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A Rhetor in Context

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PREFACE

When a publisher's reader suggested that my *Hermogenes On Issues* would benefit from more attention to social and historical context, I naturally promised to take account of this advice and did my best to ignore it. The present book, perhaps, will make some amends.

My reason for resisting the advice was not that I thought the social and historical context of rhetoric intrinsically unimportant; rather, I thought it too large and complex a subject to be tackled briefly, and one that lay outside my sphere of competence. I still have no claim to be an expert in social history. But bridges have two ends, and bridge-building between rhetorical and social-historical scholarship might as well be started on the rhetorical side. In fact, that analogy is misleading. In describing rhetoricians' activities as theorists and teachers one is not describing something that has then to be linked to society. These activities were themselves an integral part of ancient society. Study of the technical core of rhetoric is therefore already social history. The task is not to connect it to social history, but to enrich it as social history by exploring how these technical and pedagogical activities cohered with other concurrent social processes. This requires as detailed and complete an understanding of the technical and pedagogical dimensions of rhetoric as we can achieve. If I am now better qualified to follow the reader's advice, it is because I know more about ancient rhetoric than I did then.

'Know' is used flexibly in that last sentence. Readers will notice that this book contains a good deal of speculation—or as I would prefer to say, inference from limited data: shall we compromise on 'conjecture'? Since the evidence is incomplete no account of this material could be other than conjectural. I should like to think that my account provides a more economical way of making sense of more of the evidence, more rigorously tested, than alternatives, but I make no claim to certainty. I do, however, feel reasonably confident about the overall picture. Indeed, I am more

confident about the overall picture than about many of the details. My conjectures are not (I think) an inverted pyramid resting precariously on a small number of crucial hypotheses, so much as a network of mutually supporting hypotheses. Hence the integrity of the overall structure will not be fatally compromised by the failure of some of its constituent strands.

Not all the evidential basis for my conclusions is contained within the book itself. A lot of work was needed to lay the foundations of this enquiry, the results of which have been published in a series of papers. Inevitably I have had to traverse again much of the ground they cover; rather than reproducing all the detail (which would have resulted in a huge and unreadable book) I have summarized the arguments and conclusions. Those who want to examine the book's argumentative and evidential base in detail will therefore need to turn to those supporting papers. (Conversely, readers of the papers will find that I have sometimes changed or developed my thinking here.) I apologize that frequent reference to these papers has made my own name embarrassingly prominent in the notes.

The fragments of Menander in Chapter 4 are given in Greek and English. I have not provided translations in Chapter 5, where the source-critical argument depends on details of language. Elsewhere quotations are given in English only, for reasons of space: those who miss the Greek may reflect that they are no worse off than with regard to passages that have been paraphrased, reported, or merely mentioned. Space has also compelled me to be selective in citing primary evidence and secondary literature; if I fail to mention something important, that is not necessarily because I do not know about it (though I may have failed to grasp its significance). But in a study which ranges so widely I am bound to have overlooked much that is relevant. I hope readers will therefore be slow to assume ignorance, and swift to forgive it.

The ceaselessly ramifying complexities of this project at one stage made me despair of ever bringing it to completion. The British Academy intervened at a decisive point with the award of a two-year Research Readership: I am profoundly grateful. The other debts incurred in the course of this research are too numerous to recount in full. Since it would be invidious to single

out a few, I hope my creditors will be content if I shield them from even the suspicion of responsibility for the remaining shortcomings in what follows.

M. H.

Leeds
December 2003

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I

INTRODUCTION

Menander of Laodicea, also known as Menander Rhetor, is chiefly familiar to modern scholarship as the author of one or other or both of two treatises on epideictic oratory transmitted under his name. As a specialist in epideictic he is often considered an exemplary rhetorician of an age which saw the 'triumph' of epideictic eloquence.[1] But in antiquity Menander was famous chiefly as a commentator on Demosthenes. With the possible exception of a fifth-century papyrus letter, the earliest explicit link between Menander and epideictic is the superscription to the treatises in a manuscript of the tenth century. The overwhelming majority of earlier citations relate to the commentary on Demosthenes, and he is the commentator most often named in late ancient and Byzantine sources. The fragments show that he analysed Demosthenes' techniques of argument using the resources of contemporary issue-theory; and we know that he also wrote a commentary on Hermogenes *On Issues*. These facts suggest a different assessment of Menander's significance: I shall argue that he was above all an expert on judicial and deliberative oratory, and precisely as such exemplary for an age in which rhetoric retained, for good practical reasons, a primary interest in techniques of judicial and deliberative persuasion.

Developing this reassessment, both of Menander and of the context in which he worked, requires investigation of many different aspects of the history of rhetorical theory, the nature and functions of rhetoric in later antiquity (that is, primarily, the second to fifth centuries AD), and its relation to other aspects of late ancient culture and society. Readers will doubtless approach the book with different interests, and may prefer to enter it at the point most directly relevant to their concerns rather than reading sequentially from the start. I have tried to ensure that it is possible

[1] Triumph: Pernot 1993, 102f. (on the second and third centuries). See §9.1.

to do so. But the argument of the later chapters depends on positions established in earlier ones, and any reader who wishes to make a serious assessment of my conclusions will need at some point to trace the argument back to its starting-points. A brief introductory map may help to provide orientation.

Part I examines the development of rhetoric and rhetorical theory in the second and third centuries. Chapter 2 looks at some innovations in rhetorical theory that occurred in the second and early third centuries. In particular, it explains the crucial transformation that issue-theory underwent at the hands of Hermogenes and his predecessors. This is directly relevant to Menander, both because he was one of the earliest commentators on Hermogenes and because the application of the theory was an important aspect of his commentary on Demosthenes. Indeed, it was the fact that earlier commentaries on the orator had been rendered obsolete by the theoretical innovations of the second century that set in train the new tradition of rhetorical exegesis to which Menander made the decisive contribution. He did so, most probably, towards the end of the third century. Chapter 3 therefore examines the evidence for the history of rhetoric after Philostratus deserts us in the 230s. It concludes that rhetorical culture continued to be vigorous and creative throughout this period. The political and military crisis of the third century did not entail an eclipse of rhetorical, or more generally of intellectual, culture.

Part II is directly concerned with Menander himself. The first task is to assemble the primary evidence, not all of which is easy to come by. The most recent editors of the epideictic treatises provide a partial review of the evidence for Menander's life and works in their discussion of the problem of attribution, but leave to one side testimonia which they judge to have no bearing on that problem. For other evidence they refer us to two works of nineteenth-century scholarship that are not readily accessible to all, and are in any case now incomplete.[2] Chapter 4 assembles, with translation and commentary, all the testimonia and fragments in which Menander is explicitly named. This evidence is dominated by the commentary on Demosthenes. Since there are clear signs

[2] Russell and Wilson 1981, p. xxxvi, citing Bursian 1882 and Nitsche 1883. Additional material was published by Rabe (1895, 1908*a*) and Schilling (1903); Dilts has improved our knowledge of the Demosthenes scholia immeasurably (1983–6).

of Menander's influence in the extant scholia it is reasonable to ask whether his work has left any identifiable remains beyond the testimonia which explicitly name him. That question is addressed in Chapter 5, which argues that a lightly redacted version of Menander's commentary is the sole source of one strand, and the main source of the other two strands, in the tradition from which the scholia derive. Chapter 6 uses selective soundings in the scholia to explore further the nature of Menander's commentary. In particular, since some of the Menandrian material seems to come from lectures to advanced students, the partial recovery of Menander's commentary gives us a glimpse of his teaching practice, allowing us to assess the procedures and concerns of a rhetorical school of this epoch.

Part III pursues this theme further. Chapter 7 examines the structure of the rhetorical curriculum and the techniques of rhetorical teaching, insofar as they can be reconstructed from the extant corpus of technical literature and other sources. Chapter 8 considers the nature of the technical literature and its relationship to teaching. I emphasize throughout the practical orientation of rhetorical training and its predominant (though not exclusive) focus on judicial and deliberative oratory. But this raises further questions. What was the practice for which students of rhetoric were being trained? What relevance (if any) did that training have to their subsequent careers? Chapter 9 addresses these issues. It will be argued that there is a connection between the theoretical innovations in issue-theory of the second century, concomitant changes in curriculum structure, and the evolving—but never supplanted—function of rhetorical training as a preparation for subsequent careers.

One of my key contentions is that rhetoric in later antiquity was concerned fundamentally and above all with teaching students how to devise arguments and articulate them in a persuasive way. I also contend that these skills had direct application in the subsequent careers of the rhetoricians' pupils.[3] Some may think these claims too obvious to need stating. I hope that by the end of the book all readers will find them obvious. But they are

[3] Rhetoric, in a typical formulation, could be defined as an art concerned with speech in 'political' questions (§2.8 n. 46), having as its goal speaking persuasively (§9.3 n. 14); art (τέχνη) in turn is defined as 'a system of cognitions ordered by practice for some goal advantageous in life' (see Heath 1995, 61, on Hermogenes 28.3–7).

worth stating, for two reasons. First, they are important, often overlooked, and indeed often denied. Secondly, they are not in fact as obvious as they may seem. We could envisage a culture in which a tradition of rhetorical training that had once been practical in character increasingly lost that character as changing social circumstances progressively eliminated opportunities for practical application. Rhetoric would in that case be a survival, and the interesting question would be how its survival was underpinned by the appropriation of rhetoric to other social functions. I do not claim that this picture could not be true, only that there is evidence that it is not true.

That does not preclude the possibility that rhetoric was *also* appropriated to other functions. On the contrary, it would be astonishing if a core educational process did not contribute in a variety of ways to the socialization of those who underwent it. So my argument should not be understood as a wholesale rejection of the illuminating work that has been done in recent years on other dimensions of the relationship of rhetoric to its social context. A number of studies have focused on various aspects of rhetoric's role in social formation and self-definition (for example, rhetoric has been studied in relation to the processes of male socialization, or elite legitimation, or social reproduction, or the definition of Greek cultural identity).[4] Despite inevitable disagreements on points of detail, I am sympathetic to this work in principle; my discussion will eventually reach a point of contact with it (§9.9). But for the most part this approach will not be in the foreground, not because I reject it, but because I believe that a shift of emphasis is needed. To achieve a balanced understanding we need a less restricted vision of rhetorical culture in late antiquity.

One way of putting this might be to say that we need to focus less on sophists, more on rhetors. That formula must at once be hedged, since in ancient usage the application of the two terms was anything but clear and stable: they are sometimes contrasted, sometimes treated as interchangeable.[5] A certain elusiveness is inevitable when one is dealing with a word as varied in its use as

[4] e.g. Gleason 1995; Schmitz 1997; Kaster 2001; Swain 1996.

[5] e.g., the terms are distinguished in Julian, *Ep.* 61 Bidez, but interchangeable in Modestinus (*Digest* 27.1.6.2). Brunt 1994, 48–50, documents some usages of 'sophist'.

'sophist' (which may be descriptive or evaluative; laudatory or pejorative; objective or tendentious; inclusive of assistant teachers in a school of rhetoric, or exclusive of distinguished experts who were not also virtuoso performers). But in one of its range of uses, 'sophist' designates a phenomenon of much narrower scope than rhetoric. My argument, then, is that we need to make our approach by way of the broader phenomenon.

In a good deal of recent scholarship a fascination with sophists in the more restrictive sense has paradoxically coexisted with a usage far more inclusive than any known in antiquity. On the one hand, our perceptions tend to be dominated by Philostratus' compellingly vivid, but selective and slanted, portrayal of sophistic culture in the second and early third centuries. On the other hand, there has developed a hyper-inflationary usage stated with unusual clarity by Simon Swain: '"Second Sophistic" may legitimately be used to describe the whole political-cultural profile of the flourishing Greek cities of the High Roman Empire.'[6] That is certainly not what Philostratus, to whom we owe the term, was talking about: his Second Sophistic goes back to the fourth century BC (*VS* 481, 507) and was realized in a small number of very distinctive and remarkable individuals. We are at liberty to appropriate Philostratus' term to our own purposes, but it would be prudent to adopt a more neutral terminology. The borrowed term pre-emptively implies the centrality of sophists in *some* sense to the culture and society it is being used to describe, and makes too easy the *non sequitur* that attributes that centrality to sophists in Philostratus' sense. But the sophists as selectively represented by Philostratus were certainly not identical with or representative of the whole of their social, cultural, and intellectual context; nor were they even identical with or representative of the whole of contemporary rhetorical culture.[7]

There are two points to stress here. First, the sophists who

[6] Swain 1999, 159.

[7] Contrast e.g. Webb 2001, 289: 'The type of individual this education produced is perhaps epitomised by the heroes of the Second Sophistic as portrayed by Philostratos.' Since I do not wish to claim a disproportionate social or political prominence for sophists, nor that they dominated cultural and intellectual life, I would be undisturbed by Brunt's attempt to prick the 'bubble of the Second Sophistic' (1994), were it not for the misconceptions and oversights which his marginalization of sophists shares with the work of scholars who make them central.

most interested Philostratus were exceptional figures: that is why he was interested in them. But a focus on individuals as extraordinary as Favorinus or Polemo does not provide a secure, broad basis for social history.[8] Certainly, we may learn important things about a society from the fact that it produced such figures and gave them prominence. But what we learn will mislead us unless we give equally careful attention to the ways in which they were exceptional. That will only be possible if we understand the more typical background against which they were situated and from which they stood out. Secondly, the aspects of sophistic culture in which Philostratus was interested were not co-extensive with the activities even of the sophists he describes. Sophistic (in the restrictive sense) was not separate from the broader rhetorical culture, but a distinctive manifestation of it. Philostratus naturally tends to focus on the things that distinguish his sophists, rather than on the things which they shared with a broader class of professional rhetors. The shared rhetorical culture was less interesting to him; because it was commonplace, it could be taken for granted. But characterizing a distinctive sub-group exclusively in relation to the features that distinguish it is bound to produce a distorted picture. We need to make explicit the shared rhetorical culture that is tacitly presupposed in Philostratus' presentation if we are to achieve an adequate understanding even of sophistic in his restricted sense.

I therefore argue that it is a mistake to concentrate (as Philostratus does) on the showier aspects of sophistic culture (for example, artificial style, declamatory display, improvisation, the personal rivalries of star performers) to the neglect of the complex and demanding training in techniques of argument that underpinned it. That training was shared, as much of the showier side was not, by everyone who had passed through a school of rhetoric; in that sense, it was more representative of and more fundamental to rhetorical culture. When we broaden

[8] The risk of distortion is compounded if we miss the complexity even of Philostratus' evidence. It would, for example, be wrong to stress sophistic rivalries (such as that between Favorinus and Polemo) without balancing attention to the ample evidence for mutual respect, admiration, and support within the community of sophists (e.g. *VS* 529, on the reciprocal admiration of Polemo and Marcus of Byzantium; 573 f., on Herodes' rebuke to a pupil's attempt to be sarcastic at the expense of Alexander 'Peloplaton').

our perspective in this way and shift attention to the foundational aspects of rhetoric, it becomes easier to see how rhetorical training could continue to function as a preparation for forensic and political careers. For this reason the road to a better understanding of the ways in which rhetoric was embedded in late ancient society and culture cannot bypass rhetoric's technical core.

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Part I

Continuity and Innovation

2

The Second Century: Transformation

THE extant corpus of Greek technical writing on rhetoric is enormous. Walz's *Rhetores Graeci* contains 6,965 pages of Greek text, and is far from comprehensive. But only a tiny proportion of this corpus antedates the second century AD.[1] That is not coincidental. The second and third centuries were an immensely creative period in many fields of cultural and intellectual endeavour, including rhetoric. New developments in rhetorical theory rendered earlier texts obsolete and dispensable; the texts that displaced them had a greater chance of survival. In this Chapter I examine some of the transformations which rhetoric underwent in the second and early third centuries.

Two domains of rhetoric, in particular, were transformed: the theory of argument and stylistic theory. Although something will be said in due course about the emergence of the concept of stylistic 'ideas' (ἰδέαι), or types of style (§2.10), our main concern will be with the theory of argument, and in particular with new developments in the concept of 'issues' (στάσεις). It is not that stylistics was insignificant. Hermogenean idea-theory is a remarkable intellectual achievement, and from the perspective of an aspiring sophist eager to make his name as a brilliant declaimer the techniques for achieving excellence across a range of styles were doubtless of more pressing interest than elementary doctrines about the techniques of argument. But not every student of rhetoric had such aspirations, and even those who did relied on their mastery of more elementary doctrine to provide them with material to which their stylistic sophistication might

[1] The protection of a famous name is one factor that could work against the general trend: hence Aristotle's *Rhetoric* and the *Rhetoric to Alexander*, and the works of Dionysius of Halicarnassus—the latter being, in any case, more critical than technical, and as such less prone to obsolescence. I date Longinus *On Sublimity* to the third century (§3.6), and Theon's *Progymnasmata* to the fifth (§9.5). But Demetrius *On Style* seems to be a genuine exception.

be applied. In emphasizing the theory of argument, therefore, we acknowledge that this was of more fundamental and more universal importance in rhetorical training than advanced stylistics. An index of this relative status is the proliferation of commentaries on textbooks on issue-theory which began in the third century (§3.8); idea-theory, by contrast, had to wait until the fifth century for a tradition of commentary to be established (§8.4, §9.5).

Issue-theory is, at any rate, fundamental for the project of this book. Menander was one of earliest commentators on Hermogenes *On Issues*, and the detailed application of issue-theory was an important aspect of his exposition of Demosthenes. The form of issue-theory which developed in the second century, as well as providing rhetoricians with a powerful resource for devising arguments, also provided new tools for analysing speeches; applied to classical oratory, therefore, the theoretical development gave new impetus to rhetorical exegesis. The extant scholia to Demosthenes are to a large extent concerned with this kind of analysis. Accordingly, although they preserve critical judgements and information on classical history and society from earlier sources, they cite no specifically rhetorical commentator who can be dated before the second century AD. Here, too, earlier work had been superseded.

2.1 ISSUE-THEORY: AN INTRODUCTION

Rhetorical teaching concentrated primarily on judicial and deliberative oratory.[2] It was this focus that made the theory of argument fundamental. Encomium, which is the basis of epideictic oratory, does not involve argument; it requires the amplification of acknowledged facts (that is, the enhancement of their perceived significance: e.g. Sopater *RG* 5.16.22f.). Moreover, the correct treatment of epideictic themes is quite easy to learn, since the range of social occasions which call for a formal honorific address is limited, and the basic pattern of encomium can be adapted readily to suit each type of occasion (as the treatises attributed

[2] The primary concentration was on judicial oratory; deliberative has a far more limited place in the technical literature (see e.g. Quint. 3.8). But the double formula is convenient, since the distinction did not become important until a relatively advanced stage of technical instruction: §7.1 n. 14.

to Menander show). Forensic and deliberative oratory are more complex. Superficially similar situations may have an utterly different underlying logical structure. A dispute that turns on a question of fact will require a different treatment from one in which the facts are admitted, but not their categorization or evaluation. For example, an accusation of murder in which the facts are contested will need to be handled in one way, an accusation of murder countered by a claim of justification in quite another. It was to meet this need that the theory of issues was developed. It seeks to classify themes according to the underlying nature of the dispute in order to identify the most appropriate way to argue the particular case in hand. Issue-theory is thus a key element in rhetoric, because it provides the most important step in the preliminary analysis of any rhetorical problem.

The changes which issue-theory underwent in the course of the second century AD were to prove decisive: from them emerged a system that was to be canonical throughout later antiquity and into the Byzantine era. But issue-theory had much older roots, and had already undergone many changes by the time that second-century rhetoricians got to work on it. The first name likely to spring to modern minds is Hermagoras of Temnos, the most famous of Hellenistic rhetorical theorists, who worked in the second century BC. He did not, as is sometimes supposed, create issue-theory (contemporaries and rivals, such as Athenaeus, had alternative classifications of issues, and one feature of Hermagoras' classification was criticized as an unnecessary innovation);[3] but he was the most influential contributor to the theory in the Hellenistic period. It is not easy to define the distinctive nature of his contribution, since Hermagoras is a conspicuous example of the loss of earlier Greek technical writing. None of his works has survived, and the explicitly attributed testimonia and fragments are sparse. Attempts to supplement these meagre sources are prone to methodological weaknesses. There is, in particular, a worrying circularity when reconstructions of Hermagoras' doctrine draw on Hermogenes *On Issues*, the standard textbook on issue-theory from the second (or early third) century AD: the necessary premise, that Hermogenes' issue-theory is

[3] References: Heath 1995, 19. On the theory's older roots add now Braet 1999.

basically Hermagorean, depends on the reconstruction that it is supposed to warrant.[4] This error has been so readily overlooked, I suspect, because we have failed to grasp the extent to which rhetoric in general, and issue-theory in particular, had a history. The familiarity of handbooks of 'ancient rhetoric' that adopt a systematic rather than an historical approach[5] reflects, and tends in turn to foster, an unduly static perception of the field. That in turn obscures the evidence that rhetoricians continued in later antiquity to develop importantly different theoretical approaches to the orator's practical work.

2.2 FROM HERMAGORAS TO HERMOGENES

A thought-experiment may help us to counter this lack of historical perspective. What would a rhetorician in (say) the fifth century have said about the assimilation of Hermogenes to Hermagoras? He might well have been puzzled by the unfamiliar name. He knows all about Hermogenes, of course (his work *On Issues* is a standard text, known to every student), but who on earth was Hermagoras? If our rhetorician was alert and well-informed he might remember having read about Hermagoras in a commentary on Hermogenes. If so, he would hasten to correct our mistake. Hermogenes follows the system of thirteen issues that was first established by Minucianus; Hermagoras lived earlier than that, and thought there were only seven issues (Sopater *RG* 5.8.19–21, 79.10–15; *PS* 60.13–15); he also thought that quality was a single issue, an error which Hermogenes explicitly avoided (*RG* 4.223.4–7). We must acknowledge straight away that our hypothetical respondent is wrong on two points. First, the system of thirteen issues probably antedated Minucianus

[4] Matthes 1958; Barwick 1964, 1965. Cf. Russell (*OCD*[3] s.v. 'Hermagoras'): 'author of an elaborate system which we know in fair detail from later writers, especially Cicero, Quintilian, and Hermogenes'; Walker 2000, 113, describes Hermogenes *On Issues* as 'more or less Hermagorean'. Braet 1987, 80: 'Later rhetoricians did try to reap glory for themselves by inventing all sorts of variants on Hermagoras's system. They met with little success, however, and Hermagoras's doctrine has continued to set the tone.' The historical judgement does not fit the facts of late ancient rhetoric, but Braet's more general reflections on issue-theory and the theory of argumentation merit careful reading.

[5] e.g. Volkmann 1885; Lausberg 1960 (Eng. trans. 1998); Martin 1974. Of these, Volkmann has the best sense of historical perspective.

(§2.7). Here the respondent has been misled by a source that was unaware of evidence that is available to us only by a remarkable stroke of fortune (a Latin epitome exempted it from the normal consequence of obsolescence). Secondly, the Hermagoras who thought there were seven issues was not the man we had in mind, Hermagoras of Temnos, but a later homonym.[6] But this correction only strengthens our respondent's basic point, since Hermagoras of Temnos lived even longer before the discovery that there were thirteen issues; *he* thought there were only four of them.

Whether we judge Hermogenes' theory to be basically Hermagorean does not depend only on the content of the two theories, but also on what we consider basic. Perhaps the number of issues is superficial. Since theorists who posited a smaller number of issues typically agreed that some of them were capable of subdivision, disagreement over the number might be purely verbal. Different enumerations may seem to make no substantive difference if what is in question is simply the level within a hierarchical scheme at which the label 'issue' is applied. In that case, the superficially divergent Hermagorean and Hermogenean theories might be in fundamental accord after all. But this conjecture needs to be tested. From the perspective of our hypothetical rhetorician and his peers the question of the number of issues apparently did seem significant; we should not dismiss their point of view until we have considered its possible rationale. Did the terminological change express some accompanying systemic change in the theory?

To answer this question we need to compare the Hermagorean and Hermogenean theories in more detail. Hermogenes presents no problem: *On Issues* is available in full in Greek, English, and French, and equipped with a variety of ancient and modern commentaries.[7] But Hermagoras is not so easily pinned down. The fragments of his work are, as we have noted (§2.1), sparse. A glance at the standard edition,[8] in which a few tiny islands of

[6] We should not be too hard on this confusion: even today an excellent scholar can write in an unguarded moment of 'Hermagoras [*sic*] of Tarsus and his namesake of Temnos' (Crook 1995, 21).

[7] Greek: Rabe 1913. English: Heath 1995, with commentary. French: Patillon 1997a.

[8] Matthes 1962, with the accompanying monograph (1958). The argument of this paragraph is developed more fully in Heath 2002*a*.

Greek are surrounded by an ocean of Latin, immediately shows why our fifth-century rhetor knew nothing about him. The older Hermagoras has loomed so large for us because we have access to the Latin tradition. Closer, more critical inspection reveals two other, less obvious facts. First, Hermagoras' claim to some of the Greek fragments is questionable: he had two later homonyms, one of whom (the Hermagoras with seven issues about whom our hypothetical rhetorician had read) deserves to be credited with more material than the standard edition acknowledges. Secondly, the Latin witnesses do not speak with a single voice: their evidence for Hermagorean doctrine is deeply inconsistent. Working out what Hermagoras taught is therefore not easy.

The inconsistency of the evidence directly affects the question I posed earlier, about the distinctive nature of Hermagoras' contribution to issue-theory. I shall follow Cicero (*Inv.* 1.18f.) and Quintilian (3.6.56–61) against the anonymous (perhaps first-century) rhetorician whose work has been falsely attributed to Augustine.[9] If Cicero and Quintilian are right, Hermagoras' most distinctive contribution was probably to associate the familiar framework of issue-theory with a diagnostic apparatus designed to help the orator identify and focus on the crucial argument in a given case. Consider the trial of Orestes. He is charged with matricide, and claims justification. So the question (*ζήτημα*) is whether Orestes was justified in killing his mother, and the issue is quality: the facts and their categorization are agreed, but their evaluation is disputed.[10] We therefore need to identify the ground (*αἴτιον*) on which the defence claims justification. In this case, it is the fact that Orestes' mother had killed his father. The prosecution accepts that Agamemnon's murder was a crime which deserved punishment, but denies that it warranted matricide: Clytaemnestra deserved to die, but it was not right for her son to kill her. It is now possible to define with precision the point for adjudication (*κρινόμενον*): was the fact that Clytaemnestra had killed his father sufficient to justify Orestes in killing his mother?

[9] This position is defended in Heath 1994*a*, 117–21. Date of [Aug.]: Heath 2002*a*, 288f.

[10] If Orestes denies being involved in the killing the issue would be conjecture. If he admits causing her death but denies that he actually killed her (suppose, for example, that the shock of the confrontation with her armed and vengeful son had given Clytaemnestra a fatal heart-attack) it would be definition.

