linked with *ornatus* ('ornateness'). This quality, though of course alien to the plain style, is not restricted to the grand, but also has its place in the middle style¹⁰². This indicates that rational arguments can, when amplified, be expressed in the middle or grand style¹⁰³. One may think of dressing up arguments by repetitions, paraphrases and other "figures of speech", and by introducing *theseis* ('general questions'), which is, as Crassus goes on to describe,

100. See also the rest of 2,182-184; 2,129; 200; 211; 212; 216.

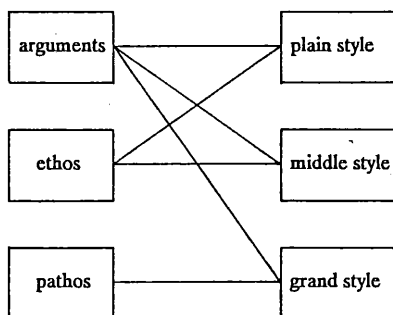
101. Cf. 2,206 (below p. 285); on the meaning of *amor* p. 284.

102. Not in the plain style: *Orat.* 79. Middle style: *Orat.* 92; 95-96. Cf. the three ways of amplification by *loci communes* in *De or.* 3,106-107: the first two seem to require the grand style, but the third one is the treatment of *theseis*, which seems to permit the middle style also. On amplification see especially Barwick (1963: 48-51).

103. From the passage it follows that ethos can also be amplified. Note, however, that because amplification also includes the middle style, the conclusion drawn above, about the restriction of ethos to plain or middle style, is not affected by this.

one of the ways of amplification¹⁰⁴.

The results of these considerations may be summarized in the following scheme:



Approximation of the relationship *pisteis*-styles in *De or.*

The scheme is complete as far as passages are concerned that are purely argumentative, purely "ethical", or purely aimed at arousing emotions. However, the employment of the grand style for arguments will often, though not invariably, also involve pathos. Such a combination of *pisteis* in one passage of a speech is actually recognized in *De oratore*: in 2,310, quoted earlier (p. 206), Antonius says that the whole speech must seem to instruct only, but that ethos and pathos 'must, even as blood in the body, flow throughout the whole of the speech'. The combinations implied by this are arguments with ethos, and arguments with pathos. Since, as indicated above and as repeatedly stated in *De oratore* 2,182-216, ethos and pathos cannot be combined¹⁰⁵, these combinations are the only possible ones. And although it is, again, not specified in the text, the style of a passage based on arguments and ethos will be plain or middle, that of one containing arguments and pathos grand.

With these two additions to the scheme given above, all possibilities of coupling styles and *pisteis* as implied in *De oratore* seem to be determined.

Finally, an assessment of the doctrine found in *Brutus* and especially *Orator* may complete the picture. The three tasks, found already in the first of these works, are connected with the styles in the second one. Since *docere* and *movere* are words with a strong association of a definite content, namely rational arguments and emotional appeal, a coupling between content and style may be thought to be suggested, in spite of the essential difference Cicero makes between *pisteis* and

104. 3,107; cf. 108-119.

105. Above: p. 217. About the relationship between ethos and pathos cf. § 7.4.

tasks. In fact, however, such a suggestion cannot have been Cicero's aim. This appears not only from the first two arguments given above¹⁰⁶, but also from the slight difference in terminology employed in *Brutus* and *Orator*.

In *Brutus*, where definite style types are far less often referred to than the three tasks¹⁰⁷, and where no connection between styles and tasks is made, the first task is referred to by *docere* (not *probare*), the second by *delectare*, and the third by *movere* and *flectere*¹⁰⁸. In *Orator*, however, where the three tasks are coupled to the three styles, the first task is designated not by *docere* but by *probare*¹⁰⁹, and the third not by *movere* (or compounds), but by *flectere*¹¹⁰. These new terms are broader than the old ones: *probare* means 'to win approval for' in general, and is thus not exclusively bound up with rational arguments¹¹¹; and *flectere*, 'to influence', is, though primarily, not exclusively associated with emotions¹¹². So in the work where he couples the styles to the tasks, Cicero seems to loosen the connection between tasks and content.

If pressed, this shift in terminology in *Orator* as compared to *Brutus* means that the scheme as presented in *Orator* is more like the one in *De oratore* than it would at first sight appear. The change can, indeed, hardly be coincidental, and it seems certain that Cicero consciously adopted terms slightly different in order to avoid coupling style and content too closely. (To achieve this, the term

106. p. 214-215.

107. In *Brut.* 35, which is sometimes said to refer to two styles (Douglas 1957b: 23 [where read 35 for 36]), two extremes may be meant; only in 201 (Douglas l.c.) two and only two styles are explicitly postulated (*quoniam ergo oratorum bonorum ... duo genera sunt, unum attenuate pressequ, alterum sublate ampleque dicentium ...*). In 37-38 the contrast *suavis - gravis* suggests, but again does not really mention, the middle and grand styles. After the central digression, 183-200, the three tasks are prominent. On the use of *genus dicendi* and related terms in *Brut.* cf. Fantham (o.c. above n.85: 446-452).

108. *docere Brut.* 185; 276 (cf. also 89; 200); *delectare* 185; 188; 276 (and 37; 82; cf. the description in 200); the third task is designated by *movere*, or otherwise coupled with emotional appeal, in 185; 188; 200; 276 (cf. 37; 82; 89), *flectere* is used only in 202 (*cum contentione orationis flectere animos iudicum vix posset*) and 279 (*inflammare animos audientium et quocumque res postulat modo flectere*).

109. Of the 22 times *docere* occurs in *Orat.*, only § 20 connects *docere* with plain style speakers, and that in a non-committal way: *et contra tenues, acuti, omnia docentes et dilucidiora, non ampliora facientes, subtili quadam et pressa oratione limati*; ... As for *probare*, this occurs three times in § 69, where the tasks are presented and coupled to the styles; its broad meaning is clear from, e.g., *De or.* 2, 182.

110. *flectere: Orat.* 69 (thrice), cf. 125. As for *movere* etc.: (a) *permovere* (3 occurrences in *Orat.*) is used twice in connection with the grand style, but only in combination with more neutral terms (20 *ad permovendos et convertendos animos instructi et parati*; 97 *huius eloquentiae est tractare animos, huius omni modo permovere*), and once in the separate section on pathos (131); (b) *movere* (8 times) only in 55 concerns the emotions of the audience, but this section is about the voice and is not connected with the three tasks; (c) *commovere* (3 times) occurs in that same section 55, and twice without a reference to the audience's emotions (39; 177); (d) all other compounds are irrelevant: *amoveo* (158), *summoveo* (158), *admoveo* (55), *removeo* (5; 78; 183; 207; 208).

111. Schottländer (1967: 135-136) describes the difference somewhat differently.

112. Cf. Schottländer (1967: 133-134).

delectare for the task connected with the middle style, having no specific associations of content, did not need to be changed.) On the other hand, this objective is nowhere explicitly formulated. It is, in fact, not even hinted at. Cicero has, therefore, made no effort to clarify the point to his readers, very probably because this would have obscured the discussion, the purpose of which was very different: the defence of his own stylistic ideal.

These same conflicting tendencies, that is, the wish to be precise and, at the same time, the wish to avoid forcing this precision upon his readers and distracting them from the main points of the discussion, seem to be reflected in the handling of *ethos* and *pathos* in *Orator* discussed above¹¹³. Although Cicero does mention them, without coupling them to styles or tasks, the systematic approach found in *De oratore* is abandoned, for they are not treated as parts of invention: this would have forced him to enlarge upon the complicated relationships between *pisteis* and styles. As a result of this concession, the very short treatment of invention (44-49) only concerns rational arguments, as in school rhetoric¹¹⁴.

Because Cicero does not himself refer to the replacement of *docere* and *movere* by *probare* and *flectere*, his readers will no doubt have missed this point and have coupled style and content. This is a simplification as compared to *De oratore*. It seems probable that the confusion (if it may be so called) to which the following statement of Quintilian testifies is at least partly due to Cicero (Quint. 12,10,59):

... tertium illud (i.e. the middle style) ... delectandi sive, ut alii dicunt, conciliandi praestare videatur officium.

... this third, middle, style, seems to fulfil the task of charming or, as others say, of conciliating.

It is to be noted that, just before this, Quintilian associates the plain style with *docere* (not *probare*), and the grand with *movere* (not *flectere*) - precisely the terms avoided by Cicero in *Orator*!

The subsequent history of the tasks, the *pisteis* and the styles, however, is far beyond the scope of this book, as is a more exact evaluation of the development of Cicero's own ideas between *De oratore* and *Orator*¹¹⁵.

113. p. 214-215. Cf. also p. 210-211 about 2,321-323.

114. Cicero does, however, preserve his approach of abstract *topoi* (cf. § 4.4, and p. 95), and, as in *De or.*, also connects them with *theses* and in *utramque partem dicere*.

115. Cf. Douglas (1957b): although some adjustments seem necessary, mainly in view of the distinction between *pisteis* and tasks advocated here, his main thesis seems correct: the coupling of tasks and styles is an innovation made by Cicero himself (Dihle's argument for the same conclusion, however, is wrong: cf. above n. 38; Adam's rejection of Douglas' analysis, o.c. above n. 80: 108 n. 11, is based on utter confusion).

6.6 Summary

In this chapter I have described several aspects of the incorporation of the three *pisteis* in the structure of *De oratore*. One of the means by which Cicero brings this structure to the fore is the polemic with school rhetoric examined in § 6.2. There are two levels to this polemic. Crassus is made to ridicule the rhetoricians' claims that their *ars* and training was sufficient to make a good orator and that no philosophical knowledge was needed, Antonius' censure of the handbooks is on a more technical level. He rejects the contaminated scheme of *officia oratoris* employed in many handbooks, and the standard approach to invention: as for rational arguments, he criticizes the practice of listing concrete *topoi* for every type of case, and gives a system of abstract *topoi* instead; and he criticizes the neglect of ethos and pathos. As for these, he implies that a complete *ars* should contain something like the "rules" he gives, but that, especially in the case of pathos, even such an *ars* is much less important than experience, and than the demand that an orator himself must feel the emotions he wants to arouse in his audience. Crassus' view supplements Antonius' remarks on ethos and pathos in so far, as knowledge of psychology is among the things he claims an orator needs.

In § 6.3 the concept of the three *pisteis* has been shown to be consistently followed as the principle underlying invention. Related to this is the consistent conception of invention as the first stage in handling the material of a case (disposition being the second stage), and as again consisting of a number of subsequent substages itself. Both these characteristics are clearly brought to the fore throughout the passage on invention. The passages following that on disposition are less explicit about them, but this is quite natural: the principles have been emphasized very clearly at the points where this is most essential.

The sections on disposition (2,307-332) have been briefly investigated in § 6.4. Apart from a short passage in the treatment of the prologue (2,321-323), which is not very clear, the principles of the *pisteis* and of a sequence of stages are adhered to. They are, moreover, so clearly emphasized outside this short passage as to preclude any confusion on the part of the reader.

The last section, § 6.5, has been devoted to the widespread mistake of identifying the three *pisteis* with the three *officia* as defined in *Brutus* and *Orator* (*docere/probare*, *delectare*, and *movere/flectere*), and thus with the plain, middle and grand styles. Although the two triads are similar, the differences are essential, and their relationship is rather complicated. The concept of the three styles plays only a negligible part in *De oratore*, and cannot be used in interpreting the concept of the three *pisteis*.

7. ETHOS IN DE ORATORE

Confiteor me non sine lacrimis Tullium nostrum
in Procrustis lectulo damnoso vidisse distentum
et laceratum.

(Joh. Stroux, *De Theophrasti virtutibus dicendi*, 54)

7.1 Introduction; the Problems

After Catulus' expression of surprise and Antonius' mise au point in 2,179-181, the latter begins his exposition by treating ethos, which takes up 182-184. Although he adds something about the handling of ethos later (in 211b-216a), and the case of Norbanus (197-203) also illustrates its importance, this passage contains the essential points. Accordingly, in this chapter I concentrate upon 2,182-184. In what precedes, the triad of the *pisteis* has been thoroughly prepared for (§ 6.3), but only here does the concept of ethos, introduced in 2,114 as 'the element that recommends ourselves or those we are defending' (*commendationem habet nostram aut eorum quos defendimus*), receive its form.

In the discussion, Antonius not only mentions the content of ethos, but indicates the appropriate style and delivery as well. This flexible approach to invention, an *officium* that is, after all, primarily a question of content, has several advantages: the combined treatment of all aspects of ethos (and, later, pathos) contributes to a clear delineation of the concept, and precludes the need for repetitions in the treatments of style and delivery. There can be no doubt, however, that the content is primary, the other aspects derivative: the orator must put his character, his life, etc., and those of his client, in a favourable light; style and delivery are instrumental to this only. Moreover, as has been argued in § 6.5, it is not one definite style that is implied to be appropriate for ethos.

The problems to be treated here are those indicated by the four questions formulated in § 1.2. The next section is about the first of these, the distinction between pleader and client mentioned already in 2,114 (quoted above): although this distinction is taken up immediately in 182, it has recently been maintained¹, on the strength of an analysis of the structure of 182-184, that the distinction is not sustained in what follows. There are, indeed, some problems in the structure of the passage that need clarification, and the first half of § 7.2 is devoted to a philological analysis of 182²; in the second half the structure of 182-184 as a whole is described, and question (iv), about the negative character-drawing of the opponents, is briefly treated.

In sections 7.3 and 7.4 I discuss the related questions (ii) and (iii): what qualities does Cicero comprise under *ethos*, and what is its relationship with *pathos*? The emphasis of § 7.3 is on the former, that of § 7.4 on the latter question, and on giving a coherent picture. The widespread idea that for Cicero *ethos* denotes the gentle emotions will be shown to be wrong, at least if unqualified. In § 7.5, I go beyond interpretation, and try to characterize the difference found between Aristotle and Cicero.

Of the existing literature on the subject, much is of course of a general nature³. Of the more detailed accounts and those concerned with Cicero's concepts, Sattler's is of no help at all, and Schweinfurth-Walla's, which mainly relies on paraphrase, is a rather careless piece of work. Fantham's analysis, though, in contrast, serious and rather influential, has some considerable defects, to be pointed out below. In a recent article, Fortenbaugh adopts Fantham's analysis, but expresses some points more precisely; his remarks are, however, rather speculative in some respects⁴.

One more thing must be stated beforehand. As in the preceding chapters, I will use the designation '*ethos*', even though such a technical term is not to be found in *De oratore*. Since Cicero does distinguish three means of persuasion, this is not incompatible with his ideas, and it helps to avoid the potentially confusing suggestion that one of the designations found in *De oratore* is to be taken as a technical term.

1. Fantham (1973).

2. Non-classicists will want to skip this part (until p. 229).

3. Fundamental: Solmsen (1938) and (1941). Very clear and useful: Kennedy (1968), upon which part of my § 3.6 is based. Gill (1984) is also very useful, but gives few details. May (1988) fruitfully develops Kennedy's approach as regards oratorical practice (cf. May 1981).

4. Sattler (1947); Fantham (1973); Schweinfurth-Walla (1986); Fortenbaugh (1988). Sattler's article has long been the only contribution on the conceptual level, but his fanciful combinations of concepts have little to do with interpretation of the texts he treats (cf. p. 34 n. 120). Fantham's influence: cf. Gill (1984: 157), May (1988: 5), Fortenbaugh (1988).

7.2 The *patronus-cliens* Problem; the Structure of 2,182-184

In the introduction of *ethos* in 2,114, both *patronus* and *cliens* are made mention of, and immediately at the beginning of 182 they are mentioned again. There are, however, some problems in the structure of 182-184, and of 182 in particular, that may seem to indicate that the distinction between these two is not maintained, just as it was neglected in school rhetoric of Cicero's time (§ 3.6). This calls for a detailed analysis of 182. I will first give the text of this rather difficult section, without, however, deciding yet on the textual problem whether the reading of the one family of manuscripts, L, *adiuvant*, or that of the other, M, *adiuvat*, should be preferred:

valet igitur multum ad vincendum probari mores et instituta et facta et vitam et eorum, qui agent causas, et eorum pro quibus, et item improbi adversariorum, animosque eorum apud quos agatur, conciliari quam maxime ad benevolentiam cum erga oratorem tum erga illum, pro quo dicet orator. conciliantur autem animi dignitate hominis, rebus gestis, existimatione vitae; quae facilius ornari possunt, si modo sunt, quam fingi, si nulla sunt. sed haec adiuvat/adiuvant in oratore lenitas vocis, vultus pudoris significatio⁵, verborum comitas; si quid persequere acrius, ut invitatus et coactus facere videare. facilitatis, liberalitatis, mansuetudinis, pietatis, grati animi, non appetentis, non avidi signa proferri⁶ perutile est; eaque omnia quae proborum demissorum, non acrium, non pertinacium, non litigiosorum, non acerborum sunt, valde benevolentiam conciliant abalienantque ab iis, in quibus haec non sunt. itaque eadem sunt in adversarios ex contrario conferenda.

Until *si nulla sunt* there are no real problems. Between them, the two parts of the first sentence introduce the essence of *ethos*, the first part (*valet ... adversariorum*) dealing with the content of this means of persuasion, the second with the desired effect on the audience (*animosque ... conciliari ... pro quo dicet orator*). Since each of these parts mentions *patronus* as well as *cliens*, there can be no doubt that both are now under consideration⁷. So in the next sentence, which emphatically resumes *animos ... conciliari* (*conciliantur autem maxime ...*), the very general *hominis* must include both⁸. The same, then, goes for the subclause *quae ... si nulla sunt*, in which Antonius points out that the necessary qualifications

5. Many editors adopt some change of *lenitas ... comitas*, but there is no reason why this reading of both M and L should be altered. (Fantham's suggestion [1973: 264 n. 3] that 'the three elements of *vox*, *vultus* and *verba* are all necessary', is misguided: Cicero frequently avoids scholastic precision - and why, then, would *gestus* be missing?)

6. On the choice between *proferre* (M) and *proferri* (L) below n. 10.

7. *cum ... tum* presents them as, in principle, equally important (*contra* Schottländer 1967: 133).

8. Kennedy (1968: 434-435) takes it as 'a litigant', without foundation. Fantham (1973: 264) fails to be explicit about this important point. The reference of so general a term as *homo* is of course heavily dependent on the context: elsewhere, it may very well refer to a client only.

may be lacking - in the *patronus* or in the *cliens*⁹.

It is the grammatical structure of the next sentence *sed haec adiuva(n)t ... videare*, and its relationship with the context, that has given rise to a misreading of the whole section by Fantham. I will treat this problem below. It may, however, be observed already that the sentence, whatever it may mean in its context, is about the orator, and that, accordingly, the second person singular is used in the second clause (*persequare, videare*), instead of the impersonal constructions and the generalizing tone of the foregoing sentences.

The construction of what follows is again impersonal (*perutile est*) and then generalizing (*aeque ... conciliant*). This suggests a contrast with *sed ... videare*, a suggestion reinforced by the asyndeton (*facilitatis ...*) and the thematic return to the beginning of the section¹⁰: as above, first the content of *ethos* is mentioned, that is, qualities that should be brought to the fore (*facilitatis ... perutile est*), and then something similar is said, but with the focus on the effect on the audience (*aeque omnia ... conciliant abalienantque ... sunt*). The last sentence quoted refers to the opponents.

If there is indeed a contrast between the last part and the sentence about the orator, it is clear from the return to the beginning of the section that, as in that beginning, both the *patronus* and the *cliens* are taken into account. Thus, the section would be consistent as to the distinction between the two. We must now see if the middle sentence, *sed haec ... videare*, allows this conclusion.

It is its first part that is particularly difficult¹¹:

*sed haec adiuuat/adiuvant in oratore lenitas vocis, vultus pudoris significatio,
verborum comitas;*

There are three problems that must be treated in some detail: (1) the choice between *adiuvat* and *adiuvant*; (2) the reference of *haec*, which may be subject or object if *adiuvant* is read, and is object if *adiuvat* is chosen: if it is object, what does it refer to?; (3) does *sed* indicate a contrast with the preceding *quae ... sunt*, or does it mark the resuming of the main line of thought after a parenthetical *quae ... sunt*? We may take the first of these questions as a starting point.

9. The example of C. Macer shows that they were indeed sometimes lacking in a *patronus*: *Brut.* 238 *huius si vita, si mores, si vultus denique non omnem commendationem ingeni evereret, maius nomen in patronis fuisset* (note the close similarity in wording!).

10. This contrast, and the return to the beginning, is even clearer if, instead of *signa proferre* (M, most eds.), we read *signa proferri* (L, Sutton). Since the contrast will turn out to be essential, I am inclined to do so.

11. About a difficulty regarding the second part cf. n. 32.

Adiuvant, the reading of L, is adopted by most scholars¹². Is *haec*, with this reading, subject, referring forward ('the following attributes are helpful in the pleader: ...'), or is it object ('a mild tone of voice (etc.) in the pleader contribute to *these things*')? Since both constructions with *adiuvare*, with and without object, occur¹³, both alternatives are at first sight admissible. But in the second case the subject of *adiuvant* is formed only by *lenitas vocis ... comitas*, which violates the rule that the predicate should be singular, if the subject is formed by a number of 'inanimate entities'¹⁴. Particularly in Cicero, this rule may be considered an absolute one in cases where the subject follows the predicate, as it would here: in all of the few exceptions there are special reasons for the plural¹⁵. So *haec* must be subject, and one may adapt the punctuation accordingly, as most editors do¹⁶:

12. E.g. P.-H., W., Courbaud, Sutton, Fantham (1973; the text is on her p. 264); -at (M) is read by Friedrich and Kum.

13. With an inanimate object: both with human subject (TLL s.v. 719,46ff.) and with inanimate subject (ib. 720,14ff., e.g. *Rhet. Her.* 4,58; *Verr.* II,2,98). Without object: ib. 720,55ff. (in general), esp. 720,80ff. (with inanimate subject, e.g. *Rhet. Her.* 1,14 *quod neque obest neque adiuvat*).

14. K.-St. 1,49-53; Sz. 433-434; Jules Lebreton, *Études sur la langue et la grammaire de Cicéron* (Paris 1901; repr. Hildesheim: Olms, 1965): 1-9.

15. Cf. Lebreton (l.c. prev. note). If the subjects are abstract, agreement of the verb (or attribute) with the nearest subject, i.e. (in cases like this) the choice of the singular, is 'une règle presque absolue ... on en pourrait citer au moins un millier pour le singulier' (Lebreton: 2). Cicero has 22 exceptions (all listed Lebreton: 4-6); of these, 9 are special cases explained by Lebreton, 10 have the subject preceding the verb/attribute. Only 3 cases with subject following it remain: (1) *Fin.* 5,65 *quae animi affectio ... iustitia dicitur, cui sunt adiunctae pietas, bonitas, liberalitas, benignitas, comitas, quaeque sunt generis eiusdem*; (2) *Tusc.* 4,16 *sub metum ... subiecta sunt pigritia, pudor, terror, timor, pavor, exanimatio, conturbatio, formido*; (3) *N.D.* 2,79 *cumque sint in nobis consilium ratio prudentia*. All three, however, may be explained: in (1) and (2), the subjects form (part of) a subdivision of a *genus* (formally in (2), more informally in (1)), which makes their plurality more essential (cf. also, in (2), the preceding *partes ... plures subiiciuntur*); and in (3) there is probably a deliberate suggestion of personification (as in the preceding case *Mens Fides Virtus Concordia consecratae et publice dedicatae sunt*, cf. 2,61: correctly explained Lebreton: 6 n. 1; the sentence in between is a case of the [a]normal singular, but there personification is absent!).

If the subjects are concrete or partly concrete, partly abstract, the singular is 'de beaucoup la plus fréquente' (Lebreton: 6). Of the 22 exceptions in Cicero (listed Lebreton: 7-9), 20 have the subject preceding the verb (or attribute). The 2 remaining cases are special ones: *Rep.* 6,17 *hunc ut comites consequuntur Veneris alter, alter Mercurii cursus*, where *ut comites* shows that the subjects are personified; and *Off.* 1,104 *suppeditant ... et campus noster et studia venandi honesta exempla ludendi*, where the plural seems inevitable because of the identity of the subjects with the (necessary) plural *exempla*: *suppeditant* must perhaps even be taken as intransitive (cf. *OLD* s.v., 1) (cf. C. Atzert's [3rd] Teubner ed.: *suppeditant* is the reading of one family of MSS., Z, the other family, X, has -at; but, for the reason given here, the singular must be rejected).

It may be noted, moreover, that none of the special reasons applying to the exceptions may be adduced here; and that in none of these exceptions the resulting sentence is syntactically ambiguous, as it would be here.

16. All four eds. mentioned above n. 12; Fantham's semi-colon after *in oratore* (1973: 264) must be a misprint.

sed haec adiuvant in oratore: lenitas vocis, vultus pudoris significatio, verborum comitas;

This leaves the third problem mentioned above, the value of *sed*. The commentaries are silent on this point, most translations are vague¹⁷. Fantham, however, is explicit, and connects it with the preceding subclause *quae ... sunt*: *sed* relates to the problem of the absence, in the *patronus* or in the *cliens*, of the merits mentioned¹⁸, and 'certain qualities in the patron such as *lenitas* of delivery ... and demeanour can compensate for these deficiencies'. In this interpretation, the focus is now wholly on the *patronus*, and Fantham's comment on the rest of the section is probably correct¹⁹: 'We are now discussing the character displayed by the speaker, and the next sentence, *facilitatis ... signa proferre perutile est*, appears to continue this theme. ... Only with the comment on bestowing the corresponding bad qualities on the adversaries, do we realise that *signa proferre* may refer to adducing evidence of the amiable qualities of the client rather than the speaker himself. This means, as Fantham points out²⁰, that the section is very unclear, and even inconsistent, with respect to the distinction between speaker and client.

Apart from the unattractiveness of assuming such an inconsistency, there are two difficulties in this interpretation. First, it must ignore the signals in the text of a contrast between *sed haec ... facere videre* and the following *facilitatis ...*, noticed above²¹. Second, connecting *sed* with the preceding *quae*-clause is a bit peculiar, since this clause is unemphatic: a more emphatic *ea*, or something similar, might have been expected instead of the "relative connection" *quae*²².

One may, while keeping the plural *adiuvant*, consider a different interpretation of *sed*, which is more in keeping with the unemphatic nature of the preceding *quae*-clause. *Sed* is quite frequently used to resume the main line of thought after a parenthesis or digression: a very clear example is *Tusculan Disputations*

17. The value of Sutton's 'But' is unclear to me; Merklin's 'Doch' seems to presuppose the explanation explicitly given by Fantham (see below), since his translation makes *quae ... sunt* an independent sentence; Courbaud, who obviously takes *sed* to be metacommunicative (see below), is an exception.

18. Fantham (1973: 264). In point of fact, she writes '*Sed* relates to the problem of the *defendant* without these merits' [my italics]. But her restriction to the defendant is not supported by arguments, and must be wrong (above p. 224-225). This does not, however, make much difference for her interpretation of what follows.

19. Fantham (1973: 264).

20. Fantham (1973: 266, 272-273).

21. p. 225.

22. Cf. K.-St. 2,319 about the 'Sog. relativischer Anschluss': 'Es versteht sich aber von selbst, dass da, wo auf dem Pronomen ein gewisser Nachdruck liegt, stets das Demonstrativ gesetzt wird'; the same may probably be said about emphasis on the clause as a whole. Regrettably, however, K.-St. offer no evidence for their contention, and no investigations of the problem seem to exist: even Christian Touratier, *La relative. Essai de théorie syntaxique* (Paris: Klincksieck, 1980) does not comment on it (cf. his p. 440-441).

5,63 *sed ut ad Dionysium redeamus* ..., 'but to return to Dionysius, ...'²³. Here, *sed* may have this "metacommunicative" value: *quae* ..., then, is parenthetical, and *sed* resumes the thought of *concilantur autem ... vitae*: 'In any case, the effect of these attributes is enhanced by the following qualities of an orator: a mild tone of voice ...'²⁴. Because, thus, the beginning of the section, with its mention of *patronus* and *cliens*, is resumed, the focus on the pleader is less strong than in the other interpretation of *sed*. The sentence *facilitatis* ... may therefore be interpreted as taking up this beginning, and as referring to both *patronus* and *cliens*, exactly as suggested by the formal contrast, mentioned above, between this sentence and *sed haec ... facere videare*.

This interpretation restores coherence to the passage. There is, however, one serious difficulty in it: in all examples of metacommunicative *sed* I know of²⁵, the resumption of a previous line of thought is not indicated by *sed* alone. Not all examples are as explicit as the above sentence from *Tusculan Disputations*, which contains an extra reference to the subject returned to, but none is as implicit as this case would be²⁶.

In short, the reading *adiuvant* makes *haec* the subject, and allows two interpretations of the *sed*-clause, both of which, however, are not without difficulties.

If *adiuvat*, the reading of the manuscripts of the M-class and some editors²⁷ is chosen, things are different. With *adiuvat*, *haec* is object, and *lenitas vocis ... comitas* is subject, the predicate being singular in accordance with the rule mentioned above²⁸: 'a mild tone of voice (etc.) in the pleader contribute to *these things*'. What does *haec* refer to? It cannot refer to *quae ... sunt* ('contributes to fabricating these qualities'): apart from the lack of emphasis on this clause mentioned above²⁹, this would require *hoc*³⁰. So *haec* refers to *concilantur autem ... vitae*. This provides the support (which is lacking if *adiuvant* is read) for the metacommunicative interpretation of *sed*, and since this interpretation is the most natural one in view of the unemphatic nature of the *quae*-clause, it must be the

23. See OLD s.v. *sed*, 2b; K.-St. 2,76 (cf. also 2,588-589).

24. I have found one parallel for such a use of *sed* after a "relative connection": Hor. *Odes* 4,4,22.

25. Cf. n. 23.

26. In Hor. *Odes* 4,4,22 (above n. 24), the resumption is supported by the fact that the subject of the sentence resumed is also the (explicit) subject of the *sed*-sentence.

27. Cf. n. 12.

28. p. 226.

29. p. 227.

30. Neither can the reference be to the antecedent of *quae* (*dignitate ... vitae*): such a specific reference would result in the odd statement that the presentation of the speaker contributes to, e.g., his or his client's *res gestae*. (I owe this point to Professor Harm Pinkster.)

right one³¹.

Besides removing all grammatical difficulties³², this interpretation, just as the metacommunicative interpretation of *sed* with the other reading *adiuvant*, renders the passage intelligible and coherent. It is also supported by the fact that *adiuvant* is the *lectio difficilior*: for a scribe only taking account of the immediate context, *haec* is the most natural subject with *adiuva(n)t*, so a change of *-at* to *-ant* is easy to explain; a change from *-ant* to *-at* is not³³.

So in 2,182 *adiuvat* should be read, and a translation should be along the following lines³⁴:

Well then, it is a very important contribution to winning a case that approval should be given to the character, the habits, the deeds and the life, both of those who plead the case and of those on whose behalf they plead, and that these characteristics of the opponents are likewise disapproved of; and that the minds of the audience are, as much as possible, won over to feel sympathy towards the orator as well as towards the person the orator is speaking for. Now people's minds are won over by a man's worth, the things he has done, and an evaluation of his life - things easier to embellish if present than to fabricate if totally lacking -; anyhow, the effect of these things is enhanced by a mild tone of voice on the part of the orator, the intimation of restraint by the expression on his face, and kindness in the use of his words: and, if you press some point somewhat vigorously, by seeming to act against your inclination, because you are forced to

31. The phrase from Horace (n. 24; cf. n. 26) is now a very good parallel.

32. One difficulty has remained unmentioned: it regards the second half of the sentence under discussion, *si quid persequere acrius, ut invitus ... videare*: subject-clauses "governed" by *ut* do not occur with (*ad*)*iuvare*. (TLL s.v. *iuvare* has only one case of an *ut*-subject-clause [747,10 = 747,53], from the 6th cent. A.D. TLL s.v. *adiuvare* contains no such cases at all: *ut*-clauses normally have a very different function [723,69ff.]; there are, however, cases with *quod* and *si* [723,82ff.]). The construction may be thought to be more acceptable if *haec* is subject after all, "preparing" for the *ut*-clause. But such cases seem not to exist either (TLL s.v. *iuvare* gives no specific information about constructions with preparatory pronoun [cf. 747,1-2]; s.v. *adiuvare* no cases of preparatory pronoun with *ut*-subject-clause are mentioned and, all told, only one of preparatory pronoun with other subject-clause types: Sen. Contr. ad Pol. 2,1 *illud ... si* - but *si*-clauses occur without preparatory pronoun also). Moreover, the sentence under discussion is a complex one, and we may safely assume an anacoluthon: *De or.* 2,177 provides a very close parallel, *proponi oportet ... et ... ostendere ...* (5 more infinitives); *si cui quid simile dicas, prius ut simile [dicas] confirmes, deinde quod agitur adiungas; ... oculus ...* (*oportet* always governs (acc. cum) inf., cf. TLL s.v. 742,14ff.: the cases with *ut* are all from later writers; thus L.-P. ad loc., whose assumption of a corruption seems not compelling) - note that here also the *ut*-clause is preceded by a *si*-clause! The anacoluthon is made still less harsh because the other subjects, *lenitas vocis* etc., imply actions on the part of the orator, like the *ut*-clause.

33. This is not completely certain: the change from plural to singular seems to have been made in Off. 1,104 (discussed in n. 15).

34. I take *probari* to mean 'to be approved of, *improbari* 'to be disapproved of, the unexpressed agent being the audience. The words themselves can also mean 'to be put in an (un)favourable light', the agent being the speaker (cf. L.-P. ad loc.). But the presence of *eorum, qui agent causas* in the same sentence seems to make another (implicit) reference to the speaker unattractive. (L.-P. prefer the second meaning.)

do so. It is very useful that signs should be given of flexibility, magnanimity, mildness, respectfulness, gratefulness, of not being desirous or greedy; and all things typical of people decent and unassuming, not severe, not obstinate, not litigious, not harsh, really win sympathy, and alienate the audience from such as do not possess them. And these same considerations must likewise be employed to ascribe the opposite qualities to the opponents.

So 2,182 is wholly about favourably characterizing both *patronus* and *cliens* (and blackening the opponents); the function of the short interlude *sed haec adiuvat ... facere videare* ('anyhow ... forced to do so') is to indicate the means for doing this that are available to the orator, apart from the facts, or the alleged facts, he can bring forward. In 183 Antonius states that *ethos* is especially useful in cases where *pathos* may not be used, which he explains by: *non enim semper fortis oratio quaeritur, sed saepe placida summissa lenis* ('for a vigorous speech is not always called for, but frequently a speech that is quiet, low-keyed, and gentle'). The emphasis is here on *oratio*, which, of course, is not 'style', but 'speech' in all its aspects, especially content, style and delivery³⁵. The kind of speech characterized here *maxime commendat reos* ('is effective in recommending clients to the audience'³⁶).

After a parenthetic remark on the use of the word *reus* for every kind of litigant, which puts the focus firmly on the client, 2,184 begins as follows: *horum igitur exprimere mores oratione iustos, integros, religiosos, timidos, perferentes iniuriarum mirum quiddam valet* ('describing, then, their characters in the speech as being just, upright, conscientious towards the gods, subject to fear, and enduring injustice, is enormously valuable'). *Oratio* ('speech') is again a general term, and *exprimere* denotes the 'description' (not 'expression'³⁷) of the clients' characters:

35. Fantham (1973: 266, cf. 273) holds that *oratio* (in 2,183 and 184) refers to style (and delivery) alone, which leads to some confusion. (For an argument, apart from context and common sense, for a reference to 'speech' cf. above p. 215-216, 'Thirdly ...'). Of course, *oratio* may, in certain contexts, refer to style alone (e.g.: *Brut.* 69 *utantur ... sententiarum orationisque formis, quae vocant οχηματα*), but in others it can refer primarily to content (*De or.* 1,83; 2,196; etc.); this double potential is indicated by, e.g., 3,19 *omnis ex re atque verbis constet oratio*, and by 3,53 *in ipsa oratione* and *Orat.* 52 *genus ipsius orationis*, where the addition of *ipsa/ipsius* appears necessary to make *oratio* refer unambiguously to style, and to contrast it with content.

36. Cf. the paraphrase in Gill (1984: 156) 'effective in gaining the audience's trust in the orator's appraisals of character'. Though this is obviously what is meant, the Latin is more direct: this kind of *oratio* 'recommends the clients'. This shows a certain degree of identification between *patronus* and *cliens*. If Fantham (1973: 266) sees 'an amazing degree of identification' [my italics], this is caused by her restriction of *oratio* to style and delivery, and by her misinterpretation of 2,184 *exprimere mores oratione* (see below with n. 37).

37. OLD s.v. *exprimere* 8 couples both meanings, but the difference is essential. (Comparable to our passage is *Arch.* 21 *Mithridaticum ... bellum ... totum ab hoc expressum est*.) Fantham (1973: 273), misinterpreting *oratione* and *exprimere*, again makes a misguided attempt at ridiculing Cicero: 'lenitas of style can ... barely *exprimere mores* of the client, as he seems to maintain in 2,184'. Schweinfurth-Walla's paraphrase (1986: 171) also uses 'auszudrücken'. Contrast Merklin's 'als ... darzustellen'.

Antonius now again concentrates upon content, as in 182, but, in contrast with 182, only with respect to the client. Then the passage on ethos ends as follows:

et hoc vel in principiis vel in re narranda vel in perorando tantam habet vim, si est suaviter et cum sensu tractatum, ut saepe plus quam causa valeat. tantum autem efficitur sensu quodam ac ratione dicendi, ut quasi mores oratoris effingat oratio. genere enim quodam sententiarum et genere verborum, adhibita etiam actione leni facilitatemque significanti, efficitur, ut probi, ut bene morati, ut boni viri esse videantur.

And this, whether it is done in the prologue or when narrating the facts or in presenting the epilogue, has so much force, if it is handled agreeably and with taste, that it is often more valuable than the case itself. Furthermore, so much is accomplished by a certain taste and subtleness of speaking, that the speech may be said to mould an image of the character of the speaker. Employing thoughts of a certain kind and words of a certain kind, and adopting besides a delivery that is gentle and shows signs of flexibility, makes the speakers appear as decent, as good in character, as good men.

The first sentence is a reminder that ethos, though most readers will have recognized that it is akin to the things prescribed for the prologue in school rhetoric, is at home in other parts of the speech also. This obviously concerns passages based on ethos only, probably containing explicit descriptions of the client's merits but no rational proofs, for this explains the absence of the part of the speech *argumentatio*: since the rule, that the orator must 'seem to aim at instructing only' (2,310)³⁸, goes especially for the *argumentatio*, ethos can in this part only be applied indirectly.

A remark on the handling of the client-centred content (*suaviter ... tractatum*, 'if ... taste') prepares for the transition to the orator (marked by *autem*), who is at the centre of the final sentence. The characterization of the orator himself, it appears here, is mainly brought about by his presentation; explicit description, though not excluded (it occurs in the case of Norbanus³⁹), is not mentioned. Accordingly, the qualities of the orator's character named here are of a more general nature than those of the client's, thus allowing such indirect depiction. The style, the delivery and the general tone of the content suited for supporting explicit character-drawing of the client, at the same time brings to the fore the excellent character of the speaker⁴⁰.

The structure of the whole passage may now be summarized in the following scheme:

38. Cf. § 6.4 on disposition, especially p. 206.

39. 2,200-201: below pp. 277, 280.

40. Gill (1984: 156) interprets this similarly, but he only mentions style, not delivery and "tone".

182	a <i>valet igitur ... orator</i>	Introduction	orator & client
	b <i>conciliantur ... si nulla sunt</i>	Specification of "topoi"	
	c <i>sed haec ... videre</i>	Means of the orator	
	d <i>facilitatis ... conferenda</i>	Specification of characteristics to be brought forward	
183	e <i>sed ... reos</i>	Not always pathos	
183-4	f <i>quae maxime ... valeat</i>	Character of the client	
184	g <i>tantum autem ... videantur</i>	Style, delivery, and content mould the character of the orator	

Note the overlap between (e) and (f), also mentioned in the analysis above.

The structure shows a clear development from general to specific (a - b - d - f and g): the beginning describes ethos in general terms for *patronus* and *cliens* together, the end specifies it for both separately⁴¹. That 2,184 indeed takes up and develops 182 may be illustrated by one more detail: 182 starts with a statement about the *mores* ('character') of orator and client, the two parts of 184 both take up this word: *horum ... exprimere mores*; *mores oratoris* ('describing ... their characters'; 'character of the speaker').