Now that we know the point on which the dispute will be decided we can try to identify the crucial argument (*συνέχον*) for the defence, and the two parties can set to work to confirm or undermine that crucial argument.

This apparatus provides what at first sight is an elegant and powerful device for analysing cases. But there were internal tensions and flaws in the system, which invited later theorists to introduce a variety of modifications, some of which can be traced in Cicero's successive changes of position. The details need not concern us here;[11] it is enough to say that the Hermagorean apparatus in the end broke down entirely. By the second century AD its main terms had been redeployed. Now a charge (*αἴτιον*: Orestes killed his mother) is countered by the crucial argument of the defence (*συνέχον*: the killing was justified because she had killed his father); and these give rise to the point for adjudication (*κρινόμενον*: was the killing justified?). This scheme conspicuously lacks analytical power. Of the second-century theorists discussed below (§2.6–9), Minucianus thought that the concepts could be given new point as a basis for diagnosing defective themes which lack issue, but Zeno and Hermogenes dropped them altogether.[12]

The breakdown of Hermagoras' diagnostic apparatus did not rob issue-theory of all practical point. It remains true that a speaker who knows what kind of dispute he is engaged in will find it easier to identify arguments relevant to a given case. So for Quintilian the practical benefit of issue-theory is a list of potentially useful topics for each issue. But when he catalogues these topics in his account of invention in Book 7, one might feel that the extensive and complex prolegomena to issue-theory in Book 3 have produced a disproportionately meagre harvest of practical benefit. In the analyses of declamation themes in Seneca's *Controversiae* issue-theory is almost invisible.[13] It is somewhat more in evidence in the *Minor Declamations* attributed to Quintilian.[14] When this teacher reminds his pupils that 'I have

[11] See Heath 1994*a*. Other aspects of the development of Cicero's rhetorical theory: Braet 1989; Reinhardt 2000.

[12] Heath 1994*a*, 125–8.

[13] See Fairweather 1981, 158, for Seneca's limited use of the terminology of issue-theory (which she overestimates: contrary to 166f., *color* in Seneca is not a technical term of issue-theory: Heath 2002*a*, 292f.; and n. 25 below).

[14] Dingel 1988, 66–8, with 69–157, analysing individual declamations in terms of issue-theory (I do not always agree with his assignments: n. 18 below).

often told you the easiest way to identify the issue. You all know what they [sc. the issues] are' (320.1), his comment suggests an explanation for the very limited explicit use he makes of issue-theory: perhaps it was such elementary and familiar doctrine that his students were able to supply the answers for themselves. But if they did, how much would it have helped them? There is little sign in [Quintilian]'s practice that identifying the issue guides invention in any systematic or powerful way. In fact, first-century rhetoricians provide little evidence to support my programmatic claim (§2.1) that issue-theory provided the most important step in the preliminary analysis of any rhetorical problem.

The innovations introduced in the second century transformed this situation, developing issue-theory in a new direction that restored its power as a tool of preliminary analysis. By Hermogenes' time, what in Quintilian was a loose collection of potentially useful topics had been worked out in much greater detail, and had been organized into ordered sequences. Now the division (*διαίρεσις*) of an issue into its constituent heads of argument (*κεφάλαια*) provides the speaker with a ready-made outline of his case, defining an appropriately ordered sequence of steps to be followed in developing the argument. The speaker's task is to give the argument concrete form by relating its abstractly formulated heads to the particular circumstances of the case in hand.

2.3 ISSUE-THEORY: AN ILLUSTRATION

So far the discussion of the difference between second-century issue-theory and its predecessors has been entirely abstract. At this point it might be helpful to give a concrete illustration, contrasting first-century treatments of a declamation theme with the treatment proposed in later Greek theory. The choice of example is limited, since there are surprisingly few themes for which a sufficiently detailed treatment is preserved in both Seneca and [Quintilian]. Of these few, the one that will best serve our purpose works with the law, commonly assumed in declamation, that a rape-victim may choose between marriage to the rapist and his death. In the case to be considered here the victim accuses a young man of rape and requests marriage; the accused denies the rape, and the case goes to trial; after his conviction the

young man agrees to the marriage, but the woman claims the right to make her choice. That has an obvious and alarming implication for the rapist, and he contests her entitlement.[15] This theme does not appear in any later Greek source, but it may be an instructive exercise to apply the Hermogenean system for ourselves.

The woman's legal right to choose is indisputable, so her opponent must claim (i) that she has already exercised that right, and (ii) that she is not legally entitled to revise the choice she has made or to make a second choice. According to [Quintilian], the second part of the opponent's claim is necessarily accepted on both sides; in Seneca, by contrast, Latro and Fuscus both treat it as open to question. But that does not offer a secure foundation on which to argue the woman's case. The right of revision would, if acknowledged, be generally applicable, allowing a shift of the focus of attention from the circumstances of the particular case to questions of broader principle. Once the opposition begins to explore the consequences of making a legal right of election open-ended the woman's case becomes too easily exposed to caricature and mockery. If, however, attention remains focused on the particular case the opponent's behaviour makes him very vulnerable to attack. So I shall assume, at least initially, agreement on the right to make a single choice once. That does not exclude the possibility that a justification for a revisable choice can be insinuated in the course of an argument based on the claim that the choice has not yet been made.

The question, then, is whether the woman has exercised her right to choose. This is not, of course, to be understood as a conjectural question: there is no doubt about the fact that the woman initially requested marriage. Rather, the question is whether her doing so is to be counted as making her choice. A paradigm instance of the exercise of the woman's right to choose would involve a choice concerning a confessed or convicted rapist; here, since there was no confessed or convicted rapist when she requested marriage, what she did is 'incomplete'

[15] Sen. *Contr.* 7.8; [Quint.] *Decl. Min.* 309. Kaster 2001 has good observations on rape in declamation themes, including (331–4) a discussion (and partial translation) of *Decl. Min.* 309. For an introduction to the conventionalized setting of declamations: Russell 1983, 21–39.

in relation to the paradigm. The issue is therefore definition.[16] The woman's advocate must argue that the absence of a confessed or convicted rapist makes a material difference sufficient to disqualify her initial expression of preference as a valid choice. The opponent must argue that there is no relevant difference.

In Hermogenes' division of definition[17] the first, preliminary, stage is a *presentation* (προβολή) of the salient facts of the case, with moderate amplification designed to highlight their relevant features. The main part of the division is based on the confrontation between a strict *definition* (ὅρος) and a looser *counterdefinition* (ἀνθορισμός); the latter is supported by an argument that the strict definition is based on a distinction that makes no relevant difference (*assimilation*, συλλογισμός), which will of course be opposed on the other side. Both parties try to show that their position accords better with the *legislator's intention* (γνώμη νομοθέτου) and that the features of the situation which they have highlighted are intrinsically significant and outweigh those emphasized on the other side (*importance* and *relative importance*, πηλικότης and πρός τι). This is the core of the argument. It is then possible to introduce a *counterposition* (ἀντίθεσις), an argument to the effect that the blame attaching to an admitted wrongdoing is outweighed by some consequential benefit, or should be referred to the victim or some third party, or can in some way be mitigated. A possible response to this is an *objection* (μετάληψις), which argues that one or more of the circumstances of the act count against the defence;

[16] Cf. Hermogenes 37.1–5: 'If the matter to be judged is clear, one must next consider whether it is complete or incomplete. By "incomplete" I mean that when some deficiency is supplied a description is immediately available, and the act contains no further scope for enquiry. In such a case, the issue is one of *definition*. The issue of definition is an enquiry into the description of an act that is partially performed and partially deficient with regard to the completeness of its description.'

[17] Heath 1995, 101–11. There I refer to the 'first speaker', an expression meant to cover both prosecutors and petitioners. In the present case it is the opponent who appeals to a broad construal of what counts as a valid choice ('counterdefinition' in Hermogenes' terminology) and thus has the role assigned in my analysis to the 'first speaker' (a similar ambiguity arises in letter and intent: ibid. 141). But since the jurisdiction in our example is fictitious there is no determinate answer to the procedural question of who speaks first. I have assumed that the young man initiates a case to block the choice with the woman as respondent, but one could also imagine the woman petitioning to be allowed to make the choice and the young man replying.

this in turn may be met with a *counterplea* (ἀντίληψις), reasserting its legitimacy. The concluding heads, *quality* (ποιότης) and *intention* (γνώμη), examine the character and intention of the parties with a view to amplifying (or diminishing) the reward or punishment they deserve.

The young man's presentation will focus on the fact that the woman, having made her choice, is now, against all precedent and reason, demanding to be allowed to make it again. It is absurd to claim that her previous choice was invalid: the man was in fact the rapist, and the victim knew that. Those are the only conditions that need to be fulfilled for the choice to be valid. It makes no difference whether the rapist himself and/or the subsequent verdict of a court have confirmed the facts which the victim already knew. The woman herself has testified that no such confirmation was necessary by her willingness to make her decision in its absence. The law cannot possibly be understood as allowing a second choice: that would in effect violate the established principle that one cannot be tried twice for the same offence. To be sure, if the woman now regrets her choice she is entitled to waive her claim to marriage, just as she could have exercised clemency had she chosen death; but that does not mean that she is entitled to another choice in addition to the one the law allows her. When she made that choice, what she knew about the man was sufficient basis for her choice: she knew that he had raped her, and the denial cannot be a worse fault than the crime itself. Here the young man will need to provide a more creditable explanation of the denial than the unrepentant contempt for the law that the woman's advocate will ascribe to him. He might claim, for example, that he honestly had no recollection of something he had done when he was drunk, and was so appalled by the crime that he did not believe that he could have committed it. This will lead into his attempt to mitigate the rape: it was entirely out of character, and due to inebriation. Certainly he did wrong, but he does not deserve death. His error was a human one and in keeping with his youth.

The woman's advocate, after highlighting the heinous nature of the rape itself, will point out that the law permits the victim to choose the rapist's fate, which is what she now wants to do. She has not made a valid choice hitherto, since such a choice cannot be made until the rapist has confessed or been convicted. That

does make a difference, since the man's attitude to his crime is a relevant factor in the choice. In the present case the man's refusal to acknowledge his guilt, and his evident dislike for the woman (shown by his wish to avoid the marriage), indicate that the marriage is unlikely to be a satisfactory one from the woman's point of view. The law is concerned not so much with the perpetrator of the rape (in that case it would simply lay down a penalty) as with the victim. Its primary intention is to protect her interests, and so it places the power to do this in her hands. It is obvious, therefore, that the victim should have the maximum information and discretion when she exercises her right to choose. The man's guilt is aggravated by his denial of the crime. He has done something for which the law deems death a suitable penalty, and nothing he says to excuse himself can erase his guilt. He simply should not have conducted himself in such a way as to incur it. Unrepentant criminal as he is, in offering palliatives he is trying to deceive the court just as he did before; only his tactics have changed. It is the victim who deserves sympathy and support.

In the procedure followed here identifying the issue gives access to a model strategy for handling the case. By contrast, the analyses in Seneca and [Quintilian] proceed without specifying the issue or making any reference to issue-theory. Dingel suggests that the issue is quality, for what seems to me an unsatisfactory reason.[18] But even if that were correct, identifying the issue gives little guidance about how the theme is to be handled; invention is left to proceed on its own resources. The fact that neither Seneca nor [Quintilian] thinks the issue worth specifying confirms our earlier observation on the theory's limited role in their practice. How, then, do they proceed in this case?

In Seneca, Latro identifies three questions (*Contr.* 7.8.7).

[18] Dingel 1988, 129: 'Insofern das Pladoyer einfach auf den Worten des Gesetzes . . . beharrt, liegt *qualitas* vor.' But Sen. *Contr.* 7.8.8 ('raptor defuit: non est ista optio; sermo est') points to definition. Quint. 7.8.4–6 treats a related theme (the rapist goes into exile and the victim marries; on his return, she seeks her choice) as assimilation: quia responderi potest "non est scriptum . . . ut quandoque rapta optet . . .", ex eo quod manifestum est colligitur quod dubium est', the question being 'an quod ante, et postea.' Cf. the variant in [Quint.] *Decl. Min.* 280, Sopater *RG* 5.195.20–196.6 ~ 4.794.13–795.2. Assimilation and definition are closely related, but in the present case the prior choice is an important factor: if the woman concedes that she has already made a valid choice her grounds for claiming that the law permits a second choice are weak.

First, was the woman's choice valid? She denies it, because it was not then established that he was the rapist; but this makes no difference, since he was in fact the rapist. Second, if her choice was valid,[19] is it revocable? Judges cannot change their verdict; it is not in the public interest for the exercise of great power to be prolonged; no final decision could be reached if every choice can be changed. Third, if a choice can be revoked in some circumstances, ought it to be in these? This is answered by a defence of the young man who denied the rape. Fuscus' analysis (7.8.8) is somewhat different. First, can a rape victim make her choice more than once? She will say that, while the law specifies the alternatives between which the choice is to be made, it does not specify that it is only to be made once; however, if she now chooses death she will have chosen both marriage and death, which does violate the law. Secondly, there is the woman's claim that she has not yet made a choice: in the absence of a rapist, a legally valid choice could not be made. (No response to this point is recorded.) Thirdly, was her choice ratified by the subsequent verdict? The rapist says that the trial was to determine whether her choice was to be ratified; the woman says it was to determine whether she was entitled to a choice. Finally, there is the question of equity: should the choice be ratified? Subsequent sections offer a variety of views on the line the young man should take over the circumstances of the rape and the reason for his denial. The point is made that the judges who found him guilty did so in the belief that the woman had chosen marriage; if they had thought that his life was at stake, they might have reached a different verdict.

The tone and content of the young man's self-presentation are also an important concern for [Quintilian], who gives him a long and elaborate prologue. In the properly argumentative section he takes the view (as noted earlier) that it must be taken as agreed that the woman has the right to choose and does not have the right to choose twice. The woman says she has not exercised her right, because the rapist's identity had not been established when she made her choice; but this distinction is not made in the law. His denial meant that a trial was needed to establish whether, when she made her choice, she had the right to do so; its outcome

[19] The transmitted text has 'invalid' ('si iniusta optio fuit'), which I find puzzling. If the choice is invalid what is there to revoke? The second question surely arises only on the assumption that a valid choice has been made.

proves that she did. This argument about the law is followed by one concerned with equity: extending the power of life and death would be tyrannical and cruel. It would be inconsistent to excuse the rape and treat the denial, motivated by shame, as a capital offence.

2.4 THE SIGNIFICANCE OF THE NEW THEORY

The analysis that Hermogenean issue-theory produces obviously yields no more than an outline of a way to argue the case. Much more is needed to build a full speech: techniques for articulating the argument in detail, for presenting character and swaying emotion, and for the effective stylistic expression of the material. For instruction on these techniques one must turn to texts other than *On Issues*. That puts in proportion the level of rhetorical accomplishment required to produce such analyses. It is an application of a very elementary stage of the discipline, and there are more complex and demanding processes which remain to be learned when this has been mastered. But that does not rob the analytical process of its significance. It is crucial to an understanding of late ancient rhetoric that one of the most basic stages in rhetorical training was designed to furnish a foundation of coherently organized argument on which the superstructure of a speech could be built.

The relative merits of my Hermogenean treatment of the illustrative theme and the Roman treatments is something that readers must judge for themselves, charitably bearing in mind that they are comparing properly trained professionals with an amateur autodidact. For present purposes I need only maintain that, if it enables an amateur to produce passable analyses rapidly and with relatively little effort, the Hermogenean system's pedagogical effectiveness as a device for guiding and stimulating invention is undeniable. Two features of the system, in particular, help to achieve this result. First, the template guides one to relevant arguments by providing a series of slots to be filled; at each stage the question 'what might be said under this head?' has to be considered. Secondly, the quasi-dialogical structure of the template means that in trying to answer that question one has at every stage to keep in view what could be said on the other side.

Clearly, the ordering of heads in the division is a significant factor in this system, and Hermogenes' commentators give considerable attention to evaluating the relative merits of alternative sequences. That does not mean that the theory constrained speakers to adhere rigidly to a predetermined structure. One teacher, some of whose essays were transmitted with the works of Dionysius of Halicarnassus, explicitly warns his pupils against mechanical adherence to a fixed order of heads of argument: arguments should be organized to suit the needs of the case in hand, rather than following a fixed template, like reciting the alphabet from A to Z ([D.H.] *Art* 10.6, 363.11–20).[20] That warning would scarcely be needed by one of Quintilian's pupils, but it is easy to see how an incautious user of a textbook like Hermogenes *On Issues* might fall into such an error, and why someone trained in that way would need to be warned against it. But the theorists who discussed the merits of alternative sequences were themselves insistent on the need to adapt one's approach to fit the specific needs of each case—to replace natural order with artificial order, order (*τάξις*) with 'economy' (*οἰκονομία*).[21] Theory defines an order that is optimum in general, but the speaker's task is to identify the order that is most appropriate to the given case. That does not render theory otiose, for in knowing the 'natural' order of the heads (the one likely to prove optimal in most cases) the speaker has substantial advantages: a default strategy, and a ready-made starting-point from which to consider the merits of possible adaptations.

Quintilian argues for the value of rhetorical theory in general along these lines (2.11, 10.3.15): without it one is reduced to

[20] Heath 2003*a* argues that chapters 8–11 of the pseudo-Dionysian *Art of Rhetoric* (cf. §2.5, §2.10, §7.3) are the work of a single author (82–98) of the early second century (100–2). This dating supports, but does not depend on, the identification (102f.) of the author as Aelius Sarapion, an Alexandrian sophist active under Hadrian (*Suda Σ*115); the further identification of this sophist with an epigraphically attested Aelius Serapion (103f.) was proposed independently by Puech 2002, 200–3.

[21] e.g. Sopater *RG* 5.119.1–8 ~ 4.307.6–11; Athanasius *PS* 176.4–12; anon. *PS* 236.12–18 (*οἰκονομία* is *τάξις ἄτακτος*: cf. the scholia to *On Invention* in Kowalski 1939*b*, 89.27f.). Georgius fol. 116r (Schilling 1903, 743) criticizes Harpocration's view on the variable order of the heads known as importance and relative importance (Heath 1995, 107), on the grounds that it introduces considerations of economy into a theoretical context that should be concerned with natural order.

staring at the ceiling in the hope that something will come to mind, or striking out at random; rapid composition requires practice, but also method (*ratio*). This aspect of the practical usefulness of issue-theory's division of rhetorical problems into an ordered sequence of heads was recognized by the philosopher Alexander of Aphrodisias, writing in the late second or early third century. He uses it to illustrate the analogous advantages of a method in logic (*In Top*. 27.21–4):

> Just as in rhetorical exercises those who can divide problems and who comprehend the order [τάξις] of the heads find it easier to conduct the argument, so too in dialectic those who know the method have a readier supply of arguments relevant to the subjects of debate.

It is significant that Alexander can take familiarity with the theory and an understanding of its function in rhetoric for granted. So can Galen. Arguing for the importance of practical experience in medicine, he makes the converse of Quintilian's point: rhetors do not think that it is enough to learn a method for dividing every subject, but also do exercises (*Plac. Hipp*. 2.3.16). Such casual references in non-rhetorical contexts provide evidence (if any is needed) that the theory of issues and their division was not a recondite piece of specialist knowledge.

It is now possible to answer a question raised earlier (§2.2). The change in the number of issues (that is, the shift in the level at which the term 'issue' is applied) does express a systemic change in the nature of issue-theory. If the practical benefit of identifying the issue of a rhetorical problem is the access it gives to a model pattern for arguing that case, then it makes sense to situate 'issue' at the most delicate level of discrimination. Since the point of issue-theory lies in defining the ordered sequence of heads of argument optimal for the handling of each different kind of dispute, a separate issue is needed for each distinct sequence of heads.

This development may also be connected to another theoretical change. In Hellenistic rhetoric the prevailing conception of the standard structure of a speech treated proof and refutation as distinct parts (Cic. *Inv*. 1.19; *Rhet. ad Her*. 1.4). Quintilian explicitly asserts this view in the face of those who envisage a single section integrating positive and negative arguments (3.9.1, 5). But the position which Quintilian rejected became the established

norm for Greek theorists of the second century, who distinguish only four standard parts: proem, narrative, arguments, and epilogue.[22] Integrating proof and refutation into one argumentative section is the natural consequence of a theory which arranges the arguments on both sides into a single, quasi-dialogical, sequence of heads. There is reason to believe that the new developments in issue-theory were also associated with a change in the structure of theoretical exposition and the underlying structure of the rhetorical curriculum (§7.1) that in turn has implications for students' progression from classroom to career (§9.8).

2.5 THE ORIGINS OF THE NEW THEORY

We have seen what issue-theory had become by the end of the second century. Can we say in more detail how it got there? Unfortunately, we cannot. The transformation of rhetoric was a continuing process, and rendered its earliest stages obsolete as well as its antecedents; so evidence for the process of change has largely been lost. We can only try to build a cumulative case by piecing together a number of inconclusive indicators.[23]

In Quintilian there is no trace of the thirteen-issue system (eight is the largest number appearing in his survey: 3.6.55), and division into fixed heads of argument is rudimentary. For conjecture we find what is in effect a recommended sequence of heads (7.2.27–50), although it is not set out with great clarity; but the 'fixed order' (*certus ordo*) for definition (7.3.19) embraces only two points. Quintilian insists, in fact, that it is only possible to articulate a 'natural' order of heads for each individual case (7.10.4–9);

[22] Heath 2002*b*, 665f. To the evidence given there (from rhetorical theory, declamation, and rhetorical commentary) add Galen *Thrasybulus* 24 (5.848.11–17 Kühn). Sulpicius Victor gives the four-part analysis at 320.14–16, reflecting his second-century Greek source Zeno (§2.6), but prefers to distinguish proof and refutation (322.4–10, 324.15–20).

[23] We may disregard a testimonium (*PS* 189.3–7) to Telephus of Pergamum *On Rhetoric in Homer*. Since this late source would have taken the thirteen-issue scheme for granted, the testimonium does not provide reliable evidence for the number of issues recognized by Telephus. The infrequent references to issues in the Homeric scholia do not reflect the thirteen-issue system: Heath 1993. More generally, the speculative inflation of Telephus' influence in Schrader 1902 has been thoroughly discredited: Schmidt 1976, 48–50; Hillgruber 1994, 61f.

thus he rules out in principle what later Greek theorists believed they had achieved. But Quintilian's treatment of conjecture may show the seed from which the later theory developed. Already for Seneca conjecture has 'a fixed and well-trodden path' (*Contr.* 7.7.10, cf. 7.3.6). Conjecture is the most common kind of case in practice (*Rhet. ad Her.* 2.12) and therefore the most extensively theorized, so it would not be surprising if it was analysed earlier and in more detail than other issues. Perhaps it was progress in conjecture which gave the impetus to a more generalized effort, and thus indirectly to the trend to increase the number of issues.

We cannot be sure how far in advance of Quintilian contemporary Greek theorists were. It is not clear, for example, whether his rejection of a generalized natural order of heads was meant as a statement of the obvious, which subsequent developments called into question, or as an allusive critique of what some contemporary theorists were trying to do. But the younger Hermagoras, probably active early in the second century, recognized only seven issues, and Lollianus, who held a chair of rhetoric in Athens around the late 130s and early 140s, still recognized only five.[24] One fragment of Hermagoras does, however, suggest that his treatment of conjecture agreed with later theory in identifying as a distinct head of argument what he called the 'gloss' and his successors called the 'transposition of the cause'.[25]

We have seen (§2.4) that one of the essays falsely attributed to Dionysius of Halicarnassus warns against mechanical adherence to a fixed order of heads. That warning presupposes the development we are considering. Since the work probably dates to the first part of the second century (n. 20 above), that is consistent with the evidence of Lucian, who is likely to have been born a little before 120,[26] and would therefore have undergone his rhetorical training in the 130s. His declamations *The Tyrannicide* and *The Disinherited Son* can be analysed in ways that approximate closely to the divisions of (respectively) definition and counterplea found

[24] Hermagoras and Lollianus: Heath 1994*a*, 123–5; 2002*a*, 291; 2003*b*, 150–2; 2003*c*, 3. Epigraphic evidence for Lollianus: Puech 2002, 327–30.

[25] This fragment (transmitted by Porphyry *RG* 4.397.14f.) has generally been attributed to Hermagoras of Temnos: *contra* Heath 2002*a*, 292f. Transposition of the cause: Heath 1995, 87–9, on Hermogenes 49.7–50.19.

[26] Baldwin 1973, 10f.

in later second-century theorists.[27] The resemblance is closest to those of Zeno, who was teaching in Athens in the 160s and is (I shall argue) the earliest theorist in whom the thirteen-issue system can be observed in a well-developed form (§2.6–7).

The transcript, preserved on papyrus, of a trial concerning a claim for the repayment of a deposit which took place in Arsinoe in AD 127 may provide corroboration.[28] The defence cleverly turns the case into an accusation of fraud against the plaintiff, producing what in later theory would be called a conjunct (*συνεζευγμένος*) conjecture: the primary question (did the plaintiff make the deposit?) gives rises to a second question (is the plaintiff engaged in a fraud?). The advocate's handling of the argument shows striking points of correspondence with the heads of argument specified in later theory: exception (*παραγραφικόν*), motive and capacity (*βούλησις*, *δύναμις*), sequence of events (*τὰ ἀπ' ἀρχῆς ἄχρι τέλους*), transposition of the cause (*μετάθεσις τῆς αἰτίας*), and demand for evidence (*ἐλέγχων ἀπαίτησις*). This last does not appear early on in the argument, in the standard position recommended by the handbooks, but as a (would-be) climactic knock-out blow. This is a good example of the principle that the default or 'natural' order of the heads of argument can be varied according to the needs of a particular case (§2.4); reserving a seemingly decisive point to a climactic position at the end of the speech seems well judged.[29] Whether we have here the implementation of a less developed version of the scheme found in later theorists, or a flexible implementation of something close to the later scheme, is uncertain. Moreover, we cannot exclude the possibility that the convergence is due to the shared constraints inherent in conjectural cases, rather than to any underlying common theory. In itself, therefore, the case is of limited evidential force; but taken with the other pointers mentioned here it is suggestive.

A recently published second-century papyrus preserving fragments of a rhetorical treatise may attest to debate accompanying

[27] Heath 1995, 176–8; Berry and Heath 1997, 410–14 (410 n. 33 notes the resemblance to Zeno).

[28] P.Mil.Vogl. 25, reprinted *SB* Beiheft 2 (1961), 30–3. See further §9.7 and (in more detail) Heath, 2004*b*, 65–70.