So Cicero carefully distinguishes between *patronus* and *cliens*, which answers the question formulated about this point in § 1.2 (question (i)). That he should do so is not surprising. As stated in § 3.6, the practical importance of the distinction was reflected in school rhetoric only by inconsistencies in the wording of some of the rules. So when Cicero distinguishes between them immediately in 2,114 and twice in 2,182 (and a few more times in 2,182-184), this is in remarkable contrast with school rhetoric, and shows that Cicero was well aware of the distinction. Fantham's conclusion that 'the distinction fails to be maintained because it was irrelevant to Cicero's Aristotelian source' is therefore implausible from the start⁴². If Cicero is nevertheless to be "accused" of inconsistencies, surely the relevant text deserves careful attention - including attention to textual problems lacking in Fantham's approach⁴³. The detailed analysis given above shows, I think, that Cicero is consistent throughout.

41. See above p. 231 about the difference between the qualities specified for orator and client. Cf. also 2,182, where *facilitatis* (...) *pietatis* are still coordinated, with 184, where *facilitas* is only mentioned for the orator, and qualities comparable to *pietas* (*iustos, integros, religiosos*) only for the client.

42. Fantham (1973: 266 and 272 (1)). Some of her other suggestions (ib.: 272-275) are equally implausible.

43. She reads *adiuvant*, but fails to mention the variant *adiuvat*.

As for the question of the blackening of the opponents (question (iv) of § 1.2), this is indeed mentioned by Antonius, as the negative counterpart of the positive character-drawing of *patronus* and *cliens*. Although this "negative ethos" is mentioned only twice and thus receives much less emphasis, the rather conspicuous places of these mentions (at the beginning and at the end of the introductory section 2,182) somewhat compensate for this. It is clear that the phrase 'the opponents' both times includes the litigant as well as the patron (or patrons) of the opposite camp, for they are both times mentioned just after an observation concerning orator and client⁴⁴.

The second time, the mention of the opponents has been prepared for by the negative wording of some of the preceding remarks: *non appetentis non avidi* ...; *non acrium non pertinacium* (etc.) ... *abalienant* ... *ab iis, in quibus haec non sunt* ('of not being desirous or greedy'; 'not severe, not obstinate (etc.) ... alienate the audience from such as do not possess them'). These negative observations are primarily a negative prescription about characterizing orator and client, but it is no surprise that *itaque* ... ('And these same considerations ...') transforms them so as to serve as a positive rule about characterizing the opponents.

All this is not to say that the treatment of ethos could not have been better, or more complete with respect to the distinction between *patronus* and *cliens*. As Kennedy and May have shown⁴⁵, Cicero's own practice was considerably more subtle than what he describes here. Kennedy identifies one of the most prominent omissions: Cicero's failure to discuss 'the possibility of effective contrast between patron and client' - a possibility indeed fully exploited, for example, in his own speech *Pro Caelio*⁴⁶. 'The best treatment of the rhetoric of advocacy', Kennedy concludes⁴⁷, 'is found in Quintilian'.

This can readily be admitted: Cicero, after all, was not perfect. But deficient though it may be on some important points, his treatment of ethos consistently distinguishes between the orator and the one he is pleading for, which is a departure both from Greek and from contemporary Roman rhetorical theory.

7.3 The Concept of Ethos in *De oratore*

A complete description of Cicero's concept of ethos requires an assessment of its relationship with pathos, and may further be clarified by a comparison between

44. Kennedy's wording (1968: 434) may wrongly suggest that this distinction is not made clear.

45. Kennedy (1968: 429-433), May (1981; 1988: 166, and *passim*).

46. Kennedy (1968: 435; on *Pro Caelio* 432-433).

47. Kennedy (1968: 435).

Aristotle's and Cicero's systems as a whole. Both points will be discussed in the next two sections. First a description of the concept itself must be given, on the basis of the central passage 2,182-184, and the two complementary questions (ii) and (iia) from § 1.2 must be answered: what qualities fall under the scope of ethos, and what effect is ethos meant to have on the audience?

These are not very difficult questions. Antonius in 2,182-184 mentions or implies all possible qualities that may put the speaker and his client in a favourable light: *mores et instituta et facta et vitam* ('the character, the habits, the deeds and the life'); *dignitate hominis, rebus gestis, existimatione vitae* ('a man's worth, the things he has done, and an evaluation of his life'); etcetera. The aim is to win over the hearers (*conciliare*), to win their *benevolentia* - a word often (literally) translated by 'goodwill', but obviously virtually equivalent to 'sympathy'. This variant of ethos is the second one described in § 1.2, and may be called "ethos of sympathy", in contrast with Aristotle's version of the concept, which is "rational", aimed at establishing an image of trustworthiness, and accordingly limited to the qualities of the speaker related to his speaking the truth. Cicero's ethos, therefore, is in some way connected with some (not all!) of the gentle emotions, a connection to be discussed in the next section.

As put forward in § 1.2, there are three principal ways of describing ethos: starting from the speaker/client, from the speech and from the audience. Cicero uses all three kinds of description. The focus is on the hearer when he employs the verb *conciliare* ('to win over'), as he frequently does⁴⁸, for example in 2,115 *ut conciliemus eos nobis qui audiunt* ('that we win over the audience to us'); this is even more prominent with the addition of *animi, benevolentia* ('minds'; 'sympathy'), or both, as in 2,182 *animosque eorum apud quos agetur, conciliari quam maxime ad benevolentiam* ('and that the minds of the audience are, as much as possible, won over to feel sympathy')⁴⁹. Though less frequently, the focus is sometimes on the message, for example in 2,114 *alterum commendationem habet nostram aut eorum quos defendimus* ('this element recommends ourselves or those we are defending')⁵⁰. The focus is on the speaker and the client when their relevant qualities are discussed, as is repeatedly done in 2,182-184. (Of course, frequently more than one of the three aspects is prominent, as in 2,182 *conciliantur autem animi dignitate hominis ...*: 'Now people's minds are won over by a man's worth ...')

48. Cf. also *faveat* in 2,178 *ut faveat oratori is qui audiet*.

49. *Conciliare/conciliatio* is used in connection with ethos in 2,115; 121; 128; 183 (three times); 212; 216; 291; 292; 310; and 3,104; not or not directly in this connection in 1,143; 2,200; 206 (twice); 207; 236; 3,204; 205.

50. Cf. some other occurrences of *commendare/commendatio*: 2,183; 201; 211. (Schotfländer's account on *commendare* and *conciliare* [1967, 132-133] is a bit fanciful.) These words are, by the way, more often used without a (direct) connection with ethos: 1,122; 228; 245; 252; 2,9; 36; 196; 315; 357; 3,205.

It must again⁵¹ be stressed that these are three ways of describing the same thing. The use of a formulation that starts from the hearer, for example, is in itself no indication of which variant of ethos we are dealing with: Aristotle might also have expressed his "rational" ethos, which is aimed at reliability, not sympathy, by such a formulation, for example 'the audience is made to trust the speaker'. It is the *meaning* of the terms used that is decisive, and in Cicero's case, it is the meaning of *conciliare* that shows that he employs "ethos of sympathy". But this would also be clear without the use of this word, for the other descriptions also point unambiguously to this variant.

From Cicero's use of a variety of descriptions it is also clear that none of the terms should be considered as the technical term for ethos. *Conciliare*, which is sometimes taken as such⁵², is only employed with one of its regular meanings, just as it is sometimes employed, in different contexts, with one of its others, without any resulting confusion⁵³.

The difference between the concepts of ethos of Aristotle and Cicero may be illustrated by two points of detail⁵⁴. First, one of the qualities of the speaker on which ethos in the Aristotelian sense is based is 'good sense' (φρόνησις). This quality is essential for the "rational" version, for if a speaker is to tell the truth, he must be intelligent enough to understand what he is talking about. It is, however, not immediately relevant to "ethos of sympathy", and accordingly, it is not found in Cicero's passage on ethos. (See also p. 242.) Second, the distinction between client and pleader, made by Cicero, is far less relevant to "rational" ethos than to "ethos of sympathy". Although the fact that the distinction is not found in Aristotle is primarily due to the standard situation in the Greek courts, where a litigant was supposed to speak for himself⁵⁵, it does illustrate the difference between the two variants.

Fantham's comparison of the two concepts must be emphatically rejected. While employing the widely accepted analysis of Aristotle's ethos as being aimed at sympathy, she holds that Cicero's use of the word *conciliare* indicates an essential difference⁵⁶. As argued above, however, this word is not to be taken as a technical

51. As in § 1.2, p. 8.

52. This is at the basis of Fantham (1973; especially 266-268: below n. 66); cf. also Solmsen (1938: 399; cf. 1941: 178), Sattler (1947: 62), Moraux (1975: 86), Gill (1984: 157), Schweinfurth-Walla (1986: 169), May (1988: 4-5), Fortenbaugh (1988: 260-265).

53. Cf. above n. 49; and below n. 66.

54. I owe these to Dr. A.C. Braet, in a personal letter (he would, however, probably prefer another formulation, with an emphasis different from the one given here).

55. Above p. 101.

56. Fantham (1973: 269): '*conciliare* ... is the underlying motive of the πείσιν διὰ τοῦ ἡθους' of Aristotle. Given this mistake, she should have concluded that the concepts were the same! On the alleged difference the use of the word makes (ib.: 271): 'The Ciceronian emphasis

term, and, far from making a difference and breeding confusion, it offers a very natural description of the variant employed by Cicero, but not by Aristotle: "ethos of sympathy".

7.4 Ethos versus Pathos; the Difference between Aristotle and Cicero

Since Cicero's ethos is "ethos of sympathy", there is an emotional component in it. As remarked in § 1.2, this raises the question of its relationship with pathos: if ethos is aimed at arousing the light emotion of sympathy, is there a connection or overlap?

To answer this question, we must know what Cicero understands by pathos. Of course, as with ethos, and in accordance with the nature of *De oratore*, he does not use the term pathos, or any other technical designation, nor does he offer a definition of his concept. Nevertheless, there can be no doubt about the range of Ciceronian pathos: it comprises only vehement emotions, to be aroused in vehement passages of a speech. This is clear already in the introduction of the *pisteis* in 2,114, where this means of persuasion is described as *accommodatum ad eorum animos, apud quos dicimus, ad id quod volumus commovendos* ('aimed at moving the minds of our audience in the direction we want to'): *commovere* is an even stronger word than *movere*, which is also used later on; moreover, in rhetoric, which traditionally prescribed urgent emotional appeal in the epilogue, the associations of such words are also with strong emotions⁵⁷. This identification with violent emotions is confirmed by all subsequent references to this *pistis* before 2,178⁵⁸; note, especially, the use of the word *concitare*, 'excite', in 2,128. The beginning of the passage on ethos and pathos then describes pathos by stating that it is important that the hearer *sic moveatur, ut impetu quodam animi et perturbatione magis quam iudicio aut consilio regatur* ('may be affected in such a way, that he is controlled by a certain impulse and perturbation of mind, rather than by a reasoned judgement'). A glance at the treatment itself suffices to show that there as well pathos is consistently taken to include the vehement emotions only. All emotions treated in the "rules" of 205-211a, for example, are violent ones: *amor, odium, iracundia, timor, spes, laetitia, molestia, invidia, misericordia* (*amor*

on the act of *conciliare*, of winning benevolence, has converted the unstressed motive of Aristotle's proof into its actual method' (I must confess that I am in the dark as to what *conciliare* as a method may be; even May, who quotes this with approval [1988: 5], gives a paraphrase that is quite different, though equally unsatisfactory).

57. *commovere*: cf. OLD s.v., esp. 10; *Rhet. Her.* 2,50 *miseriordia commovebitur* ...; *Inv.* 1,106 *conquestione commoveri*.

58. 2,115; 121; 128-129; 176. (Cf. p. 202.)

[approx. fervent partiality]⁵⁹, hatred, anger, fear, hope⁶⁰, joy, grief, envy, pity).

So ethos is character-drawing, aimed at sympathy, pathos is the arousing of violent emotions. This means that there is no overlap between the two concepts: though they are similar in that both are aimed at influencing the audience's minds, their effect on these minds is different.

Their similarity should, therefore, cause no problems. Cicero even explicitly mentions it at the beginning of the treatment of pathos: *huic autem est illa dispar adiuncta ratio orationis, quae alio quodam genere mentis iudicum permovet ...* (2,185: 'To this [i.e. ethos] is related that other, different way of speaking, which moves the minds of the judges in another way')⁶¹. The closing passage on ethos and pathos (2,216a) must be interpreted accordingly:

illa autem, quae aut conciliationis causa leniter aut permotionis vehementer aguntur, contrariis commotionibus auferenda sunt, ut odio benevolentia, ut misericordia invidia tollatur.

But the effect of things brought forward gently⁶² [by the opponents] in order to win favour, or vehemently in order to move, must be undone by opposite emotions, so that sympathy is taken away by hatred, and envy by pity.

Both ethos and pathos are here mentioned, and the examples given include *benevolentia* which is the aim of ethos. The wording *contrariis commotionibus* ('opposite emotions') must, therefore, be taken loosely, as also including the gentle emotions that are the effect of ethos⁶³. Such looseness is not surprising in a prescription condensed into one short phrase, and there is no need to suppose a confusion.

It is also quite natural that some of the emotions falling under pathos require ethos. If a speaker or client is disliked by the judges (ethos), these will generally feel no *amor*⁶⁴; and arousing *miseriordia* ('pity') is easiest if the person involved is virtuous, for *adflcta et prostrata virtus maxime luctuosa est* (2,211: 'the affliction and ruin of virtue are especially distressing').

In spite of all this, Fantham holds that Cicero does confuse the two, and that at

59. On the meaning of *amor* cf. p. 284.

60. With *spes*, 'hope', this is least clear; but it is the counterpart of *timor*, and since all other indications are unambiguous, a vehement version of this state of mind must be meant (cf. p. 288).

61. Cf. also 2,201 *adfectis animis iudicum*, which includes ethos as well as pathos; and 2,310.

62. The Latin is more concise: 'the effect of' must be supplied.

63. Strictly speaking, *commotionibus* only refers to the means of taking away the effects of ethos and pathos, and is only illustrated by the examples of *odio* and *miseriordia*, as L.-P. ad loc. point out. But the wording does suggest that, even as *invidia*, *benevolentia* is also (loosely) termed a *commotio*; all the more so, since 2,72 (*saepe benevolentia ad odium, odium autem ad benevolentiam deducendum est*) suggests that *benevolentia* was also supposed to take away *odium*, not only the other way round.

64. Cf. n. 66, (3) and (4).

the end of the treatment *conciliare* has 'become merely a label for one section of *movere*', which is accepted by some other authors⁶⁵. This comment is specifically about the passage just quoted; but as it is possible to interpret this differently, if the non-technical nature of *De oratore* is taken into account, her analysis could only be accepted if it was supported by other signs of a confusion between ethos and pathos. This is not the case⁶⁶. The only really difficult passage in this respect is an important one: 2,212, where Antonius discusses a certain kind of relationship between ethos and pathos:

sed est quaedam in his duobus generibus, quorum alterum lenē, alterum vehemens esse volumus, difficilis ad distinguendum similitudo. nam et ex illa lenitate, qua conciliamur iis qui audiunt, ad hanc vim acerrimam, qua eosdem excitamus, influat oportet aliquid, et ex hac vi non numquam animi aliquid inflandum est illi lenitati; neque est ulla temperatio oratio quam illa, in qua asperitas contentionis oratoris ipsius humanitate conditur, remissio autem lenitatis quadam gravitate et contentione firmatur.

But in these two ways of speaking, of which I think that the one must be gentle, the other vehement, there is a certain similarity making it difficult to keep them apart. For it is necessary that something of that gentleness, which wins us the favour of the audience, should flow into this most vigorous forcefulness, by which we excite that same audience, and from this forcefulness some spirit must often be made to fill that gentleness. No speech is better blended than one in which roughness of energetic passages is spiced with the personal humanity of the orator, while the relaxed attitude of gentleness is given strength by a certain dignity and energy.

Can the 'similarity' between ethos and pathos refer to a similar emotional effect on the audience, as Fantham⁶⁷ seems to maintain? This would be curious, since that similarity has been noticed much earlier, in 2,185 (p. 237). But it cannot: this would require a wording indicating an analysis, not a passage that is, after

65. Fantham (1973: 266-267, 273-275); cf. Gill (1984: 157 with n. 41), May (1988: 5), Fortenbaugh (1988: 259). Cf. also Kennedy (1980: 81, 100).

66. Most of her arguments are based on the misconception, noticed above (p. 235 with n. 52), that *conciliare* is the technical term for ethos. They are: (1) The substitution of *conciliare* by *delectare* in Cicero's works after *De or.* shows that he 'became dissatisfied with the term' (1973: 273-275; thus Gill 1984: 157 n. 41; May 1988: 5); but, as argued above (§ 6.5), there is no such substitution. (2) 'Paradoxically', in 2,200, *benevolentiam ... conciliaram* 'is associated with the violent and emotive function' (1973: 266-267); but it is only so associated if the passage is completely misread, see below on the case of Norbanus (p. 276 with n. 119) (the same mistake Fortenbaugh 1988: 267). (3) The wording *amorem conciliare* (three times in 2,206-207) (1973: 267); but there *conciliare* just has one of its normal meanings, which may be paraphrased by 'to bring about, procure, obtain' (*OLD* s.v., 4). (4) In the same sections on *amor* (2,206-207), 'Cicero is basically repeating the aims and methods' of 2,182-184 (1973: 267); but the differences in emphasis, and the placing of *amor* under the head of pathos, make the distinction quite clear, despite the obvious similarities.

67. Fantham (1973: 267); cf. Gill (1984: 157 n. 41), May (1988: 5).

the first introductory sentence, explicitly or implicitly prescriptive⁶⁸. It is to be noticed that the two types of passages, "ethical" and emotional ones, are carefully distinguished, and keep their own proper function. The meaning of the passage as I take it is a consequence of the fact that a speaker, in one and the same speech and before one and the same audience (*eosdem!*), must appear to be gentle but must also play energetically upon the feelings. On the one hand, the vehement, emotional passages must retain something of the restraint of the "ethical" ones, since otherwise the effect of the latter will be destroyed: a speaker must not let himself go completely in an emotional passage. This has also been indicated in the treatment of ethos itself (2,182): *si quid persequere acrius, ut invitus et coactus facere videare* ('if you press some point somewhat vigorously, you must seem to act against your inclination, because you are forced to do so')⁶⁹. On the other hand, the passages painting his character⁷⁰ should also contain some suggestion of mental vigour, for otherwise he appears to lack backbone, which will make his attempts to arouse emotions unconvincing⁷¹.

This interpretation is supported by the fact that Cicero regarded such combinations in one person as valuable but difficult to realize. In *De legibus* he praises Atticus, *cuius et vita et oratio consecuta mihi videtur difficillimam illam societatem gravitatis cum humanitate* (3,1: 'whose life as well as speech [!] have, to my mind, accomplished that most difficult combination of dignity and humanity'); and in *De oratore* 2,227 he makes Caesar Strabo describe one of Crassus' speeches as follows⁷²:

nec ... contentio maior umquam fuit nec apud populum gravior oratio, quam huius contra collegam in censura nuper, neque lepore et festivitate conditor.

And never has there been displayed more energy or a speech before the people more full of dignity, than the one recently held by Crassus here against his colleague, when he was censor, nor one better spiced with wit and humour.

So an orator, if he is to employ both ethos and pathos effectively, must take account of their mutual influence. But this does not indicate any overlap - the

68. *influat oportet* can, in itself, be "deontic" or "inferential" (*OLD* s.v. *oportet*, 1 and 3), but the following *inflanum est* shows that it is the first; the final value judgement *neque est ulla ... firmatur* is implicitly prescriptive.

69. Cf. also ib. *non acrium* [cf. 2,212 *acerrimam*], *non pertinacium*, *non litigiosorum*, *non acerborum*.

70. Note that ethos of the client is irrelevant here.

71. I find that Fortenbaugh's analysis (1988: 268) is similar to mine (but he paraphrases *conditur* by 'is suppressed', as if from *condere* instead of *condire*).

72. The combination was also considered exceptional by others, witness Nepos *Att.* 15,1. Cf. also *De or.* 2,228; 3,29 (*oratio Catuli*) *sic ... gravis ut in singulari dignitate omnis tamen (!) adsit humanitas ac lepos*; and L.-P. ad 2,212. For the connection between *gravis* and *vehemens* cf. also their combination 3,80 (*vehemens et gravis*).

same may be said, for example, about arguments and pathos: the arousing of emotions may, is of course mostly meant to, and is said by Antonius to undo the effect of argumentation⁷³. In short, this section 2,212, though difficult, gives no indication of any confusion or overlap between Cicero's versions of ethos and pathos⁷⁴.

I feel bound to insist once more upon a point of method. Fantham's analyses, which are subscribed to by others⁷⁵, seem to be based on peculiar premises: confronted by the overlap between ethos and pathos 'Cicero reveals his embarrassment in 212', she claims, and 'he has finally to admit the overlap of categories'. Surely he could have left the passage out if he had wanted to? And are we really to believe that Cicero was such a fool as to become gradually embarrassed in the course of a work he was writing himself? And, as to the difference between Aristotle and Cicero regarding the concept of ethos, are we also to believe that this was, among other things, due to the ill-advised choice of a word - *conciliare*? Such a lack of methodological rigour, which is almost ready to regard Cicero as a poor translator of his Aristotelian source, takes us back to *Quellenforschung* in its most primitive form.

It is time to describe Cicero's concepts of ethos and pathos somewhat further, and to confront them with Aristotle's version. As to the description, this requires the two categories of content and effect. Ethos is the favourable presentation of the character of speaker and client (content), aimed at the hearers' sympathy (effect), pathos is aimed at arousing violent emotions in the hearers (effect). None of the two categories can be dispensed with: pathos, as a whole (in contrast with the individual emotions), has no specific content, so its description needs effect, whereas ethos cannot be described by effect only, since it is firmly tied to character-drawing. This last observation about ethos shows that the designation 'ethos' is indeed appropriate, but it also shows something more important: Ciceronian ethos should not be equated with the *leniores affectus* ('gentler emotions').

73. 2,178; 201; cf. 2,184 about ethos and 'the case itself' (*causa*).

74. 2,212 again deals with all aspects, including content: I cannot agree with L.-P.'s comment ad 2,212 *sed est ... generibus*: 'Wie schon 2,211 wird hier besonders der Aspekt des Stils und des Vortrags ... hervorgehoben'. There is nothing in the wording of the section to suggest this, and surely *humanitas*, e.g., is reflected not only in style and delivery? Their association of *temperatio* with the middle style ignores this, and is based on the term only, which is not very solid ground: *temperatus* frequently denotes the middle style in *Orat.*, but was no technical term, for it does not occur in this sense in *Rhet. Her.* or Quint., and in Cicero's rhetorical works except *Orat.* only in *Brut.* 314; cf. also *quasi temperatus* in *Orat.* 21. Merklin's transl. 'Stilart' of 213 *genere dicendi* is misleading (cf. above p. 215 n. 94).

75. Above n. 65 (but cf. n. 71).

This equation, which goes back to Quintilian, is widespread⁷⁶, but is perhaps best known from one of Solmsen's - rightly famous - articles. He writes the following about Cicero⁷⁷: 'ἥθος, however, means to him something slightly different from what it had been to Aristotle; it now denotes the *leniores affectus*, a lesser degree of πάθος'. This analysis employs the confusing designation ἥθος repeatedly objected to here, and unduly transfers the unclarity found in Quintilian to Cicero⁷⁸. Most important, it obscures the essential fact that Ciceronian ethos has to do with only those gentle emotions, that are aroused by the presentation of the character of the speaker or his client. Other gentle emotions Cicero does not take into account⁷⁹!

In Aristotle, pathos comprises all emotions, gentle as well as vehement ones, as described in chapter 2. His concept of ethos is "rational", aimed not at sympathy but at reliability, and is thus unrelated to emotions; the qualities of the speaker comprised under ethos are restricted accordingly⁸⁰. The two sets of concepts may now be summarized in the following scheme:

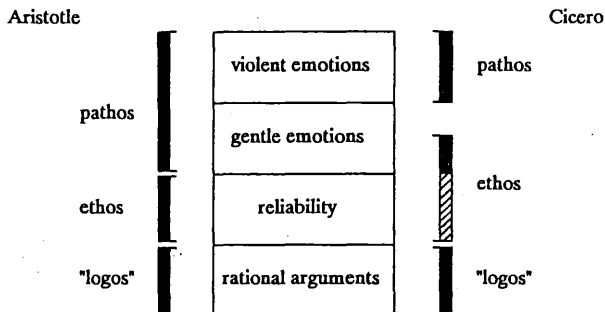
76. Cf. e.g. Kennedy (1980: 81, 100), L.-P. (I: 63 and ad 1,60), Fantham (1973: *passim*), Schweinfurth-Walla (1986: 199-200; cf. 194-195; she is, however, characteristically inconsistent), Martin (1974: 158-160, who blurs all distinctions). Kennedy (1972: 222-223), who recognizes the link with character, writes, strangely, 'Most striking is the fact that Cicero regards ethos as consisting in *presentation* of the gentler emotions (2.183)' (my italics): from 2.182 it is clear that ethos itself is primarily a matter of (suggested) content (his short remark on 2.212 makes matters still less clear). Sattler (1947: 62, 64) even seems to confuse the emotions of the speaker and those of the audience. Lausberg (1960 I: 141) is wholly based on Quint.

77. Solmsen (1941: 179); who (ib.: n. 90) refers to Ludwig Voit, *Δελωτότης, Ein antiker Stilbegriff* (Leipzig: Dieterich, 1934): 135-140. Voit's account (which wavers between analysis of oratory and interpretation of Cicero's rhetorical writings) develops, and refers to (136 n. 346), Volkmann's (1885: 273-274), which, in turn, is based on an analysis of Quint. 6.2 by C.L. Roth, 'Was ist das ἥθος in der alten Rhetorik?', *Fleckeisens Jahrbücher* 12 (1866), 855ff. (which I have not seen).

78. On this use of ἥθος e.g. pp. 33, 60-61. On Quint. cf. p. 64-65.

79. Fortenbaugh (1988: 267) denies this on the strength of 2.200, but his analysis is faulty (above n. 66, (2)).

80. Pathos: pp. 34, 67-68. Ethos: § 2.3, especially p. 32-33. May's phrase 'the Roman belief in the affinity of ethos and pathos' (1988: 30), is obviously based on Fantham's analysis (ib.: 5). It ignores the difference in concepts between Aristotle and Cicero, and also the fact that Aristotle's concept of ethos was not the standard one in Greece either (above § 2.5, p. 50-53). (Moreover, his analysis presupposes a rather strange relationship between theory and practice.)



Note that the gap at the right-hand side represents Cicero's omission of gentle emotions not linked with presentation of character. Note also that reliability is here taken to be included in Cicero's ethos, although the text does not explicitly mention it (this is represented by the shaded bar). This seems best, because a lack of reliability would destroy sympathy⁸¹. But the fact remains that no explicit attention is paid to it, and that Cicero's ethos amounts to arousing gentle emotions by way of character drawing. Apart from the distinction between orator and client, it therefore virtually comes to the same as the prescriptions given in school rhetoric for winning goodwill (sympathy) in the prologue, by enlarging on your own good character. One might say that Cicero has given the Aristotelian *pistis* ethos a content derived from a well-known standard rhetorical doctrine. But this should not obscure the fact that the role of ethos as one of the three *pisteis* is fundamentally different from the role its equivalent had in school rhetoric: so Cicero's system as a whole, though a characteristic fusion between Aristotle's system and standard rhetoric, remains much closer to Aristotle.

It must perhaps be added that all this does not mean that, in practice, the borderline between gentle and violent emotions is a sharp one. Accordingly, when analysing speeches, the fact that ethos may prepare the minds of the audience for pathos must be taken into account⁸². This, however, is compatible with both the scheme of Aristotle and that of Cicero. Moreover, the point made here regards the theoretical level only: there is no confusion between concepts in Cicero.

Before the question as to why Cicero may have employed a different set of concepts is touched upon (§ 7.5), the interpretation must be completed by a description of some features of the relationship illustrated in the above scheme. Why, in the

81. Cf. May (1988: 164), 'The persona he [= Cic. in his early speeches] projects is that of the young, somewhat inexperienced, yet *intelligent and capable* champion of the downtrodden ...' (my italics).

82. As it is, e.g., by May (1988: *passim*, cf. 165, 167).

first place, does Cicero ignore gentle emotions not aroused by the orator's or client's character? In this form the question is of course impossible to answer, but we may at least look at the consequences of this omission. A comparison with Aristotle may serve as a heuristic tool for doing so, in that it can indicate what emotions are omitted by Cicero.

De oratore 2,206-211a*Rhetoric* 2,2-11

<i>amor</i>		φιλία	(2,4: approx. friendship)
<i>odium</i>	(hate)	ἔχθρα, μῖσος	(2,4: enmity, hate)
<i>iracundia</i>	(anger)	ὀργή	(2,2: anger)
<i>timor</i>	(fear)	φόβος	(2,5: fear)
<i>spes</i>	(expectation)	θάρσος	(2,5: lack of fear)
<i>laetitia</i>	(joy)	-	
<i>molestia</i>	(grief)	-	
<i>invidia</i>	(envy)	φθόνος	(2,10: envy)
<i>misericordia</i>	(pity)	ἔλεος	(2,8: pity)
(cf. ethos)		πραότης	(2,3: mildness)
(cf. ethos)		χάρης/ἀχαριστεῖν	(2,7: goodwill/lack of goodwill)
-		νέμεσις	(2,9: indignation)
-		αἰσχύνη/ἀναισχυντία	(2,6: shame/shamelessness)
-		ζήλος/καταφρόνησις	(2,11: emulation/contempt)

Here only those emotions that are found in Aristotle's treatment but not in Cicero's are relevant; of these, νέμεσις ('indignation') must be taken together with φθόνος ('envy'), and ζήλος and καταφρόνησις ('emulation', 'contempt') are typically Greek (for more details see p. 294-295). This leaves πραότης, χάρις and ἀχαριστεῖν, and αἰσχύνη and ἀναισχυντία ('mildness'; 'favour, goodwill' and 'lack of goodwill'; 'shame' and 'lack of shame, shamelessness').

The first three are very near to *benevolentia* ('sympathy') or its opposite, and at least for an important part dependent on character-drawing, so they are covered by Cicero's concept of ethos. The only candidates in Aristotle for the category missing in Cicero's account, gentle emotions not dependent on the orator's or his client's character, are therefore αἰσχύνη ('shame') and its opposite. As a matter of fact they might also be said to constitute an omission in Cicero's treatment of pathos, which comprises the vehement emotions, since Aristotle's treatment⁸³ illustrates that the feeling of shame may sometimes be a very strong one. But shame, whether strong or not, seems to play a very small part in rhetorical situations⁸⁴: it is perhaps no coincidence that it belongs to the emotions for which

83. *Rhet.* 2,6.

84. It seems virtually useless in the judicial branch, and the arousing of shame in deliberative speeches, though certainly not out of the question, cannot have been frequent.

Aristotle does not, as he does for others⁸⁵, indicate how they may be used. So the only (partly) gentle emotion not dependent on characterization that is treated by Aristotle plays at most a minor role in oratorical practice.

This comparison can of course only suggest a conclusion, not prove it. But the impression we may gain from it is reinforced by the surviving Stoic material. There, many emotions are mentioned that are not found either in Aristotle or in Cicero, but this is for the most part due to distinctions between variants of what these two authors would regard as one emotion. Cicero probably regarded such an approach over-subtle and irrelevant for his own purposes. But I have not found any emotion mentioned by the Stoics, apart from emulation that is also found in the *Rhetoric* and seems typically Greek, that could meaningfully be said to be omitted by Cicero⁸⁶.

Cicero's omission, therefore, though notable on the conceptual level, is of no consequence on the practical one. This means that there is a *secondary* similarity between the gentler emotions (the *leniores affectus*) and Cicero's ethos: in oratorical practice, almost all gentle emotions are related to the character of the speaker or his client (or their opponents), and thus belong to ethos. Nevertheless, the equation of the two is essentially wrong, and obscures the fact that, in Cicero, ethos remains bound up with character.

One thing loosely handled by Cicero is the question of how to take away or soften strong emotions aroused by the opponents. It is only systematically mentioned in 2,216a, quoted above (p. 237), where, however, only some examples are given. From the use of the term *commotio* ('emotion') in this connection, and from the inclusion in the sections on pathos of some unsystematic remarks about removing hatred, anger and envy⁸⁷, one might get the impression that this removal is, as pathos itself, a matter of energy and vehemence. On the other hand, 2,216a suggests that hatred may be allayed by sympathy, which is confirmed by 2,72 *saepe benevolentia ad odium, odium autem ad benevolentiam deducendum est* ('sympathy must often be transformed into hatred, and hatred into sympathy'). Moreover, the content of the remarks on soothing *invidia* ('envy') contradicts the suggestion taken from the place where they occur (2,210): it is clear that the difficult task of taking away envy is a matter of tact, and, being mainly based on character, strongly resembles ethos, even if this resemblance is not explicit. In short, taking away violent emotions sometimes requires the arousing of others as violent, but sometimes a really soothing approach. Even though this in no way damages his system, and though he is probably aware of it, Cicero fails to mention it in so many words. The removal of this unclarity, which is only a very slight one, would

85. In the seven passages mentioned above p. 22 n. 59.

86. For the material examined cf. p. 284 n. 148; for the Stoic distinctions mentioned here cf. p. 295-296.

87. 2,208 (*odium ... demovere; iracundia ... sedanda*); 210 (on the soothing of *invidia*).

probably have required a detailed and rather dry discussion, the inclusion of which he must have considered too high a price.

With these additions, the scheme drawn above (p. 242) gives a fair picture both of Aristotle's and of Cicero's approach. One or two details will be added below, but it is clear that both authors are consistent, even if Cicero makes some small omissions on the conceptual level. That the difference between the two authors reflects their personal inclination, interest and purpose will be illustrated in the next section.

7.5 The Nature of the Difference between Aristotle and Cicero

One detail may serve to illustrate the different approaches of the two authors, viz. their handling of the authority of the speaker. By this I mean the (social) authority a speaker already possesses before he starts his speech. In trials where no opportunity was missed to influence the judges by whatever means, such authority naturally could be brought into play in a speech to great effect. Of deliberative, and epideictic, speeches this is even more true. Of course, social authority played a much more important part in Roman culture and society, where personal relations were often decisive factors in the course of events⁸⁸, than in the democratic state of Athens, where such relations, if too openly used, were often regarded with suspicion. Even in Greek trials and assemblies, however, the authority of a speaker could do much to turn the scales: one need only think of Demosthenes' political speeches.

This authority, then, may be an important factor contributing to ethos. Since rhetorical theory, however, is in principle meant for all kinds of speakers, it is natural that the stress should lie upon the means to apply ethos that are afforded by the speech itself, as, indeed, it does in the last part of Cicero's treatment (2,183-184). But, especially for a Roman, authority is part of most of the attributes enumerated in the first half of 2,182: 'character, habits, deeds and life', 'a man's worth, the things he has done, and an evaluation of his life'; and Antonius' speech for Norbanus provides an example of an effective use of it to serve as a basis for ethos. Authority that is already present should therefore be regarded as a

88. On *autoritas* in Roman trials cf. May (1988: 162-169, and *passim*), and e.g. Mitchell (title below p. 270 n. 93: 144 with n. 100), who refers to the following passages from Cic.: *Mur.* 2; 59; 86; *Sulla* 2; 10; 21-22; *Cluent.* 57; 93ff.; cf. also p. 61-65 of Matthias Gelzer, *Die Nobilität der römischen Republik* (1912; repr. in: *Kleine Schriften I* [Wiesbaden: Steiner, 1962], 17-135; also repr. [with *Die Nobilität der Kaiserzeit*] Stuttgart: Teubner, 1983).

part of Cicero's concept of *ethos*⁸⁹.

Aristotle, on the other hand, expressly states that *ethos* 'must be achieved by the speech itself, not by any preconceived idea of the speaker's character' (δεῖ δὲ καὶ τοῦτο συμβαίνειν διὰ τοῦ λόγου, ἀλλὰ μὴ διὰ τὸ προδεδοξάσθαι ποιόν τινα εἶναι τὸν λέγοντα)⁹⁰. This is in itself in accordance with Aristotle's strict separation of technical and non-technical *pisteis*. Since his treatment of the non-technical ones, however, does not mention anything connected with the impression the speaker may make⁹¹, he does not include authority anywhere.

This difference seems to reflect a basic difference in attitude. Aristotle's interest in oratorical practice is not unlimited. He is primarily interested in the ways *lógos* ('speech') exercises its influence, whether rationally or irrationally, not in external factors that blur the picture. For Cicero, on the other hand, it is an essential requisite of rhetorical theory that it should be applicable in practice⁹².

With these last considerations, we have entered the realm of evaluation of the concepts found in Aristotle and Cicero. This should be carefully distinguished from that of their interpretation: this has led to the scheme on p. 242. A third, again distinct, problem is the historical relationship between the sets of concepts found in the *Rhetoric* and in *De oratore*, and especially between the two versions of *ethos*: did Cicero misunderstand Aristotle's concept, or did he consciously adapt it? It is these two remaining problems of evaluation and historical relationship that will be briefly treated in what follows.

We have seen that Aristotle's concept of *ethos* is "rational" and not aimed at arousing any emotion, and that his concept of *pathos*, accordingly, comprises both the gentle emotions, such as sympathy, and the vehement ones⁹³. Thus, all emotions fall under one head, which is very attractive from a theoretical or psychological viewpoint.

There are, however, disadvantages also. These come to the fore if one imagines a passage, in a concrete speech, based upon Aristotelian *ethos*. This will, directly

89. Schweinfurth-Walla (1986: 171) confuses the observations in 2,184, indicating that character-drawing is in the first place dependent on the speech (cf. above p. 231), with an absolute rule that 'Der positive Eindruck, den Redner und Angeklagter machen sollen, darf nur durch die Rede direkt hervorgerufen werden'; much of her wording on the same page is also misleading.

90. *Rhet.* 1,2,4 (56a8-10). Cf. above p. 35-36.

91. With one slight exception, which does not, however, concern authority (cf. p. 144 n. 153). On Aristotle's distinction between *πίστεις* ἄ- and *ἐντεχνῆαι* cf. Kennedy (1980: 249-250).

92. Cf. on the one hand Aristotle's inclusion of shame, an emotion probably not very useful for oratorical practice (p. 243-244), and on the other Cicero's practical inclusion of remarks on style in his treatment of *ethos* and *pathos* (p. 222).

93. Fortenbaugh (1988: 262-263), by suggesting that Aristotle may have in mind an impartial audience, lays undue stress upon the difference between the two authors as regards *ethos*. There is no hint that this is Aristotle's meaning, and the real difference is primarily one of distribution: under the head of *pathos*, Aristotle does incorporate "unfair", emotional, appeal into his system.

or indirectly, depict the speaker as trustworthy, by showing that he is good, intelligent, and benevolent towards his audience. But this will not fail to arouse, at the very same time, the sympathy of the audience, which is, in Aristotle's view, not part of *ethos*, but of *pathos*. This means that Aristotle, by concentrating on the different purposes of a speech, separates at a theoretical level two things that cannot be separated in practice.

Since the practice of deliberative speeches is somewhat different from that of judicial ones, this gap between theory and practice is much less significant in the first genre. In a deliberative speech, especially in Athens, the emotions played a far less prominent role than they did in speeches held in the courts. In an assembly the speaker had to convince his audience, in an issue that was not infrequently important to themselves also, that the course of action he proposed was the best one. In such a situation "rational" *ethos* must have been very important⁹⁴, the emotional aspect of the speaker's personality less so. Although Aristotle is writing about all three types of speeches, judicial, deliberative and epideictic ones, he was much interested in the deliberative genre⁹⁵, and this may have influenced his choice of "rational" *ethos*.

This, however, is obviously not the whole story, since he was indeed writing about all three types of oratory. Aristotle's treatment of the emotions clearly shows, as do some of his other works, that he was much interested in psychology, and the fact that his model, as mentioned earlier, joins all emotions into one category, must have been a most attractive feature for him.

After these observations, can we say that one of the two sets of concepts is superior? On the one hand, Aristotle's absolute separation of sympathy from *ethos* is not very practical; moreover, the Ciceronian distinction between *ethos* and *pathos* is a useful one, for the qualities required in a speech to win sympathy are very different from those necessary for arousing violent emotions. On the other hand, Aristotle's concept of "rational" *ethos* is very illuminating and brings to the fore a factor in persuasion not recognized by Cicero. Rhetoric is concerned with things about which certainty cannot, or at least not easily, be attained. Since a decision has nevertheless to be reached, an audience, even if we suppose that it proceeds on entirely rational lines, must often rely on its impression of the trustworthiness of the speaker. These considerations would perhaps be very important today; since nowadays "rational" *ethos* seems to play a quite important part. The status of science and scholarship, and of specialist knowledge in general, makes it important for a speaker to suggest that he is an expert. At the same time, it must be noted that such a suggestion is very often dependent upon auth-

94. Cf. *Rhet.* 1,8,6 (66a8-16); and above p. 35.

95. Cf. *Rhet.* 1,1,10 (54b23-25) καλλίωνος καὶ πολιτικωτέρας τῆς δημηγορικῆς πραγματείας οὕσης ἢ τῆς περὶ τὰ συναλλάγματα.

ority already present, for instance that derived from an academic position, and that this does not count as ethos in the Aristotelian sense. More important, the requirements of ancient public speaking were different, and the role of "rational" ethos was sometimes, especially in Rome, almost negligible. A decision as to which of the two models is preferable would be arbitrary.