[29] This particular postponement has theoretical warrant in later texts: Syrianus 2.72.9–12. Marcellinus *RG* 4.336.7–13 and *PS* 300.15–301.1 cite Demosthenes *On the False Embassy* as a precedent.

the emergence of the new system.[30] The text certainly makes use of the terminology of issue-theory (i.31–4, ii.21–54), and when the extant portion begins (in mid-sentence) it is concerned with heads of argument: '. . . I myself, when I speak about the heads, give instruction on the starting-points (*ἀφορμαί*) for each, one could bring many charges and criticize me for not giving instruction on the heads' (i.1–6). It is impossible to reconstruct the argument with any confidence, since we do not know whether the sentence began with 'if' or 'unless' (and is it giving instruction on the starting-points, or *just* on the starting-points, that is the problem?). It is at any rate clear that the author is engaged in a dispute with opponents who are interested in topics (*τόποι*); and this dispute involves 'those who have divided discourse into three genera (*γένη*) and expounded the topics in that way' (i.8–10). The appearance of Theophrastus' name (i.12) calls to mind some testimonia. In one, Theophrastus' thinking about the conduct of rhetorical argument is associated with the three classes of oratory: 'Internal (*ἐνδιάθετος*) reason is ordered by the *Arts* of Lollianus and Theophrastus on epicheiremes and enthymemes, which teach what kind of enthymemes one should use when making an accusation, giving advice or speaking an encomium' (*PS* 232.4–8, cf. 188.6f. = F673A Fortenbaugh). In another he is named alongside two of the major rhetorical theorists of the early second century: 'Theophrastus wrote an *Art of Rhetoric* on enthymemes, and Alexander son of Numenius, and Lollianus on rhetorical starting-points . . .' (*PS* 292.28–293.2 = F673B). We know that Alexander defined a topic as a starting-point for finding an epicheireme (Anon. Seg. 169). Are he and Lollianus the opponents whom the author of the treatise in the papyrus has in view? We have seen that Lollianus had views on issue-theory, but there is no evidence that he was concerned with their division into heads. Perhaps, then, we have here a glimpse of a debate between an approach to invention based on topics and one based on the division of issues into their constituent heads.[31]

Although the interpretation of that papyrus is extremely un-

[30] Hancock Museum inv. NEWHM: AREGYPT 522. Text and commentary: Parsons 2001.

[31] Invention based on division into heads did not, of course, render topics, epicheiremes, and enthymemes irrelevant: Zeno wrote a book on epicheiremes (§2.6), and see Syrianus 1.57.6–10 for Basilicus' monograph on topics.

certain, the evidence it provides for theoretical disputes over the basis for invention does remind us that the introduction of the new approach is unlikely to have been uncontested or to have proceeded at a uniform pace. In the third century an otherwise unknown sophist named Phrynichus dismissed issue-theory as 'drivel' (*φλυαρία*), and taught his pupils to speak through unstructured improvisation.[32] It is not entirely clear what his position amounted to. The level at which he taught will make a difference, since it is easier to be dismissive of theory if one can be confident that one's pupils will already be well-grounded in it (§7.1). But Phrynichus might be a successor to those who, according to Quintilian (2.11 f.), rejected theory.[33] The fact that Phrynichus' position is described as ridiculous in our sources is not surprising in itself, since they were written by theorists. But there is no doubt that the new system of issue-theory came to dominate the subsequent history of rhetoric. Although Himerius (74.4) refers approvingly to Phrynichus' dictum that 'talk always comes from talking', the remnants of his declamations show signs of adhering to the conventional divisions.[34] When Anatolius, the prefect of Illyricum, visited Athens in around AD 345 he sent a rhetorical problem for the sophists to prepare; they were unable to agree on its issue, and Anatolius mocked this case of *quot homines tot sententiae* by remarking that if there had been more than thirteen of them they would have needed to invent some new issues (Eunapius 490–2).[35] The joke reflects the canonical status which the thirteen-issue system enjoyed in the fourth century.

[32] *PS* 364.14–7.12; Syrianus 2.3.23–5.14; cf. §3.9. Chronology: Schenkeveld 1991, 493 f.

[33] Quintilian's opponents: Winterbottom 1995, 317–21. Philostratus' description (*VS* 590) of Hadrian of Tyre as 'not ordered (*τεταγμένος*) nor adhering to theory (*τῇ τέχνῃ ἑπόμενος*)' in his performances looks similar. Is Philostratus saying that Hadrian does not adhere to the principles of order laid down in theoretical texts (a hendiadys)? Or that he follows neither natural order (*τάξις*) nor artificial (*τεχνικός*) order? Or that, as well as the lack of order, he has other unspecified technical faults? But Hadrian was not an anti-theorist: he wrote three books on issue-theory and five books on idea-theory (*Suda A*528): cf. §2.10.

[34] Heath 1995, 24 n. 67. For the dictum cf. Cic. *de Or*. 1.149.

[35] Date and prosopography: Penella 1990, 88–91; Henck 2001, 180. Eunapius' hero Prohaeresius triumphed by securing inside information about Anatolius' preferred solution. The theme appears to have been a deliberate trick (cf. 489 for a trick theme used unsuccessfully to set a trap for Prohaeresius by his rivals), but Eunapius does not tell us what it is. Perhaps it resembled the problems in

2.6 ZENO

The *Suda* (*Z*81) records a Zeno ('of Citium': but this probably arises from a confusion with the Stoic) who wrote a number of technical works on rhetoric, including one *On Issues*. The Latin rhetorician Sulpicius Victor names a Greek rhetor Zeno as the main source for his *Institutiones Oratoriae* (313.2–4), which is primarily concerned with issues and presents a version of the thirteen-issue system less elaborate in some respects than that found in Hermogenes. Philostratus (*VS* 607) tells us that the sophist Antipater of Hierapolis (Aelius Antipater), a pupil of Hadrian of Tyre and Pollux, also studied theory (*τὸ περὶ τὴν τέχνην ἀκριβές*) with Zeno of Athens. Since Antipater was born in or soon after AD 144, Zeno must have been active in Athens in the 160s. There can be little doubt that all these testimonia relate to one man. Here, then, we seem at last to have reached relatively firm ground.[36]

PS 252.2–253.12: (i) 'It is illegal to propose a cancellation of debts. During a military emergency, someone burnt his loan contracts. Others followed his example. The debtors defeated the enemy.' The man, when charged with proposing a cancellation of debts, could use definition, counterplea, mitigation, and counterstatement. (ii) 'A man had all his property plundered by an invading army. He seized private property, belonging to an obstinate debtor from whom repayment of the loan had frequently been demanded, from a temple with the agreement of the priest. With this property he saved the country from the enemy. He is prosecuted by the debtor.' The source suggests that, depending on the circumstances, the man could use objection, conjecture, definition, counterplea, exception (Rabe's emendation of 'practical'), mitigation, counteraccusation, and transference; counterstatement should be added to make up the nine issues announced at 252.16.

[36] In this section I draw on Heath 1994*b*, 17–19 (to the bibliography add Puech 2002, 473f., on a very uncertain epigraphic attestation); cf. Gloeckner 1901, 104–7. Antipater: Gloeckner 1901, 106; Bowersock 1969, 55f.; Ritti 1988; Puech 2002, 88–94. Antipater is mentioned in *RG* 7.235.12–15 (obscure), 244.19f. (where he seems to agree with Minucianus against Zeno): see Heath 2003*b*, 152f., 162; 2003*c*, 5. Sulpicius Victor's date is uncertain (313.2–4 might mean that Zeno was one of his teachers, or that his teachers based their teaching on Zeno's doctrines), but in view of the apparently rapid displacement of Zeno's treatise by Minucianus and Hermogenes I would not want to place Sulpicius' student days much if at all beyond the end of the second century (Gloeckner 1901, 107, places him around 200 or early in the third century). There is no independent basis for dating Marcomannus, also named by Sulpicius; the history of Rome's dealings with the Marcomanni is too long and varied for the name to reveal anything.

Sulpicius indicates that he has omitted material, changed the order of presentation, and made insertions from other sources (313.4–6). But he is careful to mark departures from his source (321.29–31, 338.36f., 341.26f.); he retains in 320.13–16 the scheme of four parts of a speech (characteristic of Greek theory in this period: §2.4) which he rejects in one of his explicit additions to Zeno (322.4–9); and he retains one of Zeno's illustrations despite thinking the theme flawed (338.28f.). These facts suggest that in the absence of explicit dissent Sulpicius is likely to be following Zeno closely. Although his source dealt primarily with issue-theory, it included more general prolegomena. For example, Sulpicius' source (316.3–22) discussed the 'species and modes' of question which Hermogenes (34.16–35.14) polemically excludes as irrelevant to a treatise on issues.

The *Suda* attributes two other theoretical works to Zeno, *On Figures* and *On Epicheiremes*. The latter may be the source of his definition of paradigm, preserved by the Anonymus Seguerianus (156).[37] The Anonymus also preserves his definition of narrative (48), but we do not know its original context (conceivably an expansion on the list of the parts of an oration summarized by Sulpicius at 320.13–16). In addition, the *Suda* mentions commentaries on Xenophon, Lysias, and Demosthenes. The commentary on Demosthenes is cited by name four times in the scholia:

(a) Sch. Dem. 1.5 (36b) rejects Zeno's view that Demosthenes is responding to a counterposition (*ἀντίθεσις*) based on the untrustworthiness of the Olynthians. This interpretation is given fuller treatment in the so-called 'prolegomena' (p. 8.3–21), where it is not attributed individually, but treated as the standard view ('the counterposition which everyone makes so much of . . . which the commentators have made up for themselves'). Supporting evidence of its currency is provided by [Apsines] 4.10. See further §5.10.

(b) The 'prolegomena' (p. 12.15–17) claim that one should not see a counterposition in Dem. 1.24 'as Zeno naively (*εὐήθως*)

[37] Zeno's definition of paradigm is also found at *RG* 5.396.2–7 (see §8.3 n. 29), which should be added to the testimonia in Heath 1994*b*; it is unclear whether the illustration there is also to be attributed to Zeno. Zeno has been credited with a work on idea-theory, mistakenly: see §2.11 n. 79.

supposed', but 'an epilogical thought based on necessity'.[38] See further §5.10.

(c) The scholia to the *Fourth Philippic* begin (p. 143.2–9) with a scathingly dismissive comment on the failure of 'those who have interpreted and divided the tenth speech before us' to see how the unusual circumstances of the speech account for its extensive and often verbatim reproduction of material from *On the Chersonnese* and the *Second Philippic*. Then we are told that the same interpreters had also completely misunderstood the speech's argumentative structure; the 'much-touted' (*πολυθρύλητος*) Zeno is one of those named at this point (p.143.24–6). See further §6.5.

(d) Sch. 20.44 (113b) disagrees with Zeno's explanation of the claim that Epicerdes was not making use of his existing immunity (suggesting, apparently, that he made contributions on a voluntary basis).

All these references are critical, sometimes sharply so, but the sarcastic 'much-touted' indicates a target of some standing. If the argument in Chapter 5 below is correct, the source in each case is Menander, who was perhaps making a point of attacking a respected and influential predecessor.

Zeno's commentary on Demosthenes and his work on issues must have been connected. Menander was not the first to apply the new form of issue-theory to Demosthenes; on the contrary, as we noted at the beginning of this chapter, the theoretical innovation provided new tools for exegesis and therefore required a renewed effort of commentary to replace what had now been superseded. Zeno, the earliest attested exponent of the thirteen-issue system, is also the earliest datable rhetorical exegete named in the scholia. (Earlier scholars are cited for historical and critical matter: their work had not been superseded by the developments in rhetoric.) But the almost inevitable consequence of a pioneering role is rapid obsolescence. Later references to Zeno are sparse. In the fifth century Syrianus knows of him both as a writer on issue-theory (2.60.11–14) and as a commentator on De-

[38] Counterpositions are admissible in the epilogue: sch. 19.134 (288a–c), 185 (375bc); 20.139 (338); 21.189 (636); 24.190 (343a), (344b). But Zeno perhaps marked a later start to the epilogue in this speech: cf. sch. 1.27 (181), 28 (187a–d).

mosthenes (1.13.6–10), but there is no evidence of direct access. If (as I believe) Porphyry was the source of the misleading testimonia to Minucianus' precedence (§2.8), then it was already possible in the middle of the third century to overlook Zeno's work on issues.

Philostratus mentions Zeno only once, in connection with someone else; he gives him no attention in his own right. Theoretical expertise and the composition of technical and exegetical works were not enough to engage Philostratus' interest. Likewise, although Philostratus does give attention to Antipater's other teachers in their own right, the rhetorical achievements which interest him were not their technical writings. It is from the *Suda*, not Philostratus, that we know of Hadrian's three books on issue-theory and five books on idea-theory (§2.6 n. 33); and Philostratus does not mention Pollux's *Onomasticon*. He does say that Lollianus lectured on theory (§7.1), but there is no mention of his extensive theoretical writings; what earned Lollianus his place in Philostratus was rhetorical (and social) activity of another kind. Nor do Philostratus' sketches make any reference to the writings of Aristocles of Pergamum (including an *Art of Rhetoric* and five books *On Rhetoric*) or Rufus of Perinthus. So we may conclude from Philostratus' indifference to Zeno only that he did not achieve distinction in the fields in which Philostratus was most interested; in particular, he was not a star performer in declamation. Hence, perhaps, the testimonium (*PS* 34.10f., 327.26f.) that Zeno 'had the reputation of a rhetor who only knew how to plead a case (δικάζεσθαι)'. Our source assumes that Zeno's competence was limited to the judicial class of oratory; if so, one could compare Apollodorus of Pergamum, *contentus solis iudicialibus* (Quint. 3.1.1, cf. 2.15.12). But there may also be an implied limitation to forensic practice, as distinct from the showier (and therefore technically more demanding) declamation.[39] That would contrast Zeno with someone like Lollianus, a Philostratean sophist whose talent as both advocate and declaimer is acknowledged in an honorific inscription (*IG* II² 4211). Not everyone whose rhetorical training equipped them to speak effectively in court had the added technical brilliance needed for success in declamatory and epideictic display; conversely, not everyone

[39] Gloeckner 1901, 107f.

who flourished in the competitive and theatrical environment of sophistic display was equally at ease in court. But many sophists had a mastery of the full range of styles, and were able to perform in both contexts (§9.4).

2.7 THE PROBLEM OF PRECEDENCE

I have claimed that Zeno is the earliest surviving example of the thirteen-issue system. But there are also testimonia, probably derived from Porphyry, identifying Minucianus as its first exponent.[40] I must now explain why I believe that these testimonia are unreliable.

The first piece of evidence arises from the treatment of conjecture. After explaining the standard division of conjecture Zeno discusses 'incomplete' questions (327.8–328.14). These may be incomplete in respect of person (e.g. 'Someone is found standing by a recently-slain corpse, holding a bloody sword; he is charged with murder') or act (e.g. 'A hero dies with symptoms of poisoning; his stepmother and captive concubine accuse each other of murder'). The point is not that either person or act can ever be wholly absent, but that in some cases one or other fails to provide resources for argument (cf. Hermogenes 30.10–16). Act and person both give grounds for argument in this theme: 'Odysseus is found standing by Ajax's recently-slain corpse, holding a bloody sword; he is charged with murder.' It is incriminating to be found beside a dead body holding the murder-weapon, and doubly so when long-standing enmity gives a plausible motive for the crime. But when Odysseus is replaced by the indefinite 'someone', the argument based on person disappears. Conversely, in the mutual accusations of stepmother and captive concubine the act (the fact of the hero's death and the indications of foul play) gives no indication of which woman is guilty, so the argument has to be based solely on person: which of the two had the greater motive and capacity?

Zeno next introduces the concept of the double question

[40] Sopater *RG* 5.8.21f.; Syrianus 2.55.1–3; anon. *PS* 60.14f. Porphyry: Heath 2003*b*, 150–3. The argument against Minucianus' priority is based on Heath 1994*b*, 19–22 (cf. 1995, 78f., 92f.), but the presentation here (proceeding forwards from Zeno rather than backwards from Hermogenes) may be easier to follow.

(328.15–29). The mutual accusation of stepmother and captive concubine provides an example, so this theme could be described as an incomplete double conjecture. But Zeno does not say this; he makes no attempt to correlate the classification of questions as complete or incomplete and as simple or double. Minucianus did attempt such a correlation. There can be complete and incomplete simple conjectures and complete and incomplete double conjectures; and both simple and double conjectures may be incomplete in respect either of person or of act. Thus 'Someone is found standing by a recently-slain corpse, holding a bloody sword; he is charged with murder' is a simple conjecture incomplete in respect of person. What would count as a simple conjecture incomplete in respect of act? Minucianus' example was: 'A man disappears; his dissolute son is charged with murder.'[41]

Hermogenes was fiercely critical of Minucianus' concept of a simple conjecture incomplete in respect of act, and rejected his example (31.6–18, 53.14–55.8). He insists that an incomplete conjecture based solely on person is possible only when the question is double, as in the mutual accusation of stepmother and captive concubine. Hermogenes contends that in Minucianus' example the act (the man's disappearance) does provide a basis for argument against the son if taken in conjunction with other factors; it is therefore analogous to a case such as this (31.1–6): 'Pericles records expenditure of 50 talents "for necessary expedients"; Archidamus is charged with receiving bribes.' The entry in Pericles' accounts in itself has no direct reference to Archidamus, but it is incriminating when taken together with other factors (such as Archidamus' conduct of the war). Hermogenes also maintains that the dissolute son, as well as countering the attack on his character, will try to show that there are other possible explanations for his father's disappearance; so the case does not lack arguments based on act. This critique of Minucianus prompted vigorous debate, the tendency of which was at first strongly in

[41] For the attribution see *RG* 4.128.18–21, 131.4–10, 131.13–17, 432.28f., 436.6–10; *RG* 7.135.27–9. According to *RG* 4.82.19–30 the man who is accused of murder because he repeatedly has himself purified for homicide had also been mentioned in this connection; but this is (as the commentator notes) an inept example. Menander (sch. Dem. 19.101 (227)) cites Isocrates *Against Euthynus* to defend the existence of the category against Hermogenes: see §6.3. The dissolute son appears in Fortunatianus 90.19–21, in a different theoretical context.

Minucianus' favour: in the third century only Metrophanes is known to have sided with Hermogenes, and other commentators are liable to dismiss his position as perverse.[42]

Zeno offers no example of a simple question incomplete in respect of act, but equally there is no trace of polemic in his exposition. If he wrote after Minucianus he was adopting a highly contentious position in a surprisingly unselfconscious way. This is not because he was routinely reproducing Hermogenes' views; his doctrine is not consistently close to that of Hermogenes. It seems more likely, therefore, that Zeno antedates Minucianus and represents an earlier stage of the tradition in which the possibility of a simple incomplete question based only on person had not yet been considered. The distinction between complete and incomplete questions, with the attendant categorization of incomplete questions as based on person or act, was originally formulated independently of the distinction between simple and double questions; it was Minucianus who first attempted to correlate the two.

A second piece of evidence arises from the treatment of the issue called 'objection' (μετάληψις) by Zeno and other adherents of the thirteen-issue system.[43] Since Sulpicius explicitly departs from Zeno on this point we can observe the modification of the system in progress. For Zeno, objection covers cases in which a defendant's claim that some law explicitly permits the act in connection with which he has been charged is countered on the basis of one of the circumstances of the act (in the technical sense: who, what, where, when, how, why?). For example, the law permits summary execution of both parties caught in adultery; a man kills the adulterer, but spares his wife; subsequently he discovers his wife weeping at the adulterer's tomb and kills her; he is charged with homicide (Zeno 339.15–22, Hermogenes 43.3–8). The man was legally entitled to kill his wife, but not then and there. This is termed *translatio* by Sulpicius, who tells us that others (he names Marcomannus as his immediate source) also

[42] Metrophanes on incomplete conjecture: §3.9 n. 51. Criticisms of Hermogenes: Sopater *RG* 5.142.24–145.3; *RG* 4.128.22–9, 131.11–132.25, 133.16–136.5, 432.4–32, 433.19–439.7. Acceptance: *RG* 7.133.13–136.11, 349.3–353.16.

[43] Detailed discussion in Heath 2003*c*; cf. Heath 1995, 78f., 134–41 (on Hermogenes 42.5–43.8, 79.17–82.3).

included *praescriptio* in objection. That enlarges the issue to cover cases in which the defence challenges the validity of the proceedings on the basis of some explicit legal provision (such as a procedural rule, a statute of limitation, or the rule of double jeopardy). For example, a poor man returns from an embassy to find that his son has been murdered, and that his two rich enemies have unsuccessfully prosecuted each other for the murder; he wishes to charge them both, but they enter an exception (*παραγραφή*) under the principle of double jeopardy (340.14–341.28). Zeno, Sulpicius tells us, included such cases under letter and intent (339.1 f.).

There is evidence that this dual treatment of objection was already present in Minucianus. According to Syrianus (2.55.3 f.), he said objection was double while treating (*ἐξετάζων*) it as a single issue; this must refer to the duality that arises from the modification. It is possible, though not certain, that it was Minucianus himself who introduced this change.[44] Certainly the modification became standard: we have noted that Sulpicius explicitly departs from Zeno in this regard; it is one of the many points on which Minucianus and Hermogenes were not at odds. For Hermogenes, too, objection has two different species (42.11–43.8, 79.18–82.3): his 'non-documentary objection' corresponds to Zeno's issue, while 'documentary objection' corresponds to *praescriptio* in Sulpicius.

Sulpicius points out that *translatio* and *praescriptio* both proceed from elements of circumstance. According to the one, this act is permitted—but not to this person, in this place, at this time, in this way, for this reason. According to the other, it is not possible for this case to be brought by this person, in this place, at this time, in this way, for this reason. Even so, the change produces a puzzling anomaly.[45] Issue-theory classifies cases according to their logical structure, but that basis of classification is abandoned when the objection acquires its second species. In *translatio* the argument turns on substantive points about the act and its circumstances. In *praescriptio* the argument turns on the interpretation of the law on the basis of which the validity of the proceedings is challenged. That needs a quite different pattern

[44] There is evidence that Zeno's pupil Antipater modified his theory (n. 36 above), but it cannot be proved that he modified it in this respect.

[45] For an additional terminological anomaly see Heath 1994*b*, 22 n. 11.

of argument, and it would seem that such cases would more logically be classed under the legal issues (such as letter and intent), as in Zeno. The internal structural problem which the reorganization of objection creates was to give later theorists considerable difficulties. Syrianus was one of a minority who divided it into two issues, creating a system of fourteen, rather than the canonical thirteen, issues; that was logical, even though it did not establish itself.

In the case of incomplete conjecture Minucianus modified an existing system in the interests of greater systematization. But that cannot have been the motive behind the modification of objection, which instead detracts from the theory's systematic coherence. There seems to be no fully satisfactory explanation for this development internal to issue-theory; I shall argue later that there was an external explanation (§9.8). Whatever the motive for the change, the two adaptations considered here both reveal Zeno presenting the thirteen-issue system in a form likely to antedate Minucianus. So we must conclude that the testimonia to Minucianus' priority are mistaken: he had at least one predecessor. That does not strictly prove that Zeno himself antedated Minucianus (it is possible that he simply ignored the innovations). But Zeno's apparently transient prominence in the tradition makes it likely that he was an influential predecessor whose contribution had been rendered obsolete by Minucianus, and had thus become lost to view by the time that commentators such as Porphyry tried to write its history. Even so, we cannot be completely sure that Zeno was Minucianus' only predecessor in the thirteen-issue system, or that he was the first user of the scheme.

2.8 MINUCIANUS

Philostratus mentions Zeno only once, and in passing, but he does not mention Minucianus at all.[46] He too, we may infer, was not a distinguished declaimer. But there are some notable testimonies to his distinction as a theorist. Our knowledge of him depends primarily on evidence preserved by commentators on Hermogenes, who frequently cite his doctrine. They make it clear that he was the target of certain polemical passages in

[46] For what follows see Heath 1996: some additions here.

Hermogenes, and they are sometimes sharply critical of the positions which Hermogenes takes up in opposition to him. That Hermogenes was directing his fire against a target of genuine stature is confirmed by the fact that commentaries were written on Minucianus' *Art of Rhetoric* in the third century; indeed, it seems to be the first technical work on rhetoric ever to have been made the object of a commentary (§3.8). After the third century, however, commentaries on Minucianus ceased to be written while those on Hermogenes *On Issues* proliferated. In the long run, therefore, it was Hermogenes who won the rivalry (and thus achieved a position which in the still longer run extinguished the critical stance which his commentators were initially willing to adopt). Minucianus' work then suffered the same fate as Zeno's. The information about him in Hermogenes' commentators is sometimes deeply inconsistent, suggesting that they did not have direct access to his text. Once Hermogenes was established as the standard handbook, Minucianus became superfluous. So did his commentators: material from Porphyry's commentary was preserved only to the extent that it could be adapted to the purposes of Hermogenes' commentators.

Minucianus' *Art* opened with the statement that 'the rhetor will speak on every political question' (*ὁ ῥήτωρ ἐρεῖ πᾶν ζήτημα πολιτικόν*, perhaps the only verbatim quotation surviving from Minucianus' *Art* apart from technical terms and definitions). The association of rhetoric with political questions is a commonplace, shared with Zeno and Hermogenes.[47] But Minucianus (unlike Zeno) did not define rhetoric or political questions. He probably did discuss the division of oratory into the deliberative, judicial, and epideictic classes, and may have given a list of the orator's seven tasks similar to that in *PS* 210.5–14. The first of these tasks

[47] Minucianus: *RG* 5.9.14–21, 26.24–9; cf. Zeno 313.8–25; Hermogenes 28.9–29.6. For documentation of the following summary see Heath 1995, 243 (index of references); 2003*b*, 155 f. 'Political' embraces all kinds of civic dispute, and does not imply 'symbouleutic', as Whitmarsh 2001, 97 n. 26, assumes. Conversely, *συνηγορία* means advocacy rather than 'public speaking' in general, so that Whitmarsh's interpretations of titles of lost works by Plutarch (184 f. n. 15) are sometimes misleading; in particular, *εἰ πᾶσι συναγορευτέον* is not 'Should everyone speak publicly?', but 'Should one act as advocate for everyone?': see Quint. 12.1.33–45, 12.7.4–7 (and recall Catullus 49.7). The treatment of *πολιτικός* and *σοφίστης* in Brandstaetter 1894 is thoroughly unreliable: see the critique in Walden 1909, 87–9 n. 2; cf. Avotins 1975, 318 n. 13.

is analysis (*νόησις*), which he certainly discussed: he was a target of Hermogenes' polemic about 'species and modes' of question; he made a probably innovative suggestion about the identification of themes lacking issue (§2.2); and of course he dealt with the issues and their division in detail. He had classifications of persons and acts similar to, though slightly less elaborate than, Hermogenes'. There were numerous differences in detail between Minucianus and Hermogenes in the exposition of issue-theory: differences in the ordering of the issues, the definitions, the divisions. But in substance Minucianus was offering the same kind of theory.[48]

Minucianus wrote other works. The *Suda* has an entry on a sophist Minucianus (*M*1087) which attributes to him an *Art of Rhetoric*, a *Progymnasmata*, and 'miscellaneous speeches' (*λόγοι διάφοροι*). At first sight this notice must refer to a different man, since he is given a *floruit* under Gallienus (260–8). But we know that an extremely influential *Art of Rhetoric* was written by a Minucianus whose work was available to Hermogenes and was subjected to commentary by Porphyry, while there is no other evidence for an *Art* by the younger Minucianus; so it is reasonable to conclude that here (as often elsewhere) the *Suda* has conflated homonyms. As for the *Progymnasmata*, since it also received a commentary in the third century (by Menander) this work too probably belongs to the second-century Minucianus. Without competition from a comparable work of Hermogenes the *Progymnasmata* may have remained a standard text until the fourth century, when Aphthonius wrote the work which was to become part of the standard rhetorical corpus; it is conceivable that Minucianus' treatise has survived (§2.11). The nature of the miscellaneous speeches (if they too are to be reassigned to the older Minucianus) is unknown.