In short, both authors are consistent, both in their own typical way. Aristotle gives us a model that is theoretically neat and that enables him to devote much attention to numerous psychological questions. Cicero gives us a model in which the importance of ethical and emotional appeal is fully recognized, but which, at the same time, is more practical. In the end, one might say, Aristotle seems chiefly interested in the psychological aspect of rhetoric, whereas Cicero's chief interest was the rhetorical aspect of psychology.

The third question may now be posed. The difference in approach mirrors the difference in interest between Aristotle and Cicero, but did Cicero consciously adapt Aristotle's scheme to make it more practical? This is impossible to decide⁹⁶, since the very fact that "ethos of sympathy" seems to be more practical than "rational" ethos may have given rise either to a misunderstanding of Aristotle's concept, or to its conscious adaptation.

As argued in § 2.5⁹⁷, this same fact must also have contributed to the situation that the rational concept of ethos, though nowhere really contradicted, was very probably unclear to readers of the *Rhetoric*, whether early or later ones. If Cicero had not seen Aristotle's work itself but only a paraphrase, it is therefore highly probable that this intermediary source described ethos not as Aristotle had done, but as "ethos of sympathy". If Cicero has read the *Rhetoric* himself, he may have understood that Aristotle's concept of ethos was the "rational" one. In that case, he took the idea of the three *pisteis* from him, and thus the idea of including ethos into invention, but preferred a different and more practical version of the concept. But it is perhaps more plausible to suppose that, if he read the *Rhetoric*, he missed the essence of Aristotle's concept: his paraphrase of Aristotle's remarks on prose rhythm suggests hasty reading⁹⁸, and, as stressed before, the concept of "rational" ethos can be extracted from the *Rhetoric* only by paying much attention to the details of the very short passage in which it is put forward⁹⁹.

96. I do not think that Fortenbaugh's arguments (1988: 264-265) carry much weight.

97. Especially pp. 50-51, 53-54.

98. Above p. 121-126.

99. Above § 2.5, p. 54-56.

7.6 Summary

In this chapter, the different aspects of Ciceronian ethos indicated by the questions in § 1.2 have been studied. Section 7.2 is primarily about the first one, the problem of the distinction between *patronus* and *cliens*, a distinction important in Roman practice, but neglected in standard rhetoric (cf. § 3.6). The passage on ethos in *De oratore*, 2,182-184, turns out to be carefully structured, and the distinction is maintained throughout. All elements of the passage work together to build this structure, including the one sentence that may, if superficially treated, be thought not to fit into it. The structure is a literary and persuasive, rather than a schematic one: the treatment develops from general considerations, valid for both patron and client, towards a more specific description, for both separately, of the qualities to be brought forward in a speech.

The question of "negative ethos", that is, the unfavourable portrayal of the opponents, has also been touched upon in § 7.2. This "negative ethos" is indeed clearly, if not very prominently, mentioned in 2,182-184.

The rest of the chapter has been devoted to the concept of ethos, its relationship with pathos, and the difference with Aristotle as regards these conceptual questions. Whereas Aristotle's ethos is "rational" and not aimed at any emotion, Cicero's ethos comprises all aspects of the persons of orator and client that may put them in a favourable light, and is aimed at sympathy (§ 7.3). But Cicero's concepts of ethos and pathos do not overlap, because in his approach sympathy is not a part of pathos: that only comprises vehement emotions. Cicero is clearly aware that ethos and pathos, thus defined, both play upon the audience's feelings, but consistently maintains the distinction. Moreover, ethos should not, as has frequently been done, be equated with the *leniores affectus* ('gentle emotions') without an essential qualification: it is indeed aimed at one of the gentle emotions, viz. sympathy (and the opposite towards the opponents), but it remains tightly bound up with character (§ 7.4). The exact historical relationship between Aristotle's system and Cicero's is unclear, since we cannot tell whether Cicero's departure from Aristotle was a conscious one. However that may be, the differences between the concepts of the two authors mirror their approach and interest (§ 7.5). Aristotle is more interested in theoretical problems and psychological questions, and sometimes admits a gap between theory and its application. Cicero, though aiming at a more abstract and philosophical basis for oratory than handbook theory had to offer, and though certainly not inconsistent, is sometimes rather loose on the conceptual level, but never loses sight of oratorical practice.

8. PATHOS IN DE ORATORE

8.1 Introduction

'At last, to more important matters', Antonius says when he starts his treatment of ethos and pathos (2,178). Of these two, however, there can be no doubt that the arousing of emotions is to him by far the most important. Immediately in 178, the introduction of pathos is much longer than that of ethos, and this proportion is again found in the treatments¹. The importance of pathos is also mirrored elsewhere, for instance in 2,311-312². This passage is about interspersing a speech with passages based on ethos and pathos (above p. 206), but the emphasis is almost wholly on pathos³. This importance of pathos is often explicitly emphasized, for the first time in 1,17: *omnis vis ratioque dicendi in eorum qui audiunt mentibus aut sedandis aut excitandis expromenda est* ('in soothing or exciting the minds of

1. Cf. the scheme on p. 191. The passages that concern pathos alone (2,185-196; 204-211) are about 7 times as long as the treatment of ethos (2,182-184) (in terms of Friedrich's pages, which are all of the same length). Although the treatment of ethos, pathos and wit together (2,178-289) is twice as long as 2,114-177 on rational arguments, that of ethos and pathos (2,178-216) is, surprisingly, somewhat shorter than that of rational arguments; but the sections on ethos and pathos are more compact and contain less (polemical) asides.

2. Also 2,213-215a: below § 9.1, p. 303-304.

3. After the clear mention of the three *pisteis* in 2,310, the vague phrase 311 *persuadendo ... et commovendo* (contrasted with *argumentando*) must include ethos also; but the rest of 311-312 emphasizes the importance of pathos. Again, there is no reason for supposing a confusion (cf. above p. 237).

the audience the whole force and method of speaking must be brought into play')⁴. In Cicero's later works, where the system is slightly different and the stylistic implications are developed (§ 6.5), the same attitude is found: *probare necessitatis est, delectare suavitatis, flectere victoriae* (*Orator* 69: 'winning approval is necessary, pleasing is a matter of attractiveness, influencing the minds brings victory')⁵.

Antonius claims that his rules about the emotions derive from his long practical experience, but, as discussed above⁶, this emphasis on practice is only one aspect of Cicero's own opinion. Crassus' insistence on the need for psychological knowledge, which is part of the even wider range of knowledge he thinks an orator must possess, represents the other aspect. In the programmatic prologue to the first book, Cicero, speaking in his own person, indeed says that an orator must thoroughly know all human emotions⁷. On this point, he is of the same opinion as Aristotle⁸.

On the other hand, his stand-point in *De oratore* regarding pathos, as emphasized before, is not primarily philosophical, but practical, and it is only natural that the work, in contrast with the *Rhetoric*, contains no extensive theoretical treatment of the emotions. This would, besides, hardly have suited the loose atmosphere of the dialogue⁹. There is, however, no tension between the two sides of Cicero's view: what he makes Crassus demand is that the orator should have knowledge of things not belonging to rhetoric proper, and psychological knowledge of a more theoretical and philosophical nature he must take from philosophical discussions¹⁰. A rhetorical "art" and, *a fortiori*, *De oratore*, may confine itself to the more practical aspects - though it may not, on the other hand, dispense with these, as is abundantly clear from Antonius' polemic against the neglect of ethos and pathos in standard rhetoric¹¹. That the role of giving precepts on pathos in *De oratore* is given to the practical Antonius, and that he emphasizes his practical experience, is no coincidence.

The choice of Antonius is even more appropriate from the point of view of

4. Cf. 1,30; 53; 60; 2,215; 337; 3,55; 105; the further demands for psychological knowledge in 1,48; 69; 165; 3,76; 118; and of course Charmadas' censure of the rhetoricians 1,87 (cf. 1,219).

5. Cf. the rest of *Orat.* 69; and *Orat.* 125; 128; *Brut.* 190; 276; 279; 322.

6. § 6.2, especially p. 198.

7. 1,17, in a context where he insists on theoretical knowledge. Other places where the need for psychological knowledge is mentioned: above p. 198 with n. 21.

8. Above p. 70 with n. 296.

9. On the faultiness of drawing conclusions about Cicero's relationship to Aristotle from this lack of theoretical discussion cf. p. 109.

10. L.-P. (ad 2,209 *spei, laetitiae, molestiae*) note: 'das 4. Buch der Tusc. Disp., in dem von den πάθη gesprochen wird, <bildet> teilweise einen philosophischen Hintergrund für die rhetorische Behandlung der Pathosarten in De or.'. The word 'teilweise' is indispensable here: cf. § 8.5 (especially pp. 284 and 295-296) on Stoic psychology (*Tusc.* 4 offers mostly Stoic material).

11. § 6.2, p. 194-197.

*ethopoia*¹², for he was known as an emotional speaker, and his delivery was vigorous and very well suited for arousing emotions¹³. The emotional epilogue of his defence of Aquilius, when he rent apart the defendant's *tunica* to show his scars, which is here used as an example (2,194-196), was so well known that Cicero could refer to it, both in his accusation of Verres and in *De oratore* 2,124, as something needing very little explanation¹⁴. Cicero's own preference for pathos reflects similar skills: he was regarded, by himself as well as by others, as a master of pathos¹⁵.

The overall structure of the passage on pathos is clear (see p. 191)¹⁶. The introduction in 2,178 and the emphasis on the three *pisteis* in Antonius' reply to Catulus¹⁷ has amply prepared the reader for the subject, and its reintroduction and the enumeration of emotions in 2,185 only serve the clear marking of the structure of Antonius' exposé. The discussion that follows this reintroduction is much less problematic than the three sections on ethos. On the other hand, the passage is long, but carefully and persuasively written. The analyses in this chapter are, therefore, partly of a different character from those in the preceding one, in that more attention is paid to the literary form.

8.2 Probing the Disposition of the Judges: 2,186-187

Before deciding what emotions he will try to arouse, the orator must know the disposition of the judges, for he must adapt his strategy to their mood. This is the subject of 2,186-187¹⁸. The structure of the passage may be compared to that of 2,182-184, which also gradually develops its theme; here, there are two

12. Cf. above p. 198.

13. *De or.* 3,32 *forte, vehemens, commotum in agendo*; *ib. terrens supplicans*; *Brut.* 141-142, especially: *actio singularis; habebat ... flebile quiddam in questionibus aptumque cum ad fidem faciendam tum ad misericordiam commovendam*. Cf. Leeman (1963: 60). Antonius also seems to have been a master of ethos: see the epilogue of his defence of Norbanus (below p. 277; this is, however, Cicero's potentially coloured account) and perhaps *Brut. l.c. ad fidem faciendam*.

14. *Verr.* II,5,32-33; Aquilius had been mentioned II,5,3-7; 14. In *De or.* 2,124 Aquilius' name is not even mentioned. Cf. Schottländer (1967: 140-141) on a significant imitation by Antonius' grandson, the triumvir Marcus Antonius.

15. Cf. e.g. *Orat.* 130; 132 (incl. *uterer [sc. exemplis] alienis ... Latinis, si ulla reperirem*); *Brut.* 190; 322.

16. N.B. I follow Kum. and others in making 2,186 begin with *atque illud optandum est (contra W. and Sutton)*. On Sutton's paragraphing below n. 19.

17. 2,179-181: above p. 194-195.

18. 2,186 starts with *atque illud optandum est* (above n. 16). The resemblance detected by Schweinfurth-Walla (1986: 183 with n. 1) with Aristotle's precept to adapt the speech to the characters of those in the audience (*Rhet.* 2,13,16: 90a25-28) is at best superficial.

"waves", corresponding to the two sections¹⁹. In both, two possibilities are mentioned: either the judges' emotions are easy to excite, in a way favourable to the orator, or their disposition is neutral (or hostile)²⁰ or difficult to discover. In 186 Antonius describes both possible situations and his own attitude in both cases; in 187 he summarizes them and sketches the consequences for his speech. This parallelism in content between 186 and 187 is emphasized by Antonius himself: he starts the second "wave" with *si se dant et, ut ante dixi, sua sponte ...* ('if they surrender themselves and, as I said before, of their own accord ...')²¹.

The first situation is what the orator hopes for (2,186 *optandum est oratori*). This is illustrated by a proverbial comparison: *facilius est enim currentem, ut aiunt, incitare quam commovere languentem* ('for it is easier, as the saying goes, to urge on those hurrying than to rouse the sluggish')²². In the second "wave" Antonius, using a proverbial expression²³ and a metaphor, briefly indicates his strategy in such cases: *si se dant et, ut ante dixi, sua sponte, quo impellimus, inclinant atque propendent, accipio quod datur et ad id, unde aliquis flatus ostenditur, vela do* ('If they surrender themselves and, as I said before, are of their own accord inclined to go in the direction I am driving them in, I accept this godsend and set my sails to catch the breeze that is blowing'). Naturally, such a case still demands the orator's effort, for the audience is not, in general, supposed to be vehemently excited of their own accord, but to be 'inclined' to emotion²⁴.

The second situation is of course more difficult, and accordingly receives a longer treatment. In 2,186 Antonius, by means of a comparison and a metaphor, describes his probing of the judges' disposition: *sicuti medico diligenti ...; ut odoror quam sagacissime possim quid sentiant, quid existiment, quid expectent, quid velint, quo deduci oratione facillime posse videantur* ('just as a devoted doctor'; 'to scent out as keenly as I can what their feelings, their opinions, their expectations and their wishes are, and in what direction they might most easily be steered by my

19. Sutton's paragraphing is incomprehensible, and destroys the passage's coherence. His translation is equally misleading, especially '*Another desirable thing*' (my italics) for 186 (his 185) *atque illud optandum est ...*.

20. 2,186 *sin id ... non erit* includes hostility, and although *integer quietusque iudex* in 187 does not, the following considerations again do.

21. Moreover, *sua sponte* is a repetition from 2,186; the second case is introduced by *sin* in both sections.

22. Although the proverb is frequent (cf. L.-P. ad loc.), the wording is very significant: *incitare* and *commovere* are also appropriate for referring to pathos!

23. *Accipio quod datur* is proverbial (although the regular meaning does not apply here): cf. L.-P. ad loc.

24. 2,186 *ut aliquam peremotionem animorum sua sponte ipsi adferant* does suggest emotions unprompted by the orator, but also covers cases where the judges' inclination only suggests a certain strategy to the orator. With 187 *inclinant atque propendent* cf. 2,129 (about the effect of ethos) *ut ... inclinatione voluntatis propendat in nos*.

speech')²⁵. On the basis of what he finds, it is implied, he chooses the strategy by which he may, 'with much effort' as he says in 187 (*plus est operis*), still stir a calm and impartial judge (*integer quietusque iudex*); however difficult this is, he says, it is certainly possible, and he describes the power of speech, again using metaphor and comparison, and also a quotation from a tragedy of Pacuvius.

This leads up to a short interlude in 2,188 about the power of Crassus' speeches, which, in turn, leads to the subject of the need for the orator to be aflame himself when arousing emotions. This need exists in all cases and, therefore, in both situations described in 186-187, but it is of course most needed in the difficult one in which the judge is not favourably disposed; moreover, the power of speech mentioned in that context is indeed brought out most vehemently if the speaker is aflame himself. Thus the subject of 189-196 is very closely connected with the last part of 186-187, and the transition is a gliding and natural one. Antonius' defence of Norbanus (197-203) is also connected with the passage under consideration, for it is a perfect example of the arousing of emotions in a difficult situation on the basis of existing predispositions: Antonius had no doubt scented out very carefully the only favourable direction he could get the judges to go.

One of the aims of the rather detailed analysis of the passage given here is to emphasize the host of metaphors and comparisons Antonius uses²⁶. The style in which such abundant use is at home is the grand style²⁷, and this style is indeed a conspicuous feature of the passage on pathos as a whole until the end of the Norbanus case²⁸: Antonius gives a *leçon par l'exemple*.

In this passage, Antonius proceeds along the lines he follows in the whole of his treatment of invention and disposition: he indicates a way and sequence of working for an orator²⁹. Before starting on the invention of pathos, the speaker must know the mood and disposition of his audience, the judges. The remark made at the beginning of the treatment of the individual emotions (2,205) is in the same vein: before thinking about the various emotions he can arouse, he must consider whether the case permits pathos at all: some cases are too insignificant, in others

25. Especially the combination of *sagacissime* (cf. *OLD* s.v. *sagax*, 1) with *odorar* revives the metaphor; cf. *Verr.* II,2,135 *indagare et odorari*, where the metaphor is likewise emphasized by the combination.

26. On 'the great variety of minor imagery' in 2,186-187 see also Fantham (o.c. above p. 194 n. 12: 143-144).

27. *Orat.* 82.

28. Cf. already in 2,185 the half-synonyms *permovet impellitque*, and the accumulation of verbs in the catalogue of emotions. On the following passages see below.

29. This explains what L.-P. (ad 2,186 *quo deduci oratione*) call 'eine überraschende Ähnlichkeit' between 186-187 and the *cognitio causae* in 2,102-103.

the judges cannot possibly be moved³⁰. School rhetoric, in its treatment of the prologue, also attempted to provide a link with the attitude of the judges by distinguishing four (or five) types of cases, corresponding to four (or five) attitudes. As remarked in chapter 3³¹, however, this attempt provides no link with the rest of invention; in particular, no connection between the situations distinguished and the rules for pathos in the epilogue is given.

Antonius hints at the contrast with school rhetoric by using the term *anceps*, used in some school books to denote one of the types of cases distinguished for the prologue, viz. the 'ambiguous' case³²: in 2,186 he describes the difficult situation as *in ancipiti causa et gravi ad animos iudicum pertractandos* ('in a case that is doubtful [*anceps*] and in which it is difficult to handle the judges' minds'). The second designation shows that, on the other hand, the term should not be taken in its technical sense, but is much vaguer. This reflects, perhaps consciously, Cicero's view that precise rules like those given for the prologue in school rhetoric are too rigid, also with respect to pathos: an orator must be able to judge each case on its own merits and possibilities. In this connection, the demand for *diligentia*, made before in the context of rational argumentation³³, is also referred to, in that the orator is compared to a devoted (*diligens*) doctor, and to a dog scenting out a track as keenly as possible.

It may, finally, be asked in what stage of his work on a case the orator must probe the judges' disposition. The place of the passage in *De oratore* shows that he has to do so as part of the first stage of composing his speech, invention, and that Cicero does not have in mind improvising during a speech.

Of course, orators may frequently have improvised smaller or greater divergences from the text they had prepared. This must not, however, have been necessary very often³⁴, since the length of the procedures of most (criminal) trials gave them ample time to prepare themselves thoroughly and to find out the judges' attitude³⁵. If more than one man wanted to be the accuser, there was a first stage, *divinatio*, to decide between the candidates, and many members of the jury in this stage were also members of the jury in the trial itself³⁶. During the first

30. *primum considerare soleo postuletne causa. nam neque parvis in rebus adhibendae sunt hae dicendi faces neque ita animatis hominibus, ut nihil ad eorum mentes oratione flectendas proficere possimus* (etc.).

31. p. 86.

32. *Inv.* 1,20; this type is partly identical with the type called *obscurum* in *Rhet. Her.* 1,5.

33. Above p. 197.

34. Quint. 10,7,30-31 mentions improvisation, but only in cases of emergency (*subitis*); in 11,2,3 he also mentions it, but is unspecific about its occurrence (*extemporalis oratio*).

35. See A.H.J. Greenidge, *The Legal Procedure of Cicero's Time* (Oxford etc., 1901; repr. New York: Kelley, 1971): 456-504. For a brief description see Kennedy (1972: 14-16).

36. Greenidge (o.c. prev. note: 460 with n. 1): *Verr.* II,1,15.

phase of this process proper, the *actio prima*, which followed after a number of formal steps³⁷, the accuser spoke first, so the speaker for the defence had some extra opportunities for watching the jury. After the speech for the defence there followed, among other things, the examination of witnesses and the *altercatio*, the debate between the two patrons³⁸ (of which especially the last always required improvisation). In important cases the procedures were then adjourned, and a second phase, *actio secunda*, followed³⁹. This was generally the phase in which the great speeches were held. Even without this second phase, however, there was enough time, since the *actio prima* usually took several days. Furthermore, it was usual practice that more patrons spoke for the same client⁴⁰, which gave the last one plenty of time to watch the judges' reactions - and it was especially the last one's task to play upon their feelings⁴¹.

In fact the whole of invention, in any case that of a speech for the defence, presupposes that the process has already started, for it involves thinking of a way to counter the arguments of the accuser.

Some other passages may illustrate the point. I will mention three of these⁴². First, in *De oratore* 2,148 Antonius, in the course of his "eulogy of *diligentia*"⁴³, says that the content and the words of the opponents' speeches must be carefully absorbed, as well as the looks on their faces.

Second, the end of the passage on disposition (there called *collocatio*) in *Partitiones oratoriae* 15 may be compared with the one under consideration:

Cic. filius:	semperne igitur ordinem collocandi quem volumus tenere possumus?
Cic. pater:	non sane; nam auditorum aures moderantur oratori prudenti et provido, et quod respuunt immutandum est.

Cic. junior:	Can we, then, always keep the order of disposition that we want?
Cic. senior:	Certainly not; for the intelligent and provident orator is guided by the ears of his audience, and what is spurned by them should be changed.

Here the context might suggest improvisation: this is the end of the treatment of disposition, which might be thought to point to a speech finished but for the wording (*elocutio*). (Note the contrast with the context in *De oratore*!) But even here the reference to a 'provident' orator shows that what changes are necessary should be made before the actual speech.

Thirdly, the speech *Pro Roscio Amerino* (probably from 80 B.C.) is a case in

37. Greenidge (o.c.: 477).

38. *ib.*: 477-479 and 479.

39. *ib.*: 499-501.

40. Kennedy (1972: 14); cf. *De or.* 2,313-314.

41. Cf. *Brut.* 190; *Orat.* 130.

42. Cf. also n. 63; n. 136.

43. Cf. p. 197.

point as regards improvisation⁴⁴. The case was a grotesque but horrible one: Roscius was accused of murdering his father by those who had, in all probability, killed him themselves and had, making use of the proscriptions of the dictator Sulla, managed to take hold of and sell his property. The patron for the prosecution was a certain Erucius, and the accusers were rather self-confident, because they were backed by one of Sulla's creatures, Chrysogonus, who had bought the property himself. Contrary to their expectations, however, Cicero had not avoided Chrysogonus' name but, from the beginning of his fascinating speech, presented him as the evil genius behind the accusation⁴⁵. The sections relevant here are 59-61, where Cicero describes Erucius' ease, and even boredom, at the beginning of Cicero's speech, his alarm at the first mention of Chrysogonus, and his panic when Cicero proceeded along these lines. Of course it is possible that, as Humbert thought⁴⁶, this passage was added later when the speech was published. Kennedy⁴⁷ writes that 'if Cicero actually spoke it at the time he had great ability at improvisation'. There is, however, a third possibility that is, I think, far more attractive. Erucius' conduct was probably known, and there was also much opportunity of observing him during the trial. As a consequence, it was predictable that he would show himself superiorly bored at the beginning, and be alarmed as soon as Cicero uttered his first words about Chrysogonus. Just like these words, the passage about Erucius may, therefore, very well belong to Cicero's well planned surprise tactics. During his actual speech, he may have had to adapt the original design a little bit to match Erucius' exact reaction, but probably not much.

In short, improvisation probably played little part in the practice of speaking, and it is, accordingly, not taken into account in Antonius' description of the planning and composition of a speech.

8.3 *Iipse ardere*: 2,189-196

The power of speech can accomplish much, and stir even a neutral judge to emotions; this is what you, Crassus, said I did; but you can speak very powerfully yourself; your speech is so intense, *ut mihi non solum tu incendere iudicem, sed ipse ardere videaris* ('that you seem to me not only to inflame the judge, but to be aflame yourself'). With this, Antonius moves from the evaluation of the judges' minds to a well-known but difficult subject: the need for the orator of feeling

44. On this speech cf. Kennedy (1972: 151-154).

45. Chrysogonus is mentioned for the first time in § 6.

46. Kennedy (1968: 431 n. 17) refers to Jules Humbert, *Les plaidoyers écrits et les plaidoyers réelles de Cicéron* (Paris, 1925; repr. Hildesheim/New York: Olms, 1972): 100-111.

47. Kennedy (1968: 431).

the emotions he wants to arouse in others⁴⁸. He proceeds as follows (2,189):

neque fieri potest ut doleat is qui audit, ut oderit, ut invideat, ut pertimescat aliquid, ut ad fletum misericordiamque deducatur, nisi omnes illi motus, quos orator adhibere volet iudici, in ipso oratore impressi esse atque inusti videbuntur.

It is indeed impossible that the hearer should grieve, should hate, should feel envy, should fear something, should be driven to tears and pity, unless the selfsame emotions the orator wants to apply to the judge will seem to be imprinted and branded into the orator himself.

But this necessity is only the smallest part of the problem. In what follows Antonius asserts that it is indeed possible to be aflame yourself, *ipse ardere*. The passage as a whole is structured as follows:

- 2, 189 Introduction: necessity (A) and possibility (B) of *ipse ardere*
- 190 Development of (A) necessity
- 191-194a Development of (B) possibility
- 194b-196 Illustration of (A) and (B) by an example from Antonius' practice

So 2,190 underlines the assertion quoted above. It reformulates it for some exemplary emotions, and ends with a comparison that serves as definite proof⁴⁹: no material, however ready to catch fire, will do so if no fire is applied to it.

The second problem is then reintroduced: *ac ne hoc forte magnum ac mirabile esse videatur, hominem totiens irasci* (etc.) (2,191: 'But in order that it should not seem difficult or extraordinary that a man could so often become angry ...'). In the long passage that follows, Antonius gives several explanations. The first is strongly connected with the theme of the power of speech: the orator is carried away by his speech himself - even more so than the audience!⁵⁰

The next sentence (2,192) reformulates the question, but ends in an anacoluthon:

et ne hoc in causis, in iudiciis, in amicorum periculis, in concursu hominum, in civitate, in foro accidere miremur, cum agitur non solum ingeni nostri existimatio - nam id esset levius, quamquam, cum professus sis te id posse facere, quod pauci, ne id quidem neglegendum est, sed⁵¹ alia sunt maiora multo, fides, officium, diligentia, quibus rebus adducti, etiam cum alienissimos defendimus, tamen eos alienos,

48. Schrijvers (1982) gives less than the title promises: it is useful on Quint., but (p. 47-48) not altogether accurate on Cicero.

49. Cf. p. 254; and below p. 263 (at n. 70). Comparisons having this same function occur in 2,317 (this concludes 316-317); 3,69 (56-69); 3,178-181 (173-181); 3,200 (corrupted); 3,222b (towards the end of 221-223a); cf. also 3,195, which starts 195-198. Cf. also *Rhet. Her.* 2,29.

50. Schrijvers (1982: 48 with n. 7) thinks that the rationality of this explanation is stressed, but this analysis depends on an overestimation of the divinity of the orator as a separate theme in book 2.

51. Kum. writes *neglegendum est - sed*, taking *nam id ... neglegendum est* as a parenthesis. See next note.

si ipsi viri boni volumus haberi, existimare non possumus. (193) sed ut dixi, ne hoc in nobis mirum esse videatur, ...

But in order that we may not think it extraordinary that this might happen in cases, in trials, assisting our friends in danger, amidst a crowd, in public life, in the forum, when not only our reputation for talent is involved - for that would be less important, although, if you have claimed to be able to do what only few others can, even that is no small thing, but other things are much more important, our loyalty, duty, diligence, and if we are led by these we cannot, even if we are defending total strangers, regard them as strangers, if we want to be considered good men ourselves. (193) But as I said, in order that it should not seem extraordinary ...

The beginning of 193 shows that the preceding reasoning has got out of hand: Antonius has been carried away himself!

Because of this anacoluthic structure⁵², there is formally no answer to the question posed. But it is clear that the clause *sed alia sunt* ... ('but other things ...') nevertheless presents such an answer: the orator's *fides* ('loyalty') etc. are at stake. Because of this, even total strangers are no strangers to him anymore, and he is worried and involved on their behalf⁵³. But another answer, albeit a less important one, is suggested by the preceding clause: an orator 'claims to be able to do what only few others can'⁵⁴, that is, his reputation for talent is also at stake. And we can go back still further, for even the beginning of the whole section is somewhat curiously phrased: it already hints at the second, more important answer, for the fact that an orator's emotions occur 'in cases, in trials, assisting our friends in danger, amidst a crowd, in public life, in the forum' is no supplementary reason for surprise, as the sentence structure suggests, but is part of the explanation that should remove this surprise.

The reason thus given in 2,192 for the possibility for an orator always to feel emotions himself is, in short, that there is much at stake for him also: his reputation for talent and, more important, his reputation as regards his *fides* etc. This second reason suits Antonius especially well, for *fides* was bound up with the relationship between *patronus* and *cliens*, and he seems to have been the

52. *Nam id esset levius* starts as a parenthesis, but its second part (*cum professus sis ... neglegendum est*) is then taken as an independent sentence, to which the following is a sequel (*sed alia sunt* ...). This anacoluthic structure gives emphasis to this newly created independent clause, and especially to its second part, which provides the answer to the question posed. Most editors and commentators take *sed alia sunt* ... as an independent continuation after a parenthetic *nam id ... neglegendum est*; but *sed* ... can very naturally continue *cum professus sis ... neglegendum est*, and since a relationship to what immediately precedes is more natural in a (deliberately) chaotic sentence such as this, I prefer the analysis given here.

53. Note that this takes up the extra point in 2,191 *praesertim in rebus alienis*.

54. The solemn and slightly unpractical nature of this argument is shown by the fact that the point also appears in the (intentionally) somewhat solemn praise of eloquence 1,31: *quid enim est ... tam admirabile quam ex infinita multitudine hominum existere unum, qui id quod omnibus natura sit datum vel solus vel cum perpaucis facere possit?*

most typical *patronus* of his time. In *Brutus* 207 Cicero writes that 'Antonius was always ready to undertake cases' (*Antonius ... facilis in causis recipiendis erat*), and Valerius Maximus even reports that 'for the safety of those in danger, he was prepared not only to use his eloquence, but to abuse his self-respect' (*pro periclitantium enim capite non solum eloquentia sua uti, sed etiam verecundia abuti erat paratus*)⁵⁵. Cicero himself felt a strong affinity with this attitude, as is clear from his assertion in *De officiis* 2,49-51 (written 44 B.C.), that one may prosecute only sparingly, and only when taking revenge or helping one's clients, or, especially, if it is in the interest of the state, but that defending someone is always honourable⁵⁶. His own accusation of Verres was almost his only one⁵⁷. The attitude was in fact widely accepted and, even though Antonius was obviously regarded an extreme case, shared by many, as is shown by numerous passages from Cicero, and by the heterogeneous combinations of friends and enemies that are frequently found acting for the defence of one and the same man⁵⁸. So strong were the typically Roman values of *fides* and patronage⁵⁹, that they were themselves a potentially potent factor in the courts, as will be shown by the case of Norbanus.

In 2,193, the question is again posed, and the answer given here consists of a comparison to actors, who, though repeatedly playing the same role, get emotionally involved every time: their eyes may be seen to glow behind their masks, and they cannot even hold back their tears. This shifts into a comparison to the poet

55. Val. Max. 7,3,5; transl. after Kennedy (1972: 81). Cf. also *De or.* 2,124-125, where defence seems to appear as Antonius' forte; and the beginning of Val. Max. Lc., and Cic. *Cluent.* 140: Antonius did not publish his speeches, in order to be able to deny anything he had said if that should be necessary in a future defence. (There are no grounds for dismissing this reason as 'scherzhaft' as E. Klebs in *RE* I: 2593 does.) Cf. also Kennedy l.c.

56. Cf. also *Verr.* II,1,98; *Rab. Perd.* 1; *Tusc.* 1,1.

57. The simple designation *accusatio* in *Orat.* 103; 167; 210 was enough to refer to the Verres-case. There is, however, one other prosecution, of T. Munatius Plancus Bursa, late in 52 or early in 51; Bursa was apparently one of his worst enemies; cf. Crawford (o.c. above p. 160 n. 231: 230-234). Testimonies Cicero gave for the prosecution are of course not counted; the 'speech' against Gabinius belongs in this class, see Crawford (o.c.: 188-192), who may be right in stating (ib.: 190; cf. the tone of *Q. fr.* 3,4,2-3) that 'Cicero would have liked to have been the prosecutor' (remarkable enough!); but however that may be, 'he did not ... give a speech for the prosecution' (*contra*, among others, Kennedy 1972: 202).

58. Passages from Cic. cf. n. 56. Explicit testimony in *Off.* 2,51 (about defending a guilty man) *vult hoc multitudo, patitur consuetudo, fert etiam humanitas*. As to the combinations, personal and political friends often found themselves on opposite sides, cf. Kennedy (1972: 190-191), Brunt (title below n. 93: esp. 13-15), Mitchell (title below n. 93: 32 with n. 80, 164 n. 136). Cf. also tone and facts in, e.g., *Mur.* 8-10; 45; *Brut.* 130; *De or.* 1,32; 169; 202; 2,226.

59. Cf. also, e.g., Kennedy (1972: 13-14), Gelzer (o.c. above p. 245 n. 88: 49-56, 56-83), Walter Neuhauser, *Patronus und Orator* (Innsbruck: Universitätsverlag, 1958), Ernst Badian, *Foreign Clientelae* (264-70 B.C.) (Oxford UP, 1958): 1-13; more recent literature in the 1983 reprint of Gelzer (o.c.: p. X).

who writes the plays⁶⁰: if the actor is excited when playing, the poet must certainly be so when writing. And this, Antonius holds (194), goes *a fortiori* for an orator, whose business is not with fiction but with reality. This third explanation of the orator's emotions is, logically speaking, a support for the first one, especially the part about actors: the orator, like the actor, is carried away by what he is saying. But this link is not really brought out⁶¹, and the intervening second reason makes the third one virtually independent. That this last explanation is based on a long comparison is of course no coincidence⁶².

The example of Antonius' defence of Manius Aquilius⁶³ is introduced at the last stage of the third explanation: Antonius compares his handling of the case to the behaviour of an actor or poet. But not only the possibility (point B above), but also the necessity (point A) of *ipse ardere* is emphasized and illustrated by it⁶⁴. The emotional climax of this defence was the rending apart of Aquilius' *tunica* in the epilogue, to show the scars that bore witness to his bravery in the service of his country. It is customary for a certain type of commentary to spoil, for the modern reader, the surprise effect such descriptions may have, by explaining the course of action beforehand; but in this case the practice is justified, since there was no surprise effect for the ancient reader either. Crassus had already referred to Antonius' action in 2,124, so had Antonius in 188, and the description in 194b-196 even starts by referring to the epilogue (*quae in illa causa peroranda fecerim*: 'what I did in the epilogue of that case'). Moreover, as mentioned above (p. 252), Antonius' defence was widely known.

Of course Cicero could have chosen another example, so the absence of a surprise effect is deliberate. As a consequence of this absence, the emphasis is not on the startling act, but on Antonius' emotional involvement in it - an effect supported by the description in the grand style.

This example ends the passage on *ipse ardere*, and it is followed by the case

60. In 3,102 Cicero also shifts from actor to poet. The link between them was obviously considered a tight one: cf. Gill (1984: 152-153 n. 21, on which below n. 81).

61. 2,193 *sed ut dixi* may be thought to indicate it, but in all probability this phrase merely serves to reintroduce the whole problem after the anacoluthon in 192 (above p. 258-259). In any case, the lack of other indications is significant, as is the intervention of the second reason. (This point is missed by Schrijvers 1982: 47-48.)

62. Cf. p. 258 with n. 49.

63. For details and references cf. L.-P. ad 2,124. The case is discussed as part of Antonius' treatment of invention, and his handling of the defence had indeed most probably been planned beforehand; it can hardly have been a matter of improvisation (as Schottländer 1967: 140-141 suggests).

64. Possibility: 2,194 *quare nolite existimare me ipsum ..., quae in illa causa peroranda fecerim, sine magno dolore fecisse*. Necessity: 195 *sensi ... tum ... moveri iudices, cum excitavi ... senem, et cum ista feci, quae tu, Crasse, laudas ...*; 196 *quibus omnibus verbis ... si dolor afuisset meus, non modo non miserabilis, sed etiam inridenda fuisset oratio mea*.

of Norbanus, which illustrates all preceding remarks on both ethos and pathos. Because this is also an example from Antonius' practice, and because of the natural connection with what precedes (2,197 *quamquam te quidem quid hoc doceam, qui ...*: 'but why should I tell you all this, you who ...'), the transition is a gliding one. Nevertheless, the end of the passage 189-196 is clearly marked by the summary in the last sentence: *quam ob rem hoc vos doceo, Sulpici, ..., ut in dicendo irasci, ut dolere, ut flere possitis* ('And therefore I teach you, Sulpicius, to be able, while speaking, to get angry, to grieve, to weep')⁶⁵.

As stated already, Cicero, like Antonius, identified himself with the role of patron, and in *Orator* 130 and 132 he stresses the genuineness of the emotions he had displayed in his speeches. Nevertheless, he was aware of the need to feign emotions now and again. This aspect of his views is represented by Crassus in 3,215 (see p. 197-198). Even Antonius, however, seems to leave some room for pretending: *quod si fictus aliqui dolor suscipiendus esset et si in eius modi genere orationis nihil esset nisi falsum atque imitatione simulatum, maior ars aliqua forsitan esset requirenda* (2,189: 'but if we had to adopt some pretended grief, and if this type of speaking were based on nothing but feigning and imitating and pretending emotions, we would probably need some more powerful art')⁶⁶. This aspect, however, is passed over in the rest of the passage.

But there is no reason to suppose that Cicero is himself pretending. Although he makes Crassus say in 3,215 that imitation is necessary, especially in the delivery of emotional passages, he also makes him say: *ac sine dubio in omni re vincit imitationem veritas* ('And no doubt reality always does better than imitation'). And however drily this is brought forward, it is probably indicative of Cicero's complete view: unpretended emotions are better and more effective than feigned ones, but one must (partly) simulate if necessary. In the passage where Cicero, as a novelty for his time, gives pathos an important role in rhetorical theory, it is of course the possibility of real emotion that he emphasizes. Moreover, it is this aspect of the problem that is closely akin to the aspect of his views on

65. The final sentence is indeed a resumé of the whole passage, since it means 'I teach you this: to be able to ...' (thus Courbaud, Merklin), not (as L.-P. seem to take it) 'I teach you the fact that it is possible ...' (i.e., *ut ... possitis* is directive, not assertive; cf. K.-St. 2,220; Sutton's 'I am telling you this ..., in order to ...' takes *hoc* as referring backward, which must also be rejected). L.-P. rightly note the irony, not only in *bonus ego videlicet atque eruditus magister*, but also in the simpleness of the precept. But this irony is less strong than they think, for in view of the meaning of the sentence (as I take it) *ut ... possitis* cannot be called 'dieses ganz natürliche Vermögen'.

66. Cf. perhaps also Antonius' contrast between the requirements of practice and those of truth and philosophy in 1,225-233. (It is irrelevant here that he later, in 2,40, acknowledges that this was not his real opinion: this primarily concerns the ironical twist he gives to the contrast in order to combat Crassus' view that the orator needs philosophy.)

rhetorical art in general that he gives to Antonius⁶⁷. And apart from all this, there is perhaps much truth in Antonius' assertions.

This should, however, not obscure the fact that the practical necessity of showing emotions is continuously in the background, also in the last, illustrating part of the passage⁶⁸. Contentions like Michel's, who thinks that Antonius 'justifie ... sa conception par l'amour de la sincérité'⁶⁹, completely miss Cicero's tone. The only reason why the possibility of genuine feelings is here stressed much more than the necessity is, no doubt, that the usefulness of showing emotions was much less controversial.