The younger Minucianus was a member of a distinguished Athenian family, of which more shall be said later (§2.9, §3.4).

[48] See Kennedy 1983, 76, Heath 1996, 68f., against Schissel's attempt (1926/7*a*) to construct an ideological opposition between Minucianus the practical orator and Hermogenes the sophist. Equally groundless is Schissel's theory that Minucianus' treatise had a more philosophical orientation: one would not diagnose this from a comparison of his fragments with Hermogenes. Lollianus' fragments, though exiguous, show more signs of philosophical inclination (as Schissel 1926/7b, 188 notes) than do Minucianus' extensive ones.

His father was the sophist Nicagoras, and his paternal grandfather was a rhetor named Mnesaeus. It has been suggested that the older Minucianus was the father of Mnesaeus, and thus the great-grandfather of the younger.[49] But this conjecture, though influential, is unsubstantiated. It is true that it fits the span of generations needed to secure a sufficiently early date for the older Minucianus to allow him precedence in the development of the thirteen-issue system. But if, as I have argued (§2.7), the testimony to this precedence is unreliable, we have greater chronological freedom.

Two inscriptions may provide relevant evidence.[50] First, a Claudius Minucianus is named in a prytany list of the tribe Leontis, currently dated around 200 (*Agora* 15.399 = *SEG* 28.184). Second, in an inscription in the temple of Zeus at Nemea, Aurelius Menedemus, from Lychnidos, honours his friend Claudius Claudianus of the deme Eupyridae, son of Claudius Minucianus (*IG* IV^2 449). Claudius Minucianus is here described as 'teacher', which suggests the possibility that he was a rhetor (although it is also possible that he was a philosopher). Eupyridae is a deme of the tribe Leontis; so Claudius Minucianus the teacher may be identical with Claudius Minucianus the prytanis. That is chronologically consistent with the fact that the memorial to Claudius Claudianus was erected by Aurelius Menedemus: the latter's *gens* suggests a date after Caracalla's universalization of Roman citizenship in 212. It may also be worth noting that a Claudianus of Eupyridae appears in an ephebe list of *c.*203–11 (*IG* II^2 2207.2). A man who served as prytanis around 200 cannot have been born later than about 170, and may have been somewhat older. If Claudius Minucianus is the rhetorician, that chronology is consistent with my argument that Zeno, active in the 160s, antedates him; and it would make his critic Hermogenes (born 160/1) a younger contemporary—an entirely plausible scenario.[51] The younger Minucianus belonged to the *gens Junia* (§3.4), so he cannot have

[49] See especially Schissel 1926/7*a*.

[50] Heath 1996, 69f.; cf. Puech 2002, 352.

[51] Some other occurrences of the name Minucianus in ephebe lists are cited in Heath 1996, 69. Note the second-century Minucianus son of Musonius (*IG* II^2 2175.5–8: see §2.9 for evidence of a Musonius in the family), and the early third-century Aurelius Minucianus, son of Philocrates, of the deme Eupyridae (*IG* II^2 2208.54 = *SEG* 26.182).

been a direct descendant of Claudius Minucianus in the male line; but a less direct connection remains probable.

2.9 HERMOGENES

Information about Hermogenes is more plentiful, but none of it is entirely straightforward. First, we have the books he wrote, or some of them: but which books these are has been debated. There is no reason to question the attribution of *On Issues* or *On Types of Style*, but the other texts transmitted under his name are probably misattributed (§2.10–11). Secondly, we have the biographical tradition. But like much ancient 'biography', this proves on careful examination to be a speculative, and sometimes fanciful, elaboration of an incomplete and tendentious kernel. It may, even so, be possible to retrieve some useful information from it.[52]

Unlike Zeno and Minucianus, Hermogenes is accorded a sketch in Philostratus' *Lives of the Sophists* (577 f.):

Hermogenes, whose origin is traced to Tarsus, when he was fifteen years old had advanced so far in the reputation that belongs to sophists[53] that even the emperor Marcus longed to hear him. At any rate, Marcus went to hear him perform, and was delighted by his informal discourse and amazed by his improvisation,[54] and gave him splendid gifts. But when manhood was reached he lost his ability, although not because of any obvious disease; hence he gave the envious an opportunity for wit—they said that words were winged, exactly as Homer says, since Hermogenes had moulted them like feathers. The sophist Antiochus once made a joke at his expense: 'this Hermogenes—an adult when he was at school, but a schoolboy among adults.' The style of speech which he practised was of this kind: in his informal discourse before Marcus he said, 'I have

[52] For the following analysis see, in more detail, Heath (1998*b*): some additions here.

[53] This does not say that he had achieved a reputation *as* a sophist, i.e. that he was already practising professionally.

[54] The performance consisted of an informal introductory talk prefaced to the improvised declamation. Philostratus' use of the imperfect tense may indicate more than one performance. Libanius *Or*. 34.3 treats it as noteworthy when a 15-year-old pupil makes a public display, comprising an introduction (προαγών) and a declamation (ἀγών): cf. §7.2. On informal discourse (διάλεξις, also known as λαλία or προλαλία), standardly prefaced to declamation performances but also performed separately (Menander 393.25 f.), see Nesselrath 1990; Pernot 1993, 546–68.

come before you, your majesty, an orator still needing an attendant to take him to school, an orator still awaiting his majority.' His informal discourse included much more of this kind of buffoonery. He died at an advanced age, but was considered one of the crowd, since he was despised because of the loss of his skill.

This account is our basic source. It does at least gives us a chronological anchor. If the encounter with Marcus dates to the emperor's eastern tour of 175/6, Hermogenes was born around 160/1. Since Antiochus' death is dated not later than 200–5,[55] his joke must refer to Hermogenes at the age of 40 or less. Philostratus' *Lives* were completed around 237/8,[56] so Hermogenes' 'advanced age' suggests that he died not much, if at all, before 230.

The substance of Philostratus' account is more problematic. Two points are obvious. First, the account is strongly judgemental, and internal tensions suggest that it has been tendentiously slanted to support that judgement. The performance before the emperor is an index of the adult Hermogenes' failure to fulfil the promise of his youth, but also a specimen of tasteless extravagance.[57] The very emphasis on Hermogenes' precocity is equivocal, for precocious talent may be shallow (Quintilian 1.3.3–5), and we should not overlook the pointed stress placed on the fact that Philagrus, the next sophist discussed, did not lose his youthful promise: 'after making a brilliant start as a youth he did not fall short of it even when he grew old, but made such progress that he was regarded as a model teacher' (*VS* 578). That Philostratus thought it necessary to include Hermogenes at all, if only to disparage him, suggests that he enjoyed a certain prominence; witticisms of the kind that Philostratus quotes do not stay in circulation if they are about genuine non-entities. When Cassius Dio tells the story about the performance before the emperor he

[55] Avotins 1971, 67–71; Puech 2002, 68–74.

[56] Avotins 1978; Rothe 1988, 5f.

[57] Patillon 1988, 16, notes the inconsistency between these quotations and Hermogenes' critique of the sophistic style in *On Types of Style* (248.26–249.4, 377.10–19). Philostratus' disdainful quotation of youthful follies would have an additional twist of malice if the mature Hermogenes had made a habit of attacking sophistic excess. There is no difficulty in supposing that Hermogenes' style changed: perhaps his cultivation of a less sophistic style contributed to his lack of success as a declaimer; or, conversely, lack of success as a declaimer prompted him to cultivate a less sophistic style.

takes it for granted that Hermogenes' name will be familiar to his readers (71.1). Philostratus is prepared to contest other people's negative judgements (for example, on Scopelian, *VS* 514f.), and his own negative judgements were not universally shared. For example, his contemptuous dismissal of Soterus (included in a list of people he will not discuss: they are 'toys' (*ἀθύρματα*), rather than sophists worthy of the name, 605) would clearly not have been accepted by the pupils who erected an inscription in his honour, nor by the Ephesian council, which twice invited him to come from Athens to take an appointment as the city's leading sophist, and rewarded him lavishly.[58] The highly competitive sophistic environment fostered rivalry and malicious denigration, and Philostratus' judgements must accordingly be viewed with caution.[59]

Secondly, Philostratus' account makes no reference to Hermogenes' theoretical writings. This does not warrant Athanasius' conjecture (*PS* 181.7–9) that the Philostratean Hermogenes and the theorist were different people.[60] We have seen that Philostratus is interested in the sophists as star performers, and especially declaimers,[61] and not in teachers of rhetoric or rhetorical theorists as such. Those who distinguished themselves as teachers and theoreticians without making an impact as declaimers either receive no mention (like Minucianus), or are mentioned in passing because of a connection with one of Philostratus' stars (like Zeno). Philostratus' failure to mention Hermogenes' rhetorical writings seemed incomprehensible to a later rhetor who knew him above all as the author of two standard textbooks, and the distinction between Philostratus' Hermogenes and the author of those texts was conjectured in order to resolve the apparent contradiction.

Others found a different response to the same puzzle. Syrianus, in the prolegomena to his commentary on *On Issues* (2.1.6–3.7)

[58] *SEG* 13.506 = *IEph*. 1548; cf. Puech 2002, 405–8, 486f.

[59] I therefore take a less optimistic view of Philostratus' reliability than Swain 1991. For the need for caution see Campanile 1999.

[60] This view is mentioned, but not adopted, in ?Marcellinus *PS* 288.25–7; anon. *PS* 203.12f. Athanasius' theory is revived, on similarly inferential grounds, in Patillon 1988, 13–17: *contra* Heath 1998*b*, 46f.

[61] See Anderson 1986, 8–10 (on Philostratus' use of the word 'sophist'), 23–38 (on the dominant interests of the *Lives*).

adapts the biographical framework provided by Philostratus in order to create room for their composition, making a neat incision in Philostratus' account of the failure of Hermogenes' youthful promise and inserting a period of authorial activity into the gap: 'But when manhood ⟨was approached he wrote . . . And when more advanced age⟩ was reached he lost all his former ability . . .' Syrianus was not alone in this solution to the problem; a number of sources offer hypothetical chronologies for Hermogenes' career (§2.10). But Syrianus tells us that Philostratus was the only biographical source available to him,[62] confirming that such schemes are inferential constructs based on a misunderstanding of Philostratus. The assumption was presumably that he must have written his books before losing his ability. But the talent and skill which Hermogenes lost according to Philostratus was the potential he had shown to become a leading declaimer; there is no implication that he ceased to be an active or able teacher of rhetoric. Syrianus, like Athanasius, has failed to allow for the difference between his own perspective (in which Hermogenes is valued as an authoritative technical writer) and that of Philostratus (in which Hermogenes is devalued as a failed declaimer).

In discussing Hermogenes' writings Syrianus makes some reasonable inferences on internal evidence about texts that had not been preserved (§2.10), but some of his extrapolations are more questionable. Philostratus does not specify the venue of Hermogenes' performance before the emperor; Syrianus may have jumped to the conclusion that it was Smyrna because of Philostratus' memorable account of the meeting there between the emperor and Aristides (582f.). But Marcus stopped at other cities in the course of his tour, and we cannot be sure where he encountered Hermogenes; the young man might have been a student in Athens. Other sources contain further extrapolations from Philostratus' account, which can also be discounted. But it is not clear that everything in the tradition not already contained in Philostratus is speculative. The *Suda*'s entry on Hermogenes (*E*3046) is a compilation, with three parts, the second of which is explicitly derived from Philostratus. The first part, derived from Hesychius of Miletus, is a composite, with an enthusiastic and rhetorically elaborated eulogy inserted into a dry biographical

[62] Thus providing an instructive opportunity to observe an ancient commentator adapting known source material: Heath 1998*b*, 48.

and bibliographical notice. The interpolation contains no additional information, but new details do appear in the framing bio-bibliography: Hermogenes was called Xyster, and the philosopher Musonius was his pupil.

The mention of Musonius has usually been dismissed as an obvious error, on the assumption that the first-century philosopher Musonius Rufus is meant. But there was a Stoic philosopher named Musonius in Athens when Longinus was a student (Longinus F4 = Porphyry, *Life of Plotinus* 20). Given 200 and 213 as approximate *termini* for Longinus' birth,[63] this Musonius must have been teaching in Athens around 220/30; so there is no chronological obstacle to his having been a student of Hermogenes. Since it is difficult to see why a connection with this obscure philosopher should have been invented, the detail may well preserve an authentic tradition. One further inference might then be ventured. Himerius, who married into the distinguished Athenian family of the younger Minucianus (§2.8, §3.4), includes a philosopher Musonius among the antecedents of his dead son, alongside Nicagoras and Minucianus, and Plutarch and his nephew Sextus (Himerius 7.4, 8.21). If Musonius was an Athenian he is likely to have studied, as well as taught, in Athens; so the indication that Musonius was a pupil of Hermogenes may provide indirect evidence that Hermogenes taught in Athens. That would fit the generally Athens-centred perspective of Philostratus' *Lives* and, if true, gives sharper focus to Hermogenes' rivalry with Minucianus, an older contemporary also active in Athens.

Hermogenes' nickname is interesting as well. Philostratus mentions a number of sophistic nicknames. Secundus, son of a joiner, was called 'Peg' (*VS* 544); Alexander was called 'Clay Plato' (Peloplaton), for reasons not explained (571); Ptolemy of Naucratis was called 'Marathon', probably because of his fondness for that rhetorical cliché (595). Further examples of academic nicknames are found in Lucian's *Symposium (*6), where we meet the Stoic philosopher Diphilus, nicknamed 'Labyrinth', and the Peripatetic Cleodemus ('the talkative, argumentative one'), called 'Sword' and 'Chopper' by his pupils. *Xystêr* is the term for a scraping tool used for levelling or smoothing, such as a carpenter's rasp or plane. Such a tool is sharp-edged and

[63] Brisson and Patillon 1994, 5219f.

abrasive: a reference to Hermogenes' temperament is conceivable, bearing in mind the polemical edge to some passages in his works. Alternatively, since planing makes things smooth, the reference may be to stylistic polish; Plutarch uses it in this sense to give an image of Isocrates smoothing and planing his style (*Mor.* 350d). That might not be entirely flattering, since Hermogenes' Demosthenic ideal produces an unenthusiastic assessment of Isocrates' style (397.14–398.14). But in interpreting the nickname we are in the realm of pure speculation; all that can be said for certain is that the statement that Hermogenes acquired such a nickname is entirely credible.

The testimonium to Hermogenes' pupil Musonius and the evidence for Hermogenes' nickname may be connected. A former pupil would be the obvious source of information about the nickname. Perhaps, then, the *Suda*'s information was transmitted by a source which recorded that the philosopher Musonius, who studied with Hermogenes, said that he was given this nickname. That Philostratus was the only source known to Syrianus is not an obstacle to this conjecture: Tyrannus, a rhetorician of (probably) the fourth century must have said something about Hermogenes' biography (as we shall see, he commented on Hermogenes' medical history), which apparently escaped Syrianus' attention. If, then, we accept that there was a channel through which genuine information was transmitted independently of Philostratus, it is possible that Sopater is correct that Hermogenes was the younger son of Callippus.[64] Sopater's account (*RG* 5.8.23–30) is marred by superficial carelessness (§2.10 n. 67), but that does not account for the father's name; though it cannot be verified, it is not an obvious invention. But the name of Hermogenes' father, even if correct, is of little consequence.

The last part of the *Suda* entry gives a curious report on a *post mortem* examination of Hermogenes: 'after his death he was cut open, and his heart was found to be covered in hair and to be far larger in size than is natural for humans.' Hairy-heart syndrome was by no means epidemic in the ancient world (it entirely

[64] Callippus also appears in *RG* 6.39.12f.; *PS* 349.11, 310.8. Nothing can be made of claims that Hermogenes was a pupil of 'Scotinus the rhetor' (*PS* 349.12) or 'Scopalinus' (*PS* 351.3, which also gives the father's name as Eudaemon, confusing Hermogenes with Aristides).

escaped the attention of professional medical writers),[65] but a handful of other sufferers are attested—heroes, warriors, and ferocious animals. How did a sophist come to keep such company? Philostratus already gave a hook to curiosity about Hermogenes' medical history when he comments that there was no apparent medical reason for his premature loss of talent. Tyrannus offered a speculative medical explanation.[66] An unusual degree of heat in Hermogenes' constitution is postulated to explain his precocious development; and an aphorism of Hippocrates on the precariousness of highly conditioned states (*Aph.* 1.3, concerned with athletes at the peak of their training) explains the sudden and radical loss of this ability. The unstated connection between the two parts of Tyrannus' explanation is supplied by Galen's commentary on the aphorism, which notes the risk in such cases that 'the innate heat' may be smothered or extinguished (17b.363.10f.). In John of Lydia the hairiness of Leonidas' heart is due to 'innate heat' (*de mensibus* fr. 5). Ancient medical thought saw the heart as the source of heat, and one might reasonably infer that a heart capable of producing such an excess of heat must be abnormally large. Moreover, a hot temperament makes men hairy. Normally the hair is produced externally, especially on the chest and abdomen; but the presumed occurrence of individuals with hairy hearts shows that in some unusual cases the hair is produced internally, on the organ that generates the hair-producing heat. And it is obvious that Hermogenes must have been one of these unusual cases: if, as Philostratus tells us, there was no *apparent* medical cause for Hermogenes' burn-out the symptoms must have been hidden inside. Here, needless to say, we are deep in the realm of speculative extrapolation.

[65] But a modern specialist has diagnosed rheumatic pericarditis, while admitting that this does not explain Hermogenes' dementia (as the loss of talent became in some later sources): Immisch and Aschoff 1922. I overlooked this paper in Heath 1998*b*, 52–4, on which the present summary is based; while I do not share its confidence in the reliability of the sources, it has useful references to relevant ancient material.

[66] The testimonium is best preserved by the 'rhetor Marcianus' (*PS* 310.18 app). Heath 1994*b*, 54, documents the following references to ancient medical thought.

2.10 *ON ISSUES* AND *ON TYPES OF STYLE*

Although the speculative accounts of Hermogenes' career as a writer of technical works are biographically unreliable, they are instructive bibliographically. In later antiquity and the Byzantine period Hermogenes became the standard authority on rhetorical theory. An inevitable consequence of his increasing influence was that his name attracted attributions of other rhetorical texts. But in its most common form, the hypothetical chronology for Hermogenes' career places the performance before Marcus at age 15 (as in Philostratus), the composition of *On Issues* at 17, the composition of *On Types of Style* at 23, and Hermogenes' loss of his ability at 25.[67] That is, the basic scheme attributes to him only the two treatises generally held to be genuine. In its more elaborate variants we can observe the development of the canon of works attributed to him in the fifth and sixth centuries.[68] Here I shall concentrate on the two authentic extant works, reserving the extended corpus for the next section.

Hermogenes criticizes predecessors (Minucianus included) for giving works on issue-theory the title *Art of Rhetoric*; there is good reason to think that his own title for *On Issues* was *On Division*.[69] That change of title reflects a narrower focus in the content of the treatise, for one of its distinctive features was the elimination of much of the introductory material that Zeno and Minucianus had included. Despite this simplification of the prolegomena, Hermogenes often seems to strive for an incremental elaboration of his predecessor's doctrine, with classifications acquiring one more category than they had in Minucianus.[70] But this is not a consistent tendency: his divisions, though generally more elaborate than those of Zeno, do not automatically include every head recognized by a predecessor, and in some cases are simpler. For example, he does not give a different division for each of the four counterpositions as Zeno did and Minucianus may have done (Sopater, *RG* 5.178.2–7). Hermogenes' exposition

[67] Thus *RG* 6.39.12–16; *PS* 244.2–6, 311.6–9. In a muddled variant Sopater *RG* 5.8.26–30 has Hermogenes perform before the emperor (Hadrian!) when aged 18, and go mad at the age of 25. According to the *Suda* he wrote his books aged about 18–20, and went mad for no apparent reason aged about 24.

[68] Rabe 1931, pp. xix–xxiii.

[69] Heath 1995, 61, on Hermogenes 28.7–14.

[70] Heath 1995, 64f., on Hermogenes 28.22–30, 31.1–6.

is not perfect. One remarkable symptom of carelessness is the choice of an example of conflict of law which fails to illustrate one of that issue's distinctive heads.[71] But despite some obvious expository defects, later sources claim that Hermogenes' text was more user-friendly than that of Minucianus, primarily because of his elimination of the superfluous and distracting introductory material.[72] It was this greater clarity that made his text more suitable for elementary teaching, and thus secured its eventual triumph. Rhetoricians did not necessarily agree more with Hermogenes than with Minucianus. The commentators sometimes dismiss his criticisms of Minucianus as perverse, and later we will observe how Menander encouraged advanced pupils to recognize shortcomings in the text from which they had learned their basic theory (§6.3). Nevertheless, for basic teaching Hermogenes was found most satisfactory (§8.4).

Hermogenes sets out the reason for eliminating one of the standard introductory topics as follows (34.16–35.14):

> We must now discuss the division of questions which do have issue. There is no point discussing the class of problems and their mode at present. The reason for learning classes and modes is to ensure that we use appropriate styles of discourse when treating problems in exercise—i.e. judicial subjects in a judicial style, deliberative subjects in a deliberative style, and epideictic subjects in an epideictic style, and each in a style suitably adapted to the subject-matter. But it is of course impossible for anyone who has not yet studied the pure division of questions into their so-called heads, or who is unfamiliar with what are known as the issues of problems, to have a sound grasp of the things I have just mentioned. So it is completely senseless to teach the theory of types of style before these other subjects, especially since if we were to try to say anything about types of style at this point the discussion of the incidental material would be longer than that of our main subject. The theory of styles of discourse and their respective use is the subject of a separate and far from trivial treatise—in fact, a very important and advanced one. So for the present we should confine our discussion to division into heads.

[71] Heath 1995, 148, on Hermogenes 87.9–19.

[72] Sopater *RG* 5.14.20–8; *RG* 4.140.10f.; *RG* 7.140.4f.; ?Marcellinus *PS* 294.17–22; anon. *PS* 60.14–17, 317.12–318.3 (drawing on Photius, a commentator dated to the first third of the fifth century by Gloeckner 1908, 34–9).

This passage, which supports the common authorship of *On Issues* and *On Types of Style* (compare 35.6–12 with 214.12–17, 378.11, 21 f.), brings us to Hermogenes' other extant work. Here some background is needed.

The rhetorician whose essays were falsely attributed to Dionysius of Halicarnassus (§2.4–5) applies the term *idea* directly to the three classes of oratory, normally called *genos* or (in later authors) *eidos*. This usage, shared uniquely with [Hermogenes] *On Method*, is one of several convergent pointers to a date before the middle of the second century.[73] Later rhetoricians apply expressions like 'judicial *idea*', not to a particular class of oratory, but to the character, style, or manner typically appropriate to that class. This is a flexible concept, allowing for untypical cases. For example, Demosthenes *On the Crown* is a speech in the judicial *eidos*, but its *idea* is panegyric since Demosthenes aims to win his case by exhibiting the grounds on which he merits good will.[74] Zeno differentiated the distinction between the judicial and deliberative classes from the distinction between *species* defined by the kind of treatment required (316.3–22). Minucianus may have used *idea* in a similar sense in the latter part of the second century.[75]

At the beginning of the passage quoted Hermogenes seems to have in view the concept of *idea* as the manner of treatment appropriate to the three classes of oratory.[76] This concept is discernible in *On Types of Style* (e.g. 215.16–18, 216.5–10), but is not identical with Hermogenes' own development of idea-theory. He analyses a more discriminated set of stylistic qualities, and it is through the 'mixing' of these ideas that deliberative, judicial, and panegyric styles arise (215.2–18). Hermogenes' theory thus makes possible a far more subtle and flexible analysis of stylistic techniques than traditional concepts of stylistic levels or virtues, showing how a combination of qualities can be used to achieve specific effects. Techniques in the eight different strata of analysis which Hermogenes identifies (218.13–26) can

[73] See n. 20 above, and Heath 2003*a*, 98–100 on other connections between [Dionysius] and the author of *On Method*.

[74] *RG* 4.187.28–188.5. Cf. *RG* 4.191.19–194.7.

[75] *RG* 4.185.11–188.5. But the evidence for Minucianus' terminology and doctrine is conflicting: contrast *RG* 4.182.9–183.14; Syrianus 2.42.16–43.12.

[76] Heath 1995, 70, accordingly requires modification.

be variously combined to achieve the different types of style, and these in turn can be mixed in complex ways.

Hermogenes turns to the mixture of types and styles appropriate to different classes of speech in the concluding chapters of *On Types of Style*. The discussion is organized in an intricate and confusing way. He begins by speaking of 'so-called political discourse' (380.12), of which the ideal stylistic type is Demosthenic (380.22–4). After discussing political discourse in general he turns to its sub-categories, deliberative, judicial, and panegyric (384.14f.). He considers deliberative oratory first (384.16), and then judicial oratory (385.23), although he makes the point that judicial speeches on important public matters approximate more to the deliberative style (385.24–386.2). Then he turns to prose panegyric (386.16f.)—'not as in political questions, but panegyric in itself, which perhaps one should not call political' (386.17f.). Discussion of political panegyric is deferred (386.27–387.4) while Hermogenes examines the ideal stylistic type of prose panegyric, which is Platonic (387.5). When political panegyric reappears (388.17–389.1) we realize that the reference to political *questions* was meant precisely. The example is a declamation theme in which Athens and Sparta contest the right of precedence in a procession after the defeat of Persia (cf. Syrianus 2.43.25–7). So Hermogenes is not thinking of epideictic speeches, but of situations involving a dispute which will be won more by competitive amplification than by argument. (The assessments of *On the Crown* mentioned above show that such situations need not be limited to declamatory fiction.) Hermogenes turns next to poetry, the 'most panegyrical' form of discourse (389.7–9); here, of course, Homer represents the stylistic ideal. Having identified the ideal in each of his three categories, Hermogenes considers the runners-up (395.3–7). First he gives a brief (395.8) summary of the characteristics of political discourse as such (395.17–24), followed by an extended survey of the differentiated characteristics of individual political orators; then a summary of the characteristics of panegyric discourse as such (403.21–404.5), followed by an extended survey of the differentiated characteristics of individual exponents of various forms of panegyric.[77] Where does epideictic oratory fit in this

[77] Hermogenes distinguishes between political or panegyric discourse *as*

account? Hermogenes mentions Lysias' and Isocrates' *Olympic*, *Panathenaic*, and *Panegyric* orations in passing (407.23–408.5), remarking vaguely that they have a different aim from panegyric and have no more panegyric features than might be found in a deliberative or judicial speech. That is all he has to say on epideictic oratory—one index of its relatively marginal status in rhetorical theory (§9.1).

The terminology of Hermogenes' stylistic theory has second-century roots, some of which are visible in Philostratus' characterizations of the styles of his sophists.[78] But it is difficult to probe the development of idea-theory in detail. One problem is that, since the term 'idea' had such a variety of usages, it is impossible to be sure what a rhetorician credited with a work on ideas was actually writing about. Hadrian of Tyre wrote on ideas in five books (*Suda A*528); he was active as a teacher from the 160s to the 180s, and was one of the teachers of Antipater, along with Zeno (§2.6). Zeno himself has also been credited with a work on idea-theory, but this stems from a Byzantine misunderstanding of Syrianus.[79] Syrianus does mention Basilicus, in the late second and early third century, as a writer on ideas (1.13.1–3); but Basilicus, Zeno, 'and people like them' are mentioned separately as commentators on Demosthenes (1.13.6–13).

In addition to Hermogenes, extant treatments of idea-theory can be found in the two books falsely attributed to Aelius Aristides, on political and plain (ἀφελής) discourse respectively. Doctrinal differences suggest that they are by different authors,

such (ἁπλῶς) and the discourse of individual political or panegyric authors. He does not have a concept of 'pure political' or 'pure panegyric' discourse, as the misleading Byzantine chapter headings, compounded by a misleading English translation of ἁπλῶς, might suggest.

[78] Rutherford 1998, 25–31. But I have doubts about the assumption that idea-theory was inherently classicizing (22f.). Hadrian of Tyre wrote on idea-theory, but practised one of the 'more modern and more outlandish' effects (finishing a declamation with a 'song': Phil. *VS* 589) of which, Rutherford suggests, idea-theorists could not have approved. On idea-theory and its history see also: Hagedorn 1964; Pernot 1993, 1.339–52; Patillon 1988, 103–300; 2002.

[79] John of Sicily *RG* 6.111.26f.; Tzetzes, in Cramer *Anecdota Oxon*. 4.126.5–8. No more confidence can be placed in Tzetzes' reference to Zosimus of Ascalon (§5.6, §9.5) in the same connection.

but there is no way to establish who the authors were.[80] There is good reason to believe that Hermogenes used at least the first treatise, and perhaps both.[81] Book 4 of [Hermogenes] *On Invention* also displays some connections with Hermogenes, although its treatment of the material is less sophisticated.[82] That does not give clear guidance as to their relative date, since we do not have grounds for assuming that the theory developed in a uniform way; other third-century texts make use of stylistic theory that is considerably less sophisticated than that of Hermogenes.[83] That is understandable, since the very complexity of the Hermogenean system makes it difficult to master and to teach. That may be why the first commentary *On Types of Style* was not written until the fifth century, whereas *On Issues* was already the subject of commentary in the third century (§3.8, §8.4). Some third-century works on idea-theory are attested, including one by Metrophanes, author of a commentary on *On Issues*; little is known about them, but the fragments of Tiberius indicate a theory less elaborately developed than that of Hermogenes (§3.9).

2.11 THE HERMOGENEAN CANON

The earliest versions of the hypothetical chronology recognize only two works by Hermogenes (§2.10). But these were probably not the only works that Hermogenes wrote, and are certainly not the only ones that came to bear his name. Let us now consider the lost and misattributed texts.

[80] Schmid 1917/18, 244, proposed Basilicus and Zeno respectively; the latter can be ruled out (text to n. 79). Patillon 2002, 1 pp. xii–xv proposes to divide the first treatise between two authors, conjecturally identified (pp. xvii–xxii) as Basilicus and Dionysius of Miletus (Phil. *VS* 513, 521–6); but John of Sicily *RG* 6.111.29 and 435.18 are not evidence of a work by Dionysius of Miletus (the reference is to Dionysius of Halicarnassus, as explicitly at 95.4f.), and the partition of the treatise is unconvincing. For the second treatise Patillon (2002, 2.16) suggests Aelius Harpocration (§3.9). See Heath 2004*c*.

[81] e.g. Hermogenes 284.22–285.15 rejects [Aristides] 1.87. See further Rutherford 1998, 7–9, and (on the second treatise) 118–23. There are many weaknesses in the analysis of Hermogenes' relationship to these texts in Schmid 1917/18.

[82] Rutherford 1998, 105–14, suggesting that Hermogenes depended either on [Hermogenes] or (as I think more probable) on a common source.

[83] Pernot 1993, 1.335–52.

The first part of the *Suda*'s entry on Hermogenes mentions only the two genuine rhetorical works; so it draws on a source that antedates the expansion of the canon, a fact consistent with my argument for the authenticity of its biographical information (§2.9). It also mentions a work in two books on Coele Syria (the region of the Decapolis). There is nothing intrinsically implausible in a sophist writing a historical work: Theodorus of Gadara wrote on Coele Syria (*Suda Θ*151 = *FGrH* 850), and Metrophanes, the third-century author of a commentary on Hermogenes, wrote on Phrygia (*Suda M*1009 = *FGrH* 796). But in both these cases there is a local connection absent in the case of Hermogenes; it is possible, therefore, that the work has been misattributed. The historian named Hermogenes of Tarsus who was executed by Domitian (Suet. *Domitian* 10) is not the only alternative candidate that has been canvassed.[84] We must leave this question open.

Syrianus (2.3.2f.) states that Hermogenes wrote commentaries on Demosthenes' public orations. This (as is clear from 1.1.9f.) is no more than an inference from references in *On Types of Style* to expositions of *Against Androtion* (299.20f.), *Against Leptines* (308.11f.), and *On the Crown* (354.4–6); there is no evidence that these commentaries ever enjoyed currency. Syrianus also inferred (2.3.3–8) from internal evidence that Hermogenes wrote a treatise *On the Parts of the Political Speech*, citing *On Issues* 53.12f. ('this will be discussed in more detail in my treatment of the prologue'). Syrianus did not identify this treatise with the work *On Invention* preserved under Hermogenes' name; on the contrary, he cites that text under the name of Apsines, perhaps correctly (§3.1). The attribution to Hermogenes is certainly incorrect. The cross-references to the author's work on division (§3.3 n. 11) do not agree with Hermogenes *On Issues*;[85] the treatment of definition (164.10–166.18) follows the terminology of Minucianus against that of Zeno and Hermogenes, assigning definition to the prosecutor (or claimant) and counterdefinition to the defendant (or opponent);[86] and the charge in *Against Meidias* is identified as impiety (129.16–130.2), whereas Hermogenes identified it as harming the public interest (δημόσια ἀδικήματα, 63.6–13, cf. §5.5).

[84] Heath 1998*b*, 51. [85] Rabe 1913, p. vii. [86] Heath 1995, 106.

Syrianus did accept the extant *On Method* as an authentic work (2.2.22f.). Since he recognized (1.82.8) that it does not match the plentiful evidence within *On Types of Style* for the work which Hermogenes wrote (or projected) under this title he was here probably following an existing attribution rather than making a new identification.[87] But the case against the authenticity of the extant text is compelling.[88] As noted earlier (§2.10), this text shares with [Dionysius] a distinctive use of the term *idea* which suggests a date not later than the first half of the second century. The title seems curiously inappropriate to the contents; it may be secondary, for the same title appears, equally oddly, in the subscription to the epitome of Maximus *On Insoluble Counterpositions* (*PS* 447 app.).[89] If so, the misattribution perhaps followed the false title.

Syrianus credits Hermogenes with the two authentic texts and *On Method*. Another source (*PS* 257.6f.) credits him with the two authentic texts and *On Invention*. The growth of the Hermogenean canon was thus a process with more than one independent strand. Two separate misattributions were combined to create a four-part canon. In the 'rhetor Marcianus' (*PS* 310.18 app.) the hypothetical biographical scheme has been adapted to this enlarged four-part canon: Hermogenes wrote *On Issues* and *On Invention* at the age of 15, *On Types of Style* and *On Method* at 23. A third strand is evident in other sources (?Marcellinus *PS* 292.3–7; anon. *PS* 203.16–19, 302.18–21), which have the two authentic texts and the *Progymnasmata*, but not *Invention* or *Method*.

In the case of the *Progymnasmata* Hermogenes' borrowed name was not enough (or came too late) to give the work an established place in the standard rhetorical corpus, in which the first place is held by Aphthonius' *Progymnasmata*. Hence the manuscript tradition of the pseudo-Hermogenean text is different from that of the rest of the canon.[90] As well as the attribution to

[87] The references are conveniently collected by Rabe 1913, 466f. For the scope of the projected work see 378.11–380.3.

[88] Buergi 1930–1; Hagedorn 1964, 84f.; Wallach 1981; Patillon 1997*a*, 124f.

[89] For the expression *μέθοδος δεινότητος* see also sch. Dem. 2.4 (30), 14.1 (2).

[90] Rabe 1913, p. xiii. The fact that we find the *Progymnasmata* bound with the rest of the Hermogenean canon makes it easy to overlook the difference in the history of its transmission: the Aldine *Rhetores Graeci* printed the standard rhetorical corpus, including Aphthonius, and the *editio princeps* did not appear until 1790.

Hermogenes we find an attribution to Libanius (*RG* 7.511.1–5). Clearly an anonymous text has attracted alternative conjectural assignments, respectively to a recognized authority on rhetorical theory and to the author of an important collection of model progymnasmata. Can we find a better conjecture? Minucianus wrote a *Progymnasmata*, and the chronology I have proposed for him above (§2.8) is consistent with the one clear dating criterion in the extant text, its citations of Aelius Aristides (20.11, 16). There are other candidates who pass this chronological test,[91] and we cannot exclude the possibility that it is an otherwise unattested work. So the conjecture that a work by Minucianus eventually found sanctuary under his great rival's name can be no more than a tantalizing possibility. But the fact that Menander wrote a commentary on Minucianus' *Progymnasmata* suggests that it had currency as a teaching-text in the late third century, which would increase its chances of survival. The conjecture is therefore not entirely groundless.

[91] The field is surveyed in Heath 2003*d*, 158–60.

3
The Third Century: Fruition

Since the dates assigned to Hermogenes' theoretical writings by the biographical tradition are based on a misunderstanding of Philostratus (§2.9), we cannot date *On Issues* and *On Types of Style* precisely. One might think it likely that a text as sophisticated as the latter was the work of a mature theorist; but all that can safely be said is that they date to the last decades of the second century or the first decades of the third. Not much later, the closure of Philostratus' *Lives* extinguishes a vivid light on the world of rhetoric. The consequent blackout continues until Eunapius comes to our aid in the fourth century, with the assistance of Libanius' autobiography, speeches, and letters. That appears to create a problem: it is precisely in this blackout that we must look for Menander, who can be dated to the late third century if he wrote either of the epideictic treatises attributed to him (§4.1). But we should keep this difficulty in proportion. Philostratus told us next to nothing of the story constructed so far. He mentions Zeno only in passing (§2.6), and Minucianus not at all (§2.8); his portrayal of Hermogenes is tendentious, and gives no hint of the activity as a technical writer on which his posthumous fame would rest (§2.9). Philostratus' account has proved to be partial, therefore, in both senses: it ignores many dimensions of contemporary rhetorical culture, and its treatment of the dimensions to which it does attend is not always objective. It is true that if the *Lives* had not survived we would have very little idea of the sophistic context of the theoreticians' work; our knowledge of those aspects of the culture on which Philostratus does focus would be incomparably poorer without him. But the loss of his evidence is also the loss of its potentially misleading slant.

Should we seek significance in the very fact that Philostratus had no extant successor before Eunapius? If this reflects the decline of the culture he describes, then the social, political, and military crisis of the third century could readily be invoked as a

sufficient explanation of that decline. But we must not be hasty. In Eunapius and Libanius we find a sophistic profession that resembles the one portrayed by Philostratus in many respects. If we look carefully, there is evidence that this represents a continuing culture rather than a revival after cultural collapse. For the post-Philostratean blackout is not complete; it is just that the evidence is scattered, harder to collect, and less vivid. When our eyes adjust to the different lighting, enough can be discerned to put together an (inevitably incomplete) account of the flourishing state of rhetorical culture in the middle to late third century.

The individuals named by Philostratus as prominent when the period he covers closes provide a convenient starting-point. The selection is not free of the bias we have already observed: the three sophists he singles out as still alive and active are his nephew Philostratus of Lemnos, and his friends Apsines and Nicagoras (*VS* 628).[1] The younger Philostratus will not advance our investigation,[2] but Apsines and Nicagoras both have fruitful connections with the story we are telling.

3.1 APSINES

Valerius Apsines of Gadara was probably born around 190. According to the *Suda* (*A*4735) he studied with Heraclides of Lycia in Smyrna and with Basilicus in Nicomedia, held a sophistic chair in Athens, and was elevated to consular rank under Maximinus (235–8). The inscription (*IG* II² 4007 = *SEG* 12.156) which reveals his *gens* also shows that he married into an extremely distinguished Athenian family.[3]

Philostratus' admiration implies, and the appointment to a chair confirms, that Apsines was highly regarded as a declaimer. That assessment was evidently shared by the rhetorician who repeatedly cited Apsines' declamations in a technical handbook traditionally assigned to Apsines himself. A sophist with an outspokenly high opinion of his own merits would occasion no surprise, but the form of these apparent self-citations is

[1] There are also references to Heliodorus and Aspasius of Ravenna, spending their old age in Rome; Aspasius, at least, is said still to be teaching.

[2] Philostratus of Lemnos: de Lannoy 1997; cf. §9.2.

[3] Further references in Heath 1998*a*, 90f. Family connections: Avotins 1971, 72–80. To the bibliography add now Puech 2002, 124–6.

suspicious. Rhetoricians do not usually refer to themselves in the third person and by name when they cite their own speeches or declamations as models. [Hermogenes] (208.17f., 209.7–9) and [Menander] (335.23–30) both use the first person, and 'Apsines' has no inhibition about the first person in other contexts (1.2, 10.5). Third-person citations of his own declamations, formally indistinguishable from his illustrative references to speeches of Aristides and Demosthenes, would be anomalous. Editors have recognized the problem, and rejected the passages that name Apsines as interpolations. But there is no text-critical justification for these deletions; they are motivated entirely by the conflict with Apsines' authorship. So this solution is only justifiable if we can be confident that the attribution to Apsines is correct. Such confidence is unwarranted: there are many examples of misattributed rhetorical texts (the pseudo-Hermogenean works surveyed in §2.11 are by no means isolated instances). An alternative solution should therefore be considered: the citations of Apsines are integral parts of a text that was written by someone else.[4]

Eliminating the problem of the apparent self-citations is not the only merit of this solution. It also enables us to make sense of evidence connecting Apsines with [Hermogenes] *On Invention*. Syrianus cites two figured subjects (declamation themes in which the speaker has a covert purpose in addition to or contradicting the overt intent) under Apsines' name (1.36.21–37.8). He gives the themes in very cryptic form, but a clearer exposition can be found in *On Invention* (210.8–18, 207.18–209.11). In both themes a father is rumoured to be sleeping with his son's wife. In one, the son catches a cloaked adulterer with his wife, but lets him go unpunished; the father disinherits him for this; the son, since an open accusation of incest against his father would be offensive, can only insinuate that his father was the adulterer. In the other theme the son's wife is pregnant; an oracle says that the child will kill his father, but the son refuses to expose the child; the father disinherits him. These themes are not unique to *On Invention*; Philostratus mentions Polemo's handling of the cloaked adulterer

[4] This argument is developed more fully in Heath 1998*a*, 90–102. An error (95) regarding the self-citation of a work on figures should be corrected: *προσωποιΐα* is attested for Apsines *On Figures* (sch. Aeschines 3.105 (229)). But it does not follow that the self-citation in 'Apsines' is a citation of Apsines *On Figures*; [Hermogenes] also uses the term.

(*VS* 542),[5] and variants appear in a number of other sources. But close correspondences in phrasing prove that Syrianus is citing *On Invention*, especially since the author claims to have originated the method of treatment in the theme concerning the exposure of the child (208.15–18). Syrianus' attribution is not the result of momentary confusion; a fragment of his contemporary Lachares (*RG* 7.931.14–23) cites another, unrelated passage from *On Invention* (183.17–184.7) as the work of Apsines.[6]

The attribution of *On Invention* to Apsines has usually been dismissed because it conflicts with the 'known' authorship of the treatise traditionally attributed to Apsines. But since the latter attribution is questionable, and there is nothing inconsistent with Apsines' authorship internal to *On Invention*, there is no reason why Apsines should not after all be [Hermogenes].

3.2 ASPASIUS

Syrianus' evidence is not straightforward, since he also provides the earliest evidence of the attribution of [Apsines] to Apsines. He twice (2.64.12–15, 170.19–22) cites a passage from it (2.1) as from Apsines' treatise on the parts of the political speech.[7] That does not prove that the traditional attribution is correct: if two texts were attributed to Apsines in the fifth century, and they cannot both be by the same person, the only rational procedure is to reject the attribution that is in conflict with internal evidence. Even so, one might wonder how the incorrect attribution arose. If Apsines did not write the treatise traditionally assigned to him, is there an alternative attribution which would help to explain the text's association with him?

A scholion to Demosthenes (20.4 (16a)) cites 'Apsines and Aspasius' in what seems at first sight to be a reference to the 'Apsines' treatise (5.18); the source of the scholion is probably

[5] Cobet's conjecture ἐγκεκαλυμμένος is certain. For related declamations cf. Sen. *Contr.* 8.3; Calp. Flaccus *Decl.* 49 (with Sussman ad loc.); Libanius *Decl.* 39 (Eng. trans. Russell 1996, 169–77). [6] Syrianus and Lachares: §9.5.

[7] An anonymous commentator on Hermogenes (later than Syrianus, who was the first commentator on *On Types of Style*: other commentaries were written in the fifth and sixth centuries), cites 10.10 as from Apsines (*RG* 7.689.6–8); the citation contains one distinctive term (γνωσιγραφία). Other testimonia (e.g. Syr. 2.11.3–10; ?Marcellinus *PS* 293.1) connecting Apsines to a treatise on the parts of a political speech cannot be tied specifically to this text.

Menander (§5.6). Another joint citation of 'Apsines and Aspasius' (Syrianus 1.66.7–67.3) does not correspond to anything in the treatise as we have it. An expression of the form 'Apsines and Aspasius' may imply 'Apsines mediated by Aspasius' (compare §3.9, on Evagoras and Aquila). Both of the joint citations are concerned with Demosthenes *Against Leptines*, and we know from Photius (cod. 265, 492a27–40) that 'Aspasius the rhetor' worked on that speech. So the joint citations might both refer to a commentary on *Against Leptines* composed by Aspasius on the basis of lectures by his teacher Apsines. The Demosthenes scholion shows that this commentary shared material with the treatise. Perhaps, then, the unidentified author of the treatise is the Aspasius who wrote the commentary on Demosthenes. The Aspasius who appears in the scholia to Aeschines (1.83 (183)) is presumably the same man.

Syrianus cites the theme of the cloaked adulterer from [Hermogenes] under the name of Apsines. Another commentator on Hermogenes *On Types of Style* cites the same theme under Aspasius' name (*RG* 7.951.26f.). He does not appear to be citing *On Invention*, however, for this note (unlike two others on the same passage of Hermogenes preserved in the same composite collection of scholia) makes no reference to the explanatory matter in which the theme is there embedded. It would, however, fit our hypothesis admirably if the anonymous commentator was citing a text derived from *On Invention*. That would mean that Apsines quoted a figured declamation of his own in *On Invention*, and his pupil Aspasius subsequently used the same declamation to illustrate a work on figured speeches, just as he cited Apsines' declamations in the treatise falsely attributed to Apsines. That work on figured speeches is more than a hypothetical postulate: the text is partially preserved. The essay on figured speeches transmitted under Apsines' name is a composite text, but the body of the essay is a fragment written in the same style and manner as [Apsines].[8] An obscure and corrupt passage (*Probl.* 29)

[8] Prefixed to this fragment is an extract from the chapter on figured speeches in *On Invention* (204.17–206.11); the extract concludes with an example based on the rumour that a father is sleeping with his son's wife, but it does not include either of the two themes cited by Syrianus. The combination of material from *On Invention* with material by [Apsines] is probably coincidental; the prefix may have been added in an attempt to turn the fragment into a self-standing text, and

alludes to themes based on the rumour that a father is sleeping with his son's wife without precisely reproducing either of the themes which Syrianus cites from *On Invention*. If we are correct in hypothesizing that [Apsines] is Aspasius, then the body of the essay is a remnant of the postulated work on figured speeches by Aspasius, and the anonymous commentator on Hermogenes was citing a lost portion of this text.

The *Suda* records three rhetoricians named Aspasius. Two can be eliminated on chronological grounds: Aspasius of Byblos (*A*4203) dates to the time of Hadrian,[9] and Aspasius of Ravenna (*A*4205) was a contemporary of Apsines. That leaves Aspasius of Tyre (*A*4204), for whom we have no date. The *Suda* tells us that he wrote, as well as a history of Epirus and other unspecified works, a book *On the Art of Rhetoric*; this could be the treatise with which we are concerned. The tendency of students in Athens to attach themselves to a sophist connected with their place of origin[10] strengthens the possibility of an association between Aspasius of Tyre and Apsines of Gadara ('the Phoenician', as Philostratus calls him). But since we do not have independent evidence for his date, and cannot rule out the possibility that there were other rhetoricians named Aspasius unrecorded in the *Suda*, the identification is not certain.

3.3 APSINES AND ASPASIUS

The following hypothesis has emerged from our investigation. Apsines did not write the treatise traditionally attributed to him, but did write the treatise *On Invention* falsely attributed to Hermogenes. The pseudo-Apsinean treatise, and the fragment on figured speeches by the same author, are the work of a pupil of Apsines named Aspasius (perhaps Aspasius of Tyre), whose commentaries on Demosthenes and Aeschines are also cited in our sources. The first, negative part of this hypothesis seems to

the attribution of the resulting composite was presumably deduced from the likeness of the body of the fragment to the misattributed treatise.

[9] Patillon 1997*b* proposes Aspasius of Byblos as [Hermogenes], accepting Apsines as author of the treatise attributed to him. But this leaves the joint citations of Aspasius and Apsines unexplained, and (as noted above) requires emendations in the text of 'Apsines'.

[10] Eunapius 487 f.; Lib. *Or*. 1.16 with Norman ad loc.

me strong: we are not justified in persisting in the traditional attribution of 'Apsines'. The two positive suggestions must evidently be treated with more caution, and I shall not build anything crucial to my larger case upon them. But there may be heuristic value in exploring their implications.

Apsines (that is, on our hypothesis, the author of *On Invention*) was a declaimer: he cited his own declamations, as did his pupil Aspasius. He was also a theorist: internal evidence in *On Invention* (132.2–4, 136.21–3, 194.2 app.)[11] shows that he also wrote *On Division*—that is, on issue-theory (compare §2.10, on Hermogenes' own title for *On Issues*). Book 4 of *On Invention* shows that the author was familiar with idea-theory in a form less developed than that found in Hermogenes, although that does not entail a date before Hermogenes (§2.11). Apsines' teacher Basilicus wrote on idea-theory before Hermogenes (§2.10), and it is perfectly plausible that Apsines was content with his teacher's treatment of this subject.

Aspasius (that is, the author of the text falsely ascribed to Apsines) declined to write on issues and their heads (that is, on division) on the grounds that this subject had been treated sufficiently by 'our predecessors' (9.1). This could be read as the pupil's reference to his teacher's *On Division*. But he did think that he could make a contribution to the theory of the proem (1.1 f.). His complimentary reference at this point to 'the divine (θεῖος) Basilicus' does not prove that he was a pupil of Basilicus. When Hermias refers to 'the divine Iamblichus' (*In Phaedr*. 136.17–26) he was acknowledging a distinguished figure in the tradition within which he worked, rather than someone with whom he had studied in person. So perhaps Aspasius was acknowledging his teacher's teacher. But it is also possible that Aspasius did study with Basilicus as well as with Apsines. That would not be the only case of someone studying with master and pupil. Antipater, for example, studied with Hadrian and his pupil Pollux. In another discipline one might think of Longinus (§3.6), who studied with Ammonius and his pupil Origen. Either way, Aspasius would be developing the tradition of Basilicus and Apsines.

[11] Rabe (ad loc. and 1913, vii) regards the last of these (omitted by the first hand in VcBa, but present in PaPcAc) as interpolated: I am not convinced. The reference will not, of course, be to Hermogenes 68.18–69.13 but to a similar passage in the author's own work.

There are a number of respects in which [Apsines] can plausibly (if speculatively) be seen as extending an approach found in emergent form in *On Invention*.[12] The lengthy treatment of 'preliminary statement' (*προκατάστασις*) in *On Invention* is introduced with notable care: the term is glossed ('the preliminary statement of the narrative . . . also called the preliminary narrative', 109.3f.), and the periphrastic 'the preliminary statement of the narrative' occurs frequently (113.15f. etc.). This suggests that the term was a novelty, at least in the sense in which it is used here: earlier occurrences do not treat it as a distinct part of the speech preparing the way for the narrative but associate it with the proem, which Harpocration described as the preliminary statement of the speech (Anon. Seg. 244). But the usage introduced so carefully by [Hermogenes] became commonplace in later rhetoric. Moreover, in many later rhetoricians 'statement' (*κατάστασις*) displaces the traditional *διήγησις* as the technical designation of the narrative part of a speech, a development that could be seen as a logical extension of the new usage of 'preliminary statement'.[13] [Apsines] seems to be at a relatively early stage in this development. He discusses preliminary statement separately both from the proem and the narrative, and his detailed catalogue of twelve kinds of 'preliminary statement' might be an attempt to take the new doctrine beyond the stage achieved in *On Invention*; but 'statement' has not yet taken over from 'narrative' (in fact, it seems to be used as equivalent to 'preliminary statement': e.g. 3.3).