Still, the question remains why the possibility of feeling genuine emotions receives so much stress. The passage is even longer than Antonius' description of the individual emotions in 2,205-211a. The importance of the subject is also reflected by the form: the first two parts are both concluded by a comparison, and the third part, in turn, elaborately illustrates and confirms these first two⁷⁰. Obviously, Cicero could expect criticism of his emphasizing of pathos and his assertions about genuine emotions. Antonius, when first formulating the problem in 2,189 (quoted p. 262), spends no time in elaborating the view he rejects, which shows that he is arguing against a well-known point of view. The background of this passage therefore deserves some attention. After reviewing some evidence for the acceptability of Antonius' views, I will try to answer the questions what kind of criticism Cicero could expect, and whom he is trying to convince.

The fact that the view rejected was well known implies that many of Cicero's contemporaries were familiar with the problem of the "actor's paradox"⁷¹. Generally speaking, on the other hand, they were hardly as uneasy about the problem as many moderns are when reading (!), for example, Cicero's emotional epilogues. This is clear from the almost unfailing success of these and similar strategies, with audiences who must, in general, have been thoroughly acquainted with all rhetorical rules and tricks. Part of the explanation of this phenomenon is no doubt the social significance of the relationship between patron and client⁷²; and another part must be the respect for loud ostentations of emotion in general⁷³.

67. Cf. § 6.2, especially p. 195-198.

68. Cf. n. 64.

69. Michel (1960: 245). Cf. also below § 8.6, with n. 193.

70. Cf. n. 49.

71. This phrase seems to have originated with Diderot's *Paradoxe sur le comédien*. Regarding this "paradox", Schrijvers (1982: 48 with n. 10) refers to p. 170-173 of a stimulating essay by Niall Rudd, 'Theory: sincerity and mask', in: *Lines of Enquiry. Studies in Latin Poetry* (Cambridge UP, 1976), 145-181 (some of whose analyses differ from mine).

72. p. 260 with n. 59.

73. See MacMullen (1980), a brief but illuminating sketch (though not free from error: below n. 87).

In court, one could get very close to, or even past, the edge of what we would consider plain manipulation, without losing one's credibility. A very clear example of this is a passage Cicero quotes from one of his own speeches⁷⁴ in *Brutus* 278:

'tu istuc, M. Calidi, nisi fingeres, sic ageres? praesertim cum ista eloquentia aliorum hominum pericula defendere acerrime soleas, tuum neglegeres? ubi dolor, ubi ardor animi, qui etiam ex infantium ingeniis elicere voces et querelas solet? nulla perturbatio animi, nulla corporis, frons non percussa, non femur; pedis, quod minimum est, nulla suppositio. itaque tantum affuit ut inflammaretur nostris animos, somnum isto loco vix tenebamus.' sic nos summi oratoris vel sanitate vel vitio pro argumento ad diluendum crimen usi sumus.

'If, Marcus Calidius, you were not making that up, would you bring your case forward like this? Especially since, with that eloquence of yours, you always defend other people from danger so very vehemently, would you be indifferent to your own danger? Where is that grief, where is that burning indignation, which stirs even men quite incapable of eloquence to loud outbursts of complaint? No agitation of mind, none of body, you did not strike your forehead or your thighs; and (the least we could have expected!) you did not even stamp your feet. And so you far from inflamed our minds: we could hardly keep our eyes open when you were speaking.' In this way I exploited what we may call either the healthy or the faulty manner of speaking of this excellent orator, and used it as an argument in refuting a charge.

(The possibility that Calidius' manner of speaking was healthy rather than faulty is of course immediately rejected in what follows.) It is indeed the absence of these emotive rhetorical means, quite well known from the handbooks, that is here used to prove feigning! The simple honesty of Cordelia, unacceptable to King Lear, would have been equally unacceptable, and probably incomprehensible, to many Romans. Antonius' assertions cannot have sounded very strange to most Roman ears.

Against whom are Antonius' arguments directed? The passage might be an echo of a controversy in rhetorical theory. In fact even school rhetoric, in some scattered remarks, acknowledged the need to show signs of emotion, and its effect on the hearers⁷⁵. So did Aristotle in *Rhetoric* 3,7: 'if someone speaks emotionally, even if he has nothing substantial to say, the hearer is always similarly affected' (3,7,5: 08a23-24, συνομοιοπαθεῖ ὁ ἀκούων ἀεὶ τῷ παθητικῶς λέγοντι, καὶν μῆθεν λέγει⁷⁶). The genuineness of the emotions to be displayed, however, is not discussed, neither by Aristotle nor by school rhetoric. None of the surviving

74. References about this speech in A.E. Douglas' comm. ad loc. (Oxford UP, 1966).

75. *Rhet. Her.* 3,27 hoc tamen scire oportet, pronuntiationem bonam id proficere (or: perficere), ut res ex animo agi videatur; 4,55 item mutatur res tractando si traducitur ad exsuscitationem, cum et nos commoti dicere videamur, et auditoris animum commovemus, sic: ...; cf. also the prescription in *Inv.* 2,51 that "loci communes" must be presented in the grand style; and Pseudo-Plut. *De vita et poesi Homer* 2,32 (Plut. *Moralia* ed. G.N. Bernardakis [Teubner], vol. 7 [1896] 352,21-22).

76. Cf. p. 71-72.

material until Quintilian⁷⁷ shows any awareness of the problem. The comparative unimportance of ethos and pathos in school rhetoric of at least the second and early first centuries B.C., and its emphasis on matters related to *stasis* theory, reinforce the conclusion that a rhetorical controversy cannot have been behind Cicero's discussion.

Antonius' third argument, the analogy with actors and poets, points to another field, that of poetics, but there the parallels are equally scanty: the seventeenth chapter of Aristotle's *Poetics*, and Horace's *Ars Poetica* 99-113⁷⁸. From the fact that someone who feels an emotion can arouse it most truly, Aristotle concludes that 'poetry is the work of intelligent or inspired people, for the intelligent are impressionable and the inspired are ecstatic' (*Poetics* 17,4: 1455a32-34: εὐφροῦς ἢ ποιητικὴ ἐστὶν ἢ μανικὸν· τούτων γὰρ οἱ μὲν εὐπλάστοι οἱ δὲ ἐκστατικοί εἰσιν). This does concern a poet's genuine emotions, but the point is not presented as problematic or further developed. The passage from Horace only concerns the need, for the actor, to show emotions: *si vis me flere, dolendum est primum ipsi tibi* (*Ars Poetica* 102-103: 'if you want me to weep, you must first feel pain yourself'). The reference to the poet is at most indirect⁷⁹, it is the showing of signs of emotion that is concerned, and the problem of 'poetic sincerity' is not even mentioned⁸⁰. Since Aristotle's *Poetics* (which gives us little to go on regarding *De oratore* anyway) was almost certainly unknown or virtually unknown in Cicero's and Horace's days⁸¹, and since Antonius' analogy is formulated as if the point was uncontroversial as regards actors and poets⁸², we may surmise that the actor's paradox was not considered problematic in discussions of poetic theory. Even if this should be doubted because of the scantiness of our evidence, Antonius' wording does show that Cicero, as far as *De oratore* was concerned,

77. Quint. 6,225-36. The attention he pays to (ethos and) pathos is almost certainly inspired by Cicero. (On his use of the theory of φαντασία in this connection cf. Schrijvers 1982: 49-55.)

78. Persius 1,90-91, besides being much later, emulates Horace (Brink 1971: 186 ad 102-103). Kroll (1918b: 93, cf. 88-89) calls the idea 'dass man Psychagogia erziele, indem man den Zuschauer den eigenen Affekten zu folgen zwingt' typically Peripatetic; but his parallels only prove that Peripatetic poetic theory concerned itself with emotions; the absence of real parallels becomes all the more striking (Brink 1971: 182 comments on Kroll's contention in the same vein).

79. Cf. 104 *male si mandata loqueris*, and the emphasis on appropriate words in what follows; cf. Brink (1971: 187 ad 104): Horace 'dramatizes the tragic poet's failure. He involves him only at a remove as it were'.

80. Brink (1971: 183, 188-189) does see in Hor. *A.P.* 108-111 'a doctrine of poetic sincerity'; but these verses (like *De or.* 3,216) give the reason why certain feelings are linked with a certain style, and why, therefore, a certain style is necessary to make the display of feelings convincing. (Note particularly 108 *enim*.)

81. Above p. 156 n. 213. Gill (1984: 153 n. 21), discussing *Poet.* 17, writes about 'the apparent attraction of the passage for orators'; but there can be no question of a direct influence of the *Poetics* (note that the *De oratore* passage shows that the point was familiar despite the fact that the *Poetics* was certainly unknown to most, and perhaps to all, of Cicero's readers).

82. See, e.g., the very short reference to Democritus and Plato in 2,194.

did not consider it problematic in the case of actors and poets.

The only remaining passages directly touching on the problem come from a philosophical discussion about the desirability and usefulness of emotions, in the fourth book of Cicero's *Tusculan Disputations*. In 4,43 the Peripatetics are reported to hold that anger, which clearly serves as a representative of most other emotions, is not only natural but even useful, and that one of the fields where this is clear is oratory: *oratorem ... non modo accusantem, sed ne defendentem quidem probant sine aculeis iracundiae, quae etiam si non adsit, tamen verbis atque motu simulandam arbitrantur, ut auditoris iram oratoris incendat actio* ('they approve of no orator who lacks the stings of anger, when he brings an accusation but even when he defends; and even if anger is not present, they think that it must be feigned by style and movement, in order that the delivery of the orator may kindle the anger of the hearer'). Note that this is virtually identical to Cicero's complete view on feigning emotions, as reconstructed above on the basis of a synthesis between books 2 and 3 of *De oratore*. From 4,47 on, however, Cicero combats the Peripatetic views with arguments of Stoic provenance. In 4,55 the point from the passage quoted is countered: *oratorem ... irasci minime decet, simulare non dedecet. an tibi irasci tum videmur, cum quid in causis acrius et vehementius dicimus? quid? cum iam rebus transactis et praeteritis orationes scribimus, num irati scribimus?* ('It is very unbecoming for an orator to get angry, but it is not unbecoming for him to simulate. Do you really think that I am angry at the time when I speak rather vigorously and vehemently in court? Moreover, when the affair is over and done with and I put down my speeches in writing, do you really think that I am writing in anger?'). He proceeds to deny that actors and playwrights are moved when acting and writing - exactly the opposite of his argument in *De oratore*! But at the close of the section Cicero emphasizes that he is discussing the wise man: soldiers may feel anger, *vel ceteri, de quibus dici non necesse est, ne rhetorum aperiamus mysteria* ('or others, of whom it is not necessary to speak, lest we disclose the secrets of the rhetoricians'). This puts the contradiction with *De oratore* in perspective, and hints that Cicero is not completely serious: an orator is definitely not a wise man of the Stoic type, as is repeatedly stressed in *De oratore*, but a man of practical life⁸³. The argument given, therefore, is not to be taken as Cicero's real view of oratory⁸⁴.

There is no sign that the discussions reflected in these passages of *Tusculan*

83. See e.g. 1,225-233; 3,65-66 (where the Stoic rejection of emotions is even made fun of). The Stoic view that only the wise man is a true orator (ironically alluded to in 3,55) is very far from the views of *De or.*

84. Michel's attempt (1960: 245-248) to reconcile *De or.* 2,189-196 with *Tusc.* 4,55 is futile. This is of course not to say that Cicero's opinions changed with the "sources" he used, as some probably would hold; it means that he was willing to adapt his arguments to the view he was defending. Even so he could not refrain from hinting that he was not completely serious!

Disputations had any counterpart in treatises on rhetoric or poetics, and the conclusions about these fields drawn above remain valid. The dispute is obviously at home in the context where it is found in this work of Cicero, the philosophical controversies about emotions⁸⁵.

We must therefore examine the possibility that the view Antonius is arguing against was a philosophical view. This is not easy, for the second passage from *Tusculan Disputations* discussed just now (4,55) is rather peculiar. The statement that an orator may feign emotions appears in a context that is primarily Stoic, but the Stoics would certainly have disapproved, for they rejected not only real emotions, but also the emotional appeals in the courts⁸⁶. This peculiarity, however, may be explained: Cicero has not stated that he would defend a Stoic position, only that the Stoic arguments are for the most part very intelligent (4,48 *haec pleraque sunt prudenter acuteque disserentium*). This implies that most of his arguments are of Stoic origin, but does not mean that they all are. The conclusion that 4,55 does not represent the Stoic view on feigning emotions is, therefore, a safe one. Moreover, Cicero could hardly have done otherwise than to modify the Stoic argument as he did, for he could not have denied his own famous emotional way of speaking. Since, then, the opinion about feigning in 4,55 is not Stoic, it may now be asked whether the Stoics had nevertheless formulated a view on the genuineness of an orator's emotions.

The combination of the passages in *Tusculan Disputations* shows that there were very probably disputes between the Peripatetics and the Stoics on the usefulness of emotions. The view that an orator must feel or feign anger (and, by implication, other emotions as well) is expressly ascribed to the Peripatetics in 4,43, and there is no reason to doubt this ascription. The Stoics' reaction to this view was probably a rejection of both aspects, that is, of emotional involvement as well as of feigning. Whether they entertained and expressed the opinion that the display of emotions in court was frequently a matter of feigning only, we cannot tell. As far as I know there is no evidence for this⁸⁷. This absence, though not proving that they did not have this opinion, does show that it was at most a minor point. This means that their criticism cannot have been alone responsible

85. I see no reason, therefore, to modify the conclusions reached in § 5.4 about Peripatetic rhetoric.

86. Cf. above p. 183-184 for a very brief sketch of and references on Stoic rhetoric; their rejection of emotional appeal: cf. above p. 82 n. 21. Otto Heine, in his commentary (Leipzig: Teubner, 1896⁴ = 1929⁵) ad loc., already noticed the peculiarity of the statement in *Tusc.* 4,55. The older discussions on the (controversial) sources for *Tusc.* are, as far as I know, of no profit here (cf. Martin Schanz-Carl Hosius, *Geschichte der römischen Literatur I* [München: Beck, 1927⁴]: 507).

87. MacMullen (1980: 255) writes that Plutarch was 'a good Stoic', which would make his statements about feigned emotions (in everyday life, not in court) possibly significant in combination with *Tusc.* 4; but Plutarch was no Stoic at all, and these statements are therefore of no use here.

for Cicero's emphasis on the genuineness of an orator's feelings. If it existed and played some part, it was an indirect one, through the general influence of the Stoics on the thought of their time.

Finally, Cicero's text itself may give us a clue as to the origin of the view he is arguing against. An important part of his intended public were the young orators to be⁸⁸. His formulations *ne ... miremur* ('we must not think it extraordinary'), etc.⁸⁹, can, as utterances meant for these readers, be taken at face value: Cicero assures the future orators that something that seems very difficult is in fact not very hard. The older part of his public⁹⁰ may also be addressed, for it seems probable that, in 55 already, there were a number of orators who found his emotional style of speaking disproportional and overdone. Some scholars would probably deny this, because the Atticists' censure of Cicero's style, especially his use of the grand, emotional style, is not yet a theme in *De oratore*: only in 46 B.C., then, he felt the need to counter their criticism by writing his *Brutus* and *Orator*. It seems, indeed, impossible to exclude absolutely this widely accepted view that the criticism is of a later date than *De oratore*. On the other hand, it is not necessary to assume that such criticism was entirely new in 46, and the passage in hand seems to support the notion that it already played some part in 55⁹¹.

The intention of the passage as regards both these groups of readers is virtually the same: *ipse ardere* is important, and not as difficult as it seems. Whether these readers were also partly influenced by a Stoic view, and for whom the passage was especially meant, are questions that seem impossible to answer. That Cicero regarded the subject as a very important one, and that the view opposite to his was rather widespread, however, is unambiguously clear from length, structure

88. See L.-P. (I: 23-24), where it is argued that these are virtually the only ones for whom *De oratore* was written. The discussions of philosophical matters in book 3 and the polemic against school rhetoric in book 2, as well as many other allusions, however, presuppose more knowledge than such a young public could have, so the work must also have been meant for others. (I think it improbable that Cicero was blind to the difficulties that young readers would have, as L.-P. I: 24 suggest; after all, he wrote the elementary *Part. or.* for his son between 54 and 52 - cf. above p. 197 n. 19) This is reinforced by other indications: Cicero's brother Quintus is the addressee; in 2.9 Cicero writes that the work will be read by those who have heard Crassus and Antonius speak; he implicitly criticizes some of his colleagues in (e.g.) 2.101, 291-306 and 316-317 (though that does also serve his educational purposes).

89. 2.192, and 191, 193 (all quoted above p. 258-259).

90. See n. 88.

91. Note, however, that "Atticism" is a matter of style, and that Calvus, one of its foremost representatives, had a violent and emotional delivery (Sen. *Contr.* 7.4,6-8; cf. Leeman 1963: 138-141 and Kennedy 1972: 244-246). Nevertheless, most orators employing the plain style will have spoken decidedly less emotionally than Cicero. As regards chronology, Calvus died in 47, and he had been Cicero's rival in the 50's already. The implicit rejection of rigid stylistic distinctions in *De or.* 3.25-37 may also show that the issue was already emerging. This is not to deny that the real discussion, at least as far as Cicero was concerned, took shape around 47-46. It may have been brought about by evaluation of Calvus after his death, as Kennedy suggests (1972: 246); but the turmoils of the years immediately preceding may also have prevented the dispute from developing.

and tone of the passage.

8.4 Norbanus

The climax of the passages on ethos and pathos is Antonius' dramatic description of his defence of Norbanus, in 2,197-201. Its function is indicated at the end, where he says:

sic in illa omni defensione atque causa, quod esse in arte positum videbatur, ut de lege Appuleia dicerem, ut quid esset minuere maiestatem explicarem, perquam breviter perstrinxi atque attigi; his duabus partibus orationis, quarum altera commendationem habet, altera concitationem, quae minime praeceptis artium sunt perpolitae, omnis est a me illa causa tractata, ut et acerrimus in Caepionis invidia renovanda et in meis moribus erga meos necessarios declarandis mansuetissimus viderer. ita magis affectis animis iudicum quam doctis tua, Sulpici, est a nobis tum accusatio victa.

Thus in the whole of my defence and in the whole of the case I only touched very briefly on what seemed to come within the sphere of rhetorical theory⁹², viz. that I should speak about the Appuleian Law and give an account of the nature of high treason; this whole case I handled on the basis of these two elements of a speech, the element that recommends and the one that excites, none of which is adequately treated in the rules of the handbooks: this meant giving the impression of being very vigorous when rekindling the indignation against Caepio and of being very mild when declaring my usual disposition towards those to whom I am bound. So, Sulpicius, it was because the judges' minds were affected, rather than because they were informed, that I defeated your accusation.

So Antonius' defence illustrates the importance of both ethos and pathos. (They will again be closely linked in 2,211b-216a.) This illustrating function makes the passage very important here. Antonius' speech for Norbanus serves as a demonstration of the effectiveness of including ethos and pathos in invention and, in general, of the effectiveness of the way of working Cicero defends. This justifies a detailed discussion, since only thus a clear picture of this illustration can be gained.

Apart from some remarks, I will not consider the wider historical background of the trial, but concentrate on Antonius' speech as presented in *De oratore*, its

92. This is W.'s interpretation of *esse in arte positum* (cf. *OLD* s.v. *pono*, 11b); 'dependent upon' (Sutton, thus Courbaud, Merklin; cf. *OLD* l.c., 23b) is less apt: Cicero would never let Antonius maintain that even that small point was really dependent on rhetorical theory; moreover, the antithesis with *quae minime praeceptis artium sunt perpolitae* would be a little awkward; finally, judging from the cases in *OLD* (l.c., 23b) the ablatives following *positus in* with the meaning 'dependent on' all imply a certain action or event (this, of course, would require more investigation). (L.-P. are silent on the matter of *in arte positum*.)

rhetorical aspects, and the structure of the passage. This also involves the reaction in 2,202-203 of Sulpicius, Antonius' opponent in the case who is also present at the discussion of *De oratore*. This is in fact a second, shorter description of Antonius' defence. After a brief sketch of the facts of the case, I will reconstruct the speech. Some comments on structure and function will end the section.

The situation was as follows⁹³. In 105 B.C. the consul of the previous year, Q. Servilius Caepio, refuses to cooperate with the then consul, Cn. Mallius Maximus, in resisting the Germans in Gaul. As a result 80,000 Roman soldiers are killed in battle at Arausio⁹⁴. In 103, Caepio is prosecuted for this by two tribunes, C. Norbanus and Saturninus, on a charge of high treason⁹⁵. His trial is dominated by violence⁹⁶: two other tribunes planning to intercede on Caepio's behalf are removed by force, and during the skirmish the *princeps senatus* M. Aemilius Scaurus is hit by a stone.

For this violence Norbanus is accused in 95, on a charge of *minuta maiestas* ('high treason'), by Sulpicius. He is defended by Antonius, under whom he has in the mean time (in 101)⁹⁷ been *quaestor* in Cilicia. The jury is composed of *equites* (members of the class of 'horsemen') - a result of tribunician measures around 103, after Caepio, as consul in 106, had given the majority in the juries back to the senators⁹⁸.

93. The following modern works on the historical situation of the time (with widely diverging views) will be occasionally cited below: Ernst Badian, 'Caepio and Norbanus' (orig. *Historia* 6, 1957, 318-356), in: *Studies in Greek and Roman History* (Oxford: Blackwell, 1964, repr. 1968), 34-70; Peter A. Brunt, 'Amicitia in the Late Roman Republic', *PCPhS* 11 (1965), 1-20 (repr. in: Robin Seager ed., *The Crisis of the Roman Republic*, Cambridge: Heffers, 1969, 199-218); Erich S. Gruen, *Roman Politics and the Criminal Courts, 149-78 B.C.* (Cambridge Mass.: Harvard UP, 1968); Christian Meier (Review of Badian, *Foreign Clientelae*), *Bonner Jahrbücher* 161 (1961), 503-514; id., *Res Publica Amissa* (Wiesbaden: Steiner, 1966; Frankfurt a.M.: Suhrkamp, 1980²); Thomas N. Mitchell, *Cicero. The Ascending Years* (New Haven, London: Yale UP, 1979).

94. Sources: T. Robert S. Broughton, *The Magistrates of the Roman Republic* (New York: American Philological Association, 1951-2), I: 555, 557; A.H.J. Greenidge - A.M. Clay - E.W. Gray, *Sources for Roman History, 133-70 B.C.* (Oxford UP, 1960²): 83-84.

95. Sources for this trial in Broughton (o.c. prev. note: 563-564; cf. 565-566 n. 7). It is frequently held that the charge was *minuta maiestas* (before a *quaestio*, under the *lex Appuleia de maiestate* of 103), a view coming from Mommsen and found e.g. in Badian (o.c. above n. 93: 35); but it must have been *perduellio* (before the *comitia*, i.e. before the people), cf. e.g. *De or.* 2,164 *populi Romani potestati*; 197 *rogationi*; *Rhet. Her.* 1,24 *ad tribunos plebis*. The issue was clarified by J. Lengle, 'Die Verurteilung der römischen Feldherrn von Arausio', *Hermes* 66 (1931), 302-316.

96. Cf. Lengle (o.c. prev. note: 308, 312): we do not know to what stage of the procedures the violent meeting belonged, and whether Caepio was really formally found guilty; he did, however, go into exile.

97. The date of 101 for Norbanus' quaestorship is now firmly established by Ernst Badian's brilliant 'The Silence of Norbanus', *AJPh* 104 (1983), 156-171.

98. Most of the facts from this paragraph are to be found in *De or.* Details of the complicated history of the composition of the juries are irrelevant here: cf. Gruen (o.c. above n. 93: 158-159, 165-168). The date of 95 B.C. is not completely certain, but it is very likely because of the con-

The *De oratore* passage says that all odds were against Norbanus: the facts, Sulpicius' emotional pleading, and the fact that whereas he, still relatively young, defended the interests of the state, Antonius, who had been censor, defended a seditious man. (Incidentally, these are factors regarding arguments, pathos, and ethos respectively!) It may be doubted whether the situation was really that dark, but Cicero's sketch must have been acceptable to his readers⁹⁹. The difficulties, as was no doubt Cicero's aim, make Antonius' success even more striking: Norbanus is acquitted.

I will now offer a reconstruction of Antonius' speech on the basis of all available material. Since this material is almost wholly taken from *De oratore*, such a reconstruction is directly relevant for the analysis of the function of the speech in our passage and for the question which of the theoretical remarks are illustrated by it, and how. Its relationship to the historical speech of the historical Antonius is a different question, to be briefly touched upon below. It is easiest to start from Sulpicius' short description in 2,202-203 (now and again taking some points from 197-201), and to consider Antonius' description in 197-201 afterwards; this will, at the same time, clarify the differences of presentation between their accounts¹⁰⁰.

Sulpicius first confirms that, after his own speech, Norbanus' case seemed to be beyond defence. He proceeds to describe four stages of Antonius' conduct of the case, the last of which concerns not the speech itself but the examination of the witnesses (and is not yet given a number in the following survey):

- (1) prologue (*principium*: 2,202): Antonius starts very hesitatingly, and clings to his only excuse for defending this seditious man, the tie formed by Norbanus' quaestorship under Antonius¹⁰¹: *quam tibi primum munisti ad te audiendum viam!* ('in this first stage, you certainly prepared a way for yourself to get a hearing!')
- (2) Antonius seems to have procured nothing more than an excuse; *ecce autem ...*

nection that, in all probability, existed with the trial of Caepio Jr. in that year (Badian [o.c. above n. 93]: 34-36).

99. Norbanus was indeed regarded a *seditiosum et inutilem civem* (*Off.* 2,49; cf. *Verr.* II,5,8; *De or.* 2,124) - by Cicero, i.e. by what is sometimes called the "senatorial tradition". Gruen (o.c. above n. 93: 196, 204) may be right that the outcome of the trial was not very surprising, since equestrian jurors showed 'a cool disdain for aristocratic squabbles' (cf. also ib.: 169, and Meier [1980², above n. 93]: 78 with n. 91). The exaggeration of Antonius' difficulties may come from Cicero, or from Antonius himself and his circle.

100. The reconstruction is essentially the same as that in Malcovati, *ORF*⁴ 229-233 (after Krüger); cf. also Gualtierio Calboli, 'L'oratore M. Antonio e la "Rhetorica ad Herennium"', *GIF* 24 (1972), 120-177: 150-173, esp. 160-166 (which I have not used). Michel's account (1960: 57-58) is inaccurate. For a listing of the relevant passages see below n. 126.

101. About the validity of this excuse below n. 130.

serpere occulte coepisti (203: 'but look ..., you began, imperceptibly, to worm your way'):

He compares (as appears from 199) the violence during Caepio's trial in 103 with earlier *seditiones*: *ut illam non Norbani seditionem, sed populi Romani iracundiam neque eam iniustam, sed meritam ac debitam fuisse defenderes* (203: 'you held that this had not been a sedition caused by Norbanus, but a case of the Roman people's anger, and not an unjust one at that, but deserved and bound to occur').

- (3) Then (*deinde*) he uses all possible means for exciting *odium* and *invidia* ('hate' and 'indignation'¹⁰²) against Caepio, and *misericordia* ('pity') for the victims of Arausio¹⁰³: *deinde qui locus a te praetermissus est in Caepionem? ut tu illa omnia odio, invidia, misericordia miscuisti!* (203: 'And after that, what *topos* against Caepio did you leave unused? You really infected it all with hatred, indignation and pity!').

(finally:) In examining the witnesses Antonius also resorted to arguments about the people's anger and, above all, to pathos, instead of refuting their testimonies.

Sulpicius' presentation is not objective and factual throughout, it even mainly consists of exclamations. He does, however, clearly distinguish between the four stages, and gives a clear description of each. The omission of the last stage of the speech proper, to be discussed below, is not very essential.

We may now analyse Antonius' presentation. This is far more vehement and emotional. Whereas Sulpicius briefly sketches his own promising situation, Antonius gives a very vivid description: first (2,197) he enlarges upon the emotions aroused by Sulpicius and on all the facts that were against Norbanus and himself, in a style characterized by a rhetorical question and other emotive elements¹⁰⁴; after this (198) he describes, in a more quiet tone, Sulpicius' advantage on the score of ethos and the composition of the jury and the audience: *erant optimi cives iudices, bonorum virorum plenum forum* ('citizens of the best kind formed the jury, and the forum was full of good aristocrats'). Here Cicero is deliberately exaggerating Antonius' difficulties so as to highlight his achievement: *equites* who prefer to control the courts themselves instead of leaving them to senators are not exactly

102. As in 2,201 (quoted above p. 269) *invidia* is clearly violent 'indignation', not 'envy', 'jealousy' as in 206-211.

103. That they were the object of this *misericordia* appears from 2,199-200.

104. E.g.: a metaphor (in the rhetorical question, *incendium .. restinguendum*; with Sulpicius this becomes a pun, *non iudicium sed incendium!*); the asyndetic accumulation *vim ... crudelitatem ...*, with a final member very emphatic by its length (*crudelitatem ...casu*) and by the combination of half-synonyms *gravi miserabilique*; heavy emphasis, in *principem et senatus et civitatis*, *M. Aemilium*, on Aemilius Scaurus' dignity (*et ... et*); the climax in *iudicium vocabas/constabat/nemo poterat negare*, with asyndeton between the second and third members.

rebels, but we may safely assume that the designation 'citizens of the best kind', which suggests extreme hostility towards men like Norbanus, goes further than the historical Antonius would have gone¹⁰⁵. Similar considerations go for 'full of *boni*, good aristocrats': there will have been *boni* present, perhaps even many¹⁰⁶, but there were undoubtedly far more members of the people, *populus*, as will also appear below.

(1) Part of the second half of Antonius' description of the situation matches Sulpicius' account of Antonius' prologue, when he, carefully, used *ethos* (2,198):

accedeat ut haec tu adulescens pro re publica queri summa cum dignitate existimare, ego, homo censorius, vix satis honeste viderer seditiosum civem et in hominis consularis calamitate crudelem posse defendere. erant optimi cives iudices, bonorum virorum plenum forum, vix ut mihi tenuis quaedam venia daretur excusationis, quod tamen cum defenderem, qui mihi quaestor fuisset.

In addition, the opinion was that you as a young man were making your complaint on behalf of the state, a very dignified thing, but that I, an ex-censor, could hardly honourably defend such a seditious man, who had been cruel to an ex-consul in his misfortune. Citizens of the best kind formed the jury, and the forum was full of good aristocrats, so that I was only just forgiven on the excuse that I was at all events¹⁰⁷ defending the man who had been my quaestor.

For someone reading the passage for the first time this is indeed part of an account of the situation. The elements of the prologue described by Sulpicius in 2,202 are present, but they are interwoven with the other elements, and the reader cannot yet know that they formed part of Antonius' speech. Only the last sentence suggests that he is reporting something he said: he will have been the one who put forward the excuse¹⁰⁸. This interweaving in the report in 198 is remarkably like the hesitating manner in which (as Sulpicius tells us in 202) Antonius presented these (preparatory) elements in his speech! We may perhaps even go further, and take the part of 197 where the facts are said to have been to Sulpicius' advantage as belonging to Antonius' speech also. This would be in accordance with 2,107, where Antonius says that in his speech he acknowledged most facts Sulpicius

105. On the political stand of the historical Antonius below p. 278-279 with nn. 130 and 131.

106. Mitchell (o.c. above n. 93: 31 n. 78) takes the expression literally, which goes too far; but it is entirely possible that there were indeed many *boni* present, 'an indication of their interest in the case'.

107. *tamen* refers to the excuse, otherwise it would be superfluous, and strangely placed: it opposes Antonius' lack of good reasons to defend Norbanus with the one excuse he nevertheless had, not with the fact that he nevertheless defended him. (L.-P.'s brief note may suggest the second interpretation; but see their note on 1,205 *quod ... tamen*.)

108. This is not necessary, and Merklin's translation is also possible: 'so dass sich mir kaum ein ganz dürftiger Entschuldigungsgrund darin bot, dass ...'. So there is, indeed, only a suggestion that the excuse was part of the speech.

brought against Norbanus¹⁰⁹. But whether we include 197 or not, the beginning of Antonius' account of his speech shows a remarkable correspondence to the beginning of the speech itself. More such correspondences will come to light below.

(2) Then Antonius really started to worm his way out of the difficulties, as Sulpicius says. In his own description, Antonius makes a pause (2,198):

hic ego quid dicam me artem aliquam adhibuisse? quid fecerim narrabo; si placuerit, vos meam defensionem in aliquo artis loco reponetis.

Why should I say that I used certain rules of art at this point¹¹⁰? You will, if you like, take my defence as a kind of art¹¹¹.

He thus, as did Sulpicius, clearly marks the turning point, but without explicitly saying so. Likewise, Sulpicius is explicit and factual about the course of the argument, Antonius is not. His account¹¹² is a description of the argument as it had developed in his speech, not an analysis, i.e., he repeats the argumentation he had used then (2,199): he expanded on seditions in the past, and concluded that some, though involving trouble, had been justified and even necessary; gave some examples of outstanding results of earlier seditions, for instance the expulsion of the kings, that could not have been reached 'without discord among the nobles' (*sine nobilium dissensione*); so a movement of the people should not automatically be held against Norbanus; in fact, on no other occasion had the people had more right to be angry. This obscures the distinction between two questions: was there any justification for the outburst of violence as far as the people were concerned? and: who was responsible for it? Only the first of these is answered!¹¹³ (Note also the shift from seditions to discords among nobles¹¹⁴.) Sulpicius' description, in contrast, stresses this distinction by his antithetical formulation (see p. 272), and in 2,124, where Crassus refers to the speech, he actually says that Antonius

109. I do not believe that the context in 2,107 is an argument against this: the link with the technical question of the definition of *minuta maiestas* (cf. below p. 275) seems to be a consequence of the focus in 107 on such matters, and thus irrelevant to the sequence in the speech.

110. Note that *hic* is (intentionally?) ambiguous. To the meaning 'in these circumstances' (Sutton, also Courbaud; *OLD* s.v. *hic*², 5), which is in line with the interpretation of Antonius' account as purely an account, I have here preferred a rendering suggesting 'at this point of the speech' (cf. *OLD* ib., 6), which suits the interpretation as an imitation of the speech itself. Both aspects are present in Cicero's Latin.

111. This is L.-P.'s interpretation; all others take it, less aptly, as W. does, 'you shall find some place in your theory for ...'.

112. Which, at one stage, refers to 2,124, where Crassus had mentioned this part of the argument; Antonius had already referred to 124 in 188.

113. I owe this distinction to G.F.M. Bon and C. van der Woude. On Norbanus' responsibility cf. Andrew W. Lintott, *Violence in Republican Rome* (Oxford UP, 1968): 69.

114. Matthias Gelzer explicitly takes this trick as entirely due to Cicero: p. 219 with n. 53 of 'Die angebliche politische Tendenz in der dem C. Herennius gewidmeten Rhetorik', in: *Kleine Schriften I* (Wiesbaden: Steiner, 1962), 211-221 (his contentions, ib., about a link with *Har. resp.* 40 must be rejected).

had contended that there were many seditions for which nobody could be held responsible (*quos praestare nemo posset*). Though both Sulpicius and Crassus thus give the gist of Antonius' argument, in Antonius' own description the justness of the sedition is deliberately made to obscure the question of Norbanus' responsibility, and in this we may again presume the description to imitate the speech.

(2a) In this part of *De oratore* the charge against Norbanus, *minuta maiestas* ('high treason', lit. 'detracting from the <state's> "majesty"'), is mentioned only in passing, by Antonius in his summary quoted above (p. 269). It must be asked whether the point of the definition of *minuta maiestas* may have belonged to Antonius' speech, and if so, whether it can be located. The point is touched upon in 2,107-109, where the case is even said to have (formally) depended on it. *Partitiones oratoriae* 104-105 also mentions the dispute on this definition in connection with the case. Two parts of Antonius' argumentation, or of what might have been his argumentation, are used as examples in the list of *topoi*, in 2,164 and 167, the second of which partly corresponds to the passage from *Partitiones*. We may therefore assume that the point was brought up by Antonius somewhere in the speech.

Now the argument given in 2,164¹¹⁵ is as follows:

si maiestas est amplitudo ac dignitas civitatis, is eam minuit, qui exercitum hostibus populi Romani tradidit, non qui eum qui id fecisset populi Romani potestati tradidit.

If *maiestas* is the prestige and honour of the state, it has been detracted from by the person who has handed over an army to the Roman people's enemies, not by the person who has handed over the one who had done this to the Roman people's authority.

This connects the passage on the definition, (2a), with Caepio's defeat, and thus with passage no. (3), and since Antonius' description of the end of (3) leaves no room for (2a) there, it must have preceded it. Crassus' short mention in 2,124, however, as well as Antonius' longer one in 199, shows that (2) and (3) were also closely related (see below on the beginning of (3)). So (2a) must, judging from *De oratore*, have been interwoven with (2). This is confirmed by the passage from *Partitiones oratoriae*, where the fact that the anger of the Roman people was just is used as supporting the contention that the *maiestas* of the people has not been detracted from¹¹⁶. Antonius' (and Sulpicius') silence about the definition in the actual description serves to emphasize its relative unimportance, and corresponds to the small part it played in the argumentation in his speech.

115. The case of Norbanus is not mentioned, but the text leaves little doubt that it is meant.

116. *Part. or.* 105 *non minuit maiestatem quod egit de Caepione turbulentius; populi enim Romani dolor iustus vim illam excitavit, non tribuni actio; maiestas autem, quoniam est magnitudo quaedam populi Romani, in eius potestate ac iure retinendo aucta est potius quam deminuta* (this punctuation must be the right one, *contra* Wilkins [OCT] and esp. Rackham [Loeb ed.]).

(3) Sulpicius describes this part in two exclamations (see p. 272), but still rationally: note especially the use of the word *locus* ('*topos*'), which has a theoretical ring. Antonius, on the other hand, while also marking the beginning of a new passage (2,199 *tum ...*, 'then ...'), calls only one of the three emotions mentioned by Sulpicius by name: the emphasis is on how he excited them. In describing this he starts by using a clear but complex sentence¹¹⁷ that sets out two elements contributing to these emotions: grief for the loss of relatives in the catastrophe at Arausio, due to Caepio; and the ill-will the jury bore against Caepio for his earlier measure that took the control of the courts from the *equites*. Then (200), after conjuring up a vivid image of his situation, he repeats his account of the passage, now using the grand style to describe the emotions aroused¹¹⁸. This composition, starting from complex but not very emotional style and going towards vehemence, again seems to mirror the speech itself; and it is indeed in complete accordance with the advice given in 213-215a on the gradual building up of passages based on ethos and pathos.

Antonius, at the end of this part of his speech, felt himself master of the situation, in the first place because he had aroused the jury's minds (2,200 *iudicum animos*). But the audience, that is, the people on the forum, were also well disposed: *populi benevolentiam mihi conciliarum, cuius ius etiam cum seditionis coniunctione defenderam* ('I had won the sympathy of the people, whose prerogative, even if it involved sedition, I had defended'). That this does denote this audience and not, as has sometimes been maintained, the jury, is clear from the antithesis with the jury's minds, from the designation *populus* ('people'), and from the reason given for the sympathy won, a reason that cannot possibly concern the *equites* of the jury. From this same reason it also appears that the audience's sympathy was a pleasant (and undoubtedly intended) side effect of passage (2) of Antonius' speech¹¹⁹. This audience has already been mentioned, besides the jury, in Antonius' sketch of the situation (198). An audience must indeed have been a potentially important factor in the trials, most of which were conducted in the open air of the forum¹²⁰.

Sulpicius' account is not complete, for after (3) he only mentions the examination of witnesses, which took place after the speeches¹²¹. Antonius also describes

117. 199 fin. *sic ... revocabam* contains three relative clauses, two of which are non-restrictive.

118. Grand style: *vel ... vel ... vel* with longer second and third members; the combination *luctu ac desiderio*; the climax of content in *calamitate civitatis/luctu ac desiderio propinquorum/odio proprio in Caepionem*.

119. All this is entirely misunderstood by Fantham (1973: 266-267), who ignores both that the sympathy is the audience's and not the jury's, and that the reference is to passage (2): she believes that *benevolentiam mihi conciliarum* is 'paradoxically ... associated with the violent and emotive function'. The same confusion in Fortenbaugh (1988: 267).

120. Cf. Kennedy (1972: 16-18). For the importance of the audience see e.g. *Deiot.* 6.

121. Greenidge (o.c. above n. 35: 477-479).

the end of his speech:

(4) This last passage¹²² is based on ethos, as Antonius explicitly says: *genus ... lenitatis et mansuetudinis* (2,200 'the type of speech based on gentleness and mildness'). He took up from the prologue, with greater urgency, the subject of the tie with Norbanus. (Note that this subject is, for readers who know nothing of that prologue yet, only now introduced into the description of the speech: above p. 273.) He enlarged on this tie; it would be almost unbearable for him if he could not help Norbanus. This was meant to show his mildness (*mansuetudo*), as he again says in his summary: *ut ... in meis moribus erga meos necessarios declarandis mansuetissimus viderer* (201 'giving the impression ... of being very mild when declaring my usual disposition towards those to whom I am bound'); mildness was one of the qualities mentioned in 2,182 as contributing to ethos. He proceeded in the same vein: he broadly sketched his own prestige (again echoing 182)¹²³, his *fides* towards Norbanus¹²⁴, his *fides* towards his friends in general, and asked for acquittal. The passage is, like (3), slowly built up; the style, though not without rhetorical devices, is much less emotional¹²⁵.