There is also a methodological connection. *On Invention* distinguishes different species of theme (109.15f.: the following chapters discuss themes concerned with proposed migrations, legislation, war and peace, impiety, murder and crimes of violence, crimes against the public interest, and rewards for tyrannicide and heroism), and for each species identifies an appropriate approach to the preliminary statement. This is similar to (though less refined than) the method of 'dividing what is generically similar (*ὁμοιογενῆ*)' which [Apsines] identifies as his own contribution to the theory of the proem (1.3), and it is parallel to

[12] More detail, and two further test-cases, in Heath 1998*a*, 102–10. Regardless of the authorship, [Apsines] seems to be later than [Hermogenes]; Patillon 1997*b* reaches the same conclusion about the relative date, though differing over the attributions (§3.2 n. 9).

[13] Heath 1995, 103–6; cf. §5.5.

his treatment of narrative (3.4). It is possible that these parallels reflect a pupil's extension of his teacher's methodology.

The method of generic similarity is analogous to the theory of epideictic, in that precepts are associated with a given situation-type. However, in epideictic the situation-type directly determines the division into heads, while in judicial and deliberative themes issue-theory must be used to determine the heads of argument before the method of generic similarity can be applied to proem, preliminary statement, and narrative (§2.1, §7.1). Accordingly, the author of *On Invention* had also written *On Division* (§3.1).[14] But the fact that the second-century advance in issue-theory had supplied a mechanism for identifying heads of arguments may have provided him with the stimulus for another line of theoretical development, arguably more creative than the method of generic similarity. Book 3 of *On Invention* sets out in chapters 5–9 a mechanism for the detailed articulation of the heads of argument identified by division; he evidently (and apparently rightly) regards this analysis as innovative (126.2–15: cf. §7.1, §7.3). But this was not taken up by [Apsines].

3.4 NICAGORAS AND MINUCIANUS

Nicagoras, the other friend acknowledged by Philostratus, brings us back to the distinguished Athenian family already mentioned in connection with the older Minucianus (§2.8).[15] Nicagoras was the son of Mnesaeus, a rhetor of whom nothing more is known. It has been suggested that Nicagoras was born around 175–80, and accordingly that 'his lifetime . . . probably did not extend much beyond 250, if at all'.[16] This chronology may be a little too early, since Philostratus names him alongside Philostratus of Lemnos (born 190/1)[17] and Apsines (whose birth is generally

[14] Later theorists do, in effect, extend the method by providing short cuts to identifying the issue based on the type of situation (e.g. all cases of 'harming the public interest' are counterpleas). My own teaching experience suggests that students who have not fully mastered issue-theory welcome such short cuts; but an approach that seeks to bypass the need to understand the theory or analyse the theme is ultimately unhelpful.

[15] Heath 1996, 67f. provides further bibliography (add now *FGrH* 1076; Puech 2002, 352–60).

[16] Schissel 1926/7*a*, 367; Clinton 1974, 80.

[17] Avotins 1978, 538f., argues for 187 as an alternative possibility, but see Rothe 1988, 262 n. 1; de Lannoy 1997, 2369–72 agrees on 190/1.

placed around 190). An inscription (*IG* II^2 3814 = Dittenberger *Sylloge*^{3} 845) records that he was sacred herald of the Eleusinian mysteries and held an official chair of rhetoric in Athens, and that he was a descendent (ἔκγονος) of Plutarch and his nephew, the Stoic Sextus of Chaeronea. According to the *Suda* (*N*373) he addressed an embassy speech to Philip (244–9); other works are mentioned, including biographies, but the bibliography does not include technical works on rhetoric. Himerius (8.21) describes his style as 'solemn' (σεμνός).

Nicagoras' son Minucianus was also a sophist. He is probably the author of the treatise on epicheiremes transmitted under his name,[18] but some or all of the works which the *Suda* (*M*1086) attributes to him are likely to belong to the older Minucianus (§2.7). Himerius indicates that he was a successful defence advocate (7.4), and describes him as eloquent (δεινός, 8.21).[19] He appears as Junius Minucianus, probably in the role of ambassador, in an inscription recording a letter of Gallienus to the Athenians dated December 265 (*SEG* 26.129); the letter seems to have a bearing on Eleusis, where it was inscribed. As M. Junius Minucianus he appears as epimelete of an inscription in honour of the proconsul Claudius Illyrius (*IG* II^2 3689–90). The later chronology proposed for Nicagoras is consistent with Frantz's conclusions about the dating of Minucianus, placing his career around 255–95 and the birth of his son Nicagoras around 265–85.[20]

The career of Minucianus' son, the younger Nicagoras, illustrates the family's continuing importance. In 326 he went to Egypt on a mission for Constantine. Two graffiti at the Valley of the Kings identify him as torch-bearer of the Eleusinian mysteries (*OGIS* 720–1 = *SEG* 37.1650). He is probably M. Junius, son of Minucianus, Daeduchus (the office-holder's title replaces his personal name under the rules of hieronymy),[21] who as priest of Asclepius Soter made dedications at Epidaurus in 304 (*IG* IV^2 428–31). The importance of the family explains the pride the fourth-century sophist Himerius took in having married

[18] An alternative attribution to Nicagoras is recorded in the superscription in Par. 1741; confusion may have arisen from Minucianus' patronymic.

[19] The reference is to the younger, not the older, Minucianus: Heath 1996, 68f.

[20] Frantz 1988, 9f., followed by Sironen 1994, 20.

[21] Cf. Lucian *Lexiphanes* 10; Foucart 1914, 173–6, 195f.

into it. He describes his dead son Rufinus as the descendant of ‘a catalogue of sophists and philosophers’, naming Minucianus, Nicagoras, and himself among the former, Plutarch, Sextus, and Musonius among the latter (7.4, 8.21). The older Nicagoras' proclamation of his relationship to Plutarch and Sextus has already been noted; Musonius is probably the Stoic who was teaching in Athens when Longinus was a student, and the philosopher Musonius who according to the *Suda* was a pupil of Hermogenes (§2.9).

3.5 MAIOR

The *Suda* (*M*46) records Maior as an Arabian sophist contemporary with Apsines and Nicagoras, active under Philip (244–9) and earlier. This *floruit* was deduced from the synchronism with Nicagoras, who addressed an embassy speech to Philip (§3.4). The synchronism itself combines Philostratus' reference to Apsines and Nicagoras with a fragment of Porphyry which names Nicagoras and Maior together at some point before he left Athens in 263 (§3.7).

Maior was a theorist. The *Suda* records thirteen books *On Issues*; one book, presumably, was dedicated to each of the issues in the now standard thirteen-issue system. Later commentators on Hermogenes preserve a number of fragments dealing with technical points in the handling of cases of conjecture.[22] The scale of this work suggests a much more elaborate and detailed discussion than is found in Hermogenes *On Issues*. So Maior explored issue-theory in greater depth than was possible in a short handbook. The existence of a work at such a level of detail may have helped persuade [Apsines] that this subject had been sufficiently worked out by predecessors (§3.3). Other later authors did not agree (§3.8).

3.6 LONGINUS

Fronto of Emesa was another rhetorician, who according to the *Suda* (*Φ*635) taught in Athens in competition with Apsines and

[22] *RG* 4.324.13–325.4 (for the attribution to Maior see Rabe 1909, 588), 352.5–354.11; Syrianus 2.67.1–6; Georgius fol. 10v, 12v, 29v (Schilling 1903, 710, 744).

the younger Philostratus. Beyond the fact that he was a prolific author we know nothing more about him, except that he died at the age of around 60, and made his sister's son his heir. The nephew in question was Cassius Longinus, who was probably born some time between 200 and 213.[23] An autobiographical fragment (F4 = Porphyry *Life of Plotinus* 20f.) tells us that as an adolescent he travelled widely with his parents, and studied philosophy with various teachers, spending time especially with the Platonists Ammonius and Origen in Alexandria.[24] He subsequently settled in Athens and began his teaching career. He may have come to Athens hoping for his uncle's assistance in establishing himself; or perhaps he came to Athens on his uncle's death. His being named heir might imply that he was a designated successor; in the fourth century Julian (§3.10) bequeathed his house, which included an auditorium, to his star pupil Prohaeresius (Eunapius 483).

Like his uncle, Longinus was a prolific author.[25] Although we do not have a complete bibliography, we know that he wrote an *Art of Rhetoric*, of which part survives; 21 books of *Philological Discourses*; books on Homeric problems, and on whether Homer was a philosopher; a commentary on Hephaestion's metrical handbook, from which we have part of the introduction; several lexicographical works; and perhaps a chronographic work entitled *Olympiads*, in 18 books. Since his many-sided intellect embraced philosophy as well as rhetoric and literary scholarship there were also numerous philosophical writings. He conducted a prolonged debate with Plotinus and his associates; this covered a variety of topics, but in particular he opposed Plotinus' view that the Forms are internal to the divine Intellect. Plotinus, on reading Longinus' latest contribution to this debate, remarked that he was 'a literary scholar (φιλόλογος), but not by any means a philosopher (φιλόσοφος)'. His approach perhaps concentrated on scholarly exegesis of Plato's text, arguing that Plotinus had misrepresented Plato's doctrines without (in Plotinus' view) getting to grips with the substantive philosophical issues. But we should

[23] Brisson and Patillon 1994, 5219f.

[24] The Platonist Origen and his teacher Ammonius should not be confused with Origen the Christian theologian and his teacher Ammonius.

[25] Longinus' fragments are cited from Patillon and Brisson 2001; some addenda in Heath 2002*e*.

not assume that the exchange was hostile: Longinus had a high regard for Plotinus, and for his associate Amelius Gentilianus; and when Porphyry was (with difficulty) won over to Plotinus' position he continued in friendly correspondence with his former teacher.

Although Plotinus questioned Longinus' ability as a philosopher, everyone agreed that he was an exceptionally able literary scholar. Porphyry, the most distinguished of his pupils, describes him as the greatest critic of the age (*Life of Plotinus* 20), and Eunapius (456) looked back on him as 'a living library and a research institute on legs', a critic on a par with Dionysius of Halicarnassus and by far the most distinguished man among his contemporaries, to whose critical judgement everyone deferred. Eunapius tells us that many works by Longinus were still in circulation, and that they were held in high esteem. Evidence to support this claim can be found in Eunapius' older contemporary, the Christian theologian Gregory of Nyssa.[26] In his polemical work *Against Eunomius* Gregory repeatedly makes sarcastic remarks about his opponent's style, and some of the terms he uses can be linked to Longinus. The reference (1.480) to 'the bombastic (*στομφῶδες*) and impacted (*κατεστοιβασμένον*) quality' of Eunomius' diction is particularly striking, since the unique earlier attestation of *κατεστοιβασμένον* is in an assessment of Thucydides' style in Longinus' *Art of Rhetoric* (F49.106f. = 212.3 Spengel–Hammer).

As well as his written works, Longinus gave lectures and classes to his students. Reports of his lectures on Plato's *Timaeus* (one of the most important of Plato's dialogues for Platonists of this era) were included in Porphyry's commentary, and from there they found their way into the extant commentary by Proclus. Proclus records a number of specifically stylistic comments by Longinus. This interest in stylistic analysis perhaps adds credence to Plotinus' assessment. There were Platonists, including Longinus' teacher Origen and Proclus himself (*In Tim.* 1.86.25–87.15), who believed that a preoccupation with style was unworthy of a philosopher; if Plato wrote well, that was purely spontaneous. But Longinus believed that Plato devoted painstaking care to his style. This careful artistry is unmistakable, he argued, especially

[26] Heath 1999*b*.

in the way he arranges words (*In Tim.* 1.59.10–60.1). Consider the opening sentence of the *Timaeus*:

One, two three—but where, my dear Timaeus, is the fourth of those who were guests at yesterday's feast, but are now the banquet's hosts?

The first part of the sentence ('One, two three . . .') is just a list: commonplace, rather flat in style. The second part ('. . . but where, my dear Timaeus, is the fourth . . .') brings more varied diction; the switch from cardinal to ordinal numbers adds to the variety; and there is syntactical connection in place of asyndeton. All this makes for greater dignity. But in the third section ('. . . of those who were guests at yesterday's feast, but are now the banquet's hosts') we have more elevated diction, and a metaphor (the feast is a philosophical discussion): and this, Longinus says, gives the whole sentence elevation and sublimity (*In Tim.* 1.17.4–20). Note 'sublimity' (*ὕψος*): the sentence contains no elevated thought or passion, but the exquisite perfection of its structure produces the effect that Longinus discussed at greater length in *On Sublimity*.

That brings us onto controversial ground. Longinus' authorship of *On Sublimity* was universally accepted until the end of the eighteenth century, but a consensus to the contrary developed in the nineteenth century and most recent scholars have held that this text is the work of an anonymous author of (most probably) the first century AD. The objections to a third-century date in my view have no cogency, and there are positive connections between the treatise and the fragments of Longinus and other traces of his influence; these constitute a strong case in favour of Longinus' authorship. Here I shall give just two examples.[27]

Gregory of Nyssa makes ironical use of the term 'sublimity' in discussing Eunomius' style (1.29). Moreover, in the passage cited earlier, *κατεστοιβασμένον* ('impacted') is paired with *στομφῶδες* ('bombastic'), a word that (with its cognate *στόμφος*) Gregory uses repeatedly. Its literary-critical application goes back ultimately to Aristophanes, who applied *στόμφαξ* to Aeschylus (*Clouds* 1367). But there is no other occurrence of a cognate term in extant criticism before Hermogenes (247.13), and even he does not use it to describe a style (he applies it to the shape of

[27] The argument is developed more fully in Heath 1999*a*.

the mouth that produces the kind of sound that is appropriate to a certain style). Syrianus needed to explain the word in his commentary (1.39.11–15), which suggests that it was not a standard technical term in literary studies. But it occurs several times in *On Sublimity*, and also appeared in Longinus' *Philological Discourses* (F58, F59 = *RG* 7.963.12–964.9, 6.225.9–29). Two pupils of Syrianus, Proclus (*In Tim.* 1.64.22) and Hermias (*In Phaedr.* 9.17–19), also use the word.

In a later passage in the *Timaeus* Plato comments (19d) on the inability of both ancient and contemporary poets to celebrate adequately the ideal society described in the *Republic*. But can he really mean *all* poets? Even Homer? The implications of Plato's critique of Homer were widely discussed.[28] Longinus' teacher Origen argued that Homer must be adequate to the task, and Longinus agreed. But his description of Origen's efforts to wrestle with the problem ('he spent three whole days shouting and going red in the face and dripping with sweat, saying that it was a big subject and a serious problem') has a somewhat comical tone (Proclus *In Tim.* 1.63.24–64.7). Homer's adequacy may have seemed less problematic to the philologically oriented Longinus than it did to the philosophical Origen. Porphyry took a different view (1.64.7–11): he denied that Homer is able to portray the intellectual freedom from passion that produces the philosophical life. But Porphyry concedes that 'Homer is capable of attaching grandeur and sublimity to emotions, and of raising actions to imaginative magnificence'. A striking feature of that characterization is the density of terms that play a key role in *On Sublimity*: grandeur, sublimity, magnificence, emotion, imagination.

Evidence for the more technical side of Longinus' rhetorical teaching is provided by the lengthy fragment (F48) and epitome (F49) of his *Art of Rhetoric*, which presents itself as a concise reminder (ὑπόμνημα) for those who had attended his lectures regularly (F48.313–23 = 192.14–193.1 Spengel–Hammer: cf. §8.4). The first part is organized (like [Hermogenes] or [Apsines]) according to the parts of a speech; then there are sections on style and delivery. The use of the Aristotelian categories as a resource for invention is one apparent novelty. Technical matter on rhetoric also appears in a number of other

[28] Weinstock 1926/7; Trapp 1997, 149f.

fragments, including a collection of excerpts under the heading 'from Longinus' (F50); parallels between these excerpts and Photius' essays on the classical orators (codices 259–68) suggest that the material which Photius did not derive from [Plutarch]'s *Lives of the Ten Orators* or Libanius' hypotheses to Demosthenes was drawn, perhaps indirectly, from Longinus.[29] This material includes the passage (cod. 265, 492a27–40) which refers to the commentary on *Against Leptines* by Aspasius (§3.2). Photius reports that Longinus regarded the speech's proem as 'combative' (*ἀγωνιστικός*), while others mistakenly thought it expressive of character (*ἠθικός*); Aspasius is mentioned as someone who 'failed to achieve precision in his analysis of the speech', and was probably named in Photius' source as a proponent of the interpretation that has just been rejected. As a pupil of Apsines, Aspasius would probably have been a younger contemporary of Longinus; there is nothing inherently implausible in Longinus having engaged in debate with his views. Another name that occurs in the material that Photius may have derived from Longinus is Paul of Mysia, criticized for denying the authenticity of *On the Stump* and other speeches attributed to Lysias (cod. 262, 489a14–35): we shall return to him shortly (§3.7).

3.7 PORPHYRY

Porphyry, Longinus' most distinguished pupil, was born in 232/3. Eunapius tells us that he had already made rapid progress in the standard educational curriculum before he came to Athens. This will have included rhetoric, but we know nothing of his early teachers. In Athens he studied both literature and rhetoric with Longinus, and continued to distinguish himself (Eunapius 455 f.).

Longinus was admired above all as a critic; the testimonia are full of praise for his achievements as a literary scholar, but he is not referred to as a sophist. Philostratus sometimes distinguishes the teachers with whom his sophists studied criticism, theory, and composition,[30] so it is likely that in Athens Porphyry would

[29] Heath 1998*b*.

[30] Antipater studied theory with Zeno, as well as working with the sophists Hadrian and Pollux (§2.6); Herodes studied rhetoric and criticism with different teachers (*VS* 564), as did Pollux (592). On the division of labour at the top of the profession see further §7.1.

have studied with experts in other aspects of rhetoric as well. He would certainly have come into contact with many of them. A fragment (408F Smith = Eusebius *PE* 10.3.1) describes a dinner given by Longinus to celebrate Plato's birthday at which Nicagoras (§3.4) and Maior (§3.5) were guests. Since Porphyry is present, the dramatic date must be before he left Athens in 263. Two of the other guests (the grammarian Apollonius and the geometer Demetrius) appear to have been among Porphyry's teachers,[31] as of course was Longinus himself. So it is possible that Porphyry worked with Nicagoras and Maior, specialists in declamation and theory respectively (cf. §8.4).

Two other leading teachers of rhetoric in Athens in Porphyry's time were 'Paul and Andromachus from Syria' (Eunapius 457). If these names were derived from Porphyry himself, they probably reflect the rhetorical scene in Athens before he left the city. Paul is likely to be Paul of Mysia, whose views on the authenticity of Lysias *On the Stump* engaged Longinus (§3.6); and he in turn is probably identical with Paul of Germe, mentioned in the *Suda* (*Π*811) as the author of a monograph in two books on the authenticity of Lysias *On the Award to Iphicrates* and a commentary on the rest of Lysias' speeches. Andromachus is probably Andromachus of Neapolis. According to the *Suda* (*A*2185) he taught in Nicomedia under Diocletian (284–305); if he was invited to teach in Nicomedia when Diocletian established his capital there, this would imply that he had already established his reputation in Athens.[32] So his career could have overlapped with Porphyry's Athenian period.

Like Longinus, Porphyry was a wide-ranging intellectual who included rhetoric in his scope.[33] The bibliography in the *Suda*

[31] Heath 1999, 48 f.; on this fragment see also Männlein-Robert 2001, 251–92. The speculation that Porphyry studied with the younger Minucianus (Bidez 1913, 30; cf. Schissel 1926/7*a*, 368) is baseless.

[32] Millar 1969, 18: 'it would be a reasonable guess, though no more, that Andromachus went first to Athens, like other Syrians, and moved from there to Diocletian's court at Nicomedia.' As Libanius' experience shows (*Or*. 1.74 f., 94 f.) imperial appointments were not easy to evade.

[33] Fragments of Porphyry's rhetorical works, with translation, in Heath 2002*c*; introduction and commentary in Heath 2003*b*. One addendum: Porphyry was mentioned, probably as a technical writer on rhetoric and presumably not in a complimentary way, in the otherwise unknown Anticlides' intriguingly entitled *On the Nuisance of Technical Writers* (*περὶ τοῦ* [*τῶν* Portus] *ἐμποδὼν τεχνολόγων*, *Suda A*2080).

(*Π*2098) includes a commentary on Minucianus' *Art of Rhetoric*; other sources cite an *Art*, or an *Art on Issues*, and it is not entirely clear whether this is a separate (and presumably more summary) text or the commentary cited under a different form. There was also a *Collection of Rhetorical Questions* (§7.5 n. 63). Of these the commentary is the most significant historically, and merits separate consideration.

3.8 TECHNICAL COMMENTARY

Maior cast his detailed exposition of issue-theory in the form of a series of monographs (§3.5), but Porphyry wrote a commentary on Minucianus' treatise on the subject. This contrast is significant: Porphyry's is the earliest attested commentary on a work of rhetorical technography.[34] But if Porphyry was the first to write a commentary on a rhetorical handbook, he was certainly not the last. Others soon followed his lead. Another commentary on Minucianus was written by the sophist Pancratius, probably the father of Prohaeresius (*Suda Π*12); since Prohaeresius was born in 276, Pancratius may have been about ten or twenty years younger than Porphyry. There were also commentaries on Hermogenes *On Issues*. One was written by Metrophanes of Eucarpia, whom Syrianus describes as a Platonist, and another by Menander, who also wrote a commentary on Minucianus' *Progymnasmata*. Since Metrophanes was criticized by Menander (§4.2, F15a) he was probably the earlier of the two, just as Porphyry is likely to have written earlier than Pancratius. So it seems that this use of the commentary format originated in philosophical circles, but spread rapidly.[35] Many more commen-

[34] Longinus' commentary on Hephaestion (F42) provides a precedent for a commentary on a recent technical handbook. Longinus, and Porphyry himself in his commentary on Ptolemy's *Harmonics*, reveal similarities in approach with the fragments of Porphyry's commentary on Minucianus, at least in the elaborate prolegomena: Heath 2003*b*, 146, 149–51.

[35] That Minucianus and Hermogenes both attracted commentaries by a philosopher and a sophist is a further warning against interpreting their rivalry in terms of a contrast between different kinds of rhetoric (§2.8). There is no evidence of any systematic ideological divide between philosophical and sophistic commentators. In the dispute over simple incomplete conjecture (§2.7), for example, the philosopher Metrophanes sides with Hermogenes, the sophist Menander against him. The idea that the Athenian Platonists favoured

taries were written in the fourth century and later, by when Hermogenes' treatise had established itself as standard.

This is an area in which it is hard to get one's bearings.[36] The problems begin with the material published in Walz's *Rhetores Graeci*. *RG* 4 contains a Byzantine compilation of extracts mainly from three commentaries, although other sources are occasionally used. The extracts are not easily assigned to their sources, since the manuscript attributions often unhelpfully name more than one author, and are sometimes demonstrably inaccurate.[37] The three commentaries are identified as those of Marcellinus, Sopater, and Syrianus. Another version of Syrianus has been preserved independently; both versions are excerpted from a fuller original, and each has material omitted in the other (so that Rabe's edition, which includes only the version preserved independently, does not contain all that remains of Syrianus' commentary). At first sight it appears that there is also a second version of Sopater, printed in *RG* 5. The two versions partially overlap, but as well as near-verbatim parallels there are also significant deviations. Some have concluded that *RG* 4 presents a heavily (but inconsistently) redacted version of Sopater's commentary, *RG* 5 a more authentic (but much abbreviated) version. In fact, we must be dealing with substantively different works by two commentators, who (confusingly) shared the same name, one of whom made use of the other. The Sopater of *RG* 5 probably dates to the late fourth century. The Sopater of *RG* 4 adapted material from his namesake, but also made use of a commentary probably written by John of Caesarea in the first half of the fifth century. There are grounds for identifying him with a Sopater who was teaching in Alexandria in the 480s.[38] John was also one of the sources of another Byzantine compilation, printed in *RG* 7; Nilus' commentary (from which only extracts have been published) draws

Minucianus over Hermogenes (Keil 1907, 203; Schissel 1926/7*a*, 372f.) is also ill-founded. This theory was modelled on the supposed divergence in philosophical tendency between the Athenian and Alexandrian schools, itself no longer tenable (Hadot 1990, 278).

[36] Hunger 1978, 77–88, provides a useful introduction.

[37] To complicate matters further, Walz sometimes misreports them: corrections from Par. 2923 are reported by Rabe 1909, 588; Kowalski 1940–7, 60, 62.

[38] The argument is developed more fully in Heath 2003*c*, 32–4; cf. §4.2 (F13), §4.6, §9.5.

independently on John, often presenting a superior text.[39] Likewise only extracts have been published from the commentaries of Georgius, Christophorus, and John Doxapatres.[40] Behind the extant commentaries and their immediate sources lie earlier works, such as Athanasius and Eustathius, known (if at all) from fragments preserved in the works that superseded them.[41]

The term 'commentary' is a flexible one, and we should not try to draw too sharp a boundary between commentaries and other kinds of technical literature. In (probably) the fourth century Tyrannus (*Suda T*1189) wrote one book *On Issues* and ten books *On Division*. The single book *On Issues* will have set out the system of issues in general; *On Division* will have defined and illustrated the divisions of each of the issues in detail (ten books would cover all thirteen issues if the four counterpositions were treated together, as in Hermogenes). There is nothing in the *Suda*'s notice to suggest a commentary, but the evidence that he discussed Hermogenes' biography (§2.9) suggests that his treatment was linked to Hermogenes in some way. In the fifth century, Georgius' lectures on division take Hermogenes' text as their starting-point, but are not narrowly exegetical; they discuss technical and theoretical questions that arise out of the material with which Hermogenes dealt in summary form, and they engage in debate with the views of many others who had written on the subject in the interim.[42] Syrianus' 'commentary' on *On Issues* is

[39] Analysis of *RG* 7: Gloeckner 1921; 1928; Heath 2003*c*, 29–32. For the identification of John of Caesarea (*PS* 375.3 app.; *RG* 6.243.11 f.) as a source see Keil 1907; not all of his inferences are convincing, but the overall thesis is plausible (despite Rabe 1931, pp. lxii–lxxiii). Nilus: Gloeckner 1901; Rychlewska 1940–7; Borzemska-Lesnikowska 1951; Romano 1989, 1991, 1992. For an example of the common source with *RG* 7 see §4.2, F4b.

[40] Georgius: Schilling 1903; Gloeckner 1908, 27–31; Rabe 1908*b*; Kowalski 1939*a*; see below, at n. 42, and §8.1, §9.5. Christophorus: Rabe 1895; 1899; 1908*c*. Doxapatres: Gloeckner 1908; 1909.

[41] Athanasius: Gloeckner 1901, 90–2; Schilling, 1903, 738–42; Rabe 1931, 171–83; Eustathius: Gloeckner 1901, 78–86; 1908, 22–5; Schilling, 1903, 715–33; Rabe 1908, 519f.; 1931, pp. lxxi–lxxii. Other commentators include Aphthonius (if a comma is placed after *τέχνην* in *Suda A*4630), Phoebammon (§4.2, on F13), and Photius (§2.10 n. 72).

[42] Schilling 1903, 671–6, prints one lecture entire to illustrate his approach. Otherwise only extracts from Georgius have been published, where he preserves fragments of earlier authors: Anastasius, Aquila, Athanasius, Eustathius, Harpocration, Maior, Menander, Metrophanes, Minucianus, Porphyry, Sopater (*Division of Questions*), Tyrannus, Ulpian.

an extreme case. The first part, on the general theory of issues, is an exposition of Hermogenes' text, but Syrianus then abandons Hermogenes because his definitions of the issues are defective, announcing (56.16–24) that he will follow 'Evagoras and Aquila' (§3.9). Thereafter he rarely mentions Hermogenes, except to criticize his definitions,[43] and the divisions which he sets out are in many cases significantly different from those in Hermogenes. This is a reminder that there may have been greater diversity in theoretical teaching in the third century than is apparent from the bulk of our evidence, even though the basic concept of issue-theory based on division into heads that had developed in the second century was common ground.

Although Syrianus is an extreme case, commentators in general felt free to use the object text as a starting-point for detailed technical and theoretical discussions that went far beyond what the author had said. They also felt free to go against what he said. The limited evidence indicates that Porphyry was willing to depart from Minucianus in formulation and in substance;[44] that is certainly true of the commentators on Hermogenes. We have little if any direct evidence for Menander's commentary, but the fragments of his commentary on Demosthenes show that he was sometimes sharply critical (§4.2). Sopater accuses Hermogenes of error (*RG* 5.74.30f., 209.14f.), a huge blunder (109.29), self-contradiction (118.24f.), ignorance (135.4f.), and even of deliberately concocting a fallacious syllogism to further his rivalry with Minucianus (55.27–9, 57.6–9). Marcellinus judges this syllogism technically sound, 'even if his rivalry is perverse', but he too denies Hermogenes' conclusion, rejecting an implied premise (*RG* 4.134.29–136.5). Elsewhere Sopater praises Hermogenes, and Gloeckner inferred that he had two sources, supporters of Minucianus and Hermogenes respectively.[45] But this rests on a misconception: the evidence suggests that a critical and sometimes combative eclecticism was a feature of the commentary tradition from the start. When Paul set a pupil the task

[43] Hermogenes 53.1–13 is cited approvingly at 91.19–92.4; at 151.2–14 Syrianus puts words into Hermogenes' mouth (a cautionary instance, since we are so often compelled to rely on reports of texts no longer extant); 196.2–4 is critical.

[44] Heath 2003*b*, 146.

[45] Gloeckner 1901, 71–6; *contra* Heath 2003*c*, 24–7.

of systematically defending Hermogenes against his critics (*PS* 238.2–14 = *RG* 7.34.11–35.1) we see the beginning of the transformation of Hermogenes into an absolute authority; the pupil acknowledges that the undertaking may seem 'paradoxical'.[46] In general, the commentated text provided a common point of reference to which rhetoricians could anchor an ongoing discussion of theoretical problems, but in that discussion they felt free to modify the text's teaching and went beyond it in the level of detail addressed. They exploited the commentary as a vehicle for original contributions to the subject's development—and (needless to say) for the prosecution of sometimes highly polemical exchanges with predecessors and contemporary rivals.

3.9 PHILOSOPHERS

I have suggested that the writing of commentaries on technical works on rhetoric began with philosophers and spread to sophists (§3.8). Although it will be convenient to work with that distinction in this section and the next, it needs to be treated with caution. It does not mark a sharply demarcated division, still less one which we can reliably make. Among the figures discussed in this section, Tiberius is described as a philosopher and sophist in the *Suda*, Metrophanes as a sophist. But there is nothing to distinguish them in their bibliographies or their fragments, and nothing that would mark either as philosophically inclined; we would have had no reason to identify Metrophanes as a philosopher without Syrianus' evidence. Syrianus himself, undoubtedly a philosopher, is described as a sophist in the manuscripts of his commentaries on Hermogenes. Nevertheless, the distinction had some contemporary validity. [Hermogenes] *On Invention* provides evidence of a sense of difference from 'the philosophers' on the part of a rhetorician (140.14–141.11). Conversely, Syrianus picks out certain individuals (such as Metrophanes) as Platonists (1.1.7–9: 2.1.6–8, 55.6f.), and is inclined to favour philosophers over sophists (2.96.1, 117.18, 128.23–129.3, 151.14–16). There are other texts with marked evidence of Platonist influence

[46] These prolegomena introduced the commentary that was the source of the enthusiastic references to Paul at *RG* 7.235.15, 525.17f., 527.31–528.1, 619.23f., 624.21, 28f. For the identification of the author as John of Caesarea see n. 39 above.

which refer to 'sophists' in distancing terms ([Dionysius] 371.23; [Menander] 331.16f.). But the disparaging use of 'sophist' in Hermogenes (248.26–249.4, 377.10–19) is a reminder that the usage of so elastic a term is never simple.[47]

In a culture in which philosophy was part of general advanced education, many rhetors who were not professional philosophers would have had some training and interest in philosophy. Conversely, philosophers would have been trained in rhetoric. Some continued to be actively interested in the subject; Longinus is an obvious instance. In some cases an active interest in rhetoric may have been kept up only temporarily. It seems likely, for example, that Porphyry's rhetorical writings date to his time in Athens, and that in later life his concerns were more exclusively philosophical. Others were less fortunate. An Alexandrian rhetorician named Serapion studied with Plotinus, but was prevented by financial exigencies from giving up rhetoric entirely (Porphyry *Life of Plotinus* 7). In the fourth century Eunapius studied rhetoric with Prohaeresius in Athens and then returned home to Sardis, where he taught rhetoric in the morning and studied philosophy in the afternoon (502f.: cf. §7.2 n. 31). It is possible that a period teaching rhetoric while undertaking advanced study in philosophy or waiting for an opening as a teacher of philosophy was a common pattern. That might provide a context for Syrianus' commentary on *On Issues* (to judge from his mechanical and sometimes clumsy treatment of examples, it was not natural talent that drew him to teaching rhetoric). Yet the commentary on *On Types of Style* was not the work of a young man: it is addressed to Alexander, 'dearest of my offspring (ἐκγόνων)' (1.2.3f.).[48]

[47] Aelius Aristides, counted as a sophist by Philostratus, uses the term pejoratively: Behr 1994, 1163–77.

[48] Syrianus' shortcomings: Heath 1995, 181. Westerink 1964, 176, points out that, since philosophy offered a limited number of openings for paid employment, many philosophers would have needed to teach other subjects to support themselves: 'Thus Syrianus . . . has left rhetorical writings, probably less because of the attraction the subject had for him than because the long life of his predecessor made it necessary for him to find some other occupation.' Damascius taught rhetoric for some years (§9.5); Philoponus was a *grammatikos*. On Neoplatonist rhetoricians see also Hadot 1990, 297–301, with special reference to Simplicius (there is an epigram praising him as philosopher and rhetor). Simplicius' invective techniques show rhetorical ability: Hoffmann 1987.

Tiberius is described in the *Suda* (*T*550) as a philosopher and sophist. His extensive bibliography is exclusively rhetorical, though it ranges widely across the field. He wrote *On Division* and three books *On Types of Style* (περὶ ἰδεῶν).[49] From the fragments we may infer that his stylistic theory distinguished thought (ἔννοια), figure (σχῆμα), and diction (λέξις), a scheme similar to that of [Aristides] and much simpler that Hermogenes' eight levels of analysis (§2.10). The application of this scheme to vividness (ἐνάργεια) in one fragment suggests that he treated this as a type of style in the technical sense; other fragments indicate that he discussed purity (καθαρότης) and distinctness (εὐκρίνεια) without subsuming them under an overarching concept of clarity (σαφήνεια) as Hermogenes does, and that he contrasted them with abundance (περιβολή). We cannot be sure whether stylistic descriptors that appear in the work on Demosthenic figures—beauty (κάλλος), brilliance (λαμπρότης), rapidity (γοργότης)—designate types of style for Tiberius. He treated narration (ἀφήγησις) as a figure (cf. [Aristides] 1.135; [Apsines] 3.3), a view which Hermogenes had rejected (228.20–229.7). In general, we seem to have evidence of the persistence of a less elaborate form of idea-theory than that of Hermogenes. Tiberius also wrote *On Epideictic Speeches*. It is surprising that this testimonium has apparently not been invoked in discussion of the authorship of the first of the treatises attributed to Menander, a work on epideictic with a strongly philosophical slant; but since there is another unattributed philosophically slanted work on epideictic it is impossible to identify Tiberius as [Menander] with any confidence (§4.8). Other titles include works on paraphrase (n. 70 below), informal prefaces (προλαλίαι: §2.9 n. 54) and proems, epicheiremes, Demosthenes and Xenophon, and Herodotus and Thucydides.

Syrianus describes Metrophanes of Eucarpia as a Platonist (2.55.5 f.). Since the distinction was significant to him there is a presumption that this description had some basis, although we do not know what it was. The *Suda* (*M*1009) describes Metrophanes as a sophist, but that is probably an inference from his bibliography, which (apart from two books on Phrygia) is entirely rhetorical. It includes entries for *On Issues* and a commentary on

[49] The fragments (*RG* 7.911.5–18, 918 n. 2, 943.24–944.8, 1041 n. 34) are printed in Ballaira's edition (1968) of the work on Demosthenic figures.

Hermogenes' *Art* (that is, *On Issues*); as with the similar doublet in citations of Porphyry (§3.7), it is unclear whether these are one work or two. He also wrote *On Types of Style*, of which nothing more is known, and a commentary on Aristides. The commentary on Hermogenes is frequently cited by later commentators, and there is reason to suspect that it was an important intermediary through which material from Porphyry and information about other earlier theorists entered the tradition.[50] There is evidence in later commentators that Metrophanes entered into explicit critical engagement with Minucianus. He is also the only rhetorician in this period known to have sided with Hermogenes against Minucianus in the controversy over incomplete conjectures (§2.7). On the other hand, his views on the division of the practical issue and objection show that he was not a slavish adherent of Hermogenes.[51]

In the debate over incomplete conjectures Metrophanes was apparently replying to a criticism of Hermogenes' position by Harpocration, a rhetorician cited several times in the scholia to Hermogenes for technical points in issue-theory.[52] Here we encounter prosopographical difficulties. The *Suda* knows of three rhetoricians named Harpocration. Valerius (*A*4014) is the Alexandrian rhetor who composed a *Lexicon of the Ten Orators*; P.Oxy. 2192 allows us to place him in the latter part of the second century.[53] Gaius (*A*4012) wrote *On Antiphon's Figures*, *On the Speeches of Hyperides and Lysias*, and other unspecified works; there is no evidence for his date. Aelius (*A*4013) wrote *On the Art of Rhetoric* and *On Types of Style*, and other works on classical orators and historians.[54] The Anonymus Seguerianus refers

[50] Heath 2002*a*, 294; 2003*b*, 147f.

[51] Incomplete conjecture: *RG* 7.349.24–351.1; Nilus fol. 12v (Borzemska-Lesnikowska 1951, 36) improves the text. Practical issue: Georgius fol. 214v (Schilling 1903, 751f.), with Heath 2003*b*, 163f., on Porphyry F12. Objection: *RG* 4.780.21–9; *RG* 7.626.16–26; Georgius fol. 220v, 224r (Schilling 1903, 752f.); cf. Heath 2003*c*, 9f.

[52] Incomplete conjecture: n. 51 above. Other references: *RG* 4.519.27–520.5; *RG* 7.254.17–28, 432.20–433.9, 547.31–549.13, 563.20–7; Syrianus 2.60.14–19; Georgius fol. 116r, 179v–180r (Schilling 1903, 743); Christophorus fol. 132r (Rabe 1895, 248). On the prosopographical problem: Heath 2003*b*, 147; 2003*d*, 132f. (on a testimonium relating to progymnasmata).

[53] Keaney 1991, pp. ix–x.

[54] Including Xenophon: hence Patillon's suggestion (see §2.10 n. 80) that he may be the author of [Aristides] *On Plain Discourse*.

several times to a Harpocration, at one point (243) naming his *Art*. At first sight it is tempting to identify this work with Aelius Harpocration's *Art*, especially since the source used by the Anonymus has a marked interest in style and Aelius Harpocration wrote *On Types of Style*; but the complete absence of terminology characteristic of idea-theory in the material quoted by the Anonymus does not encourage the conjecture. Since the title *Art of Rhetoric* was often given to works on issue-theory (Hermogenes 74.16f. comments adversely on this practice), one might equally speculate that Aelius Harpocration's *Art* stood to his *On Types of Style* as Hermogenes' two works did to each other; compare Tiberius and Metrophanes, who also wrote on issue-theory (*On Division*, *On Issues*) and *On Types of Style*. These two parallels might tempt us to wonder whether Aelius Harpocration is the rhetor and philosopher named Harpocration recorded in a third-century Athenian funerary inscription.[55] But it needs to be emphasized that we have no grounds for treating any of these speculations as fact.

Another Platonist rhetorician identified as such by Syrianus is Aquila. Other fragments are preserved in the commentaries on Hermogenes by Nilus and Georgius (from whom we would not have guessed his philosophical commitment).[56] His chronology is loosely fixed by the identification with the Aquila who wrote on Aristotle's *Categories* before 320, and by the fact that he was familiar with Metrophanes' commentary.[57] Syrianus sometimes refers to Aquila alone (2.37.26f., 39.7–9, 43.13–23, 50.13–51.2), and sometimes together with Evagoras (2.41.11f., 55.6, 56.21, 60.24, 128.23; order reversed at 2.35.2f.). But Evagoras is named alone only once (2.3.23–5), and that is for an anecdote from his own experience, which an intermediary could transmit but could not endorse, as he might a piece of doctrine; so Aquila is ignored only where it would have been pointless to mention him. It is likely that Syrianus' knowledge of Evagoras was indirect, and that it was Aquila who mediated this knowledge to him; the joint citations are a parallel to what was suggested for 'Apsines and Aspasius' (§3.3). Syrianus describes the source of Evagoras'

[55] *IG* II^2 10826: see Puech 2002, 288.

[56] Gloeckner 1901, 64–71; Schilling 1903, 693–702; Heath 2003*c*, 10f.

[57] Schenkeveld 1991. For his familiarity with Metrophanes see Georgius fol. 11r (Schilling 1903, 709).

anecdote as a treatise (*πραγματεία*) on issues, so Aquila may have derived it from a written text rather than oral instruction. That makes it uncertain how much earlier Evagoras worked; but Syrianus (2.56.21) says that Evagoras and Aquila were both later than Hermogenes, and the nature of the topics in issue-theory on which Evagoras' views are reported confirms a third-century date.

The anecdote which Aquila transmitted is the one about Phrynichus, the sophist who rejected issue-theory as drivel (§2.4). Phrynichus' name, not preserved by Syrianus, is found in another source (*PS* 346.13–347.12), perhaps drawing on a fuller version of Syrianus or deriving its knowledge of the story independently from Aquila (as Himerius presumably did). Evagoras' point was that in making practice the exclusive basis for rhetoric and rejecting theory Phrynichus was denying that rhetoric involves scientific knowledge (*ἐπιστήμη*). But that is contradicted by the authority of Plato, who says that the rhetor's function is to speak the truth (*Apology* 18a), that the would-be rhetorician must know what is just (*Gorgias* 508c), and that rhetoric requires knowledge and practice as well as natural ability (*Phaedrus* 269d). Another fragment (*PS* 196.22–197.11; cf., without attribution, 322.19–323.4) records that Evagoras differentiated five kinds of rhetoric, one of them a science of speaking well that is a companion (*σύνδρομος*) of philosophy. Against the background of such a legitimation, it is easy to see why at least some philosophers thought it intellectually respectable (as well as financially necessary) to take an active interest in rhetoric.[58]

3.10 SOPHISTS

Turning from philosophers to sophists, we may begin by revisiting the friends of Philostratus who provided our initial starting-point. The pupils of Apsines (§3.1) included not only the conjectured Aspasius (§3.2) but also the attested Gaianus, an Arabian who went on to teach in Beirut (*Suda Γ*9). His works included an *Art of Rhetoric* and declamations. He is given a *floruit* under Maximus and Gordian (238–44).

Nicagoras' son Minucianus (§3.4) taught Genethlius of Petra

[58] For the bearing of Platonism on attitudes to deception in rhetoric see §6.6 n. 58.

(*Suda Γ* 132), who also studied with Agapetus, of whom nothing more is known. Genethlius is fortunately more than just a name. He taught in Athens, but his career was brief—he died at the age of 28. He was highly talented ('he was naturally adept, and could memorize a complete declamation at a single hearing'), and his literary remains included informal discourses and declamations,[59] a 'farewell speech' (*προπεμπτικόν*) to his 'companions' Daeduchus and Asclepiades, and panegyrics. The 'companions' will be pupils or fellow-pupils (cf. Menander 387.6, 395.16f.), and the occasion of the speech would be their leaving the school (cf. §6.1). Daeduchus must be the torch-bearer of the Eleusinian mysteries, named in accordance with hieronymy (§3.4 n. 21). Nicagoras, son of Genethlius' teacher Minucianus, was torch-bearer by 304; but it is impossible to say whether he or a predecessor was Genethlius' addressee. Genethlius has been proposed as the author of the first of the treatises attributed to Menander; his epideictic compositions might give some colour to this conjecture, but there are grounds for scepticism (§4.8). Genethlius also appears in the scholia to Demosthenes (18.8 (27c), 52 (104b); 19.2 (15a), 148 (315b); 22.3 (13a)). The first of these citations names 'Epiphanius and Genethlius'; all of them occur in scholia which probably derive from a commentary by the fifth-century rhetorician Zosimus (§5.6), and it seems likely that Genethlius' work was mediated to him by the fourth-century Epiphanius. But the doctrine of 'Epiphanius and Genethlius' is also mentioned (and rejected) without attribution, by another commentator, whom I identify as Menander (18.8 (27d)); he will have known Genethlius' work directly.

Andromachus (§3.7) had a pupil Siricius (*Suda Γ* 475), who taught for a time in Athens. The bibliography in the *Suda* comprises only progymnasmata and declamations. A citation of the progymnasmata by Nicolaus (27.14–28.8) shows that it was

[59] These include 'the man who proclaims himself citiless (*ἄπολις*) after the destruction of Thebes'. There are declamation themes in which an Athenian, immediately after the Persian war, is banned from the Olympic games under the rule excluding the citiless (e.g. Syr. 2.100.10–16); he challenges the definition of 'citiless', arguing that it should be limited to those who have been banished from their city. Here, in a figured speech, the Theban proclaims the ban against himself as an opportunity to denounce Alexander.

a technical treatise rather than a collection of models. A few fragments of other technical works are preserved.[60]

During his short teaching career in Athens Genethlius was a rival of 'the famous Callinicus', another exceptionally distinguished sophist from Petra (*Suda K*231).[61] His works included a speech of welcome (*προσφωνητικόν*) to Gallienus (260–8); a speech *On the Renewal of Rome*, which probably dates to the reign of Aurelian (270–5); ten books *To Cleopatra, On the History of Alexandria*, thought to be dedicated to the Palmyrene queen Zenobia; and *On Bad Taste in Rhetoric*, dedicated to a Lupus who has been identified as Virius Lupus, consul in 278. Callinicus was active, therefore, in the 260s and 270s. The treatment of bad taste (*κακοζηλία*)[62] might have been purely technical, along the lines of [Hermogenes] *On Invention* 4.12, but it is also possible that Callinicus discussed political and moral explanations for current literary taste in a similar vein to *On Sublimity* 44 (Longinus, too, enjoyed Zenobia's patronage). The *Suda*'s bibliography also mentions a work *Against the Philosophical Sects*, showing that Callinicus had at least some engagement with philosophy, and concludes with 'a number of other encomia and speeches'. These would include the 'great imperial speech (*βασιλικός*)' cited as a model by Menander (370.14), who elsewhere names Callinicus alongside the great second-century sophists Aristides, Polemo, and Hadrian (386.30); this, on the part of a contemporary, is striking evidence of his distinction. Callinicus' fame persisted: he was one of the sophists whose reputation stimulated the young Libanius' desire to study in Athens (*Or*. 1.11); the fact that Tlepolemus, the other sophist named, is otherwise unknown provides a reminder of how incomplete our knowledge is. Libanius' notion (*Ep*. 21.5) that the town Callinicum was named after the sophist is scarcely correct, but the creation of the legend itself reflects a significant reputation.

Some scholars have felt compelled to postulate two sophists named Callinicus, since the *Suda* (*I*435) describes Julian son of Domnus, of Caesarea in Cappadocia, as a contemporary of Callinicus and gives him a *floruit* under Constantine (306–37).[63] But we should not expect too much chronological precision of the

[60] Siricius: Gloeckner 1901, 98–101; Schissel 1927/8.

[61] Callinicus: *FGrH* 1090 reviews the evidence; see also Pernot 1993, 104f.

[62] *κακοζηλία*: Jocelyn 1979, 77–108.

[63] Penella 1990, 79–83.

Suda, and there is no reason why the career of a sophist active, as Julian was, in the early part of the fourth century should not have overlapped with that of a sophist active in the 260s and 270s. According to Eunapius (482) Julian outshone his contemporaries, of whom the most distinguished were Epagathus, about whom we know nothing,[64] and Apsines the Spartan, whom Eunapius describes as a distinguished technical writer. This Apsines may be identical with Apsines, son of the Athenian sophist Onasimus, known from the *Suda* (*A*4736). Onasimus 'of Cyprus or Sparta' (*Suda O*327) is described as a historian and sophist, with a *floruit* under Constantine and an extensive bibliography: *Divisions of Issues*, an *Art of Judicial Rhetoric to Apsines* (presumably dedicated to his son), *On the Art of Controversy* (*περὶ ἀντιρρητικῆς τέχνης*), progymnasmata, declamations, encomia, 'and much else'. Onasimus in turn must be the son of another Athenian sophist named Apsines (*A*4734), who on chronological grounds cannot be identical with Apsines of Gadara.[65]

Eunapius (483–5) gives a vivid and entertaining account of conflict between the pupils of Julian and Apsines, in which Prohaeresius, the most brilliant of Julian's pupils, plays the starring role.[66] Prohaeresius was the son of the sophist Pancratius (probably the commentator on Minucianus: §3.8). Before he joined Julian he had studied in Antioch with Ulpian (Eunapius 487; *Suda Π*2375*γ*). Ulpian of Antioch (*Suda O*912, cf. *E*3738) wrote miscellaneous speeches (*λόγοι διάφοροι*), declamations and informal discourses, as well as unspecified other works. His pupils in Antioch probably also included Libanius;[67] he died around 330. Since Ulpian of Antioch had previously taught in Emesa, it is possible that he is identical with Ulpian of Emesa (*Suda O*911); if so, we can add to his bibliography works on local

[64] Except that John of Sardis (215.13) includes him in a list of distinguished sophists whose *ekphrases* are available for study, along with Callinicus, Prohaeresius, and Himerius.

[65] Heath 1998*a*, 91. The *Suda*'s description of Onasimus (*A*4736) and Apsines (*A*4734) as Athenian may indicate where they practised, and does not conflict with the ethnics in *O*327; the Doric form of Onasimus' name implies that he was not Athenian by origin. In AD 390 Libanius (*Ep*. 962) refers to a sophist Apsines, whose father Sopolis and grandfather were also sophists, while Eunapius attests a sophist Sopolis (487) whose son became a sophist (497): on the possible relationships see Heath 1998*a*, 92.

[66] Penella 1990, 81–94,

[67] Norman 1965, on *Or*. 1.8.

history (*FGrH* 676), progymnasmata, and an *Art of Rhetoric*.[68] Three fragments relating to issue-theory are preserved under the name of Ulpian.[69] There is also a fragment on the figure he called ἐπιδρομή from Ulpian's *On Transformation* (περὶ μεταβολῆς); the title, paralleled in Tiberius' *On Transformation of Political Discourse* (*Suda T*550), probably refers to the exercise of paraphrase (§7.1, §7.5).[70] Ulpian's name also appears in connection with the scholia to Demosthenes, posing a problem that I shall discuss in §5.9.

Another of Julian's pupils was Epiphanius, known from Eunapius (493f., 495) and Libanius (*Or.* 1.16). He was distinguished in Athens before the arrival of Libanius (336), and died long before the arrival of Eunapius (362). His identification with Epiphanius of Petra (*Suda E*2741), son of Ulpian (there is no obvious reason to think of Ulpian of Antioch/Emesa), who taught both in Petra and in Athens, has been questioned on the grounds that Eunapius speaks of a Syrian rather than (as one would expect with a man from Petra) an Arabian;[71] but Callinicus of Petra was also variously designated Syrian and Arabian (*Suda K*231).[72] Anatolius (§2.5) mocked the pedantic technical precision (μικρολογίαν καὶ περιττὴν ἀκρίβειαν) of Epiphanius' declamations (Eunapius 491), and Eunapius says he had a reputation for skill in the analysis (διάκρισις) of questions, but was rather slack (ἀτονώτερος) in his discourse. These assessments seem to fit well with the theoretical interests indicated by the work *On the Similarity and Difference of the Issues*, mentioned by the *Suda*; this is probably the source of a number of fragments concerned with issue-theory.[73] Epiphanius' bibliography also includes progymnasmata, declamations, epideictic speeches, and assorted

[68] On his progymnasmata see Heath 2003*d*, 134f.

[69] Schilling 1903, 763, 766f.

[70] *RG* 7.1030.9–17, 1052 n. (giving the source); *RG* 3.139.9–23 Spengel; cf. also *RG* 6.365.1–9; [Aps.] 3.26. Paraphrase: cf. *RG* 3.575.19–576.13. Tiberius' bibliography also includes περὶ μεταποιήσεως, another title used in connection with paraphrase: this may be a doublet resulting from the citation of one work under different titles (cf. §7.1 n. 20).

[71] Penella 1990, 95f.; Geiger 1994, 225f. A sophist named Epiphanius taught Apollinarius in Laodicea (Socrates 2.46), but there is no reason to assume the identification (see Penella 1990, 95).

[72] Potter 1990, 216–18 discusses incentives to avoid the designation 'Arabian'.

[73] *RG* 4.463.29–465.18; Nilus fol. 155, 170 (Gloeckner 1901, 93).

theoretical writings. As we have seen, Epiphanius appears once in the Demosthenes scholia, paired with Genethlius, whose views he may have mediated to Zosimus; since he is described there as 'the theorist' (ὁ τεχνικός) the source was probably a technical work rather than a commentary.