(5) The examination of the witnesses mentioned by Sulpicius is omitted by Antonius: he is only concerned with the effect of the speech itself.

In short, then, the speech has now been reconstructed as follows¹²⁶:

122. That it is indeed a new, separate passage is shown by 2,200 *tum*. The style is also different (n. 125), and emotions are not mentioned anymore.

123. *aetati meae ... honoribus ... rebus gestis*, cf. 2,182 *digitate hominis, rebus gestis, existimatione vitae* and 184 *ut probi, ut bene morati, ut boni viri esse videantur*.

124. *iusto ... pio dolore*, cf. again 2,182 *mansuetudinis, pietatis*; and 184 (prev. note).

125. Rhetorical devices: 2,200 *pro ... et pro; fama ... fortunisque; nihil ... nihil*; 201 *ut ... ut ... ut; si ... si*. The result of these, however, is a fluent (though emphatic) passage, since the structures are more symmetrical and the content itself is less vehement: the repeated words themselves are not emotional, there are no "wachsende Glieder" or climaxes of content (except, to a moderate degree, in *pro ... pro ...*). If a stylistic label is to be attached to the passage, it will be that of the middle style.

126. It may be useful to list all passages relevant to the case that are known to me, using the numbers of the passages distinguished here. Cf. *ORF*⁴, 280-281 (Sulpicius' accusation); 229-233 (Antonius' defence); three less important passages are not mentioned there: *De or.* 2,188; *Part. or.* 104-105; *Val. Max.* 8,5,2. (I leave aside *De or.* 2,305, which may also refer to the case.)

general (Sulpicius' speech, etc.): *De or.* 2,89; *Off.* 2,49; *Apul. Apol.* 66; *De or.* 2,197 (*qui ... accedere*); 202 (*tibi ... tradidissem*); (1) 2,(197-)198; 202; (2) 2,124; 199 (*omnium seditionum ... fuisse*); 200 (*populi ... defenderam*); 203a; (2a) 2,107-109; 164 (above n. 115); 167; 201 (*quod esse in arte ... attigi*); *Part. or.* 104-105; (3) *De or.* 2,188; 199 (*tum ... revocabam*); 200 (*iudicum animos ... converteram*); 203 (*deinde ... miscuisti*); (4) 2,200b-201a; (5) 2,203 (*neque haec ...*); *Val. Max.* 8,5,2.

- (1) Prologue: a hesitating start, preparing for the later use of ethos.
- (2) Argumentation about seditions (also winning the sympathy of the *populus* present at the trial).
- (2a), interwoven with (2): Argumentation on the definition of *minuta maiestas*.
- (3) Pathos, directed against Caepio.
- (4) Ethos: Antonius emphasizes his *fides* and almost begs for acquittal.

After the speech there followed:

- (5) Examination of witnesses: Antonius does not refute them but, besides the repeated argument about seditions, uses pathos again.

Before discussing the function of the passage on Norbanus' case as a whole, and of the second description given by Sulpicius, I will now touch upon the status of the above reconstruction. The passages outside *De oratore* contribute next to nothing to it¹²⁷, so the reconstruction corresponds to the picture a reader of the work will have gained, and it may be used to analyse the passage further.

We may, by way of intermezzo, also ask if it perhaps represents, or closely corresponds to, the historical speech. The fact that all details make up one consistent picture may be thought to point to this. Since, however, all these details come from *De oratore*, this consistency only shows that Cicero, when writing, had a consistent picture of the speech in mind, and there is no telling whether or not this picture corresponded to the speech of the real Antonius¹²⁸. He may have taken the historical framework of the case (as to which he was certainly accurate) and composed a speech himself. On the other hand, the case was a *cause célèbre*, and he may have had, and used, much information on the actual speech¹²⁹, and may thus have come very near the historical truth.

There is also nothing in the reconstructed speech itself that precludes the notion that it closely corresponds to the historical one. There would be if Badian's opinion were correct that in 95 Antonius belonged to the same political group as Norbanus, viz. that of Marius. In that case his reason for undertaking the defence would have been political, which would make his plea, that he defended him only because of the tie that bound him to his quaestor Norbanus, so patently false that he could not possibly have used it. The existence of a powerful group centred

127. See prev. note. Only *Part. or.* 104-105 gives something on the content of the controversy, but this only confirms what *De or.* tells us already: above p. 275.

128. Solmsen points out that 'throughout the oration Antony's tactics were determined by that same shrewd calculation of the audience's reactions that has struck us as characteristic of Cicero's procedure' (*TAPA* 69, 1938: 551-552 = Solmsen 1968: 240-241). This might mean that Cicero moulded the speech in *De or.* himself, but it may also mean, e.g., that Cicero learnt much from Antonius' oratory.

129. The speech had not been published, of course: above n. 55.

around Marius, however, has rightly been questioned¹³⁰, and even if there was one, it has been shown that Antonius did certainly not belong to it¹³¹.

In short, there are no internal or external factors directly related to the defence to show whether or not the reconstructed speech corresponds to the historical one. But since the case was so well known and since part of Cicero's readers will have witnessed it we may, I think, assume that its substance (as distinct from the style) is not very far from what the real Antonius brought forward.

We may now discuss the question in what way the speech serves as a demonstration and illustrates the theoretical remarks about ethos and pathos. Since many of the essentials have already been touched upon, the discussion can be brief.

The function of the passage as a whole, the illustration of the importance of ethos and pathos, is summarized by Antonius himself in the passage quoted at the beginning of this section. This illustration is made more impressive by the disposition of the speech, which is totally different from what the handbooks prescribed. The absence of a narration is not important in this respect, since that was a possibility also mentioned in the handbooks¹³². What is important are the remarkable places of ethos, at the end, and of pathos, not at the end. Permutation of parts of the speech is sometimes mentioned in school rhetoric, but receives little attention, and one so radical as this is bound to have been striking¹³³. In Antonius' description the unusual place of ethos is even more emphasized by the lack of explicit description of the prologue, which was the normal place for ethos¹³⁴.

130. (See for the titles above n. 93:) Badian: 47-48, 56. Against a Marian "factio" Gruen (esp. 190-196; also *JRS* 55, 1965, 67-68), who reconstructs other factions, and Mitchell: 29. The whole concept of coherent factions in the nineties is rejected (convincingly, to my mind) by Meier, Brunt, and Mitchell: 16-19. Lloyd A. Thompson ('The Relationship between Provincial Quaestors and their Commanders-in-Chief', *Historia* 11, 1962, 339-355; cf. id., 'The Appointment of Quaestors *Extra Sortem*', *PACA* 5, 1962, 17-25) argues that the tie between commander and quaestor was not as strong as some moderns have supposed, and this seems correct; but in denying virtually all strength to the link and reducing passages like the one under consideration to "rhetorical humbug" (o.c.: 345), he goes much too far: such passages must contain some truth to be effective. As a whole, his treatment contains a number of inaccuracies, and the problem deserves a new treatment.

131. Mitchell (o.c. above n. 93: 21-26, cf. 31-32).

132. *Inv.* 1.30; cf. especially *nihil prodest narratio tum, cum ab adversariis re exposita nostra nihil interest iterum aut alio modo narrare*. This was exactly the situation in the present case: everyone knew the facts, as Antonius emphasizes in 2.197 (*constabat; nemo poterat negare; cf. the factive nature of vim ... miserabilique casu*).

133. *Rhet. Her.* 3.17 calls attention to the need sometimes to deviate from the standard order, but the section is short, and none of the changes serving as examples involves the epilogue. Admittedly, *conclusiones*, meaning emotional passages, are in 2.47 said to be applicable almost everywhere in a speech (above p. 99); but the real epilogue is still always supposed to be emotive.

134. Whether this effect is deliberate cannot, I think, be decided. The main motive for re-pressing the prologue in Antonius' account must, in any case, have been imitation (see also below p. 281).

The relationship between invention and disposition as defended in *De oratore* is thus also illustrated: the way of working it implies was perfectly suited for composing such a speech, whereas school rhetoric was not¹³⁵.

The adaptation of the orator's strategy to the possibilities offered by the disposition of the judges, treated in 2,186-187, is also illustrated. The emotions aroused by Antonius essentially derive from this disposition, as he says himself: the grief for the loss of relatives and the ill-will against Caepio for his measures concerning the courts (199). The case belongs to the second, difficult type mentioned in 186-187: only such well-aimed means could touch the judges¹³⁶.

As remarked above (p. 276), the gradual building up of the emotive passage (3) is also in accordance with the precepts to be given in 2,213-215a. The same goes for the prologue (202 *tibi ... munisti ad te audiendum viam*, 'you prepared a way for yourself to get a hearing!')¹³⁷; for the gliding transition from passage (2a) to (3)¹³⁸; and for passage (4), since the use of ethos there had been carefully prepared for in the prologue. This is of course no coincidence, but as the Norbanus passage precedes these precepts, readers cannot have taken it as an illustration when they read it. It will, however, certainly have helped prepare them for these rules.

It is remarkable that the discussion of *ipse ardere*, 2,189-196, is not illustrated: there is no hint that Antonius himself was moved during his speech. The rational decision of when he was in control and could pass on to the end of his speech (2,200) suggests cool calculation, and this is indeed what the whole passage suggests. The case of Norbanus was probably too much a dishonourable one in Cicero's eyes to make Antonius claim emotional involvement. Note that the passage on ethos exclusively concerns Antonius himself, which is only one of the two possibilities mentioned in 2,182-184, and the less current one at that: commending Norbanus' character to the judges was a hopeless task¹³⁹. The absence of emotions on Antonius' part, however, does not impair the persuasiveness of 189-196, for the emphasis here is solely on the effectiveness of ethos and pathos. The vehemence of the passage itself directs the attention to this effectiveness, and the increasing

135. Cf. pp. 84-85 and 86. Cicero's view on the relationship invention - disposition is already clear when the Norbanus passage begins, for it has been discussed 2,179-181 (above p. 194-195).

136. Some improvisation (cf. p. 255-257) may be implied in 2,200 *quod ubi sensi me in possessionem iudicii ac defensionis meae constitisse ... tum admiscere ... coepi*; but this is, again, restricted, for it concerns not the choice of emotions to be played upon or the arrangement of the speech, but only the moment of starting the final passage: Antonius does so when he feels that the judges and the audience (in its wider sense: the people on the forum) are ready for it.

137. Cf. pp. 271 and 273-274.

138. p. 275.

139. Solmsen (l.c. above n. 128) wrongly states that Antonius 'succeeded in winning their sympathy for a man they had detested when he rose to speak'.

tension prevents such questions on the reader's part.

This tension, and the dramatic qualities of the *De oratore* passage, have of course not been conveyed in the above analysis. The literary means for reaching these effects, however, have been touched upon. They are related to, and further illustrated by, the difference between Antonius' and Sulpicius' descriptions.

Their presentations may be characterized as *mimetic* as against *analytic*. Antonius' description, as has been shown, imitates his speech. Sulpicius' reaction also contains some mimetic elements: his exclamations echo a reaction to Antonius' masterpiece during the trial itself, which helps creating the atmosphere of a real trial¹⁴⁰. Nevertheless, Sulpicius' account is primarily a part for part analysis of the speech (except for the epilogue). Without this contribution we could only speculatively have reconstructed part (1), the prologue.

But Cicero has not added this second description to facilitate our reconstruction. Its addition has, it seems, two functions, connected with composition and with content. As to composition, Sulpicius' reaction serves as a transition to Antonius' precepts about the individual emotions in 2,205-211a. Of course the need for a transition in itself is not the important point: for that purpose the more strictly transitional passage, 204, might have sufficed. It is the character and the tone of the transition that are essential. From 185 on, the tension has been rising¹⁴¹, and Antonius' mimetic account is an emotional climax, whereas when giving the precepts he is rather business-like. This difference asks for a longer transition. The mimetic aspect of Sulpicius' description provides the link with Antonius'; in the course of it, his tone becomes gradually more factual, and he ends with *neque haec solum in defensione sed etiam in Scauro ceterisque meis testibus, quorum tu testimonia non refellendo, sed ad eundem impetum populi confugiendo refutasti* (203 'and you used these emotive means not only in your defence, but also in the examination of my witnesses, whose testimonies you countered not by refuting them but by resorting to the same arguments about the people's anger'): he still expresses his admiration, but in a down-to-earth tone (*neque ... solum ... sed etiam*, 'not only ... but even'). The way has been paved for his remark that Antonius' account of his defence was as good as rules, which, in turn, prepares the ground for Antonius' precepts.

The transitional function of Sulpicius' description also explains his omission of Antonius' passage (4): by this omission pathos, important in (3) and (5), stands out more conspicuously. After Antonius' account and Sulpicius' unqualified assent, Cicero apparently thought a separate confirmation of the point of ethos less im-

140. This also goes if, as seems probable, readers will not have made this link with the real trial: it is the atmosphere that counts.

141. Cf. p. 254 on 2,186-187; and pp. 258-259 and 263 (at n. 70) on 2,189-196.

portant than a smooth transition to what follows.

The second function of Sulpicius' reaction is even more important: confirmation of Antonius' exposé and of his affirmation that ethos and pathos, not a definition of the question at issue according to standard rhetorical rules, had been decisive in the trial. Such a confirmation is apposite after the repeated sneers at the rhetorical handbooks. It suggests that Antonius' potentially subjective conclusions on these matters contain objective truth: for who can confirm Antonius' conclusions more convincingly than Sulpicius, his adversary in the Norbanus case?

The passage on the trial of Norbanus adds nothing substantial to the content of the preceding sections. Being a successful *confirmatio*, however, it greatly enhances the persuasiveness of Antonius' exposé. It has been my aim in this section to show how Cicero has achieved this, and how, by using devices not unlike those under discussion, he has created a fascinating climax.

8.5 The Precepts for the Individual Emotions: 2,205-211a

Cicero's analyses of the individual emotions are less thorough than Aristotle's. This is partly due to his own intention, as he did not want to go into the matter too deeply, but to give some practical precepts on the basis of what amounts to common knowledge made explicit, and to give some idea what kind of things the orator had to consider¹⁴². There are no definitions, and only the exemplary emotions get precepts of their own. For the others the principle of analogy and the common sense of the orator are appealed to. *Amor* ("love"), for instance, receives a comparatively long treatment, after which hate and anger are said to rest on the same principles.

This section starts with a preliminary discussion of the relationship between the various emotions in Cicero's treatment, and of the virtual absence of Stoic influence on this discussion as a whole. Then I will examine the individual precepts and compare them with Aristotle's views and those of the Stoics; this is followed by a comparison between Cicero's and Aristotle's selection of the emotions. The fundamental difference of approach between the two that has been noted before will again become apparent.

After a short introduction in 2,205, Antonius treats the individual emotions in 2,206-211a. He discusses them in three groups:

142. Cf. p. 251.

<i>amor, odium, iracundia</i>	("love", hate, anger)
<i>invidia, misericordia</i>	(envy, pity)
<i>spes, laetitia, timor, molestia</i>	(hope/expectation, joy, fear, grief)

This is the sequence found in the enumeration in 2,206; in the treatment itself envy and pity take the more conspicuous last place, in accordance with their importance. The last group of four mentioned in 206 is almost identical with that of the four principal Stoic passions ἐπιθυμία, ἡδονή, φόβος and λύπη (desire, pleasure, fear, grief), rendered by Cicero some ten years afterwards by *libido, laetitia* or *voluptas, metus* and *aegritudo* (*Tusculan Disputations*: 4,14 and elsewhere). The only difference is the replacement of desire (ἐπιθυμία, *libido*) by hope (*spes*). This does not, however, affect the fundamental relationship between the four: for the Stoics the passions are dependent on (wrong) judgements¹⁴³, pleasure being a judgement of the existence of a present good, desire of a future good, grief of a present evil, fear of a future evil:

	present	future
positive	pleasure (ἡδονή)	desire (ἐπιθυμία)
negative	grief (λύπη)	fear (φόβος)

This group of four, however, was not exclusively Stoic. It is found already in Plato, and its appearance in Vergil shows that it must have been widespread¹⁴⁴. This is borne out by *De oratore*, where the coupling of the three others with fear receives no explanation: even with desire replaced by hope the relationship between the four must have been easy to recognize. Even if its diffusion was originally due to the Stoics, the scheme had obviously become part of a common background, and its use is no indication of any Stoic influence on Cicero's treatment in *De oratore*.

The coupling of envy and pity is not emphasized, but 2,185 also shows that they belong together: *invidere* is there set against *salvum velle* ('being envious'-'wanting someone to be safe'), *misereri* against *punire velle* ('pitying'-'wanting someone to be punished'). They are connected in 216 as having contrary effects: *ut misericordiā invidia tollatur* ('so that envy is removed by pity'). Aristotle also

143. According to Zeno the πάθη followed upon such judgements, Chrysippus' opinion was that they were identical with them (Zeno: *SVF* I 209; Chrys.: e.g. *SVF* III 461); cf. Pohlenz (o.c. above p. 82 n. 21 I: 142, 146, with the commentary in vol. II), and especially the second chapter of John M. Rist, *Stoic Philosophy* (Cambridge UP, 1969).

144. Plato: *Laches* 191d; *Phaedo* 83b (? the text is uncertain). Vergil: *Aen.* 6,733 *hinc metuunt cupiuntque, dolent gaudentque*. Cf. also Gorgias *Hel.* 14; Cic. *Part. or.* 9. Evidence for the Stoic doctrine abounds: *SVF* I 211; 212; 370; III 377-420 *passim*; 444-445; 447; 463-464; 476; 478; 480; 486; Posidonius fr. 164 E.-K. (409 Th.). Cf. also (Pseudo?) Plut. *De lib. et aegr.* 1; 7.

couples ἔλεος (pity) with νέμεσις and φθόνος (indignation; envy)¹⁴⁵. Again Cicero's association of the two is in accordance with Stoic theory: both were regarded as subdivisions of grief, pity being grief at another's (undeserved) misfortunes, envy at another's prosperity¹⁴⁶. The Aristotelian parallel, however, shows that the assumption of Stoic influence is again unnecessary. The absence from *De oratore* of any hint that envy and pity are taken as forms of grief shows furthermore that such influence on Cicero's grouping of the emotions is non-existent.

This conclusion is strongly supported by the place accorded to *amor*. The word is hard to translate, and I will use the Latin form: "love" is not appropriate in the context. It is often used to designate a strong form of *amicitia* (friendship)¹⁴⁷, here it clearly goes further and amounts to something that resembles strong and fervent partiality. Now this completely lacks a counterpart in Stoic theories of the passions: the Greek φιλία is always friendship in a non-emotional form and is no passion (πάθος), and Latin *amor*, on the other hand, is in Stoic contexts only used as an equivalent of Greek ἔρως, sexual love, which is indeed a passion but irrelevant to the ones in *De oratore*¹⁴⁸. The Stoic fragments on the passions are numerous and rather diverse, so this absence of a Stoic parallel for Cicero's *amor* can be no accident of the transmission. Cicero's arrangement of the emotions has no Stoic background. The possibility of Stoic influence on the remarks on the individual emotions will be examined below.

This is perhaps the place to illustrate the methods employed by Michel¹⁴⁹. He starts his analysis of our passage by leaving aside *amor* for the moment; proceeds by observing the close similarity of the last four emotions with the Stoic scheme of principal passions; and because in Stoic theory hate and anger are kinds of desire, envy and pity kinds of grief, he concludes that Cicero is following a Stoic system. This is surely a cruel maltreatment of the text. Not only is there no hint of the employment of the Stoic classifications of hate, anger, envy and pity, but the replacement mentioned above (and by Michel) of desire by hope/expecta-

145. Cf. p. 68.

146. *SVF* III 394; 419; and below nn. 186 and 177.

147. Cf. J. Hellegouarch, *Le vocabulaire latin des relations et des partis politiques sous la République* (Paris: Les Belles Lettres, 1963): 147.

148. These conclusions on Stoic theories, as well as all others in this section, are based on the passages about ethics and especially about the passions in *SVF* I-III; and the index in *SVF* IV s.vv.; for Panaetius on the collection of M. van Straaten (Leiden: Brill, 1962³), where cf. fr. 14 = Sen. *Ep.* 116,5-6 (*amor* as ἔρως is a passion: Seneca writes [116,6] *quod Panaetius de amore quarenti respondit, hoc ego de omnibus affectibus dico*); for Posidonius on the relevant passages in the editions of Edelstein-Kidd and Theiler.

149. Michel (1960: 288-290). This case may serve as indicative of the character of many of his contentions, which I have in general refrained from mentioning. Silence about this book would be the only reasonable attitude but for its apparent prestige in France. Cf. C.O. Brink's fair if condescending review (*Gnomon* 35, 1963, 776-779), and for further fundamental criticism Douglas (1973: 96-97). The rejection of Michel's view of our passage by Schweinfurth-Walla (1986: 195 n. 3) is very superficial.

tion (*spes*) makes the classifications meaningless: hate and anger may be kinds of desire, they are hardly kinds of hope or expectation. What is worse still is the treatment of *amor*: the Stoic scheme can be discerned only by leaving this emotion aside and by ignoring its unambiguous coupling with hate and anger. All this leads Michel to lofty if unexpected visions: Cicero has purposely put *amor* at the head so as to dominate the list of emotions, for *amor* is 'one of the fundamental human virtues if it is mixed with friendship and tenderness', and at the head of the list thus stands 'the very virtue that is the basis of human solidarity'¹⁵⁰. Even a glance at the text can show that this vision is a fantasy. Cicero, on the contrary, emphasizes that *amor* is chiefly based on the jury's self-interest, as will be discussed presently.

In what follows the precepts for the individual emotions will be briefly analysed. In each case parallels both from Aristotle's *Rhetoric* and from the Stoic fragments will be adduced. This will not only yield information about Aristotelian and Stoic influence on Cicero (the lack of Stoic influence on the arrangement does not exclude influence on the individual precepts). More important, and independently from the question of influence, it will lend some colour to the analyses and illuminate the basic characteristics of the different approaches.

Cicero's first group needs a long discussion, since his treatment is difficult and has often been misunderstood. The more technical parts of the argument, however, I have relegated to Appendix 5. The passage starts in 2,206 with an outline of the arousing of *amor* ("love" - see above)¹⁵¹:

sentimus amorem conciliari, si id in re videre quod sit utile ipsis apud quos agas defendere; si aut pro bonis viris aut certe pro iis, qui illis boni atque utiles sint, laborare: namque haec res amorem magis conciliat, illa virtutis defensio caritatem; plusque proficit, si ponetur spes utilitatis futurae quam praeteriti beneficii commemoratio.

We perceive that *amor* is won if, as regards the issue, you seem to defend the thing useful for the members of the jury themselves; and if you are working for good men, or rather, for those who are good for the jury and useful for them - for the latter more readily wins *amor*, the former, the defence of virtue, <only> esteem. And it is more successful if a hope of future usefulness is held out than if some service in the past is cited.

The element of the jury's self-interest is stressed: working for people useful for the jury wins *amor*, which it is all about. Working for those who are "only" virtuous

150. Michel (1960: 290): 'l'une des vertus humaines fondamentales lorsqu'il se confond avec l'amitié, la tendresse, la *caritas*' (this misrepresents the relationship *amor* - *caritas*, as does his further treatment, ib.: 290-291; about this relationship below pp. 285-286; 286-287; and n. 156); 'Cicéron place en tête d'une liste de passions, la vertu même qui fonde la solidarité humaine'.

151. For the readings *in re* and *si aut* and for the meaning of *aut ... aut certe* see Appendix 5.

wins only *caritas*, 'esteem', which is obviously second choice - it is implied that it is not even a strong feeling, for it has not been mentioned in the list of emotions¹⁵².

The second point to be kept in mind when trying to arouse *amor* is mentioned in 2,207-208: there is a real danger of awakening *invidia*, 'envy'. Therefore the orator must show that his client *nihil ... fecisse causa sua*, 'has done nothing for his own sake', and refrain from praising him too highly. The seriousness of the danger of envy also comes to the fore in the long treatment in 209-210, and in 304, where Antonius reckons extolling *invidiosa* ('things arousing envy or hatred') among the principal faults to be avoided.

The sequel in 2,208 couples hate and anger with *amor*:

atque isdem his ex locis et in alios odium struere discemus et a nobis ac nostris demovere; eademque haec genera sunt tractanda in iracundia vel excitanda vel sedanda. nam si, quod ipsis qui audiunt perniciosum aut inutile sit, id factum augeas, odium creatur; sin, quod aut in bonos viros aut in eos, quos minime quisque debuerit, aut in rem publicam, tum excitatur, si non tam acerbum odium, tamen aut invidiae aut odii non dissimilis offensio.

And from these same principles we will learn to conjure up hate for others and to remove it from ourselves and those on our side; and these same categories must be employed in arousing and allaying anger. For if you amplify an action that is dangerous and harmful for the audience themselves it is hate that you bring about, but if you amplify something that was directed against good men or against those who least deserved it or against the state, then you arouse, though not so much bitter hate, a negative emotion that is still not unlike envy or hate.

The last statement is very difficult. Most scholars take the word *offensio* to designate a specific feeling, e.g. 'disgust', but, as argued in Appendix 5, it is probably better interpreted as 'a negative emotion', specified by the phrase 'that is not unlike envy or hate'. The emotion thus indicated must then, I think, refer to *iracundia*, 'anger': the two sentences quoted are parallel in that they both mention first hate, then anger. The second feeling, then, is regarded as less violent than the first, and the relationship between them is exactly as between *caritas*, 'esteem', and *amor*. Both pairs, however, are not equally violent: whereas esteem is not a strong feeling, anger is obviously a real emotion and very useful for the

152. Cf. *Part. or.* 88 for the difference between *amor* and *caritas* (where, however, they are kinds of *amicitia*). W. would have liked Cíc. to say that *amor* is dependent on virtue, but the interpretation given here is the only possible one: *haec res ... illa v. defensio* is 'the latter ... the former', since *virtutis defensio* can only refer to *pro bonis viris* and since *hic ... ille* is always 'the latter ... the former' in classical prose (except when certain specific factors intervene, cf. K-St. 1,622-623; TLL s.v. *hic* 2714,66-2717,13; Sz. 182 misleadingly states 'auch gelegentlich umgekehrt').

orator¹⁵³, and from this we may surmise that *amor* is less violent than its negative counterpart *odium*.

If we compare Cicero's treatment of *amor* with Aristotle's *Rhetoric* 2,4 on φιλία (*philia*), a considerable difference emerges. It is directly obvious from Aristotle's definition that he does not deviate from the normal meaning of the word and that it means not *amor* in Cicero's sense, but 'friendship': ἔστω δὴ τὸ φιλεῖν τὸ βούλεσθαι πινι ᾧ οἴεται ἀγαθὰ, ἐκείνου ἕνεκα ἀλλὰ μὴ αὐτοῦ, καὶ τὸ κατὰ δύναμιν πρακτικὸν εἶναι τούτων (2,4,2: 80b35-81a1 'let *philein*, then, be defined as wishing for someone the things which we believe to be good, for his sake but not for our own, and procuring them for him as far as lies in our power'). He also emphasizes that such feelings are mutual. As said before¹⁵⁴, this is much like the definition of friendship (*amicitia*) found in *De inventione*. Nowhere is there any sign that the feeling Aristotle refers to is at all violent, as *amor* is in Cicero. Another point of difference is the element of disinterestedness so prominent in Aristotle's definition ('for his sake but not for our own'; 'procuring them ...'). In Cicero this has a quite different role: if the orator's client is not presented as unselfish the jury will feel envy, and *amor* is indeed impossible, but the jury is on the contrary supposed to be self-interested and to feel *amor* only if this selfishness is satisfied. In short, Aristotle's *philia* is very different from Cicero's *amor*, and hardly useful for rhetorical purposes.

Hate and anger, coupled with *amor* in *De oratore*, are also treated in the *Rhetoric*. Their difference according to Aristotle is roughly speaking the opposite of what it is in Cicero: anger is connected with things that concern ourselves, hate also with things that do not (ὀργή μὲν οὖν ἐστὶν ἐκ τῶν πρὸς ἑαυτόν, ἔχθρα δὲ καὶ ἀνεν τοῦ πρὸς ἑαυτόν¹⁵⁵). If Cicero has read Aristotle, he has obviously preferred to employ other distinctions, perhaps because these were rhetorically more useful, but perhaps just because they were more in line with his own ideas about the words and with normal usage in the Latin of his time. The different ways of grouping the emotions is more significant. Aristotle makes hate (or enmity: μῖσος, ἔχθρα) the negative counterpart of *philia*, as Cicero of *amor*, but whereas Cicero also couples anger with these two, Aristotle associates this (ὀργή) with mildness (πραότης). In fact, he treats most of the feelings in pairs of opposites, so his criterion is again psychological and theoretical: feelings having opposite psychological definitions are coupled. Cicero's association of anger

153. Cf. 2,190 where it is mentioned as a violent feeling. L.-P.'s comment ad 2,203 might be misleading: '*iracundia* bedeutet, anders als *ira*, "Zornesausbruch"'. 2,203 is indeed one of a number of instances where *iracundia* means or may mean 'an outburst of anger' (cf. *TLL* s.v. 369,10ff.; though not all cases are equally clear), but *ira* may perhaps also be used thus (*Har. resp.* 39); more important, sometimes they are clearly identical and mean just 'anger' (*Tusc.* 3,11 defines *iracundia* almost exactly as 4,21 defines *ira*), which is preferable here.

154. Above p. 111.

155. *Rhet.* 2,4,31 (82a2-3); the difference is further developed ib. 82a3-15.

with *amor* and hate is primarily rhetorical: the principles by which the orator can arouse them are similar; psychological symmetry is not aimed at¹⁵⁶.

As for Stoic psychology, this had nothing like Cicero's *amor*, as noticed above. Anger they defined essentially as Aristotle did: as a longing to punish the person who has unjustly hurt you¹⁵⁷. Again *De oratore* shows no trace of such a definition (its view of anger is even quite different). The same goes apparently for their definition of hate¹⁵⁸. Cicero's distinction between emotions with and without self-interest - rhetorically a very useful one - has no counterpart in our Stoic material.

The next group of emotions is less problematic. Its treatment, after the passage on hate and anger, is brief (2,209):

item timor incutitur aut ex ipsorum periculis aut ex communibus. interior est ille proprius; sed hic quoque communis ad eandem similitudinem est perducendus. par atque una ratio est spei, laetitiae, molestiae.

Likewise you may strike fear into their hearts by using dangers either affecting themselves or the community. The former, which concerns people themselves, strikes deeper, but the latter common variant must be assimilated to this. The treatment of hope, joy and grief is exactly analogous.

As argued above, this group of four is closely akin to but not identical with the four principal passions of Stoic psychology. As to Aristotle, pleasure or pain (ἡδονή, λύπη) are by his definition inherent in all feelings (see p. 67), so he has no separate equivalent of Cicero's joy and grief. With fear (φόβος) he joins 'lack of fear' (θάρσος), described as 'the hope of what is salutary, accompanied by an impression that it is near at hand and that the things to be feared are either non-existent or far off' (2,5,16: 83a17-18 μετὰ φαντασίας ἡ ἐλπὶς τῶν σωτηρίων ὡς ἐγγὺς ὄντων, τῶν δὲ φοβερῶν ἢ μὴ ὄντων ἢ πόρρω ὄντων). This is indeed 'confidence' or 'lack of fear', which is not an emotion in our or Cicero's sense. His *spes* ('hope, expectation') must be different, as appears from the original Stoic background of his scheme and especially from the fact that it is part of his pathos: it must be strongly felt expectation of good things to come (of which 'hope' is probably the nearest equivalent in English).

156. Cf. above p. 286-287: *amor* : *caritas* = *odium* : *iracundia* - this is symmetrical in itself, but whereas *iracundia* is violent enough to be part of pathos, *caritas* is not, which destroys the symmetry.

157. *SVF* I 434 (Dion. Heracl.); II 878; III 395-398; 416; Posidonius fr. 155 E.-K. (438b Th.). Cf. also (Pseudo?)Plut. *De lib. et aegr.* 1; Sen. *De ira* 2,22,1; 2,31,1.

158. Only two fragments have a definition: *SVF* III 396 (= Diog. L. 7,113) μῖσος δὲ ἐστὶν ἐπιθυμία τις τοῦ κακῶς εἶναι τινα μετὰ προκοπῆς τιμῆς καὶ παρατάσεως, which is like Arist. *Rhet.* 2,4,31 (82a2-3); and III 398 (= *Tusc.* 4,21) *odium ira inveterata* (for which cf. *Fam.* 1,9,20).

The Stoic definition of fear as an opinion of a future threatening evil¹⁵⁹ is virtually the same as Aristotle's¹⁶⁰. It is almost a self-evident one, and Cicero and his readers will have attached essentially the same meaning to *timor*. His practical distinction between one's own dangers and those of the community, however, have no equivalent in Stoicism or in Aristotle - a striking difference, if the brevity of Cicero's account is compared with the long treatment in the *Rhetoric*! (Note that the two kinds of fear are again related in the same way as *amor* and esteem.) On the other hand, Cicero shuns a definition and freely uses the common and clear word *periculis* ('dangers')¹⁶¹ - a concept Aristotle must define, as 'the approach of anything fearful' (2,5,2: 82a32 τοῦτο γάρ ἐστι κίνδυνος, φοβεροῦ πλησιασμός). The difference in spirit could hardly be more evident.

Haud sciam an acerrimus longe sit omnium motus invidiae, 'by far the most vehement emotion of all is perhaps envy', Antonius says when starting the treatment of this emotion (2,209) - a treatment longer than any of the others. Not only was the opinion that envy is one of the worst emotions rather widespread¹⁶², Cicero thought the feeling rhetorically very important, as appears for example from the sections on *amor* (above). Especially its soothing he regarded as essential: 209 continues with *nec minus virium opus sit in ea comprimenda quam in excitanda* ('and no less effort is required in repressing than in exciting it'), and 2,210 is wholly devoted to this, whereas the taking away of other emotions is at most briefly touched upon¹⁶³.

After the introductory sentence just quoted Cicero writes (2,209)¹⁶⁴:

invident autem homines maxime paribus aut inferioribus, cum se relictos sentiunt, illos autem dolent evolasse; sed etiam superioribus invidetur saepe vehementer et eo magis, si intolerantius se iactant et aequabilitatem communis iuris praestantia dignitatis aut fortunae suae transeunt.

Well, people are as a rule envious of their equals or inferiors when they feel they have been left behind, and are hurt because these others have risen above

159. *SVF* III 447 (Zeno - sic: Von Arnim implies that this comes from Chrysippus); III 463 (Chrysippus); III 378; 385-388; 391; 393-394; 407; 410; 444 (Stoic ideas in general). Cf. (Pseudo?)Plut. *De lib. et aegr.* 1; 7. No definition by Posidonius is known.

160. *Rhet.* 2,5,1 (82a21-22) (where λύπη is the only extra element): ἔστω δὲ φόβος λύπη τις καὶ παραχὴ ἐκ φαντασίας μέλλοντος κακοῦ φοβερικοῦ ἢ λυπηροῦ.

161. I cannot agree with Schweinfurth-Walla (1986: 195) who calls the word *periculum* vague, and who thinks the difference between personal and common dangers needs explanation.

162. Cf. Menander fr. inc. 538,6 Koerte (= 540,6 Kock) τὸ κάκιστον τῶν κακῶν πάντων φόβος; Stob. 3,38,48 Σωκράτης τὸν φόβονον εἶπεν ἔλκος εἶναι τῆς ψυχῆς; Hor. *Epist.* 1,2,58-59 *invidia Siculi non invenerunt tyranni maius tormentum*. Cf. in general Walcot (o.c. above p. 115 n. 46); for the universality of envy cf. Schoeck (o.c. ib.: 21).

163. Cf. above p. 244-245.

164. L.-P. (ad 2,209 *acerrimus ... invidiae*) wrongly take the remark on the objects of envy (*invident autem ...*) as a definition.

them. But people are also frequently fiercely envious of their superiors, especially if these boast intolerably and transgress the limits of what is fair for all alike on the strength of their pre-eminent status or prosperity.

In comparing Cicero's treatment with Aristotle's we must not only look at the latter's chapter on φθόνος ('envy'), but also take the one on νέμεσις ('indignation') into account (note that the Latin *invidia* can have both meanings¹⁶⁵). The difference between these two as he takes them is pointed out in 2,9,3-5 (86b16-87a5). Both are a kind of pain (λύπη) because of another's good fortune, but their criteria are different: envy concerns those of equal rank, indignation is about good fortune that is undeserved¹⁶⁶. The first feeling, says Aristotle, belongs to bad characters, the second to good ones¹⁶⁷. Though the distinction may be thought plausible (see, however, below), the length of Aristotle's explanation shows that it was far from obvious. In fact he writes δόξελε δ' ἂν καὶ ὁ φθόνος τῷ ἔλαεῖν τὸν αὐτὸν ἀντικεῖσθαι τρόπον ὡς σύνεγγυς ὦν καὶ ταύτῳ τῷ νέμεσᾶν, ἔστι δ' ἕτερον (2,9,3: 86b16-18 'It might be thought that envy also is similarly opposed to pity, as being akin to or identical with indignation, but it is really different').

The comparison is best begun with envy, which Aristotle defines as follows: ἐστὶν ὁ φθόνος λύπη τις ἐπὶ εὐπραγίᾳ φαινομένη τῶν εἰρημένων ἀγαθῶν περὶ τοὺς ὁμοίους, μὴ ἑαυτῷ, ἀλλὰ δι' ἐκείνους (2,10,1: 87b22-24 'envy is a feeling of pain at the sight of good fortune in regard to the good things mentioned before; in the case of those like oneself; and not for the sake of getting anything for oneself, but because of the others possessing it'). This (with the next lines) shows a certain likeness to the Ciceronian passage, in that it also describes the objects of envy (this likeness, however, should not be exaggerated, as pointed out in § 4.2¹⁶⁸). Aristotle's remark that these are people on the same footing is traditional¹⁶⁹. Here Cicero's treatment contains two extra elements (see quotation above). First, an extension to inferiors. This seems a natural one, since it also concerns people who are now beyond us but were not so before. His extension to superiors¹⁷⁰ is of a different kind, since it requires the addition that they behave in such a way as to abuse their position. This introduces a third element absent from Aristotle's concept (and treatment) of envy, viz. "virtue" (*virtus*). Cicero's text shows that it is essential when the feeling is directed against superiors, but it must be noticed that it is in his view also relevant

165. Cf. n. 102.

166. Cf. p. 68 n. 286.

167. 2,9,5 (86b33-34) and context; 2,9,1 (86b11-16); cf. Mills (1985: 4-5).

168. p. 115: it is not strong enough to be an argument for dependence.

169. Above p. 115 with n. 46; Mills (1985: 2-3).

170. *Rhet.* 2,10,5 (88a11-12) could perhaps be said to show that Aristotle's φθόνος is also felt for people slightly superior, but this would be making too much of an isolated remark.

to envy for inferiors and equals, for his observations on arousing and allaying envy in general, which follow the sentence quoted (209-210), lay considerable stress on the deservedness of the advantages that cause the feeling; in brief, in arousing it the orator must say that they are not the result of virtue, in allaying it that they are.

All three elements may be detected in Aristotle's treatment of indignation. It will however be argued that their presence is not prominent and not even really equivalent to that in Cicero. Aristotle's definition is as follows: ἐστὶ τὸ νεμεσᾶν λυπεῖσθαι ἐπὶ τῷ φαινόμενῳ ἀναξίως εὐπραγεῖν (2,9,7: 87a9-10 'indignation is being pained at the sight of undeserved good fortune'¹⁷¹). This emotion is independent of the status of its object, and in principle it contains all elements in Cicero's treatment of envy that were absent from Aristotle's envy (φθόνος). First, that indignation may be felt towards inferiors is suggested in 2,9,15 (87b11-12), where people who think they deserve things that others do not are said to be inclined to indignation (καὶ ὅλως οἱ ἀξιολύπτες αὐτοὶ αὐτοῦς ὧν ἐτέρους μὴ ἀξιόσιν, νεμεσητικοὶ τούτοις καὶ τούτων)¹⁷². But there is a difference with Cicero's inclusion of inferiors, in that they are not here implied to have risen above but to have gained the same status as those who feel the indignation. Apart from this, the definition implies that the reason for the feeling is that the things acquired by the inferiors are undeserved, something of only secondary importance in Cicero. The second point is not explicitly found in the *Rhetoric* but implied in the definition quoted, for if superiors enjoy undeserved good fortunes they are just as liable to be the object of indignation as anyone else. The third point, virtue, is also implied in the definition, and touched upon in 2,9,7-8 (87a10-16) where it is said that indignation is felt on account of the things of which good men (and those who possess natural advantages) are worthy¹⁷³. But these second and third elements receive very much less emphasis than might be expected from the definition; what is stressed instead is the difference between, e.g., new and "old" rich, the former inspiring far more indignation than the latter.

This last fact, which may be regarded as an inconsistency on Aristotle's part, means a great difference in emphasis between his treatment and Cicero's: the latter strongly stresses the - rhetorically very useful - role of virtue¹⁷⁴. There is, however, another difference that is more fundamental. Cicero combines as it

171. Cf. 2,9,1 (86b11-12) τὸ λυπεῖσθαι ἐπὶ ταῖς ἀναξίαις εὐπραγίας.

172. Cf. also 2,9,11 (87a32-b2); 2,9,12 (87b4-7).

173. σὺχ' ὅλον τ' ἐπὶ πᾶσι τοῖς ἀγαθοῖς νεμεσᾶν· οὐ γὰρ εἰ δίκαιος ἢ ἀνδρείος, ἢ εἰ ἀρετὴν λήψεται, νεμεσῇσι τούτῳ ..., ἀλλ' ἐπὶ πλοῦτι καὶ δυνάμει καὶ τοῖς τοιαύτοις, ὅσων ὡς ἀπλῶς εἰπεῖν ἀξιοὶ εἰσιν οἱ ἀγαθοὶ καὶ οἱ τὰ φύσει ἔχοντες ἀγαθὰ, ὅλον εὐγένηιαν καὶ κάλλος καὶ ὅσα τοιαῦτα.

174. This difference was noticed by Kroll (1903: 582 n. 2). Cf. above p. 115 n. 44.

were Aristotle's notions of envy and indignation into his own concept of envy. (Again, this should not be taken as describing Cicero's actual procedure, but as clarifying the relationship between concepts.) This combination is not a mere addition of envy felt for inferiors and equals on the one hand and indignation felt for superiors whose fortunes are undeserved because they lack virtue on the other, for virtue is said to play a part in all cases. So whereas Aristotle, as noticed above, distinguishes two feelings as originating from different motives (viz. a comparison with one's own position and a conviction about the deservedness of certain advantages), Cicero regards envy as based on both motives together. This approach seems to me superior to Aristotle's, or at least more practical. Aristotle¹⁷⁵ states that envy is an emotion felt by bad people, indignation one felt by good ones, but the distinction between good and bad is notoriously difficult to maintain in such an absolute form, and the same goes for the true motives of the feelings involved. People may indeed, as Cicero suggests, forget or repress their envy if the good fortune they are envious of is described as absolutely deserved or as reached with much effort.

However this may be, Cicero's remarks on the objects of envy are more comprehensive than Aristotle's. The (rather scanty) Stoic material on this emotion (*φθόνος*, *invid(ent)ia*) altogether lacks observations on its object¹⁷⁶: they define it as grief at another's good fortune, sometimes adding that this good fortune meant no disadvantage for the one grieved¹⁷⁷. The addition, which resembles the last element in Aristotle's description, is not explicitly found in Cicero. It is, however, rather obvious, and the motives for feelings of envy he gives do indeed suggest the absence of such a disadvantage. Its omission is therefore immaterial.

Cicero's treatment of *miser cordia* (pity: 2,211a) contains two main elements: the hearer must be made to refer another's misfortunes to things he has experienced himself or is afraid of; and *adflcta et prostrata virtus maxime luctuosa est* ('the affliction and ruin of virtue are especially distressing'). Both elements are known from school rhetoric, where the second, however, did not receive any systematic attention¹⁷⁸. The first did, for it is at the head of the remarks in *De inventione* on awakening pity in the epilogue (1,106): from hearing about another's misfortune

175. For the Platonic antecedents of his ideas on *φθόνος* and for the handling of *φθόνος* and *νέμεσις* in the *Topics* cf. Mills (1985: 1-3).

176. Chrysippus' remark about *ὁ πλεόνων* (next note) is too vague to be regarded as such.

177. *SVF* I 434 (Dion. Heracl.); III 418 (Chrysippus); III 412-416 (Stoic views in general). III 415 (= *Tusc.* 4,17) contains the addition, Chrysippus' description in III 418 is slightly longer: (sc. ὁ *φθόνος*) λυπή ἐστὶν ἐπ' ἄλλοτριῶν ἀγαθῶν, ὥς δῆποτε βουλομένων ταπεινῶν τοὺς πλεόνων, ὅπως ὑπερέχουσιν αὐτοῖς. On *φθόνος* cf. also I 402 (Aristo Chius). No definition by Posidonius is known.

178. It is not formulated as such, but appears from a number of *topoi*: *Inv.* 1,107 *topos* no. 4 and 1,109 nos. 10, 13, 15, 16; cf. also *Rhet. Her.* 2,50.

the hearer will think of his own weakness, which will lead to pity¹⁷⁹.

Aristotle's definition is as follows (2,8,2: 85b13-16):

ἔστω δὴ ἔλεος λύπη τις ἐπὶ φαινομένῳ κακῷ φθαρτικῷ ἢ λυπηρῷ τοῦ ἀναξίου
τυγχάνειν, ὃ καὶ αὐτὸς προσδοκᾷσειν εἰν παθεῖν ἢ τῶν αὐτοῦ τινα, καὶ τοῦτο
ὅταν πλησίον φαίνηται

Let pity then be a feeling of pain caused by the sight of evil, destructive or painful, which befalls one who does not deserve it, and which we might expect to fall upon ourselves or one of those near to us, and that when it seems close at hand.

Of Cicero's first element only the one aspect of fear is mentioned, not the one of past experience. In the treatment that follows fear is explicitly referred to in 2,8,13 (86a27-28): ὅσα ἐφ' αὐτῶν φοβοῦνται, ταῦτα ἐπ' ἄλλων γιγνόμενα ἐλεοῦσιν ('all that men fear in regard to themselves excites their pity when it happens to others')¹⁸⁰. Past experience is at two occasions said to lead to fear, a connection there is no ground for postulating in Cicero; as a separate factor it remains unmentioned¹⁸¹.

Cicero's second element, virtue, resembles Aristotle's phrase τοῦ ἀναξίου τυγχάνειν ('who does not deserve it'). This is indeed developed into a link with virtue in 2,8,7 (85b34-86a1), where he writes that in order to be able to feel pity people must 'think that some persons are virtuous', otherwise they 'will think that everybody deserves misfortune' (καὶν οἴωνται τινὰς εἶναι τῶν ἐπικεικῶν· ὁ γὰρ μηδένα ολόμενος πάντας ολήσεται ἀξίους εἶναι κακοῦ). His treatment ends with a remark in a similar vein: 'when men show themselves undaunted at critical times it is specially pitiable' (2,8,16: 86b6-7 καὶ μάλιστα τὸ σπουδαίους εἶναι ἐν τοῖς τοιοῦτοις καιροῖς ὄντας ἐλεεινόν)¹⁸². Nevertheless, in the rest of the treatment of the objects of pity (2,8,12-16: 86a17-b8) virtue is not mentioned, and the emphasis is on the idea that pity is in the first place felt for people who are close to and like us¹⁸³. The element of virtue, then, is some-

179. *qua oratione habita graviter et sententiose maxime demittitur animus hominum et ad misericordiam comparatur, cum in alieno malo suam infirmitatem considerabit*. The point is further reflected in 1,108, 7th *topos*; cf. the 14th *topos* for the *indignatio* in 1,105.

180. Cf. also, in the chapter on fear, 2,5,12 (82b26-27).

181. 2,8,4 (85b25) οἱ τε πεποιθότες ἤδη καὶ διαπεφυγότες: the point is that these people think it might happen again, which links the remark with fear (*contra* Schweinfurth-Walla 1986: 198); the same interpretation must hold for 2,8,7 (86a1-3), where two causes of fear are given, past experience and the expectation that something will happen.

182. Kroll (l.c. above n. 174) noticed the first of these two parallels with Cicero's element of virtue.

183. Cf. especially 2,8,13 (86a24-26). The designation τοῦς ... γνωρίμους in § 12 (86a17) must also be interpreted along these lines, for the sequel shows that γνώριμος here means 'well-known, familiar', not 'distinguished' (LSJ s.v., I,2 and II resp.; note that the second meaning refers to social standing, not to moral excellence).

what more stressed by Cicero, as it was (in a conceptually more complex way) in the case of envy. It is, again, probably no coincidence that ruined virtue lends itself excellently for amplification: Cicero is again putting the rhetorically useful in the limelight¹⁸⁴.

It may be noted that Cicero's treatment, on the other hand, lacks a counterpart to Aristotle's attention to the objects of pity just referred to. Something like the latter's contention that these are people resembling us, however, seems to be implied in the former's first element, his remarks on fear and past experience¹⁸⁵. On the whole, because of his inclusion of the aspect of past experience, Cicero's treatment of pity seems slightly more comprehensive than Aristotle's. In this case school rhetoric, in spite of the limited scope of its attention to the emotions, also shows some resemblance to Cicero's treatment. As was also the case with envy, the Stoic material shows a far more restricted view: the most comprehensive definitions describe pity as 'grief for someone who suffers undeservedly' (ἐλεον ... εἶναι λύπην ὡς ἐπὶ ἀναξίως κακοπαθοῦντι)¹⁸⁶.

Some remarks on Aristotle's and Cicero's selection of the emotions treated may be added here, as a supplement to the short comment in § 7.4 (see the scheme on p. 243). Of the emotions found in the *Rhetoric* but not in *De oratore*, it was there said that αἰσχύνη ('shame') and its opposite are of minor rhetorical importance, and that πραότης, χάρις and ἀχαριστεῖν ('mildness', 'favour, goodwill', 'lack of goodwill') fall under the scope of Cicero's ethos. The absence, on the other hand, of an Aristotelian equivalent for Cicero's joy and grief has been explained above (p. 288). This leaves νέμεσις, and ζῆλος and its opposite καταφρόνησις ('indignation', 'emulation', 'contempt').

The relationship of Aristotle's νέμεσις and φθόνος ('indignation', 'envy') with Cicero's *invidia* ('envy') has been discussed above, and it has appeared that indignation and envy could easily be confused even by the Greeks Aristotle's text was written for¹⁸⁷, for he extensively explains the difference. The relationship of ζῆλος ('emulation') to envy also receives some attention, after the former has been defined (2,11,1: 88a30-36):

... ἐστὶ ζῆλος λύπη τις ἐπὶ φαινομένη παρουσίᾳ ἀγαθῶν ἐντίμων καὶ ἐνδεχομένων αὐτῷ λαβεῖν περὶ τοὺς ὁμοίους τῇ φύσει, οὐχ ὅτι ἄλλω ἄλλ' ὅτι οὐχ

184. Aristotle refers to presentation more extensively than Cicero (2,8,14: 86a31-34 - 2,211 *si dicuntur dolenter*); but this is hardly significant, since its importance has been stressed by Cicero elsewhere in his sections on pathos.

185. Note that Aristotle explicitly makes this connection: 2,8,13 (86a24-28).

186. *SVF* III 412, thus 413-415; 433; 452 (Stoics in general); a more restricted definition I 434 (= *Tusc.* 3,21: Dion. Heracl.) *aegrîtudo* ... *ex alterius rebus adversis*; thus III 416; 451 (Stoics in general). Again no material from Posidonius has come down to us.

187. Whoever these may have been (cf. § 2.1).

καὶ αὐτῷ ἐστὶν (διὸ καὶ ἐπαικὲς ἐστὶν ὁ ζήλος καὶ ἐπαικῶν, τὸ δὲ φθονεῖν φαῦλον καὶ φαύλων· ὁ μὲν γὰρ ἑαυτὸν παρασκευάζει διὰ τὸν ζήλον τυγχάνειν τῶν ἀγαθῶν, ὁ δὲ τὸν πλησίον μὴ ἔχειν διὰ τὸν φθόνον) ...

... emulation is a feeling of pain at the evident presence, in the possession of those whose nature is like our own, of good things that are highly valued and are possible for ourselves to obtain - pain not due to the fact that another possesses them, but to the fact that we ourselves do not (emulation therefore is good and characteristic of good persons, whereas envy is bad and characteristic of bad persons; since the one, owing to emulation, fits himself to obtain such good things, while the object of the other, owing to envy, is to stop his neighbour possessing them) ...

The difference between the two obviously needed some clarification, though much less than that between indignation and envy (see p. 290). That Aristotle could take emulation as comparatively easy to identify is probably due to the spirit of competition so characteristic of classical Greece. This is also part of the explanation why nothing of the kind is mentioned in *De oratore*, for though status was hardly less important in Roman society, open and direct competition was not as primary a way of acquiring it, and accordingly the social significance of *aemulatio* was far more restricted. Another factor that explains the "omission" is that the feeling is not very useful in the courts (though it may, in principle, be so in assemblies): it is, as the passage just quoted shows, aimed at getting something oneself, not at doing damage to someone else. The absence of καταφρόνησις ('contempt') from Cicero's account may be analogously explained.

It is time to sum up and look at the patterns emerging from the correspondences and differences analysed above.

What Stoic psychology had to say on the individual emotions amounted, if we may trust the extant material, to not much more than an elaborate set of rather restricted definitions. The Stoics were primarily interested in the consequences of the emotions for those subject to them, much less in their significance for human interaction. Accordingly, their material has little to offer on the status of the objects, even in the cases of pity and envy where this would have been particularly illuminating. One feature of their approach not yet mentioned is that in subdividing their four principal passions they subtly distinguished between numerous variants, without, however, adding much depth. A good example is the subdivision of *libido* (desire) reported in *Tusculan Disputations* 4,21: it includes definitions of anger, rage, hate, enmity and wrath (*ira, exandescencia, odium, inimicitia* and *discordia*)¹⁸⁸. This is not in itself an unpromising approach, but the distinctions

188. Transl. J.E. King (Loeb ed.). *Tusc.* 4,21 = *SVF* III 398; cf. ib. 394-397; 400-403; 407-410; 412-416; 419-420; 439 (Stoics in general); 440 (Chrysippus); and the statements to the effect that such definitions existed: *SVF* III 381 (general); 483 (general, Chrysippus); I 212/III 481 (Zeno,

seem to have been carried no further than the definitions. Cicero probably found little in Stoic psychology he could use directly, though we must of course leave open the possibility that relevant material is now lost.

Aristotle had more to offer: his analyses are, as pointed out in § 2.7, clear and illuminating, and he takes full account of the three elements he distinguishes beforehand, subject, object and cause¹⁸⁹. Cicero, though leaving out the aspects he considers obvious, takes the same direction as Aristotle and, perhaps surprisingly, often even goes beyond him. Because of his remarks on the objects of envy his treatment of this emotion, though less detailed, is more comprehensive, and his addition of the factor of past experience in the analysis of pity is a real extension¹⁹⁰. His discussion of fear, short though it is, adds a distinction between a common and a personal variant. This points to the most distinctive characteristic of Cicero's approach as compared to Aristotle's, the unemphatic, but on inspection unmistakable, selection of those features of the emotions that are of value in the practice of oratory.

This characteristic has appeared in a number of other details also: the difference between Cicero's *amor* and Aristotle's *philia*, and the emphasis on virtue both in the case of envy and in the case of pity. It is also clear in the way *amor*, anger and hate are coupled, and not least in the selection of the emotions¹⁹¹. A feature both practical and interesting on the conceptual level is the correspondence of Cicero's *invidia* (envy) to Aristotle's φθόνος and νέμεσις ('envy', 'indignation') together.

Aristotle's analyses nevertheless remain the most penetrating. His precision, the clarity of the arrangement and his acute observations of psychological detail combine to make a very striking and illuminating treatment. By whatever source Cicero knew of the *Rhetoric*, his approach of the individual emotions is heavily indebted to Aristotle and even unthinkable without him. But the above comparisons have to my mind shown that Cicero by no means merely copied what he found useful. Of course he may have used other material unknown to us, but the fact remains that his treatment reveals a consistent approach and an ability to make some improvements even in the small space he allows himself.

Chrysippus); I 628 (? Sphaerus).

189. Cf. pp. 69 and 65.

190. Cf. pp. 290-291 and 292-293 respectively.

191. Cf. respectively pp. 287; 291; 292-294; and 287-288; 294-295; the difference between θάρος, 'lack of fear', and *spes* (p. 288) could be added, but since lack of fear may also be relevant to oratorical practice this in fact only illustrates the difference between Aristotle's and Cicero's concepts of pathos.

8.6 Moral Questions on the Use of Pathos

Some scholars have compunctions when describing Cicero's approach. They feel that arguments should prevail and that pathos is essentially an unfair means of persuasion. Probably because Aristotle is in general more looked up to, less (uneasy) attempts at removing a suspicion of immorality have been made in the case of *De oratore* than in that of the *Rhetoric* (cf. p. 72-74). But the problem is in fact the same. So is the answer¹⁹².

Aristotle's text, however, gives those who try to whitewash him more opportunities to confuse the issue. The only handle offered by *De oratore* for a similar procedure seems to be the passage on *ipse ardere*, the need for the orator to be emotional himself in order to be able to arouse his audience's feelings. As remarked earlier (p. 263), this is a demand for effectivity, but it is taken by some to be one for sincerity¹⁹³. The text, if read with some care, does not encourage this confusion: it is not claimed that the orator will feel the emotions himself if he is convinced of the justness of the case he is defending, but that it is, besides necessary, also possible to feel them because his own speech will carry him along and because his own reputation is at stake.

Cicero's position does not differ from Aristotle's: rhetoric is a tool that may be used rightly or wrongly, and is morally neutral in itself. This, however, should not be taken to imply that he was cynical and had no moral judgement on its use. The two *laudes eloquentiae* ('eulogies of oratory') in *De oratore*, 1,30-34 and 2,33-38, show that it was at least Cicero's ideal that an orator should use his abilities to benefit his friends and the state, to punish the wicked, and so on¹⁹⁴. And Crassus in 3,55 even ties the title of ideal orator to moral character. He states that if the power of speaking is imparted to those without the necessary moral qualities, this will not be making them orators, but giving weapons into the hands of madmen (*quarum virtutum [viz. probitas, summa prudentia] expertibus si dicendi copiam tradiderimus, non eos quidem oratores effecerimus, sed furentibus quaedam arma dederimus*). This side of Cicero's view should not be overstressed

192. About the same tendency of "whitewashing" in the case of Cicero's views on the use of humour see L.-P.-Rabbie: 208.

193. This mistake Michel (1960: 245, quoted above p. 263) and Schweinfurth-Walla (1986: 204). Schottländer (1967: 144) likewise takes Antonius' warning against *tragoedias agere in nugis* (2,205), which is also aimed at effectiveness only, to be a "moral" one; and (ib.: 140) he makes similar use of *Verr.* II,5,3-4, taking an orator's argument to be a moral prescription.

194. Cf. also 1,202; and 2,85, where Antonius says he employs a talented young man to do his utmost to become a good orator *si vir quoque bonus mihi videbitur esse* - note that it is again implied that moral quality is not directly linked with the rhetorical system or with oratorical ability.

either. Though far more principled than most other politicians of his time¹⁹⁵, he was a man of practical politics and he was very well aware that he did not live *in illa commenticia Platonis civitate*, 'in that imaginary state of Plato's' (1,230). Even if one's aims are honourable one can very often not rely on the truth to convince an audience¹⁹⁶: Cicero's treatment of *amor*, with its emphasis on the jury's self-interest, seems quite realistic. But this is still far from cynicism.

The situation regarding the speakers in *De oratore* is more or less the same. Accordingly, it is misleading to call Antonius the "Mephisto" of the dialogue and his success in the Norbanus case scandalous, as has recently been done¹⁹⁷. As pointed out above (p. 259-260), defending someone irrespective of his guilt was an entirely accepted practice. We are of course free, though there is hardly any material to go on, to suspect that the real Antonius' motives were not so very noble, even if Cicero probably thought otherwise. In *De oratore*, however, Antonius is indeed far more down-to-earth than Crassus, but he is and remains one of Cicero's mouthpieces and is accordingly not portrayed as cynical. His speech in book 1 (1,209b-262), which does go in that direction, is recanted in book 2 (2,40), and one of the idealistic eulogies of oratory is put into his mouth¹⁹⁸. In the end, all main speakers of the dialogue are to a large extent of one mind, even if their views show considerable differences of emphasis¹⁹⁹. They regard rhetoric as a tool that is morally neutral (this aspect is most prominent in Antonius' exposé); its use is nevertheless subject to moral judgement (mainly Crassus), but (mainly Antonius again) even its right use may entail making the truth subordinate to the aim of persuasion.

8.7 Summary

This chapter has dealt with the subjects discussed by Cicero in his sections on pathos, *De oratore* 2,185-211b, in the order employed there. This order reflects a careful composition aimed at conveying to his readers the power of pathos. It is

195. On this issue I strongly sympathize with David Stockton's account in his *Cicero. A Political Biography* (Oxford UP, 1971): 239-245; a similar judgement in Ernst Badian, *Roman Imperialism in the Late Republic* (Oxford: Blackwell, 1968²): 84-85.

196. Cf. also *Off.* 2,51; and above n. 66.

197. Liselot Huchthausen, col. 141 of her valuable review of L.-P. I, *Deutsche Literaturzeitung* 106 (1985), 139-142. She writes the following about Antonius' defence of Norbanus as presented by Cicero (142 n. 5): 'er ... fällt damit seinen politischen Gesinnungsgenossen in den Rücken'. This view is dependent on the doubtful picture of a struggle between "factions", cf. above n. 130. Cf. on this particular topic Mitchell (o.c. above n. 93: 31-32).

198. 2,33-38. There are of course important differences with Crassus' *laus eloquentiae* (L.-P. II: 222), but the tone is idealistic nevertheless. On the recantation cf. L.-P. (I: 68).

199. On the function of this above p. 198.

a *leçon par l'exemple*, in which the rules for the composition of emotional passages given in 213-215a (see § 9.1) are also put into practice: the tension is slowly built up, with the Norbanus case as a climax, after which the subject is not abruptly abandoned but continued by a more down-to-earth aspect, that of the rules for the separate emotions, and rounded off in 211b-216a. The building up and toning down is thus not only a matter of style - for this is also the case - but also one of content: the first problem treated, the probing of the disposition of the judges, is still largely a matter of calculation, the second concerns the emotions of the orator himself, and the third passage contains the dramatic description of Antonius' speech for Norbanus; the remaining subjects are again more business-like. In accordance with the nature of this part of *De oratore*, Cicero's use of stylistic devices and details of composition have received more attention in this chapter than in others.

The probing of the disposition of the judges (2,186-187) has been examined in § 8.2. Antonius distinguishes between easier cases in which the jury is already inclined to take a favourable attitude, and difficult ones where the orator's task is much heavier and where careful observation of the jury is essential to decide what feelings to play on. It has been argued above that Cicero does not mean observation during the speech itself, but beforehand: the general head is still that of invention, and improvisation is therefore not taken into account.

In 2,189-196 Antonius explains both the necessity and the possibility for an orator to feel the emotions himself that he wants to arouse in the jury (§ 8.3). Since the first was not controversial the emphasis is on the second. The orator can indeed be emotionally involved, Antonius says, because he is carried along by his own speech and because his own reputation is also at stake; he reinforces his point by an analogy with actors and playwrights. This emphasis on the possibility presupposes some opposition to emotional pleading, or rather, more specifically, some support for the opinion that orators mostly feign their involvement. These ideas are, however, difficult to pin down. It seems certain that no technical rhetorical controversy is involved; Stoic criticism on this particular point is not attested but may have existed; perhaps some of Cicero's ("proto-Atticist"?) contemporary fellow orators thought his emotional style of speaking overdone and insincere.

Antonius' speech for Norbanus as presented in *De oratore* (2,197-203) has been reconstructed in § 8.4; this reconstruction, especially as regards content, might well be very close to the historical speech held in 95 B.C. Besides being a climax, it illustrates many of the principles explicitly formulated in the rest of the passage on pathos.

In § 8.5 Cicero's precepts for the individual emotions have been analysed and compared with Aristotle's *Rhetoric* and with the extant Stoic material. Although

the group of four emotions that formed the Stoics' principal passions is found in *De oratore*, direct influence of their psychology cannot be detected. Cicero's approach has much in common with Aristotle's, and even if he allows himself much less space and achieves less depth, his concepts sometimes go beyond or even improve on Aristotle's. The fundamental difference between the two authors noticed before again appears, for Cicero's emphasis is clearly on aspects useful for practical oratory.

The difference regarding the moral questions connected with the employment of pathos, however, is not very great - in any case, much smaller than the difference between both together and some modern scholars who try to detect moral principles inside their rhetorical systems (§ 8.6). Despite these efforts we may safely say that they both regard rhetoric as morally neutral and think the responsibility of its use rests entirely with the orator. If there is a difference, it lies outside the system: Cicero, being a man of practical politics, seems more inclined to sanction its use for what he considers right purposes, even if the truth should be violated.

9. DE ORATORE 2,211-216; THE PLACE OF HUMOUR

This chapter treats the two parts of *De oratore* connected with ethos and pathos that have not been dealt with in the other chapters. The first section is about the remainder of the passage on ethos and pathos itself, 2,211b-216a, the second tries to answer the question regarding the connection between ethos and pathos and the subject treated immediately after that in 2,216b-289, humour.

9.1 *De oratore* 2,211b-216a

The final passage on ethos and pathos consists of three parts:

- 2, 211b -212 mutual influence of passages based on ethos and pathos
- 213 -215a structure of passages based on ethos and pathos
- 215b -216a taking away emotions and sympathy

Section 211b follows the discussion of the separate emotions and reintroduces ethos:

et, ut illa altera pars orationis, quae probitatis commendatione boni viri debet speciem tueri, lenis, ut saepe iam dixi, atque summissa, sic haec, quae suscipitur ab oratore ad commutandos animos atque omni ratione flectendos, intenta ac vehemens esse debet.

And whereas that other element of a speech, which must recommend one's decency and thus support one's image of a good man, should be gentle, as I have often said already, and low-keyed, this element, which is adopted by the orator to change minds and to influence them in any way he wants to, should be intense and vehement.

This formulates the way of handling pathos. That of ethos, which has already been very explicitly treated (in 2,183 and 184)¹, is mentioned for the sake of contrast, but it also serves to make 211b into a transition to 212, where the mutual influence of these two *pisteis* is discussed. After the passage on content alone (205-211a)² the emphasis here shifts, and presentation (style and delivery) is taken into account as well, as it was in the passage on ethos. The next section, 212, is then also about all aspects³.

Section 2,212 has been discussed in § 7.4 (p. 238-240), since it deals with the relationship between ethos and pathos. On my interpretation, its remarks aim at keeping both *pisteis* effective by insisting that neither must be overdone.

Section 2,213 introduces the next subject: both the beginning and the end⁴ of passages⁵ based on ethos and pathos should be gradual, not abrupt. For the beginning this is explained by: *abest enim totum a causa et homines prius illud ipsum, quod proprium sui iudicii est, audire desiderant*, 'for it is wholly unrelated to the issue, and people first want to hear about the thing that is really the subject of their judgement'. The whole of 214 is occupied by the corresponding argument for the end⁶:

1. Cf. pp. 230 and 230-231.

2. In 2,205-211a, only 211 *si dicuntur dolenter* mentions presentation. This probably prepares for the transition immediately following.

3. Therefore, I cannot agree with the suggestion in L.-P. ad 2,212 *sed est ... generibus* (cf. p. 240 n. 74).

4. *et principia tarda [sunt] et exitus tamen spissi et producti esse debent*. Here *tamen* is a bit strange, it implies that if the beginning is slow the end might be expected to be quick, which is not very logical. The aim of this wording is probably to create a contrast in order to highlight the statement about the end: it is this that receives most attention in what follows (cf. below n. 6).

5. The immediate context, all that precedes and common sense require that this should indeed concern passages. Sutton's translation 'Now in both styles of speaking ... the opening of a speech is unburied' is therefore highly misleading, since a whole speech based on ethos or on pathos has nowhere been mentioned, let alone one in one specific style.

6. With L.-P. I prefer reading, with all MSS., *quae ... emissa* (referring to *ratio*) to *idque ... emissum* (Kum. and others) or other conjectures: that *ratio* as 'Fundierung des Arguments' was a technical term is clearly shown by *Rhet. Her.* 2,28. I cannot, however, agree with their interpretation (ad 2,214 *non enim*) of 214 as taking up the whole explanation 213 *nam neque adiliendum ...*: the argument in 214 is only vaguely relevant to the beginning of the passages concerned. More specifically, that it is about the end is clear from (a) the structure of 213-214: the statement about the beginning (*nam neque ... orationis*) is immediately followed by the relevant explanation, that about the end by 214 *non enim ...*; (b) *simul atque intuleris* (cf. its analogue *simul atque positum est*), which supposes that the passage has already begun; (c) *multa et varia et copiosa*

non enim, sicut argumentum, simul atque positum est, arripitur alterumque et tertium poscitur, item misericordiam aut invidiam aut iracundiam, simul atque intuleris, possis commovere. argumentum enim ratio ipsa confirmat, quae simul atque emissa est adhaerescit; illud autem genus orationis non cognitionem iudicis, sed magis perturbationem requirit, quam consequi nisi multa et varia et copiosa oratione et simili contentione actionis nemo potest.

For it is not as in the case of an argument, which is accepted at the moment it is put forward, after which a second and third one are called for: you cannot in this same way arouse pity or envy or anger at the moment you start trying to. An argument is after all confirmed by the reason given for it, which sticks in the mind at the moment it is uttered; but that type of speaking is not aimed at making something known to the judge but at making him feel upset; this aim no one can achieve except by a long, varied and rich speech and by a corresponding energy of delivery.

Other remarks in *De oratore* suggest that the brevity of arguments is only comparative⁷. Here it is of course emphasized to underline the difference with ethos and pathos⁸. Cicero thus clarifies the handling of ethos and pathos by setting it against that of rational arguments, which was more familiar. This contrast also has another, subordinate function. The whole passage 211b-215a, which is at the end of the part on ethos and pathos, is about the way of dealing with them, and this may be called *tractatio*, even if the term is not used. Now the *tractatio* of rational arguments has been briefly treated in 2,177 (where the term is used), which is likewise at the end of the corresponding part. The comparison with arguments here calls attention to this parallelism and thus to the essential equivalence of the three *pisteis*, which is one of the distinctive characteristics of Cicero's approach.

The contrast, finally, allows the almost epigrammatic ending of the passage in 2,215a: *quare qui aut breviter aut summis dicunt, docere iudicem possunt, commovere non possunt, in quo sunt omnia*, 'Wherefore those who speak briefly or quietly can instruct the judge, but cannot move him - and on this everything depends'.

One further point must be added. Although the passage is about the *tractatio* of both ethos and pathos, 2,214 only mentions emotions. No explicit transition to pathos alone has taken place⁹ and the remark on the beginnings and endings is indeed said to hold for both. We may therefore suspect that the greater importance

oratione: this implies length (*multa!*), which is relevant to ending but not to beginning a passage.

7. Cf. e.g. 2,108-109 on definitions.

8. Cf. the deliberate exaggeration in 2,83, where the traditional demand for plausibility, clarity and brevity of the narration is said to be appropriate for the whole of a speech.

9. 2,213 *genus illud orationis* is sometimes interpreted as taking up *illo, in quo ...*, i.e. pathos (Sutton, Merklin); but this seems unnecessary since it may loosely refer back to *in utroque genere* taken as one (L.-P., thus implicitly W. and Courbaud); and it seems impossible since *nam*, at the beginning of the same sentence, shows that the sentence contains a reason for the whole preceding statement.

of pathos (p. 250-251) has led Cicero to emphasize it (cf. 215a just quoted). But we may go further. It has been argued above (p. 218) that Cicero's view implies that there are five types of passages, consisting of:

arguments only,
ethos only,
pathos only,
arguments and ethos, and
arguments and pathos.

The rule for gradual beginnings and endings is a plausible one for both types containing pathos as well as for the type based on ethos only, but for passages consisting of arguments and ethos there seems to be no reason why it should hold. This conclusion can of course not be supported by explicit references in Cicero's text, and it remains somewhat speculative. If there is something in it, however, the rule would, in order to be completely accurate, require differentiating between the two types of passages with ethos. This kind of completeness is avoided by Cicero, since it would take much space and reduce the liveliness of the dialogue¹⁰. The emphasis on pathos, despite the formulation of the rule for ethos also, may therefore reflect Cicero's awareness that it holds for some but not all passages containing ethos, and his simultaneous reluctance to insist on such differences.

As remarked earlier, the rule explicitly given here is exemplified in Antonius' treatment of pathos itself and illustrated by his speech for Norbanus¹¹. We may add 2,324 as being in accordance with it: Antonius says that pathos supplies rich material for prologues, but adds *quos* (sc. *locos*) *tamen totos explicare in principio non oportebit, sed tantum impelli iudicem primo leviter, ut iam inclinato reliqua incumbat oratio*, 'it must not be totally developed in the prologue, but the judge must first be only lightly pushed, in order that he will be already inclined to go in the right direction and the rest of the speech may press him on'¹².

The last short passage deals with taking away emotions or sympathy aroused by the opponents¹³. The principle is first formulated in general terms (2,215): *iam illud perspicuum est omnium rerum in contrarias partis facultatem ex isdem sup-peditari locis*, 'finally, it is clear that in all cases the means of achieving opposites are supplied from one and the same source'. Then rational argumentation is again

10. Cf. p. 219-220.

11. Cf. p. 298-299 on the structure of 2,185-216a; and about the speech for Norbanus p. 280.

12. Cf. also 2,304 *sine ulla praemunitioe orationis*; *Orat.* 99 *si is non praeparatis auribus inflammare rem coepit, furere apud sanos ... videtur*.

13. Though the principle given might also be relevant to feelings already present without the opponents' intervention, this is clearly not meant, witness the analogy with the refutation of the opponents' arguments.

used as a contrast: three ways to counter an argument are mentioned, all well-known from school rhetoric¹⁴. The passage ends with the short remark, treated earlier (p. 237), that ethos and pathos must be countered by arousing opposite emotions. Only two examples are given: *ut odio benevolentia, ut misericordiā invidia tollatur*, 'so that sympathy is taken away by hate, envy by pity'. As elsewhere, applying the instruction given is thus left to the common sense of the orator and to the principle of analogy¹⁵.

The observation on taking away feelings by contrary ones implies that the opponents' speech(es) will partly dictate what emotions the orator has to arouse, which is more strictly a matter of invention than the subjects of 211b-215a, which belong to *tractatio*. To obtain a total picture, we must combine this with the related passage 2,310-312 from the part on disposition: there Antonius says that ethos and pathos are always useful if the case allows them (p. 206-207). It appears that the passage under discussion formulates a minimal requirement: in each case there are some emotions that need to be aroused because the speech(es) of the opponent(s) has made this necessary.

This may be reformulated in terms of the sequence of stages in handling the material, which is of primary importance in *De oratore*. During the stage of invention all material is devised, and a decision is also taken what feelings must necessarily be aroused. During the stage of selection (*krisis*), which is part of disposition, as much of this material for ethos and pathos as possible is included, the necessary emotions constituting the minimum. This procedure is not found in *De oratore* in so detailed a form, but it readily follows from it.

9.2 The Connection with the Passage on Humour

The discussion of ethos and pathos is followed by a long passage on humour (2,216b-289), in which the main speaker is the famous wit Caesar Strabo. At least for the modern reader this subject comes as a surprise, since the order of working for an orator that is so important in *De oratore* implies that invention, which is built around the three *pisteis*, is followed by disposition¹⁶. Many ancient readers will not have expected it either, for the same reason and because it did not belong

14. For school rhetoric cf. *Inv.* 1,78-96, where four ways of *reprehensio* are distinguished, including the three mentioned here (quotations from 1,79): (a) *non conceditur aliquid*, (b) *complexio ... confici negatur*, (c) *contra firmam argumentationem alia aequae firma aut firmior ponitur*. (The fourth way, the case of a *genus ... argumentationis vitiosum*, seems superfluous as falling under the scope of (a) and especially (b).) Cf. also *Rhet. Her.* 2,31-46 (Matthes 1958: 88-97 thinks the version in *Inv.* is the original one; cf. also ib.: 206, 208); and already Arist. *Rhet.* 2,26,3-4 (13a25-33).

15. Cf. p. 282 on the principle of analogy in 2,205-211a.

16. See 2,180-181 (above p. 195); and cf. especially § 6.3.

to standard rhetoric¹⁷. It is clear that the passage serves as a *divertissement* for the reader after the rather heavy treatment of pathos, and this is also what Antonius says Caesar's *exposé* will be for him, *defessus iam labore atque itinere disputationis meae requiescam in Caesaris sermone quasi in aliquo peropportuno devorsorio*, 'Worn-out as I now am by the toilsome journey of my discussion, I will take rest in Caesar's talk as if in some very welcome stopping-place' (2,234)¹⁸. This, however, does not solve the problem of its place, which will be treated here¹⁹.

On the one hand, the fact that the passage is not put into Antonius' but into Caesar's mouth marks it off as an *excursus*²⁰. On the other, a letter from 50 B.C. shows that the assignment to the speakers has only limited value: there Cicero makes the odd mistake of attributing the passage *de ridiculis*, 'on humour', to Antonius²¹. The careful composition of the rest of the work also suggests that its place cannot be an arbitrary one, and that there must be some connection with invention and especially with ethos and pathos. I will here argue for such a connection on three grounds: formal aspects of the passage's inclusion in book 2, aspects of its content, and the ancient concept of laughing as a kind of emotion. The relationship between these three sorts of argument will also be touched upon.

As to the formal aspect, though it is not Antonius but Caesar who is the main speaker, the way the passage is marked off from its environment shows that it differs from for instance Crassus' treatment of style in book 3. That passage is announced beforehand several times, constitutes a treatment of a sharply distinguished aspect of rhetoric and is itself clearly delimited (notwithstanding the "excursuses" contained in it): its beginning is unambiguously at 3,19, its end at 3,212. The same may be said of Antonius' treatments of invention, disposition and memory and Crassus' of delivery, and even of Antonius' discussion of ethos and pathos within invention²².

17. Cf. L.-P.-Rabbie: 173, 190-191.

18. This is taken up in the transitional section 2,290.

19. The subject has been discussed in Grant (1924: 73-76); very briefly on p. 342-343 of Kroll's 'Rhetorica IV. Der Witz bei Quintilian', *Philologus* 89 (1934), 341-348; and in L.-P.-Rabbie: 210-212. A first version of this section was written after, and partly on the basis of, the first version of Dr. Edwin Rabbie's treatment; he generously discussed it with me, after which his and my final versions were written. Points taken from him have been indicated as such in the notes; remaining discrepancies in substance and emphasis reflect differences of opinion.

20. L.-P.-Rabbie: 174, 210

21. L.-P.-Rabbie: 174: *Fam.* 7,32,2 *cetera quae sunt a me in secundo libro de oratore per Antoni personam disputata de ridiculis*.

22. The division of subjects between Antonius and Crassus is extensively discussed in 2,123-128 and again referred to in 233; 350-351; 364-367; 3,19; the fact that Crassus' treatment of style is in book 3 marks it off even more clearly from Antonius' *exposé* on invention, disposition and memory. Antonius' treatment of these subjects has also been prepared for, viz. in 1,264; 2,14-15;

This general point may be specified by two details of the formal aspect. First, the beginning of the passage on humour follows without much interruption on the last passage discussed in § 9.1 (2,216):

... ut odio benevolentia, ut misericordia invidia tollatur. suavis autem est et vehementer saepe utilis iocus et facetiae, quae ...

... so that sympathy is taken away by hate, envy by pity. But it is pleasant and often terribly useful to employ joking and humour, which ...

Only *autem*, 'but', formally indicates the transition²³, which is therefore not very marked. Note also that it is Antonius who introduces the subject: only in the next sentence does he call on Caesar to enlarge upon it²⁴. In contrast, all sharp transitions in *De oratore* are explicitly indicated²⁵.

Second, the structure as announced beforehand points in the same direction: in 2,181 Antonius promises to treat disposition after ethos and pathos (p. 195).

The most important passage for the connection in substance between ethos and pathos and humour is 2,236:

est plane oratoris movere risum, vel quod ipsa hilaritas benevolentiam conciliat ei, per quem excitata est, vel quod admirantur omnes acumen, uno saepe in verbo positum, maxime respondentis, non numquam etiam lacescentis, vel quod frangit

26; 234. (The request for Caesar to continue in 2,229-233 is comparable to these indications on the dramatic level only, for at that point his discussion has already started.)

23. I do not think that *suavis* does anything to establish a connection with ethos, as is tentatively suggested by L.-P.-Rabbie: 211 (point 1). In the passage on ethos the word is only mentioned once (2,184), and not very conspicuously at that. There is also nothing in Mamoojee's exhaustive treatment of the word in Cicero (Mamoojee 1981) to encourage a link with ethos; on 2,216 see his p. 234.

24. Modern editors are of course nevertheless right to start a new paragraph. As to *autem*, L.-P.-Rabbie ad loc. cite *TLL* s.v. 1588,36 'novam scripti partem vel particulam praecedenti adiungit'; but in most of the cases collected there the designation 'particulam' is more appropriate than 'partem'; in some cases the context or the meaning of (one of) the word(s) immediately preceding *autem* indicates a transition (*Leg. 3,33 proximum autem; Top. 50 ab adiunctis autem; Off. 1,140-141 sed haec hactenus. in omni autem actione ...*), which does not apply here (cf. prev. note). In some instances from the letters (*Att. 1,5,4; Q. fr. 1,4,3*) there is a sharp transition, but only between two of a number of small subjects discussed in the letter. Cf. moreover the first *autem* in 2,216, where only a small scale contrast is indicated: *illa autem, quae ...* Cf. also next note.

25. The transitions in book 1 indicated by a change of speaker are irrelevant here, because book 1 is for a great part a debate, book 2 an exposé. Explicit transitions (smaller and larger ones) e.g. 1,185; 260; 2,33b; 41; 64b; 99; 104; 114; 178; 290; 307; 333; 341; 350; 3,25; 37; 48; 51-52; 91-96; 171; 199-201; 208-210a; 213. Transitions marked by *autem* are small or very small, e.g. 1,140 (bis); 143; 154; 248; 2,5; 22; 80; 82; 162; 177; 3,69; 104; 195; 206; 220; 224. The structure of the passage on disposition is typical: 2,307 has a very explicit transition, the different parts of disposition are then marked by particles (e.g. *autem*) etc. (315b; 320; 324; 326; 331; 332). Cf. also 2,185, where *autem* in the transition from ethos to pathos is supported by the context: *huic autem est illa dispar adiuncta ratio orationis, quae ...*

adversarium, quod impedit, quod elevat, quod deterret, quod refutat, vel quod ipsum oratorem politum esse hominem significat, quod eruditum, quod urbanum, maximeque quod tristitiam ac severitatem mitigat et relaxat odiosasque res saepe, quas argumentis dilui non facile est, ioco risuque dissolvit.

It is clearly fitting for an orator to raise laughter, either because joy itself wins sympathy for the one who brings it about, or because everyone admires inventiveness (which is often a matter of just one word), especially the inventiveness of someone who reacts in the debate, not infrequently also of one who provokes, or because laughter crushes the opponent, obstructs him, makes light of him, discourages him, refutes him, or because it shows the orator himself to be refined, to be accomplished, to be well-bred, and especially because it softens and relaxes sourness and sternness and often dismisses disagreeable affairs, which are not easily explained away by arguments, with joking and with laughter.

First, the phrases *benevolentiam conciliat* ... ('joy itself wins sympathy ...') and *admirantur omnes acumen* ('everyone admires inventiveness'), but especially *ipsum oratorem politum ... urbanum* ('it shows the orator himself to be refined ... well-bred') show that humour may be a form of ethos, since it can directly contribute to positive character-drawing of the orator. The same appears from the combination, in 3,29, *humanitas ac lepos*, 'humanity and wit', and more indirectly from 2,227 (quoted p. 239), where it is implied that a speech combining energy and dignity with wit and humour makes a very strong impression²⁶.

Second, humour also contributes to "negative ethos", that is, blackening the opponents, as may be gathered from *quod frangit adversarium ... refutat* ('because laughter crushes the opponent ... refutes him') in the above quotation²⁷, and from 2,229 where it is said that humour should be used against the opponent (*cum opus sit ..., ut in adversarium*).

Third, the connection with pathos, and again partly with ethos, is apparent from its effect described in *maximeque ... dissolvit* ('especially because ... with laughter'): the phrase is much like the remark in 2,216a about the soothing of pathos, treated in § 9.1²⁸. This connection is in fact already suggested by the transition in 216. It is also evident in 2,340, in the treatment of the deliberative branch, where one of the ways of soothing a hostile crowd is said to be humour.

26. For the link with ethos cf. also 2,237 (with which cf. 304), and 247 (both formulated negatively) (not 2,254: the *admiratio* is not about the humorous aspect). About the word *lepos* cf. L.-P.-Rabbie: 184.

27. Grant (1924: 75-76) connects this with pathos, but the object of the verbs is *adversarium*, not *iudicem*. An orator's bitterness may contribute to e.g. *odium* for his opponent, but this does not seem to be the case with bitter humour (as Grant l.c. holds), cf. 2,238 *itaque ea facillime luduntur quae neque odio magno nec misericordia maxima digna sunt*. We may surmise that bitter humour might underline the orator's own anger and thus indirectly contribute to pathos, but such an association receives no support from Cicero; he would probably have regarded bitter humour as undoing ethos.

28. But the *tristitiam ac severitatem* mentioned here need not (as L.-P.-Rabbie ad loc. assert) be due to the opponent.

The link with ethos and pathos appearing from these passages is a double one, determined by its effect: on the one hand some vehement emotions may be allayed by humour, on the other this same effect is ascribed (in 2,216) to ethos and pathos.

This third point establishes the connection with pathos. For the connection with ethos, the first two points are clearly more important: the third point only links humour with an effect of ethos, mentioned in 2,216, whereas the first two points establish a connection with the content of ethos, as described in 2,182-184²⁹.

Despite these connections the difference with ethos and with pathos should not be forgotten. Ethos and pathos as well as rational arguments are *pisteis*: they define what the orator should aim at to achieve persuasion. Humour only has a function subordinate to these aims: it may support the orator's character-drawing of himself and of his opponents, and it may help in removing emotions. It would therefore be incorrect to say that its function may be compared to that of ethos or to that of pathos, since it operates on a different level: it contributes to ethos, and in some situations its effect is parallel to that of ethos and pathos³⁰.

Two other differences are connected with this essential one. First, whereas each opportunity for ethos and pathos in a speech must be taken (p. 206-207), the use of humour is restricted³¹; second, humour frequently entails the use of short sayings³², ethos and particularly pathos require passages in a more or less definite style, that are gradually built up.

Still another difference is again more essential: humour plays an important role outside the speech proper, viz. in the *altercatio*, the debate between the two patrons, and in the examination of witnesses. Most aspects of Caesar's treatment are also relevant to this use, the employment against 'stupid, greedy, and fickle'

29. The difference between my account and L.-P.-Rabbie: 210-212 amounts to four points: (a) It is true that humour and pathos are mentioned together in 1,17 (L.-P.-Rabbie: 210), but since other things are also mentioned there (notably *eruditio libero digna celeritasque* ...), no suggestion as to their connection may be deduced from this, nor will any reader have done so; (b) *suavis* in 2,216: above n. 23; (c) 2,225 *quis est igitur qui non fateatur hoc lepore atque his facietis non minus refutatum esse Brutum quam illis tragoediis* (and 227 init.): I do not believe that this comparison of the success of humour with that of pathos in a speech of Crassus establishes a connection between them (L.-P.-Rabbie: 211 point 4), any more than the comparison in 2,201 of ethos and pathos with rational arguments does between these three; (d) 2,248 states *ex isdem locis fere etiam gravis sententias posse duci*; but not all serious matters are pathos (L.-P.-Rabbie: 211 point 4); 2,248 mentions praise as an example, and although the saying of Sp. Carvilius' mother in 249 may be 'tragic', it cannot be connected with pathos.

30. Grant (1924: 75): 'Its function ... may be compared with that of the ῥῆσος of the speech' (her wording probably shows Süß's influence: above § 2.6, p. 61-64); her other formulations (ib.) are more in line with mine. L.-P.-Rabbie: 211 (point 3) may be misleading: 'Sicher wird hier die gleiche Wirkung von Ethos/Pathos und Witz betont' (my italics).

31. L.-P.-Rabbie: 208-209.

32. I.e., humour is frequently of the *dicacitas* kind: cf. L.-P.-Rabbie: 178-179.

witnesses (*in testem stultum, cupidum, levem*)³³ is explicitly mentioned in 2,229, and some examples are actually jokes about witnesses³⁴. So the possibilities of using humour that fall outside the scope of invention because they are mostly a matter of improvisation are taken full account of, which makes the tie with the foregoing treatment of that *officium* somewhat loose.

The arguments given above for a connection in substance between humour and ethos and pathos have largely been taken from sections that occur some time after the beginning of the passage on humour³⁵. Moreover, of these passages only the part of 2,236 that concerns ethos is really explicit. Accordingly, these arguments show us Cicero's thoughts and intentions, but not how these may have become clear to his readers. This I will now examine.

There is of course the formal aspect discussed above. Particularly the clear structure of the passage on invention and the promise to treat disposition after that were probably enough to show the ancient reader that the passage on humour belongs to what precedes it, despite the fact that the subject was neglected in common rhetorical theory³⁶.

But this is not all. The ancient reader, I think, almost took for granted a much closer connection between humour and pathos than we would perhaps expect; this will have made it still easier to perceive the formal signals and to recognize the link thus made in *De oratore*. This close connection is explicitly given in *De sublimitate* 38,5 καὶ γὰρ ὁ γέλως πάθος ἐν ἡδονῇ, 'for laughter is emotion [pathos] in pleasure'. If laughter is an emotion, then humour is a way of playing upon that emotion, and thus resembles pathos. The statement is admittedly about a century later than *De oratore*³⁷, but the opinion was probably widespread much earlier: Plato already as a matter of course associates laughter with pleasure and rejoicing, which he regards as emotions (ἡδονή, χαίρειν)³⁸; pleasure (ἡδονή) was one of the principal Stoic passions, and their ideas were behind widespread conceptions³⁹; because of this last fact Cicero could count *laetitia*, 'gladness', as

33. I prefer this interpretation of *cupidum* and *levem* (Courbaud's and Merklin's), since it makes them parallel to *stultum*: all indicate traits that may be ridiculed. W., Sutton/Rackham and L.-P.-Rabbie take *cupidum* as 'partial, biased', Sutton/Rackham *levem* as 'unreliable', but especially in the case of *cupidus* such a meaning seems only possible if the context indicates it (as in 2,178 *cupiditate*; 185 *cupiant*).

34. L.-P.-Rabbie ad 2,229 mention 2,245; 257; 285.

35. Only 2,216 has been used, as an additional argument (p. 308-309, 'Third ...').

36. Above p. 305-306 with n. 17.

37. On the date of *De subl.* (first cent. A.D.): p. xxvii-xxx of Donald A. Russell (ed., intr., comm.), *'Longinus' On the Sublime* (Oxford: Clarendon, 1964).

38. Plato *Phlb.* 49c-50a; Arist. *Rhet.* 1,11,29 (71b33-35) (quoted by L.-P.-Rabbie ad 2,216 *suavis*) counts ἡ παιδικά, and therefore τὰ γελοία, as ἡδέα.

39. Above p. 283 with n. 144. Pleasure etc. as a Stoic passion: *SVF* III 380; 381; 385; 438; 444.

an emotion without further explanation, not only in *De oratore* but also in *Orator*⁴⁰. Of course most of this evidence is indirect, for it does not mention laughter or humour, but there is also some evidence that is more specific⁴¹: in *Brutus* 188 Cicero mentions making the audience laugh as part of *movere* ('to move')⁴², and the description of this same 'task of an orator' in 198 contains the phrase *ridicule et facete explicans*, 'explaining in a way that arouses laughter and in a witty manner'; a few places from other authors confirm the connection⁴³.

This does not remove the differences between humour and ethos and pathos discussed above (p. 309-310). Neither does it make humour into a part of Cicero's pathos, for here the difference made in § 1.2 between the Greek πάθος and its transcription pathos, which denotes the means of persuasion, is essential. Even if humour was thought to provoke the πάθος (emotion) laughter, that does not mean that it belongs to Cicero's pathos, for this means of persuasion is concerned with vehement emotions aroused in vehement passages⁴⁴.

In any case, the contemporary reader, by virtue of the widely held view that laughing is an emotion, could pick up the formal signals and grasp the place of the treatment of humour in the structure of book 2. This was obviously very easy, since Cicero did not need to mention the ensuing link between humour and pathos.

The existence of this view, moreover, undermines the attempt by Rabbie to locate the origin of the connection in *De oratore*: he thinks it was found in the Latin rhetorical handbook (or oral teachings) he reconstructs as one of Cicero's sources for the treatment in 2,216-289⁴⁵. This source had treated humour in the sections on the prologue, and because ethos and pathos were in school rhetoric also treated there (and in those on the epilogue), this, he thinks, established a connection taken over by Cicero. This reconstruction of a connection with pathos

40. *De or.*: above p. 283; *Orat.*: 131 *nec vero miseratione solum mens iudicum permovenda est ... sed est faciendum etiam ut irascatur iudex mitigetur, invidet faveat, contemnat admiretur, odierit diligat, cupiat taedeat, speret metuat, laetetur doleat.*

41. We may also compare the expression *risum movere*, for despite its frequency (e.g. 2,235: L.-P.-Rabbie ad loc. mention 2,248 [bis]; 253; 254; *Fam.* 7,32,3) the force of the verb may have been felt: *concitare*, which is often used in connection with playing upon the feelings (2,191; 3,23; 104; etc.), is twice used casually instead, once by Cicero (2,235), once by Nepos (*Hannibal* 11,5) (L.-P.-Rabbie ad loc.).

42. *gaudet dolet, ridet ploret, faveat odit, contemnit invidet, ad misericordiam inducitur, ad pudendum, ad pigendum, irascitur mitigatur, sperat timet.*

43. Hor. *A.P.* 101-102 *ut ridentibus arident, ita flentibus adflent humani vultus* (in a context of emotions in drama); Sen. *De ira* 2,2,5 *aridemus ridentibus et contristat nos turba maerentium* (in a context about emotions); Galen. *Plac.* 5,5,2 (p. 437,5-7 Mü.; = Pos. fr. 169 E.-K. = 416 Th.) θυμοῦται τε καὶ λυπῶνται καὶ ἡδύονται καὶ γελᾷ καὶ κλαίει καὶ τοιαῦθ' ἕτερα πάθος ... μυρία.

44. Its occurrence as part of *movere* in *Brut.* illustrates that this 'task' is not completely equivalent to pathos as used in *De or.* (cf. § 6.5).

45. L.-P.-Rabbie: 210; for this source ib.: 197-200.

through the prologue sounds like special pleading and is not very plausible⁴⁶, but this is not the important point. The diffusion of the idea that laughter is an emotion makes such an account of the origin unnecessary; and the fact that the place accorded to ethos and pathos in *De oratore* constitutes one of the fundamental differences with school rhetoric, combined with the fact that the standard systems did not even take account of them as such, makes it all but impossible. It is not improbable that there is indeed a connection between the ways of placing humour in *De oratore* and in this source, but an indirect one: the widespread idea about laughter as an emotion may have given rise to both. (In that case the source regarded the "ethical" aspects of the prologue as emotional ones.)

All in all, it is clear that the place of humour in *De oratore* is far from arbitrary. Laughter was generally considered an emotion, and Cicero connects the use of humour with ethos and pathos in various ways. Nevertheless, it does not really fall under ethos or pathos, and it is not wholly a part of invention. This intermediate status of the subject is mirrored by the fact that the passage is on the one hand marked as an excursus, on the other as belonging to what precedes.

46. Some points belonging to pathos were mentioned in the treatment of the prologue (above p. 97), but they are of minor importance. In school rhetoric, the epilogue was the part of the speech associated with pathos.

10. EPILOGUE

ΛΥΣΙΜΑΧΟΣ. ἀλλὰ μοι οὕτωςι ποίησον· αἴριον
ἔωθεν ἀφίκου οἴκαδε καὶ μὴ ἄλλως ποιήσης,
ἵνα βουλευσώμεθα περὶ αὐτῶν τούτων, τὸ δὲ
νῦν εἶναι τὴν συνοουσίαν διαλύσωμεν. ΣΩΚΡΑΤΗΣ.
Ἄλλὰ ποιήσω, ὦ Λυσίμαχε, ταῦτα, καὶ ἤξω παρὰ
σὲ αἴριον, ἐὰν θεὸς ἐθέλῃ.
(Plato, *Laches*, 201bc)

In this study I have attempted to clarify an aspect of the history of ancient rhetoric, and a number of the concepts involved. Although some of the views it presents are not new, others are, and if some readers have become, or have stayed, convinced that many new things can still be found in a field apparently so well-explored, this book has not been written in vain.

The results some non-classicists will be most interested in are those on the conceptual level. But it is exactly these results that most rely on scrutiny of Aristotle's and Cicero's text, that is, on research of the more traditional, philological kind¹. Although the use of classical texts by non-classicists through the mediation of translations is, I think, an unquestionably welcome phenomenon², I hope that this book may, among these readers, contribute to the awareness that it can never replace the more traditional methods of interpreting the originals.

This is not to say that strictly traditional methods will suffice. Many of the analyses made here would have been much more difficult to realize without the

1. Cf. especially § 2.3, p. 32-33; § 7.2.

2. The replacement of the Sutton-Rackham translation of *De oratore* in the Loeb series is therefore a urgent desideratum. The translations into German and French by Merklin and Courbaud-Borneque are incomparably better. A Dutch translation (with copious notes) is on the verge of publication (by Hetty W.A. van Rooijen-Dijkman and Anton D. Leeman [Amsterdam: Athenaeum-Polak & Van Gennep, 1989]). Existing translations of Aristotle's *Rhetoric* are fairly good, though a new one in English that takes account of recent insights would be welcome.

more general, theoretical approach chosen in the introduction (§ 1.2), however modest the use of modern insights there may be. Moreover, a critical evaluation of some old views, hardly ever seriously challenged, has proved fruitful, for instance in the chapter on the rhetorical handbooks between Aristotle and Cicero³. In some subjects, the results of *Quellenforschung*, even though its methods are now often rejected, still hold the field, simply because, so it seems, nobody has taken the trouble of rethinking the - admittedly rather dry - issues.

Other old accounts, however, have been invaluable. Von Arnim's ninety year old description of the quarrel between rhetoric and philosophy still makes fascinating reading, and Solmsen's articles are at the basis of my whole approach, even if I have ventured to correct a number of details. All in all, if this book has an underlying method at all, it is probably that of eclecticism.

Before summarizing the more general results of this study, I will now touch upon some points that have not been treated, or only in passing, but might repay research. I have concentrated on rhetorical theory, and although oratorical practice has at some points been called upon for illumination or explanation, their mutual influence has not been systematically treated. As to the influence of practice on theory, a general picture suggests itself. In its beginnings, rhetoric seems to have been directly derived from practice, and to have been meant for easy instruction for inexperienced speakers⁴, but a tendency to become an increasingly complex, autonomous discipline soon became apparent. The intricate divisions mocked by Plato in his *Phaedrus* are already *l'art pour l'art*. It is a mark of Aristotle's genius that he put the subject on a more abstract level, while at the same time, by means of the idea of the *officia*, coming closer to practice again. When, after the gap of Hellenistic times, we can again more or less clearly see what rhetorical theory was like, the tendency to multiply appears to have dominated the development. In its technical aspect, Cicero's *De oratore* is, like Aristotle's *Rhetoric*, an attempt to remodel the system and, paradoxically, to bring it closer to practice by putting it on a more abstract level. But the rhetorical tradition was now so strong, and rhetorical education so important, that this attempt was doomed to remain without much influence in antiquity, at least where the features examined here were concerned. The contaminated type of handbook, mocked by Cicero as rigid and unpractical, soon became the normal one, and the inclusion of ethos and pathos under invention was not adopted by any of the now extant systems, except that of Martianus Capella written some four or five hundred years later⁵.

This general picture may, at some points, be made more specific. E.g., in his

3. Especially in §§ 3.2, 3.4, and also in Appendix 2.

4. Cf. p. 13.

5. Above p. 59. Since this statement concerns Cicero's influence, Minucianus is irrelevant here.

recent book *Trials of Character*, James May has shown the importance of ethos in Cicero's own speeches. This ethos is "ethos of sympathy", in its broadest sense, including authority among its means. This is no doubt part of the explanation why Cicero has chosen this variant of ethos in *De oratore* (whether or not this choice was a conscious one: § 7.5), and why the concept of the three *pisteis*, i.e. the division of invention into arguments, ethos and pathos, appealed to him. Other features of his practice that probably determined the choice of the Aristotelian model were the importance he attached to pathos, in the sense of arousing violent emotions, and his flexibility in the arrangement of his speeches, which was incompatible with the schemes found in the handbooks⁶. Studies like May's, especially if taking theory into account⁷, can perhaps give us material to go beyond these general observations, not only for Cicero, but also for Aristotle, and show as to how far oratorical practice may have led him to adopt the concepts that he has. It must, however, be admitted that conclusions about such matters are bound to remain for the most part speculative.

This applies even more to questions about the reverse influence, that of theory on practice, and these may, accordingly, be impossible to answer. The scrutiny of speeches for echoes of specific rhetorical precepts may easily become a mechanical exercise and lead to implausible results⁸. Oratorical practice was never simply reducible to rhetorical theory, as the ancient opponents of rhetoric pointed out again and again. The more mediocre speakers would probably have given us something to go on⁹, but their speeches have not survived and were probably never even published. Even the lesser orators in our Greek corpus were evidently far better than the majority of speakers, and we may surmise, far more flexible and independent of standard rules. Reliable results regarding this subject would probably be very interesting, but may be impossible to attain.

In the field of ancient rhetoric itself, several points seem to require further investigation. In the analysis of Aristotle's *Rhetoric* given here the emphasis is on ethos and pathos, and on the three *pisteis* as a concept, but the results, if accepted, may perhaps throw some light on other aspects of the work. Another question is the development of the meaning of the word ἦθος. As already indicated (p. 64-65), I regard Schütrumpf's conclusion, that it cannot mean 'mood' in any of Aristotle's writings, as practically certain, but particularly the texts from later antiquity may yield interesting information. The possible interaction of the theory of invention with that of style would, then, also have to be taken into account.

6. Cf. § 3.3. The most famous example is of course *Pro Milone* (cf. Quint. 6.5.10; and the remarks in Kennedy 1972: 234). Cf. on this subject Wilfried Stroh, *Taxis und Taktik. Die advokatische Dispositionskunst in Ciceros Gerichtsreden* (Stuttgart: Teubner, 1975).

7. At this point May's book seems less satisfactory: cf. above p. 241 n. 80.

8. Cf. Douglas (1973: 98-99).

9. Cf. *Brut.* 263; 271 (above p. 90).

Finally, I would mention the possibility of examining post-Ciceronian rhetorical writings along the lines developed here. Quintilian's chapter on ethos and pathos, for instance, is extremely difficult, and though very useful contributions exist¹⁰, it has, I think, not yet been completely clarified.

A third approach that might prove fruitful is the theoretical one. As briefly indicated in § 1.2, my choice of the speaker-speech-audience model instead of more refined ones has been deliberate. My reasons were partly practical, in that a more intricate model would further complicate the subject, but partly more general: all these models seem to introduce features specifically related to one discourse situation. Narratological models, e.g., have proven their value for the analysis of narrative and related texts¹¹, but they seem unfit to be applied to rhetorical or oratorical ones. An investigation of the "bias" of several models might give us more insight of how to appropriately characterize discourse situations. This, in turn, might help to give a more precise description of the various concepts analysed here, chiefly that of ethos, than the simple model has allowed me to give. How much we can really expect from such an approach seems difficult to say beforehand.

So much for what has not been done here. To add a detailed summary of the results that have been obtained seems superfluous. The summaries at the end of each chapter are meant to speak for themselves. I will confine myself to the most important points, and to some general remarks. What I have tried to do is in the first place based on detailed interpretations of the relevant parts of Aristotle's and Cicero's texts. For obtaining a broader picture of the place of ethos and pathos in Aristotle's *Rhetoric* I have not used any new methods. Nevertheless, the starting points formulated in § 2.1 have permitted me to attempt a more precise statement on a number of issues, most conspicuously perhaps on that of the position of the first chapter of the work and its contradiction with what follows. The methods used for interpreting Cicero are not new either. However, there seems to be a gap between those aware of the literary character of *De oratore* and those chiefly interested in the ideas it contains, and the importance of using insights about the former for analysing the latter is seldom realized. The commentary by Leeman and Pinkster is the first synthesis of the two approaches. This combination of viewpoints has, I hope, proved fruitful also in analysing matters of a rather technical nature.

In several remarks I have already characterized the relationship between Aristotle and Cicero as it emerges from their approaches to ethos and pathos. It has

10. Cf. the references p. 65 n. 272.

11. Such as the model of Mieke Bal (*Narratology. Introduction to the Theory of Narrative*, Univ. of Toronto Press, 1985): see e.g. its application in Irene J.F. de Jong, *Narrators and Focalizers. The Presentation of the Story in the Iliad* (Amsterdam: Grüner, 1987).

two conspicuous aspects. In the first place, in *De oratore* some ideas implicit in the *Rhetoric*, or only typical of part of that work, are developed and given a role in a consistent whole. This is most clear in the case of the *officia oratoris* and in that of the three *pisteis*. As to the former, the idea of a sequence of stages in handling the material of a case is clearly implicit in Aristotle, but not worked out; in Cicero, it is at the basis of the technical parts of *De oratore*, and in particular permeates the discussion of invention and disposition. As to the concept of the three *pisteis*, Aristotle's treatment of arrangement is hardly influenced by it, but Cicero insists on it throughout the discussion of that subject, and has succeeded - except in one short passage¹² - in making the relationship between invention and disposition a meaningful one. Cicero's approach, however, is not exclusively Aristotelian. He incorporates many ideas from school rhetoric, such as *stasis* theory and some substages of disposition (*krisis* and *diairesis*). Their place in the system, however, is well thought out.

The second general difference between the two authors, and perhaps the most important, is the practical turn Cicero gives to some of Aristotle's ideas, referring the orator, e.g., to philosophical discussions of the emotions to acquire a more thorough understanding of the theoretical aspects. Whether Cicero has consciously chosen a different variant of ethos and pathos, following this inclination to practice, is impossible to say. However that may be, this difference is essential. It has indeed long been taken for a fact that Ciceronian ethos is not identical with Aristotle's version. The description of the concepts behind this (Cicero's ethos designates the *leniores affectus*), however, is inadequate to bring out the real difference, which is that between "rational" ethos, aimed at an image of reliability, and "ethos of sympathy", aimed at arousing sympathy on the basis of character. The diagram on p. 242 shows the two systems as a whole, including the ensuing difference in the concept of pathos.

Neither of these systems shows any sign of confusion. This is, of course, generally taken for granted in the case of Aristotle, but the contrary is often asserted about Cicero. But Cicero's handling of a number of the individual emotions even shows him to be capable of improving on Aristotle, despite the much more limited space he devotes to this part of the subject. His treatment, however, is inconceivable without Aristotle's, whose account, moreover, remains the more revealing and rich of the two. But then Cicero did not really intend to rival him in this respect.

Of course, comparisons like these tell us little about the historical relationship between the two authors, an evaluation of which requires different methods. In chapters 4 and 5 I hope to have shown that not much can really be proven about the question of Cicero's knowledge of the *Rhetoric*, but that direct knowledge of

12. 2,321-323: above p. 209-211.

the work can definitely not be excluded, and is perhaps the most attractive hypothesis. As to the place of the two in the history of rhetoric, this depends on a comparison with the school systems, and although we have to reckon with a much greater diversity among these than is commonly assumed, some general characteristics emerge clearly. In the first place, Aristotle's ideas permeate many ancient theories of the subject. However, the "Aristotelian tradition", the nature and extent of which has been clarified by Solmsen some fifty years ago, was not a continuous one, not a school of thought in its own right. A number of Aristotle's ideas became part of standard systems of rhetoric, but in the course of this, and in the course of the subsequent development of these systems, these ideas underwent considerable changes. Despite its numerous Aristotelian elements, school rhetoric of Cicero's time had become far removed from Aristotle's original views, and operated on a consistently low level of abstraction. One of the chief deviations was the absence of *ethos* and *pathos* as separate concepts. In a number of the handbooks, this was combined with a contamination between the essentially Aristotelian system of the *officia oratoris* and that of the parts of the speech, which made the distinction between invention and disposition unclear and almost superfluous.

Cicero returns to Aristotle in both these respects: he adopts the uncontaminated system and divides invention into arguments, *ethos* and *pathos*. Moreover, he insists upon using the basically Aristotelian concept of abstract *topoi*, i.e., argument-patterns, instead of the ready-made arguments from school rhetoric. Solmsen's judgement on the relationship between the two and the attitude of scholarship is still worth quoting¹³. He wrote, 'If it is asked (and I do not see why this should not be a perfectly legitimate question) who did most to keep alive or revive Aristotelian ideas and concepts, the answer can hardly be doubtful.' And pointing out the most important Aristotelian elements in Cicero's approach¹⁴, he continued: 'These facts lend substance to his claim that in *De oratore* he renewed the *ratio Aristotelica* (along with the *ratio Isocrateia*)¹⁵, and I cannot help wondering why the tendency among scholars has been either to ignore or to minimize the importance of this testimony.'

Aristotle's analyses and observations, such as those on the emotions, can still surprise modern readers by their acuteness. Cicero's achievements on the conceptual level, particularly their consistency, are more difficult to detect and appreciate, because of the literary form of *De oratore*; but this form is at the same time

13. Solmsen (1941: 189-190).

14. To the three mentioned here, he added (1941: 190) Cicero's 'return to the four "virtues" of the diction', which concept was developed by Theophrastus but may be regarded as Aristotelian in essence (cf. ib.: 43-44). Cicero's way of incorporating the non-technical *pisteis* might also be added (cf. ib.: 44-45, 186-187; above p. 128-132).

15. *Fam.* 1,9,23, to which Solmsen here refers in a note (cf. above p. 159).

one of the attractions of the work. I hope to have contributed to the awareness that our understanding of both Aristotle and Cicero can gain from observing their similarities, but is just as dependent on realizing that they are different.

Appendix 1. Aristotle, Rhetoric 2,12,1-2 (1388b31-1389a1)

The beginning of the treatment of the ἥθη in 2,12-17 is frequently misunderstood. Here I will analyse it in some detail, and argue for a punctuation, different from the one adopted by the editors, that was suggested to me by Professor C.J. Ruijgh. With the usual punctuation the passage runs as follows:

τὰ δὲ ἥθη ποῖοι τινες κατὰ τὰ πάθη καὶ τὰς ἔξεις καὶ τὰς ἡλικίας καὶ τὰς τύχας, διέλθωμεν μετὰ ταῦτα. λέγω δὲ πάθη μὲν ὀργὴν ἐπιθυμίαν καὶ τὰ τοιαῦτα, περὶ ὧν εἰρήκαμεν πρότερον, ἔξεις δὲ ἀρετὰς καὶ κακίας· εἴρηται δὲ καὶ περὶ τούτων πρότερον, καὶ πόσα προαίρουσιν ἕκαστοι, καὶ πόσων πρακτικοί. ἡλικίαί δὲ εἰσι νεότης καὶ ἀκμὴ καὶ γῆρας. τύχην δὲ λέγω εὐγένειαν καὶ πλοῦτον καὶ δυνάμεις καὶ τάναντία τούτοις καὶ ὅλως εὐτυχίαν καὶ δυστυχίαν.

Some understand the first sentence to refer to four kinds of ἥθη: those κατὰ τὰ πάθη, those κατὰ τὰς ἔξεις, those κατὰ τὰς ἡλικίας, and those κατὰ τὰς τύχας¹. This creates a serious difficulty, for in that case a treatment of all four of these is announced, whereas in what follows only the last two are treated². Some³ have recourse to an inaccurate explanation of λέγω δὲ πάθη ... περὶ ὧν εἰρήκαμεν πρότερον and ἔξεις δὲ ... πρότερον: this is supposed to mean that the first two kinds of ἥθη have already been treated. But the text says that the πάθη and the ἔξεις have already been spoken of, not the ἥθη allegedly connected with them. Moreover, this creates the difficulty of a flat contradiction with the announcement in the first sentence (διέλθωμεν), that is all but impossible⁴.

But the reference is not to four kinds of ἥθη (or to four ways of analysing the ἥθη)⁵: κατὰ can be very vague, 'in accordance with', or 'in relation to, concerning'⁶. What is announced in the first sentence is that four factors will be taken into account in the following treatment of the ἥθη, as in fact they are:

1. Spengel (1852: 492; 1867 II: 247), Roemer (1898: xciii-xcvii), Süss (1910: 163-164), Hellwig (1973: 236-237 with n. 13), Manfred Joachim Lossau, Πρὸς Κρίσιν Τινὰ Πολιτικῆν. *Untersuchungen zur aristotelischen Rhetorik* (Wiesbaden: Harrassowitz, 1981), 144 n. 347. Barwick's account (1922: 19-20) is vaguely similar.

2. Cf., in the concluding section of the chapters, 2,17,6 (91b4-5) περὶ μὲν οὖν τῶν καθ' ἡλικίαν καὶ τύχην ἡθῶν εἴρηται.

3. Süss, Lossau, and (implicitly) Spengel (references: n. 1).

4. Lossau is aware of the contradiction with διέλθωμεν, but not of the inaccuracy of the explanation itself.

5. Thus, correctly, (implicitly or explicitly) Cope (1877: ad loc.), Rhys Rhoberts, Freese, Dufour (Budé ed.: p. 29-30), Schütrumpf (1970: 9, 90 n. 4), Fantham (1973: 270).

6. LSJ s.v., B IV and IV.2 respectively.

APPENDIX 1

in the description of the characters of the young etc. (the ἡλικία) and the rich etc. (the τύχαι), attention is paid to their inclination to various emotions and to virtues or vices⁷. The sentence may be translated as follows:

We will now describe of what sort people are as to their characters, with reference to the emotions, the states of mind, the ages, and the fortunes.

The punctuation of the text as printed above is essentially the one adopted by all editors⁸. Professor C.J. Ruijgh has suggested to me a different one:

τὰ δὲ ἦθη ποιοὶ τινες κατὰ τὰ πάθη καὶ τὰς ἕξεις καὶ τὰς ἡλικίας καὶ τὰς τύχας, διέλθωμεν μετὰ ταῦτα (λέγω δὲ πάθη μὲν ὀργὴν ἐπιθυμίαν καὶ τὰ τοιαῦτα, περὶ ὧν ἐλρήκαμεν πρότερον, ἕξεις δὲ ἀρετὰς καὶ κακίας· εἰρηται δὲ καὶ περὶ τούτων πρότερον), καὶ ποῖα προαιροῦνται ἕκαστοι, καὶ ποῶν πρακτικοί. ἡλικία δὲ εἰσι νεότης καὶ ἀκμὴ καὶ γῆρας, τύχην δὲ λέγω εὐγένειαν καὶ πλοῦτον καὶ δυνάμεις καὶ τάναντία τούτοις καὶ ὅλως εὐτυχίαν καὶ δυστυχίαν.

λέγω δὲ ... περὶ τούτων πρότερον is then taken as a parenthesis⁹, and καὶ ποῖα ... πρακτικοί as subordinate to διέλθωμεν, i.e., as a continuation of the clause τὰ δὲ ἦθη ... τὰς τύχας, not as a supplement to ἕξεις ... πρότερον.

With the traditional punctuation, καὶ ποῖα ... πρακτικοί must refer to 1,9 (as does εἰρηται ... πρότερον)¹⁰, which is not impossible. There, however, the virtues are enumerated, and it is stated what actions result from them¹¹: certain classes of people possessing them are not implied. This means that the use of ἕκαστοι would be a bit strange, though not absolutely impossible¹². However, this word fits

7. Cf. p. 46 n. 175. As for the ἕξεις, here defined as virtues and vices, and for which Aristotle refers to 1,9, cf. 2,12,3 (89a4-6) with 1,9,9 (66b13-15) on σωφροσύνη; 2,12,6 (89a14-16) with 1,9,10 (66b15-16) on ἐλευθεριότης; etc. (The role of the ἕξεις is completely misunderstood by Hellwig 1973: 236-237.)

8. Spengel (1867), Cope (1877), Roemer (1898), Dufour (Budé ed., 1938), Ross (OCT, 1959), Kassel (1976). Tessmer (o.c. above p. 10 n. 6: 152) doubts the correctness of the usual interpretation and punctuation, but she prefers, so it seems, taking only εἰρηται ... πρότερον as a parenthesis.

9. For δὲ in parenthesis cf. *Rhet.* 1,2,14 (57a29-30) (Ross is wrong not to take this as a parenthesis); 2,5,14 (83a2-3) (where Cope, Roemer, Dufour, and Kassel rightly start the parenthesis with ποιεῖ δὲ, instead of with διὸ [83a1], as Ross does; Spengel reads no parenthesis); 2,21,13 (95a19-20) (λέγω δὲ); 3,2,5 (04a30-31); and Herod. 1,23; 57,1; 76,1; 80,1; 172,1; 192,3. Cf. Eduard Schwyzer, *Die Parenthese im engem und im weitem Sinn* (APAW 1939, 6), repr. in: *Kleine Schriften* (hrsg. von Rüdiger Schmitt; Innsbruck: Meid, 1983), 80-123, where the parallels from Herod. are taken from.

10. Spengel (1867: ad loc.) suggested a reference to 1,6,26 (63a19 ff.) also (which Kassel thinks possible), and Cope (1877 II: ad loc.) 'to I 9, and probably also to I 5 and 6'. Reference to 1,9 only seems the most likely, but however this may be, the objection to ἕκαστοι remains the same.

11. Cf. 1,9,8 (66b11-12), etc.

12. I find that this objection to ἕκαστοι was already formulated by Tessmer (o.c. above p. 10 n. 6: 152), whose interpretation, however, shows the same mistake as those mentioned above n. 1. Hellwig's solution (1973: 237 n. 12) is inadequate: 'unter ἕκαστοι sind zunächst die Träger der einzelnen ἀρετῶν (bzw. κακιῶν) zu verstehen': this is of course what most would understand by

APPENDIX 1-2

2,12-17 much better, since there several classes of people are characterized.

Another advantage of the punctuation proposed is that the structure of the passage is brought even better in line with the content of 2,12-17: the two subordinate concepts, *πάθη* and *ἔξεις*, are explained in a parenthesis, the two concepts determining the several classes are explained last, and just before the treatment proper begins.

Appendix 2. On Some Non-Existent Handbook Types

In § 3.4 (p. 91) I briefly alluded to three types of handbooks that have been reconstructed, but probably or certainly never existed, except for a few individual cases or in a very restricted period of time. All three have been postulated by Barwick in his well-known but over-estimated article from 1922. Kroll (1940: 1098), who mentions the types called (2) and (3) below, and Matthes (1958: 108-109), who mentions (1) and (2), seem dependent on him. Some of the following details would indeed be superfluous but for the influence of this piece of unsound reasoning.

(1) *5 officia*, the *partes* treated under style:

Barwick postulated this type on the basis of Cicero's *Orator*¹. The *partes* are mentioned in 122 ff., which is indeed in the middle of the treatment of style. But of this very long treatment (61-236) only a small part is organized on this basis, viz. only 124-127 (to which 128-133 is more or less connected), about the appropriate style for each of the *partes*. Moreover, this small part is itself part of the treatment, begun in 113, of the many things the perfect orator must know.

it, but the point is that the text of 1,9 (and of 1,5 and 1,6) does not mention or even hint at such classes.

1. Barwick (1922: 9-10); it is not quite clear how widespread he thinks this type was. Matthes (1958: 109) gives no examples.

And most important, the parts of the speech are already (lightly) touched upon in the one short section (50)² on disposition, which is thereby marked as their proper place. After the methodical way this organization had been adopted in *De oratore* (see also § 6.3), this comes as no surprise.

(2) *officia*, followed by *partes*:

In some handbooks the two principles of the *officia* and the *partes* are separately treated³. Barwick (1922: 3) concluded: 'Die scharfe Trennung beider Einteilungs-principien ist sicher das Ursprüngliche'. It is unclear why this should be so. Moreover, his two main examples are both very doubtful. Cicero's *Partitiones oratoriae* does treat the *officia* first, followed by the *partes* (5-26 and 27-60), but these two sections are followed by a third and much longer one (61-138) treating the *quaestiones* (the various kinds of issues), including the *staseis*. So there is no twofold division but a threefold one⁴. Also, Cicero states (139) that the system given in the work comes from the Academy, and the lack of convincing parallels for it makes this sound reliable (cf. § 5.2, p. 172-173); however that may be, it means that this little treatise is hardly safe evidence for the existence of any specific kind of school rhetoric. The second example is the rhetorical part of Martianus Capella's late fourth or early fifth century encyclopaedic work. In this case the analysis itself is correct, but the date indicates how slender this piece of evidence really is.

Another "example" put forward by Barwick (1922: 7-8) is 'jene rhetorische τέχνη, die Cicero in den Büchern de oratore, neben anderen Quellen, benutzte' (an inadequate formulation anyhow): here he refers to 1,142 and to 2,79-80. The first of these passages should be analysed differently (above, p. 89-90). As to the second, it contains criticisms of all common handbooks. No particular system or link between the *officia* and *partes* is aimed at. By criticizing the rules for both separately, Antonius attacks all school systems at the same time.

Barwick also supports his case by contending that the parts have no fixed place in the system of *officia*. They are, indeed, sometimes treated under the head of disposition, sometimes under invention, as has been illustrated in chapter 3 (§§ 3.3 and 3.4). But *Orator* does not, as he thinks, classify the parts of the speech under style (see (1)). And his statement on *De or.* 2,315 (1922: 9), that it introduces the *partes* as something new and accordingly not really belonging under the head of disposition, is disproved by 307, where they are already announced⁵. Finally

2. There is probably a lacuna, as a number of scholars have assumed; but the reference to prologue and *argumentatio* is clear.

3. Kroll (1940: 1098) is vague: 'besonders deutlich in Cic. part. orat. ..., aber auch sonst kenntlich'.

4. Cf. also *Part. or.* 3-4.

5. Cf. also above p. 90-91.

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(1922: 3-5), he observes that the parts of the speech in *Rhet. Her.* are an obvious intrusion into invention, and concludes that its source must have treated the parts separately⁶. This *non sequitur* ignores the indications that the ultimate source must have had the parts under disposition (above, pp. 86, 89), and also forces Barwick to adopt a very implausible reconstruction.

This reconstruction starts from Aristotle's *Rhetoric*, where the parts are treated under *τάξις* (disposition), which comes behind invention and style and a mention of the still undeveloped subject of delivery; and from the later school system where *τάξις* was treated second and where, allegedly, the parts were treated separately at the end. This leads Barwick to the conclusion that the older *τάξις* was renamed, and that another, different, *τάξις* was inserted between invention and style⁷. Apart from its inherent implausibility, this reconstruction is contradicted by the rhetorical system of the early Stoics: Diogenes Laertius (7,42-43) writes that this consisted of invention, style, disposition, and delivery, in that order; and he proceeds by naming the parts of the speech recognized by them: εἶναι δ' αὐτῆς (sc. τῆς ῥητορικῆς) τὴν διαίρεσιν εἰς τε τὴν εὕρεσιν καὶ εἰς τὴν φράσιν καὶ εἰς τὴν τάξιν καὶ εἰς τὴν ὑπόκρισιν. τὸν δὲ ῥητορικὸν λόγον εἰς τε τὸ προοίμιον καὶ εἰς τὴν διήγησιν καὶ τὰ πρὸς τοὺς ἀντιδίκους καὶ τὸν ἐπίλογον (their definition of rhetoric, and its division into deliberative, forensic and panegyric, which he also mentions, are irrelevant here). Barwick (1922: 42) considers this to be a confirmation of his reconstruction: the words referring to disposition should be deleted, and this system represents the stage before the new *τάξις* was inserted⁸. It is far more probable that the text is sound: Diogenes reports on the *officia* and the *partes* separately, and nothing can be learnt from him about the place of the parts of the speech in the Stoic system of *officia*. The place of disposition, then, before delivery and (still) behind style, is directly derived from the Aristotelian order⁹. There is no need to doubt the basic identity of the Aristotelian disposition and the later one, and to introduce a new sort of *τάξις*.

In sum, system (2) probably never existed as a genuine handbook type. There is, however, a slight possibility that it did exist in later antiquity: Diogenes Laertius' way of reporting the Stoic doctrine, combined with Martianus Capella's scheme, may point to this. But Diogenes' representation may be due to the fact

6. This conclusion is not affected by the notion (1922: 5-7) that *Inv.* is based on *Rhet. Her.*

7. Barwick (1922: 39-42). This part of his argument is not affected by the implausible reconstruction of the *Theopectea* (1922: 23-39; repeated, with characteristic stubbornness, 1966/67: 47-55).

8. So he takes their system to be independent of that of Heraclides Ponticus, whom he thinks must have been the one who devised the new *τάξις* (his dates are approximately 380-315, well before Stoic rhetoric developed; it is, in any case, extremely doubtful if he ever wrote a handbook: above p. 176 n. 48).

9. Barwick ignores this simple solution (cf. his intricate but unnecessary argumentation 1922: 42 n. 2).

that he was no specialist: he may just have wanted to avoid entering into too much complexities (a similar reason may be suspected behind the Academic system presented in *Part. or.*). In that case Martianus Capella stands on his own, and Solmsen (1941: 50) is right: he 'obviously knew both traditions and was anxious to give each of them its due'¹⁰.

(3) *ars-artifex*:

The notion of the existence of this type goes back to Norden's analysis of Horace's *Ars Poetica* ('Die Composition und Litteraturgattung der Horazischen Epistula ad Pisones', *Hermes* 40, 1905, 481-528)¹¹, which has been rightly rejected by Brink (1963: 3-40). Brink's own analysis is more in line with the poem itself, and it also matches the statement of the scholiast Porphyrio, who reports that 'in this book Horace has brought together the teachings of Neoptolemus of Parium on the art of poetry - not indeed all but the most outstanding'¹². Neoptolemus employed the triad *poema-poesis-poeta*, whereas the *Ars* may be divided, apart from the first forty lines that are introductory, into three sections dealing with style, content and 'general questions of poetic criticism' (40b-118; 119-294; 295-476) (Brink 1963: 13) - always with the proviso that such an approach to Horace, though adequate and indispensable, is necessarily incomplete.

Brink rightly remarks that 'the pair *ars-artifex* is not necessarily identical with *poema-poesis* as against *poeta*' (1963: 38 n. 1). He nevertheless assumes (ib.: 23), on general grounds, that there were probably a number of Hellenistic treatises based on this pair¹³. This may be true in general, and especially of treatises on poetics, for although the pair is not identical with a straightforward rearrangement of the triad, it certainly resembles it. But I am not inclined to accept this general conclusion where rhetoric is concerned. As to the third century B.C., it is improbable that any of the three groups important for rhetoric in this period (p. 79), the rhetoricians, the Stoics and the Peripatetics, employed the twofold division. The first were not philosophically minded. The second regarded true rhetoric as one of the virtues of the wise man, which made a separate section on *artifex* in their rhetorical theory superfluous; moreover, Diogenes Laertius' report on Stoic rhetoric (above) mentions nothing of the kind. As to the Peripatetics, as far as they wrote on rhetoric in general and not on style alone (§ 5.4), it seems more probable that they broadly followed Aristotle and Theophrastus. If any of these groups had employed the pair, it would also be hard to explain why second century

10. Cf. the rest of Solmsen remarks ib.; and ib.: 179 n. 92.

11. Repr. in: *Kleine Schriften zum klassischen Altertum* (hrsg. von Bernhard Kytzler; Berlin: De Gruyter, 1966), 314-357.

12. *in quem librum congegissit praecepta Neoptolemi τοῦ Παριανοῦ de arte poetica, non quidem omnia sed eminentissima*; the translation is Brink's (1963: 43).

13. Later on, he frequently assumes the pair to be traditional (1963: 247-248, 263-269).

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rhetoricians, who were concerned to rival the philosophers, did not adopt it. About them we can be quite certain: there is no trace of the pair, and Hermagoras' treatise, e.g., did not use it.

Moreover, the possible existence of treatises on poetics based on the division into *ars* and *artifex* tells us nothing about rhetorical ones. The interaction will, in general, have been in the other direction: rhetoric mostly influenced poetics, not the other way round. And this rhetorical influence was not even a continuous one: Horace's *Ars*, e.g., is not directly connected with rhetorical theory, as Norden once¹⁴ assumed, but, probably, only via Neoptolemus' poetics.

Also, most of the parallels assembled by Norden of non-rhetorical treatises employing the division are, as even Barwick (1922: 59-62) observed, unconvincing: they do treat aspects of the *artifex*, but only very shortly in a general preliminary part, whereas the composition of their main part does not in any way reflect such a division¹⁵. As for rhetorical treatises, only Quintilian employs a related scheme, *ars-artifex-opus* (so not even simply *ars-artifex*!). Quintilian himself, however, indicates that his part on the *artifex* is something new (12,pr.,3-4). Moreover, the triad is not really at the basis of his whole work, as the proportions between the three parts show: almost ten books are devoted to *ars* (2,15-book 11), only the last book (12,1-9 and 12,10 respectively) deal with *artifex* and *opus*¹⁶.

Barwick's connection of the *ars-artifex* scheme with rhetoric entails the identification of types (2) and (3), which involves some reasoning unparalleled even in the rest of his article: he identifies (1922: 3) rhetorical *tractatio* with the treatment of the parts of the speech; discerns (51) something in the section on *artifex* in Horace's *Ars* that may be described by *tractatio* taken as a very general term (but wholly foreign to anything like the parts); and (52) concludes that the treatment of the parts must originally have belonged to the section on *artifex* (although even he must admit that the other aspects he sees in Horace's section on *artifex* are never associated with the parts in any existing rhetorical handbook¹⁷). He thus wants us to accept (53) that the *officia oratoris* are to be coupled with *ars*. But surely, if any such coupling is desired, it is *artifex* that the *officia* are to be associated with. Norden knew better¹⁸.

14. Norden's marginal notes in his own copy, reprinted in *Kl. Schr.* (above n. 11), show that he later doubted or rejected his earlier analyses.

15. Thus Brink (1963: 36-37).

16. Cf. Joachim Adamietz, 'Quintilians "Institutio Oratoria"', *ANRW* II,32,4 (1986), 2226-2271: 2255, 2258.

17. He unblushingly concludes (1922: 52-53, cf. 60) that they were so associated in 'Heraclides' handbook'.

18. Norden (o.c.: 509) on *Part. or.* (where he frankly says that he ignores the third section on *stasis*): he identifies the part on the *officia* (referred to by *vis oratoris*) with *artifex*, that on the *partes (oratio)* with *ars*.

Appendix 3. Translations for §§ 4.2 and 4.3

For the provenance of the following translations see p. 341.

p. 113: Aristotle *Rhetoric* 1,1,2 (54a6-11)
Cicero *De oratore* 2,32

Now the majority of people do their speaking either at random, or from a skill arising from experience. But since both these ways are possible, it is clear that it may also be done systematically; for it is possible to examine the cause, why some speakers succeed through experience and others by chance; and everyone will at once agree that such an examination is the function of an art.

And indeed, since most plead their causes in the forum at random and without any method, but some do it more cleverly because of practice or a certain experience, there is no doubt that if someone should observe why some speak better than others, he could give a description of it. Accordingly, if someone should do this in the whole field, he would discover, if not a real art, then at least something like an art.

p. 114-115: *Rhetoric* 2,10,1-2 (87b24-28)
De oratore 2,209

For the kind of people to feel envy are those who have, or seem to have, equals. By equals I mean equals in descent, family connections, age, habit, reputation or possessions.

Well, people are as a rule envious of their equals or inferiors when they feel they have been left behind, and are hurt because these others have risen above them. But people are also frequently fiercely envious of their superiors, especially if these boast intolerably and transgress the limits of what is fair for all alike on the strength of their pre-eminent status or prosperity.

Rhetoric 2,8,2 (85b13-16)
De oratore 2,211

Let pity then be a feeling of pain caused by the sight of evil, destructive or painful, which befalls one who does not deserve it, and which we might expect to fall upon ourselves or one of those near to us, and that when it seems close at hand.

And pity is excited, if the person who is listening can be made to relate the things that are deplored in the case of another to bitter things of his own that he has endured or that he fears, so that he may, when looking upon someone else, repeatedly return to himself; ...

p. 116: *Rhetoric* 3,14,6 (15a21-24)
De oratore 2,320

This, then, is the most essential function and distinctive property of the prologue, to make clear what the aim of the speech is; and therefore a prologue should not be employed if the matter is clear or unimportant.

Every prologue will have to offer information about the whole matter in hand, or an entrance into the case and a paving of the way, or some ornament and dignity. But, just as with the forecourts and entrances of houses and temples, one must open a case with a prologue proportionate to the matter. Accordingly, in cases that are unimportant and do not attract much attention, it is often more appropriate to open your speech by directly entering upon the matter itself.

p. 117: *Rhetoric* 1,4,2 (59a32-34)
De oratore 2,336

All things that of necessity either are or will be, or that cannot possibly be or come to pass, about these there can be no deliberation.

But in both cases (*i.e. with respect to advantage as well as honour*) it must in the first place be discovered what can or cannot happen, and also what is necessary or not necessary. For all deliberation is at once cut short when it is understood that something is impossible, or when there is some necessity; and he who has demonstrated this, while others are blind to it, has seen most.

p. 118: *Rhetoric* 1,8,1 (65b22-25)
De oratore 2,337

The most important and effective qualification for being able to persuade and to advise well is to know thoroughly the nature of all states, and to distinguish the customs, institutions and interests of each.

For giving advice about the matters of the state the essential thing is to know the state; and for speaking credibly to know the character of the community; and since this changes frequently, the

style of speaking should also often be changed.

p. 119: *Rhetoric* 1,9,3-6 (66a33-b7)
De oratore 2,343-344

The noble, then, is that which, being desirable in itself, is praiseworthy, or which, being good, is pleasant because it is good. If this is indeed the noble, then virtue must of necessity be noble, for, being good, it is praiseworthy. Virtue, it would seem, is a faculty of providing and preserving good things, a faculty of conferring many great benefits, and benefits of all kinds in all cases. The components of virtue are justice, courage, temperance, magnificence, greatness of soul, liberality, gentleness, good sense, and wisdom. The greatest virtues are necessarily those which are most useful to others, if indeed virtue is a faculty of conferring benefits. For this reason the just and the courageous are honoured most, since the latter virtue is useful to others in war, the former in peace as well. Next comes liberality ...

But virtue, which is praiseworthy in itself, and which is a necessary element in anything that can be praised, nevertheless has several components, of which some are more suited to eulogy than others. For there are some virtues that seem to lie in the human character and in a certain gentleness and beneficence; and others that lie in a certain mental capacity or in greatness and strength of the soul. For mildness, justice, generosity, good faith, and courage shown in common dangers, are pleasant to hear of in eulogies, (344) for all these virtues are deemed useful not so much to those that possess them, as to mankind; whereas wisdom and greatness of soul, whereby all human matters are deemed of no importance at all, and a certain mental power of thought, and, for that matter, eloquence, do not receive less admiration, but are less pleasant, for they seem to be an ornament and protection for the object of our praise, rather than for the people listening to our words of praise.

p. 122: *Rhetoric* 3,8,4-5 (08b32-09a8)
De oratore 3,182-183

Of the various rhythms, the heroic¹ is dignified, and not suited for common language², and lacking in harmony; and the iambic is the very language of the majority, wherefore everyone utters iambic metres most frequently when he is talking. But the rhythm of a speech should possess some dignity, and should stir the hearer. The trochee is too much like the *cordax*³; this is clear from the tetrameters, for tetrameters form a tripping rhythm. What remains is the paean, which has been employed

1. That is, the dactylic.

2. Cf. p. 122 n. 77.

3. A sort of dance.

APPENDIX 3: TRANSLATIONS

by all speakers beginning with Thrasyarchus, although they were unable to say what it is. The paeon is a third kind of rhythm closely akin to those already mentioned: for its proportion is 3 to 2, that of the others 1 to 1 and 2 to 1 respectively; between the last two proportions comes the proportion of $1\frac{1}{2}$ to 1, which is that of the paeon. Now the other rhythms must be rejected for the reasons given, and also because they are metrical; the paeon is to be preferred.

For while there are a number of rhythms, Aristotle (whom you, Catullus, admire) does not allow the orator to use the iamb and the trochee, which nevertheless naturally occur in our speeches and conversations; but the beat of these rhythms is <too> marked and their feet are <too> short. Therefore he firstly recommends to us heroic rhythm; and in this rhythm we may safely go on, that is, for two feet or a little more, to avoid clearly lapsing into verse or something similar to verse: *altae sunt geminae, quibus*⁴, these three heroic feet sound quite good at the beginning of a period. (183) But the paeon is the rhythm most favoured by this same Aristotle. Of this, there are two variants, ...

p. 128: *Rhetoric* 2,1,4 (77b31-78a6)
De oratore 2,178

For things appear different, according as people love or hate, are angry or mild, and they appear either totally different, or different in degree. For to people who feel friendly to the one on whom they are passing judgement, he appears to have done no wrong or only little wrong, but to people who hate him it seems that the opposite is the case; and to people who desire, and have good hopes of, a thing that will be pleasant if it happens, it appears that it will indeed happen and will be good, but people who are unemotional or annoyed have the opposite opinion.

For people make many more judgements under the influence of hate or love or desire or anger or grief or joy or expectation or fear or illusion or some other emotion, than under the influence of the truth or a rule or some norm of what is just or a legal formula or laws.

p. 129: *Rhetoric* 1,2,2-3 (55b35-56a4)
De oratore 2,115-117

Of the means of persuasion, some are non-technical, others are technical. By non-technical ones I mean all those that are not furnished by ourselves but are already in existence, such as witnesses, evidence extracted under torture, agreements, and the like; and by technical ones I mean all those that can be constructed systematically by ourselves: thus the first ones must be used, the second ones must be invented. Of the means of persuasion [*pisteis*] furnished by the speech there are

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APPENDIX 3: TRANSLATIONS

three kinds, for some depend on the character of the speaker, some on putting the hearer into a certain frame of mind, and some on the speech itself, brought about by proving or seeming to prove.

So the whole technique of speaking is based on three means to persuade: that we should prove that the things we defend are true, that we should render the audience favourably disposed towards us, and that we should induce their minds towards any emotion the case may demand. (116) In order to prove, the orator has two kinds of material at his disposal: one consists of the things that are not thought out by the orator, but that, lying in the case itself, are treated methodically, like documents, testimonies, agreements, evidence extracted under torture, laws, decrees of the senate, judicial precedents, magisterial decisions, opinions of jurisconsults, and perhaps others that are not found by the orator, but are offered him by the case and his clients; the other consists of what is entirely founded on the reasoning and argumentation of the orator. (117) Thus with the first type one must think about the handling of the arguments, but with the second also about inventing them.

Appendix 4. The Catalogues and the Form of the Rhetoric

Much about the ancient catalogues of Aristotle's works is uncertain¹. Here I will not try to solve any of the problems, but only record some of the hypotheses that have been advanced, as far as they throw some light on the question in what form the *Rhetoric* may have been known to Cicero: was book 3 coupled to books 1 and 2 only with the edition of Andronicus, as is commonly assumed, or were there, perhaps, also earlier copies where the *Rhetoric* consisted of the three books with which we are familiar?

I will, accordingly, not use the catalogues for the question of the availability of the *Rhetoric*. Since their precise provenance and function are unknown, they tell us nothing about that, at least if availability means more (as it surely should) than presence somewhere in a collection that has been catalogued².

There are three extant catalogues. The first of these is preserved in Diogenes Laertius' biography of Aristotle³ (it is designated by D in the following pages). The second is found in the so-called *Vita Menagiana*, a short biographical sketch, that is commonly assumed to be identical with Hesychius' article on Aristotle⁴; it is customary to call the catalogue, like the *Vita*, anonymous (A). The third catalogue (P) is known only through a number of Arabic versions, going back to a Greek original by a certain Ptolemy⁵. It is different from the other two in that it presupposes Andronicus' edition, so only D and A are important for our purpose⁶.

The relationship between D and A is commonly thought to be a comparatively

1. Moraux (1951) is a mine of information, and for all practical purposes virtually replaces all older discussions of the subject. His thesis about the origin of the lists, however, has not been accepted by all scholars (below, with n. 8). Extensive references to literature after 1951 in Moraux (1973: 4 n. 2); some remarks in Tarán (1981: 723-724), a brief survey in Flashar (1983: 190-191) and Lord (1986) may now be added.

2. *Contra* Tarán (1981: 724 n. 6): 'the fact that the availability of all or most of Aristotle's treatises during the Hellenistic age is guaranteed by the ancient lists of his writings'.

3. Diog. L. 5,22-27 (the biography occupies 5,1-35).

4. Cf. Moraux (1951: 195 n. 2).

5. On the identity of this Ptolemy cf. Moraux (1951: 289-294), Düring (1957: 208-210), Moraux (1973: 60-61 n. 6). Some 30 years ago an Arabic MS. containing an Arabic translation of the *Vita* by Ptolemy was discovered, which, however, still seems to be unavailable in any European language: cf. Tarán (1981: 736 with notes), and Düring, 'Ptolemy's *Vita Aristotelis* Rediscovered', in: R.B. Palmer, R. Hamerton-Kelly (eds.), *Philomathes. Studies and Essays in the Humanities in Memory of Philip Merlan* (The Hague: Nijhoff, 1971), 264-269. Lord (1986: 138 n. 3) also mentions M. Plezia, 'De Ptolemaeo Pinacographo', *Eos* 63 (1975), 37-42, which I have not seen.

6. Texts of the three catalogues in Valentinus Rose (ed.), *Aristotelis qui ferebantur librorum fragmenta* (Leipzig: Teubner, 1886): 3-22; *AABT*, pp. 41-50, 83-89, 221-231. Moraux (1951: 22-27) gives the text of D (and, 295-297, of the first parts of P).

simple one. A consists of two parts: the first 139 titles (A_1), and an appendix of 56 or 58 (A_2). The appendix is regarded as a post-Andronican addition, whereas A_1 is held to be essentially identical with D, the divergences being due to textual corruptions and similar factors⁷. The ultimate origin of D and A_1 is disputed. Broadly speaking, scholars are divided between Moraux' thesis that it stems from the biography of Aristotle by Ariston of Ceos, the head of the Peripatos at the end of the third century, and the older hypothesis that it comes from Hermippus, who worked in the library of Alexandria, also at the end of the third century⁸. This origin, however, will not concern us here.

What are the consequences for the *Rhetoric* of this view on the relationship between D and A? D mentions (nos. 78 and 87 respectively) Τέχνης ῥητορικῆς α'β' ('*Art of Rhetoric*, 2 books'), and also Περί λέξεως α'β' ('*On Style*, 2 books'). The first two books of the *Rhetoric* are a self-contained unit, so the first title probably represents these. The second title then represents the third book of the *Rhetoric* as we now have it: this falls into two parts (on style and on disposition) and can, therefore, easily have been divided into two books; as for the title, it is not uncustomary that a title only derives from the beginning of a work⁹.

But A has something different. It also mentions (no. 79) Περί λέξεως (be it under a slightly different title¹⁰), but the number of books is one, which Moraux explains as a 'correction savante'¹¹. The '*Art of Rhetoric*', however, is mentioned as having three books instead of two (no. 72: Τέχνης ῥητορικῆς γ'). Under the assumption that A_1 and D represent the same list, Moraux also explains this as a 'correction savante' in (one of the predecessors of) A, made after Andronicus, by someone who knew our *Rhetoric* in three books¹². In itself, this is an entirely plausible account, and it may indeed be right: before Andronicus, then, our *Rhetoric* was not yet united, but the first two books went under the name of *Art of Rhetoric*, whereas the third book was known separately as *On Style*¹³.

A serious doubt, however, must be expressed. The argument is to some extent

7. Moraux (1951: 196-204), e.g., analyses the differences between D and A_1 starting from the premise of a common origin; cf. also Düring (1957: 90-91).

8. Moraux (1951: 211-247); Hermippus' claim has been defended especially by Düring (1956). See the references to more recent literature in Moraux (1973: 4-5 n. 2), where some other solutions that have been proposed are also mentioned; and further Wehrli, Suppl. 1, *Hermippos der Kallimacheer* (1974): 76-77; Guthrie (1981: 62 n. 1).

9. Moraux (1951: 97 and 103-104).

10. Under the title Περί λέξεως καθαρᾶς. The difference seems irrelevant (despite Rabe's doubts, o.c. above p. 154 n. 201: 28): Moraux (1951: 201).

11. Moraux (1951: 203).

12. Moraux (1951: 203).

13. This opinion was already expressed by Rabe (o.c. above p. 154 n. 201: 27-36). He was followed by Usener (o.c. above p. 107 n. 9: 636), and later by Düring (1950: 38 [cf. above p. 154 n. 201], 69; 1957: 421; 1966: 118 and 124).

circular, and recently Lord has proposed a different approach. Perhaps A_2 , the appendix of the anonymous catalogue, is not post-Andronican after all, and, more important, maybe A_1 and D do not go back to the same source: the differences between them may reveal a pattern. The details are of little importance here¹⁴. Suffice it to say that, although, as Lord himself indicates, more work would have to be done, the hypothesis seems not at all improbable¹⁵.

If, then, A_1 is not the same as D, the number of books it mentions for the *Art of Rhetoric*, three, may be correct¹⁶. In that case, there were copies where the whole of the work was already brought together, well before Andronicus. This would not be surprising: Andronicus was not the first to combine separate books into one work¹⁷, and anyone who had read the first ten lines of what was to be book 3, could conclude that Aristotle considered it as a sequel to books 1 and 2, even if it was not combined with them by himself.

We may even go further: perhaps the three books were originally put together by Aristotle?¹⁸ Book 3, the first half of which deals with style, a subject many Peripatetics were interested in, may have been detached from the more difficult and technical books 1 and 2 afterwards¹⁹. If we assume that this separation occurred very early, this hypothesis may even hold true if the two catalogues D and A_1 are identical after all and the correct number of books for the *Rhetoric* there is two.

Of course, this is all speculative, but it does fit the evidence. The traditional account also does, to a reasonable degree, and may be true. Like many theories in this field, however, it is far less certain, and itself far more speculative, than many would like to believe²⁰.

The results of the above discussion are these. From catalogue D it follows that

14. Lord's complete hypothesis: (1986: 144-145).

15. Two points may be mentioned: the differences between A_1 and D are not negligible (cf. Moraux, 1951: 195-209), and Lord's attempt to find a connection with the catalogue of Theophrastus' writings yields some striking results.

16. A_2 also has a title *Περὶ ῥητορικῆς* (no. 153), but this may very well be corrupt: cf. Lord (1986: 156 with n. 45), and note that it has no number of books assigned to it (unlike the titles in its neighborhood - but, it must be admitted, like many other titles in A_2). Related titles in A_2 : nos. 177 (or: 176-177, cf. Moraux 1951: 258-259), 178, 180.

17. Moraux (1951: 320-321, cf. 238).

18. Book 3 was probably written separately: there are no references from 1 and 2 to 3 (except at the end of 2), cf. Düring (1966: 123-124; about the sequel of his argument cf. below n. 20).

19. The second half of book 3 deals with *τάξις* - but if separated from the Aristotelian scheme of the *officia*, it constitutes an "art of rhetoric" in its own right, of the pre-Aristotelian type. This may also have favoured a separation from the more difficult books 1 and 2.

20. Cf., e.g., Düring (1966: 124), who writes: 'Nichts deutet darauf hin, dass die beiden Schriften [i.e. the *Rhet.* in 2 books, and the *Περὶ λέξεως*] damals zu einem Ganzen verbunden wurden' - forgetting that the only solid piece of evidence for a separation of *Περὶ λέξεως* from the first two books is the catalogue D.

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at least a number of copies of the *Rhetoric* only contained the first two books, and that the third book was known as a separate treatise *Περὶ λέξεως*. But it is extremely doubtful if no copies existed that contained all three books as we now have them.

Appendix 5. De oratore 2,206-208: amor, odium, iracundia

The passage in *De oratore* on *amor*, *odium* and *iracundia* offers some thorny problems of a mostly philological nature that seriously affect the interpretation. The first part, 2,206, contains three, the last part, 208, one. The text of 206 is as follows (the problematic expressions are underlined):

sentimus amorem conciliari, si id in re videre quod sit utile ipsis apud quos agas defendere; si aut pro bonis viris aut certe pro iis, qui illis boni atque utiles sint, laborare: namque haec res amorem magis conciliat, illa virtutis defensio caritatem; plusque proficit, si ponetur spes utilitatis futurae quam praeteriti beneficii commemoratio.

(1) *si id in re* M, *si id iure* V² and some eds., *si id* L, other eds.

iure lacks MS-support, for V² has no authority (cf. Kum. p. xi). Keeping *in re* with M is preferable to omitting it with L, since it would be more easily lost than added. Moreover, it underlines the dichotomy *res-persona* (*in re-pro bonis viris*) that returns in 2,207.

(2) *si aut* ML, P.-H., *aut si* Bake and most eds.

Most scholars (including W. and L.-P., though not P.-H.) agree that this second *si*-clause should not be made subordinate to the first. This is correct. Commentators (W., L.-P., P.-H.) also agree that with *si aut* it would be subordinate, and accord-

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ingly most (W., L.-P.) read *aut si*. This, however, is unnecessary: especially with the reading *in re* the contrast between the two *si*-clauses is strong and clear enough to allow an asyndetic coupling (the translation on p. 285 employs 'and' instead). So there is no need to read *aut si*. Since, moreover, *si aut* is in the MSS., and since there is not the slightest need for the two *si*-clauses to be presented as alternatives (even if not exclusive), *si aut* must certainly be the correct reading.

(3) the meaning of *aut ... aut certe*

This issue is evaded or ignored by most translators and commentators. It is clear from what follows (*namque ... caritatem*) that the second alternative is regarded as preferable, but the wording seems to indicate the opposite, viz. 'one must seem to plead for good men, or at least for men who are good and useful to the jury' (thus, without comment, P.-H.; W. is silent on the matter; L.-P. ad loc. paraphrase *certe* by 'nur', which is impossible).

The problem is independent of problem (2), since, as most agree, the second *si*-clause cannot be subordinate to the first, whether *aut si* or *si aut* is read.

The solution, I think, lies in pointing out that the sentence is not an imperative one. If it were, the translation just mentioned would indeed be correct. But the sentence is a statement about the conditions for arousing *amor*, and may be paraphrased thus:

It is true that *amor* is aroused if you seem to defend good men, or at least it is true that it is aroused if you seem to defend men useful for the jury.

The cause of the difference between the use of the phrase *aut certe* in imperative and assertive sentences is not the relative strength of the alternatives, for the first alternative is the "stronger" one in all cases: it is the different implications of offering alternatives in different utterance types. In an imperative sentence the presence of two alternatives leaves the "hearer" the choice but does suggest that the stronger one is preferred by the "speaker"¹. A clear example is *Off.* 2,50, from a passage about bringing an accusation in court:

sed hoc quidem non est saepe faciendum ...; semel igitur aut non saepe certe.

But this should not be done often ... This sort of work, then, may be done once in a lifetime, or at all events not often².

In an assertive sentence (a statement), presenting an alternative means correcting

1. The same is true for wishes and related utterances: cf. the purpose clause in *Fam.* 9,16,1 *ego tibi accurate rescripseram, ut ... aut liberarem te ista cura aut certe levarem*.

2. Transl. Walter Miller (Loeb ed.).

a claim that is too strong or too inaccurately phrased. Cf. *De or.* 1,92 (Charmadas:) *aut falsa aut certe obscura opinio*: the opinions an orator must get his audience to accept are sometimes false, but they are certainly obscure. Often the situation is like the one in this example: the first, stronger alternative is withdrawn, but its having been mentioned all the same is strongly rhetorical³. This rhetorical use, however, is a particular one and depends heavily on the meaning of the alternatives involved and on the context. In our passage such an interpretation is precluded by both meaning and context, the latter in the form of the following sentence that explains the relationship between the alternatives.

So the wording of the sentence does not contradict the obvious conclusion that the second alternative is the preferable one. In the translation (p. 285) I have, accordingly, rendered *aut certe* by 'or rather'.

The last difficulty is in 2,208:

atque isdem his ex locis et in alios odium struere discemus et a nobis ac nostris demovere; eademque haec genera sunt tractanda in iracundia vel excitanda vel sedanda. nam si, quod ipsis qui audiunt perniciosum aut inutile sit, id factum augeas, odium creatur; sin, quod aut in bonos viros aut in eos, quos minime quisque debuerit, aut in rem publicam, tum excitatur, si non tam acerbum odium, tamen aut invidiae aut odii non dissimilis offensio.

The problem has been indicated on p. 286. Most scholars take *offensio* as a specific feeling, and *aut invidiae aut odii non dissimilis* as a non-restrictive modifier: 'Abneigung, die dem Neid oder dem Hass recht ähnlich ist' (Merklin); 'eine feindliche Stimmung, die ...' (P.-H.). The *TLL* also takes it thus (s.v. *offensio* 496,36-37): it adduces our passage as proof that *offensio* 'minus valet quam odium'⁴. Sutton's interpretation is different, 'a disgust closely resembling ill-will or hate'. Although he thus also takes *offensio* to be rather specific, 'disgust', he still interprets the modifier as restrictive: it further identifies 'a disgust', which implies that there are several kinds of *offensio*. I would go one step further, and not only interpret the modifier as restrictive, but also *offensio* as unspecific, 'a negative emotion'; the feeling thus indicated is then, I think, *iracundia*⁵.

I will now first argue that *offensio*, besides having the well-known specific meaning 'disgust', 'resentment', can indeed be unspecific. Then I will touch upon the word order of the passage, and suggest that this slightly favours my inter-

3. Cf. e.g. also *De or.* 1,125 *aut aeterna in eo aut certe diuturna valet opinio tarditatis*.

4. Thus also Schweinfurth-Walla (1986: 193-195), whose analysis is, however, somewhat confused: she states that *invidia* gets its first treatment in 2,207 and that it is the link between *amor* and *odium*, but *invidia* is not treated, only some aspects relevant to *amor*, and the description of *odium* in 2,208 does not refer to *invidia*.

5. Courbaud translates along these lines: 'une disposition hostile qui ressemble fort à l'aversion ou à la haine'; but his notes (p. 92 n. 2, p. 93 n. 1) are confusing.

pretation. Finally, I will give two arguments why a reference to *iracundia* seems almost certain to me.

The word *offensio* itself, of course, often denotes (or seems to denote) some definite emotion, cf. especially *Part. or.* 28 *si in nos aliquod odium offensiove collata sit*, where it is coupled with *odium*⁶. But it also occurs as a vaguer term, denoting some other emotion: in *Bell. Alex.* 48,1 it serves to resume a threefold mention of feelings of *odium*:

Q. Cassius Longinus, in Hispania pro praetore provinciae ulterioris obtinendae causa relictus, sive consuetudine naturae suae sive odio quod in illam provinciam susceperat quacstor ex insidiis ibi vulneratus, magnas odi sui fecerat accessiones, quod vel ex conscientia sua, cum de se mutuo sentire provinciam crederet, vel multis signis et testimoniis eorum qui difficulter odia dissimulabant animum advertere poterat, et compensare offensionem provinciae exercitus amore cupiebat.

This is the only clear case of this use of the word, but that must be due to the fact that it is difficult to distinguish from the other use mentioned: in *Att.* 1,17,1 *offensionem tam gravem*, e.g., there is nothing to decide between them. (I admit that more detailed investigation would probably be necessary.) In this second use *offensio* may, then, be paraphrased by 'a negative feeling'.

Word order in Latin is a notoriously intricate subject. There are, at least for the moment, no clear and undisputed criteria to determine whether the word order here favours a restrictive or a non-restrictive interpretation of the attribute: the order attribute-noun lends itself to various interpretations⁷. The complexity of the attribute, however, combined with its position before the noun, guarantees that it is emphatic⁸. Hence, the meaning of *offensio* is far less essential than that of the attribute. This seems to favour the non-specific interpretation of the word.

The question whether *iracundia* is indeed referred to might seem difficult to decide, since the text is not explicit⁹. However, I think the wording and the structure of 2,208 show that *iracundia* must indeed be meant. First, the wording *si non tam acerbum odium, tamen* shows that the feeling described is relevant to the discussion - contrast the absence of such an indication in the case of *caritas* in 2,206, and the shortness of the reference there (*illa virtutis defensio caritatem*).

6. See further TLL s.v. *passim* and OLD s.v., 6b *passim*.

7. Cf. the short survey in Harm Pinkster, *Lateinische Syntax und Semantik* (Tübingen: Francke, 1988): 277-279 (= § 9.4; also § 9.4 in the forthcoming English ed., *Studies in Latin Syntax and Semantics*, London: Routledge, 1989).

8. Complex attributes normally follow their head nouns: cf. K-St. 2,606; Sz. 406-407; Pinkster (l.c. prev. note).

9. L.-P. even contradict themselves: on p. 132 (vol. III) they state that *amor: caritas = odium: iracundia*, implying that *iracundia* is referred to; but in their commentary (ad 208 *sin quod aut eqs.*) they interpret the phrase as 'eine mildere Form des *odium* ...', die jedoch nicht mit *iracundia* gleichbedeutend ist' (cf. ad *sunt tractanda in iracundia*: '*iracundia* wird nicht weiter besprochen').

Now the emotions relevant to the discussion have all been mentioned in 206, and the only one of these that can be meant here is *iracundia*. This argument must not be rejected on the ground that Antonius' exposé is unsystematic¹⁰, for it is not. His earlier enumerations of emotions (2,178; 185; cf. the shorter ones in 189 [bis] and 190), it is true, do not correspond to the treatment in 206-211a. That, however, only underlines the contrast with the list in 206, since all emotions mentioned there are in fact returned to in 206-211a (with the sole possible exception of *iracundia*). The sections under consideration are in fact, in this respect, very systematic.

No reader could of course be expected to know this before having reached the end of the treatment, but it is supported by the structure of 2,208, which thus provides a second argument for a reference to *iracundia*. *Odium* and *iracundia* are first said to derive from the same principles as *amor*, then *odium* is touched upon again, followed by an emotion emphatically contrasted with it (*sin*; *si non acerbum odium*) and not unlike it: it seems natural to suppose that this 'negative feeling' (*offensio*) is *iracundia*¹¹.

Perhaps none of the above considerations would be strong enough in itself. Their cumulative weight, however, seems decisive¹².

10. Thus, approximately, L.-P. (ad 2,208 *sunt tractanda in iracundia*): 'Die ganze Erörterung der Pathosarten ist durchaus unsystematisch'. This statement is directed against Schütz' replacement of *invidiae* by *iracundia*, but would, if accepted, also serve the purpose indicated in my text.

11. Cf. *Tusc.* 4,21 *discordia ira acerbior intimo animo* (Lamb.: *odio* MSS.) *et corde concepta*; from this it follows that *ira* (= *iracundia*, above p. 287 n. 153) is not in itself *acerba*.

12. Especially the two arguments for a reference to *iracundia* seem to me decisive. If the argument about *offensio* should be unacceptable, I would even be inclined to have recourse to Schütz' radical solution of replacing *invidiae* by *iracundia*.

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Editions. For the two principal texts, Aristotle's *Rhetoric* and Cicero's *De oratore*, the editions by Kassel and Kumaniecki have been used. Deviations have been indicated. When referring to the *Rhetoric* by line numbers, I have omitted the initial '13' and '14'; e.g., 78a12 stands for 1378a12.

Other works are quoted from standard texts, deviations being indicated only where relevant. To fragment numbers the (abbreviated) name(s) of the editor(s) is (are) added, as usual.

Translations. The translations given in my text have been drawn from a number of sources:

For the translations of Aristotle's *Rhetoric* I have combined those by Freese and Rhys Roberts, making adjustments where this seemed necessary. The renderings of Cicero's *De oratore* are my own. I have consulted the translation by Sutton and Rackham in the Loeb Classical Library, and although I have occasionally profited from it, it is unsatisfactory as a whole, and completely unreliable in points of detail.

For Cicero's *Brutus* I have used the translation by G.L. Hendrickson, for his *Orator* and *De inventione* those by H.M. Hubbell (all in the Loeb Classical Library); for his letters, naturally, Shackleton Bailey's; for the *Rhetorica ad Herennium*, Caplan's, and for Quintilian, H.E. Butler's (both in the Loeb series). Again, some alterations have been made.

For all other translations the source has been indicated in a footnote. In the few cases where no such reference occurs, the translation is my own.

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*) The copy I have seen is dated 1852; but several reliable bibliographies mention a date of 1851.



INDICES

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Index 1: Subjects and Names

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a. Works not mentioned in Bibliography or List of Abbreviations

This selective index lists works only mentioned in the footnotes; only those with which I agree or disagree on essential points are included, and those relevant to rhetoric and other subjects touched upon in this study. As such it may supplement the bibliography. "Personal communications" are also indicated.

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b. Works mentioned in Bibliography or List of Abbreviations

Only discussions and evaluative statements that may be useful to the users of the works in question are included. These references, therefore, are mostly to my disagreements with others. Hence, my debts to and agreements with other authors, however numerous, cannot be inferred from this index.

Where relevant, different works of the same author are distinguished by year of appearance, as in the bibliography. References preceding these indications of year are to general remarks or to a number of works together.

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