Another pupil of Julian, not mentioned by Eunapius, was Alexander (*Suda A*1128), son of Claudius Casilon. Casilon wrote on questions (ζητούμενα) in the Attic orators; some extracts are preserved.[74] Alexander's brother Eusebius was also a sophist; we cannot tell whether he was the Alexandrian pupil of Prohaeresius of whom Eunapius gives a markedly unflattering account (493), or the author of declamations read by Photius (cod. 132–5, 97a), along with others by Palladius, Aphthonius, and Maximus of Alexandria. Photius rated those of Palladius most highly, and he at any rate is known to us from the *Suda* (*Π*35) as a sophist from Methone who wrote on Roman festivals and other works, including informal discourses and a number of epideictic speeches, with a *floruit* under Constantine. Gymnasius of Sidon (*Suda Γ*481), also with a *floruit* under Constantine, wrote declamations, a commentary on Demosthenes, and other works; his son Theon (*Θ*208) practised as a sophist in Sidon.

This has not been an exhaustive survey. I have not, for example, said anything about Dexippus (*Suda Δ*237, with a *floruit* 253–75), member of a distinguished family that can be traced back to the first century: Eudemus was the father of the sophist Apollonius, who was the father of P. Herennius Hierokeryx (that is, sacred herald, again observing hieronymy), who was the father of the sophist P. Herennius Ptolemaeus, who was the father of P. Herennius Dexippus, leader of resistance to the Herulian invasion and recognized as a rhetor and historian in an honorific inscription erected by his sons, Ptolemaeus and the rhetor Dexippus.[75] But enough has been said to establish the continuing vigour of the profession of rhetoric through the third century and into the fourth.

[74] Latte 1965, 243f. The extracts are almost identical to the corresponding entries in the *Lexicon Rhetoricum Cantabrigiense*; Houtsma (4–6 = Latte 64–6) argues that Casilon was only one of the lexicon's sources.

[75] Millar 1969, 19f.; Puech 2002, 98–100, 210–25, 420–9.

3.11 CONCLUSION

In the mid- or late 260s Longinus (§3.6) left Athens, and went to Palmyra, to the court of the famous queen Zenobia, who rebelled against Rome; when Aurelian retook Palmyra in 273 he was executed for complicity in the revolt. This closing phase of his career has exercised a certain romantic fascination. In 1762 Edward Gibbon read *On Sublimity*, and wrote in his diary:

> When I reflect on the age in which Longinus lived, an age which produced scarce any other writer worthy the attention of posterity, when real learning was almost extinct, Philosophy sunk down to the quibbles of Grammarians and the tricks of mountebanks, and the Empire desolated by every Calamity, I am amazed that at such a period, in the heart of Syria, and at the Court of an Eastern Monarch, Longinus could produce a work worthy of the best and freest days of Athens.

In fact, *On Sublimity* is addressed to a young man with whom the author has recently been studying a classic work of literary criticism; the obvious implication is that the young man is a pupil or former pupil, and the treatise therefore dates to Longinus' time in Athens. So the disappointingly unromantic truth is that the treatise is the work, not of an elderly statesman in the exotic orient, but of a middle-aged academic in Athens. But that mistake pales into insignificance when compared to Gibbon's assessment of third-century culture.

From the standpoint of most classicists it is easy to think of the third century as a period of decline and crisis. Looked at from the other end, however, it is a period of crisis and recovery. The empire's successful response to profound challenges is evidence of deep resilience, and the military and political innovations developed to cope with those challenges reflect a robust and creative society. The century began with the extension of Roman citizenship to all free subjects of the empire by Caracalla (212). By the end of the century we have the tetrarchy, the administrative division of empire between East and West, and the shift of its political centre to the East: Diocletian's capital at Nicomedia foreshadowed Constantine's new foundation. Behind this political transformation lay cultural and intellectual achievements in many fields.[76]

[76] Response to crisis: MacMullen 1976. Aurelian: Watson 1999. Diocletian: Williams 1985. Tetrarchy: Corcoran 1996. For the continuity of cultural and

We have seen that there is nothing to suggest a disruption or dislocation in rhetorical culture. Sophistic rhetoric, in a restrictive Philostratean sense, suffered no decline: figures like Genethlius and Callinicus provide evidence of the continuity from Apsines and Nicagoras to the sophists described by Eunapius. There was also a continuing theoretical effort, innovative in both content and form of presentation, and stimulating lively academic debate. Nor was rhetoric isolated from other strands of intellectual activity. We have seen connections with contemporary literary scholarship and philosophy, and our survey has also, if in passing, given evidence that these fields themselves continued to flourish. In philosophy, one cannot recognize decline in a century that saw Plotinus, Porphyry, and Iamblichus give a new impetus and a new turn to Platonism, thus laying the foundations for the flowering of philosophical culture in later antiquity that has attracted increasingly respectful attention in recent years.[77] Longinus was recognized by contemporaries and successors alike as an outstanding literary scholar; if he did write *On Sublimity*, most modern readers would be inclined to accept that judgement. His pupil Porphyry, too, was a literary scholar as well as a philosopher and rhetorical theorist, and his *Homeric Questions* merit more careful study than they have yet received.[78]

Casting our net more widely, we might also consider the jurists. Kunkel identifies the second century as the 'era of greatest brilliance' of classical jurisprudence, and claims that 'after the middle of the third century the literary productivity of classical jurisprudence is extinguished'; this, he believes, is in line with 'the general falling off in intellectual power which took place in the third century in all spheres of cultural life'.[79] Roman law is a field in which a non-expert should tread with caution, but on reading Kunkel's account of 'the fall of classical jurisprudence' I cannot help being struck by his observation that 'the constitutional and procedural bases of classical law were obsolete

intellectual activity in third-century Athens see Millar 1969; cf. Romano 1979, 9: 'La cultura del III secolo, dunque, non è cultura di decadenza, ma cultura viva e vitale.' This section enlarges on the sketch in Heath 2002*d*.

[77] e.g. Sorabji 1983; 1988.

[78] Sodano's edition of Book 1 (1970) must be the starting-point. Iamblichus wrote 'on the criticism of the best discourse' (Syr. 1.9.10–19).

[79] Kunkel 1966, 122f.

and hardly any longer even comprehensible, and for this reason the whole structure of the classical norms, with all its subtle distinctions rooted in history, was no longer a living thing'.[80] Would the perpetuation of an obsolete tradition have provided better evidence of intellectual power than adaptation to new circumstances? The tendencies which Schulz's survey of legal science identifies in the later third century (adaptation of classical texts to contemporary conditions; stabilization and systematization; a less formalistic and more humanistic approach) might be thought decidedly beneficial innovations.[81]

Kunkel admits a partial exception to his disparaging assessment at the highest administrative level, in the rescripts of Diocletian. Honoré is more positive: he regards Hermogenianus, the legal secretary in 293–5, as 'one of the foremost Roman lawyers'; of his work he comments that 'its quality, especially in setting solutions in a framework of general principles, is outstanding'; reading the rescripts he drafted 'is a legal education'. Hermogenianus' view of law 'is derived from classical writers such as Ulpian and Papinian but was systematized in the law schools during the course of the third century';[82] it approaches law as a systematic discipline, integrating Roman material with Greek intellectual method. This is not a sudden new development. Reviewing imperial rescripts of the period 193–282, Honoré comments: 'We cannot, before Hermogenianus, call this a system in the intellectual sense . . . but the reader is conscious that the Greek intellect, with its power of abstraction and analysis, is increasingly moulding the law.'[83] Intellectual innovation here connects with political innovation, in the form of the first steps towards legal codification. The bearing of changes in legal

[80] Ibid. 146f.

[81] Schulz 1946, 278–99. But I write from a perspective overgrown with 'the noisome weed of rhetoric, which choked so much else that was fine and precious' (Schulz 55), and infected by 'the poison of rhetoric' (Kunkel 1966, 146). Frier 1985, 137, refreshingly sees in rhetoric nothing worse than 'an obstacle that . . . necessitated deep changes in law if it was to be overcome'.

[82] Honoré 1994, 163, 176; for the identification see 177–80 (cf. Corcoran 1996, 75–94).

[83] Honoré 1994, 138. Cf. Honoré 1998, 24, on theoretical and systematic developments in Roman law originating in the eastern empire from the second century onwards.

education on rhetoric in the fourth century is a matter to which we shall return (§9.4).

One other fundamental political change remained to be accomplished in the fourth century: the Christian takeover of the empire. But the third century was a seminal period for Christians, too. Origen, achieved a new level of sophistication in systematic theology; though from a later perspective many of Origen's views seemed far from orthodox, the heritage of his theology was brought to more orthodox formulation in the fourth century by (among others) the Cappadocian fathers—Gregory of Nazianzus, his friend Basil of Caesarea, and Basil's brother Gregory of Nyssa. These developments within Christianity were not isolated from the broader cultural and intellectual context. Gregory's debt to Longinus has already been noted (§3.6 n. 26). Theological thought was also informed by philosophy,[84] and there was a sustained dialogue with sophisticated pagan critics. Origen replied to the attack on Christianity by the second-century Platonist Celsus. In turn, Porphyry's critique of Christianity (sufficiently powerful that it was banned under Constantine) elicited further responses.[85] The scholarship and acute critical intellect which Porphyry deployed in his debate with Christianity, notably in his redating of the book of Daniel, no doubt reflects Longinus' philological training (among other areas of expertise, Longinus was an authority on questions of authenticity, and ancient scholarly discussion of the attribution of literary works routinely deployed chronological as well as stylistic evidence). Further arguments on the Christian side were provided by Eusebius, who studied with Origen's successor Pamphilus and was an innovative historian and biblical scholar.[86]

[84] For a recent case-study see Barnes 2001.

[85] Celsus: Frede 1997. Origen: Frede 1999*a*. Porphyry: Barnes 1973; Casey 1976; Meredith 1980; Croke 1983; Digeser 1998. The well-informed and rhetorically astute critic whose fragments are preserved in a reply by Macarius Magnes (Harnack 1911) cannot be Porphyry, as some have suggested; Digeser 2002 defends the claim of Sossianus Hierocles (*c.*300).

[86] Eusebius: Johnson 1985; Frede 1999*b*. Among other Christian scholars one might mention Dionysius of Alexandria, according to Eusebius (*HE* 6.29; *PE* 14.23–7) a pupil of Origen, who used stylistic arguments to distinguish the authors of John's gospel and Revelation, or Anatolius, appointed bishop of Laodicea *c.*280, an Aristotelian philosopher (he had taught in Alexandria), expert in philosophy, rhetoric, mathematics, and astronomy (*HE* 7.32).

Origen was a prolific and influential biblical commentator as well as a systematic theologian. Exegesis was a crucial discipline for the biblically-oriented Christians, and their use of techniques shared with pagan exegetes again reflects their interaction with contemporary culture.[87] Porphyry's innovative use of commentary as a vehicle for rhetorical theory reflects a general enthusiasm for the commentary format in this period. The philosophers known to modern scholarship as Neoplatonists regarded themselves simply as Platonists. Their thought was rooted in interpretation of Plato (and, especially under Porphyry's influence, of Aristotle), and many of them wrote commentaries; Iamblichus' innovative approach to the hermeneutics of Plato's dialogues had immense influence on his successors.[88] It was towards the end of the third century that Menander, who also wrote commentaries on rhetorical technography, applied the latest developments in rhetorical theory to the speeches of Demosthenes in the most influential of ancient commentaries on the orator.

Among Christian exegetes, John Chrysostom in particular reveals his rhetorical training in an analysis of Paul's rhetorical techniques that is sometimes strikingly reminiscent of the Demosthenes scholia.[89] John is reported to have studied with Libanius (Socrates 6.3; Sozomen 8.2). One might view with scepticism Sozomen's story of Libanius' death-bed testimonial (naming John as his preferred successor, had he not been 'stolen' by the Christians); but it can hardly be denied that the testimonial, if authentic, was merited by John's rhetorical brilliance.[90] Likewise, according to one account (Socrates 4.26; Sozomen 6.17) Gregory of Nazianzus and Basil of Caesarea studied with

[87] Young 1989; 1997; Neuschäfer 1987; Hollerich 1999; Metzger 1975.

[88] Larsen 1972; Heath 1989, 124–36. For the later commentators on Aristotle: Blumenthal 1996.

[89] Heath, 2004*a*.

[90] John and Libanius: Hunter 1988. According to Socrates, Theodore of Mopsuestia and Maximus (bishop of Seleucia) were John's fellow-pupils under Libanius. Cf. Kennedy 1983, 215–56. Older studies of rhetoric in patristic literature tend to concentrate on style (still true of Ruether 1969, 55–128; the attempt to analyse Greg. Naz. *Or.* 33 in terms of Hermogenean issue-theory in Norris 1998 displays a poor grasp of the subject). Recent work on Chrysostom by Mitchell (2000, 2001*a*, 2001*b*) and Thurén (2001) offers promise of a more satisfactory approach.

Prohaeresius (himself a Christian)[91] and Himerius in Athens, and subsequently with Libanius (probably in Constantinople, in 348/9).[92] Despite the exchange of polemic, these leaders of the church were conscious of a debt to the classical tradition, and sought to bring theology into a (not uncritical) relationship with 'external' culture.[93]

So the third century was not the nostalgic twilight of a culture traumatized by political and social crisis, but an immensely creative period which laid the foundations of the cultural florescence of late antiquity. In rhetoric, specifically, the theoretical advances that had been achieved in the second century were embedded into rhetorical culture through a process of sustained innovation. As we shall see, the trends which emerged in this period were to continue at least into the sixth century (§9.5).

[91] Lactantius, summoned to Nicomedia by Diocletian (cf. §3.10, on Andromachus) to teach Latin rhetoric, was also a Christian (the date of his conversion has been disputed), and contributed to the debate with pagan critics: Digeser 1998.

[92] Gregory and Basil: Petit 1956, 40–2, 125–8; Cadiou 1966; Fedwick 1981; Kennedy 1983, 215–41; Bernardi 1990. The tradition locates the study with Libanius in Antioch, which is the obvious conjecture if they were known to have studied with Libanius. Though the association with Prohaeresius and Himerius could also be conjectural (these were the most obvious teachers to suggest on the basis of known study in Athens) there is no compelling reason to doubt it.

[93] Pelikan 1993; Kaster 1988, 70–80. This degree of openness was not, of course, universal.

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Part II

Menander of Laodicea

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4
Menander: Testimonia and Fragments

The transmission of two treatises on epideictic oratory under the name of Menander of Laodicea (henceforth Treatise I and Treatise II) has inevitably placed epideictic at the centre of modern perceptions of his work.[1] But the accident of survival may not give a balanced picture; we need to take account of a fuller range of evidence. In this chapter I aim to collect and comment on all the testimonia and fragments in which Menander is explicitly named. That will provide a starting-point for the exploration in Chapter 5 of the possibility that more Menandrian material can be recovered from scholia to Demosthenes in which he is not named.

4.1 BIOGRAPHY AND BIBLIOGRAPHY

F1 *Suda M*590:
Μένανδρος, Λαοδικεὺς τῆς παρὰ τῷ Λύκῳ τῷ ποταμῷ, σοφιστής. ἔγραψεν ὑπόμνημα εἰς τὴν Ἑρμογένους τέχνην καὶ Μινουκιανοῦ προγυμνάσματα, καὶ ἄλλα.

Menander of Laodicea on the river Lycus, sophist. He wrote a commentary on Hermogenes' *Art* and Minucianus' *Progymnasmata*, etc.

Menander's connection with Laodicea on the Lycus tells us little about him;[2] it does not even prove that he was born there.

[1] See Russell and Wilson 1981, and the useful survey by Gascó 1998.

[2] Except that he was not a Syrian (Radermacher 1931, 764, perhaps confusing different cities of the same name). On Laodicea on the Lycus, in SW Asia Minor, see the index to Magie 1950; Hemer 1986, 178–209. The great second-century sophist M. Antonius Polemo (Puech 2002, 396–40) came from Laodicea; despite Philostratus' dismissive reference (*VS* 534), Polemo's son Attalus was also a sophist (Jones 1980, 374–7; Puech 2002, 156). In an earlier generation of the same family a rhetor Zeno led resistance to Labienus in 40 BC; his son Polemo was made king of Pontus by M. Antonius (Strabo 12.8.16, 14.2.24). On this family see Puech 2002, 527–30.

If he wrote Treatise II (§4.8), internal evidence indicates that he taught in Athens (396.25–32, cf. 392.14–18, 393.31–394.12, 426.5) and that he was active after Diocletian's accession in 285; indeed, a date in the latter part of the third century is likely if he wrote either of the epideictic treatises.[3] But the constraints which this imposes are rather loose, since we do not know at what point in how long a career that work is to be placed. References to Metrophanes (§3.9, §4.2, on F15a) and Genethlius (§3.10, §5.6) in Menander's Demosthenes commentary are also consistent with a late third-century date.

The *Suda*'s bibliography is explicitly incomplete. The fact that it does not include the epideictic treatises, by which Menander is best known to modern scholars, nor the commentary on Demosthenes, which dominates the ancient testimonia, is a salutary reminder of the incompleteness of the evidence. A reminder of the extent to which chance determines the availability of evidence is provided by F2, a papyrus letter from Hermoupolis dating probably to the second half of the fifth century.

F2 P.Berol. 21849:[4]
(recto) *τῷ κυρίῳ μο[υ]*
ἐναρέτῳ ἀδελφῷ [Θεογνώστῳ]
Βίκτωρ χ(αίρειν).
κατα[ξι]ούτω ἡ σὴ λογιότης διδόναι Ἡλίᾳ
π[ ]υλω τῷ παιδί τοῦ κυρίου τοῦ γραμματι-
κοῦ τὸ βιβλίον ὅπερ δέδωκα τῇ σῇ ἀ-
δελφότητι τυγχάνοντι ἐπὶ τῆς Ἑρμουπο-
λιτῶν· οἶδεν γὰρ ὁ θεός, ἀναγκάζομαι
οὐχ ὡς ἔτυχεν / ἔστιν δὲ Ἀλεξάνδρου Κλαυ-
δίου τω[ ] εἰς Δημοσθένην τὸν ῥήτορ[α
[ ] *Μενάνδρου τέχνην ἐν τάχι[*

[3] Russell and Wilson 1981, pp. xxxix–xl; Gascó 1998, 3115f. In Treatise II references to 'emperors' in the plural suggests a date under Diocletian. In Treatise I a reference to the settlement of the Carpi provides a *terminus post quem* around 272. Schenkeveld 1984, 194f., argues that the attribution of Treatise I to Genethlius would imply a date in the 270s, because of his rivalry with Callinicus, active in the 260s and 270s; I doubt the attribution (§4.8), but if Callinicus' career was a long one (§3.10) the argument in any case fails.

[4] Maehler 1974. On the schoolmaster (*grammatikos*) see Kaster 1988, 111, 378.

(verso) *καὶ μεθόδους*
καὶ ἐγκώμια
ἐν τάχ[ει]
(address) *ΥΠΟΜΝΗΣΤΙΚΟΝ ΠΡ(ὸς) ΘΕΟΓΝΩ-*
ΣΤΟΝ Π(αρὰ) ΒΙΚΤΟΡ(ος)

[recto] To my lord and virtuous brother Theognostus, Victor: greetings. May your eloquence be pleased to give to Elias P. . .ylus, the schoolmaster's slave, the book which I gave your brotherliness when you were in Hermoupolis. God knows, I am in dire need. It is Alexander Claudius' commentary on the orator Demosthenes.
Menander's *Art*, quickly.
[verso] And *Methods* and *Encomia*, quickly.
[address] Reminder to Theognostus, from Victor.

On the identity of Menander's *Art*, *Methods*, and *Encomia* see §4.7, and §9.5 for Victor and the implications of his request. It is worth noting that Victor's first thought was not for Menander, but for Alexander;[5] pursuing that lead may help to put his interest in Menander more securely in context.

A sophist named Claudius Alexander is mentioned in passing in the *Suda* (*A*1128), but before the publication of Victor's letter we were unable to identify him with the commentator Alexander who makes two appearances in the scholia to Demosthenes.[6] He appears alongside the second-century rhetorician Zeno (§2.6) and the otherwise unknown Dioscorus in an introductory note to the *Fourth Philippic* that is scathingly dismissive in tone; for a fuller discussion see §6.5. Alexander, like Zeno, also receives unfavourable comment in the scholia to *Against Leptines*.[7] The context is an analysis of the techniques by which Demosthenes

[5] Maehler 1974, 309: 'This [Alexander's commentary] is obviously the book which Victor needs most urgently. Having asked Theognostus to send it back, he remembers that besides this one he had lent his colleague several other books as well and adds the titles of these in the last line of the recto, which is crammed into the narrow lower margin, and a kind of postscript in a corner of the back side.'

[6] Heath 1994*b*, 18, overlooking this evidence, still thought vaguely of Alexander son of Numenius.

[7] Sch. Dem. 20.18 (44) [gT]. Scholia (41a, 44–50) [gT] are clearly extracts from what was originally a continuous exposition; (41b) and (42ab) [FYLS] represent very abbreviated extracts from the same source. (I use Dilts's sigla for manuscripts of the Demosthenes scholia; on my selection of manuscript evidence to report see §5.1, §5.10.)

undermines Leptines' strongest argument for revoking exemptions from liturgies, the advantage to be gained from enlarging the pool of liturgical contributors: Demosthenes responds by sowing confusion, manipulating language, tendentiously misrepresenting his opponent's position, and fragmenting the problem. It is observed that this last technique (*merismos*) can be used in opposite ways. A seemingly manageable package can be made to seem formidable if one focuses separately on all its constituent parts; conversely, a single, seemingly formidable whole can be made to seem manageable if it is broken down into smaller components. When Demosthenes says that there are liturgies performed by metics and liturgies performed by citizens, Alexander remarks approvingly on the propriety of the integration of metic and citizen into the community's festal activities; he does not see that Demosthenes is here embarking on a *merismos* designed to minimize the impact of Leptines' argument. Alexander is, presumably, among the 'some' who were criticized at the start of this analysis for failing even to realize that this *is* Leptines' strongest argument. They imagined instead that the crux of the dispute lies in the unworthiness of many of those whose exemption is in question, thus falling victim to the smokescreen which Demosthenes lays down at the very start of the speech.

We should not assume that the quotation from Alexander is representative of the quality or focus of his commentary. It has been selected to throw a good light on the approach of the commentator who quotes it, whose analysis of Demosthenes' polemical technique is acute enough to make us wary of trusting the objectivity of his own polemic. If the argument of Chapter 5 is correct, this commentator is Menander.

4.2 COMMENTARY ON DEMOSTHENES: (I) TESTIMONIA

Among the explicit testimonia to Menander's work, those to his commentary on Demosthenes constitute an overwhelming majority. On this evidence, it was the commentary above all that secured his reputation among contemporaries and successors. In this section I present the testimonia themselves, with a commentary on their more technical aspects. An overview, summarizing the main characteristics of the commentary that emerge from

this evidence, is provided in §4.3. Readers who feel that it would be helpful to get a sense of the broad picture before tackling the detail may wish to read the two sections in reverse order.

F3 Gregory of Corinth, commentary on [Hermogenes] *On Method*, *RG* 7.1184.13–1185.4:[8]

Μένανδρος ὁ ῥήτωρ ἐπιμερίζων τοὺς Ὀλυνθιάκους λόγους τοῦτο τὸ σχῆμα ὑποσιώπησιν κέκληκε λέγων οὕτω· τοῦτο τὸ σχῆμα (ἡ περιπλοκὴ δηλαδή) ὑποσιώπησις λέγεται, ὅταν μέλλῃ τις ἐπιφέρειν τραχύ τι καὶ λοιδορίας ἐχόμενον, μὴ βούλοιτο δὲ διὰ τὸ εἶναι λυπηρὸν τῷ ἀκούοντι, δι᾿ αἰνιγμάτων δὲ αὐτὸ σημαίνῃ· οἷον ὅταν ἴδωμέν τινα ἐπὶ ξένην πεμφθέντα πόλιν ὥστε ἀναγινώσκειν, καὶ μὴ ἀναγινώσκοντα ἀλλὰ μέθαις καὶ κύβοις καὶ τοῖς τοιούτοις σχολάζοντα, εἶτα βουλόμενοι αὐτῷ ἐγκαλεῖν, διὰ μὲν τὸ ἐπαχθὲς ὑποσιωπῶμεν ταῦτα ἃ ποιεῖ, δι᾿ ἑτέρων δὲ ῥημάτων αὐτὰ αἰνιττώμεθα, λέγοντες ὅτι ὁ μὲν σὸς πάτηρ ἔπεμψέ σε ὥστε ἀναγινώσκειν, σὺ δέ, οὐκ ἴσμεν ὅ τι ποιεῖς. οὕτω καὶ ἐνταῦθα βουλόμενος εἰπεῖν ὅτι ὁ μὲν καιρὸς πάντα ποιεῖ, παροξύνων ἡμᾶς ἐπὶ τὴν σωτηρίαν τῶν πραγμάτων, ἡμεῖς δὲ ῥᾳθυμοῦμεν καὶ οὐ προσέχομεν αὐτῳ ἀλλὰ θεαῖς τε καὶ τρύφαις σχολάζομεν, ὑπεσιώπησε μὲν τοῦτο διὰ[9] *τὸ δυσχερές, ἐπήγαγε δέ, οὐκ οἶδ᾿ ὅν τινά μοι τρόπον ἔχειν δοκοῦμεν πρὸς αὐτὰ τὰ πράγματα. διαφέρει δὲ ἡ ὑποσιώπησις ἀποσιωπήσεως, τῷ τὴν μὲν ἀποσιώπησιν παντελῶς ἀποσιωπᾶν καὶ μηδὲ δι᾿ αἰνιγμάτων λέγει τὸ ἐπιφερόμενον (ὡς ἐν ἐκείνῳ τῷ τόπῳ ἐν τῷ περὶ στεφάνου· καὶ ἐμοὶ μέν, οὐ βούλομαι δὲ δυσχερὲς εἰπεῖν), τὴν δὲ ὑποσιώπησιν αἰνίττεσθαί τι τῶν ἐνταῦθα. ταῦτα μὲν ὁ Μένανδρος.*

Menander the rhetor in his analysis of the *Olynthiacs* called this figure hyposiopesis, saying this: This figure (i.e. *periplokê*) is called hyposiopesis, when one is about to bring up something harsh and abusive in character, but does not wish to say it because it would cause distress to the hearer, but conveys it by way of hints. For example, when we see someone who has been sent to a foreign city to study, and who is not studying but spending his time drinking and gambling and suchlike, and we want to tell him off, because that would be offensive we make a tacit allusion to what he is doing and hint at it in other terms, saying ‘Your father sent you here to study, and—well, I don’t know what you’re doing.’ It is the same here. What he wanted to say was that the occasion does everything to provoke us into securing our affairs, but we are idle and pay no attention to them, but waste our time with shows and self-indulgence; but

[8] Paralleled in John Diaconus fol. 433: Rabe 1908*a*, 131.

[9] *καὶ* cod.: corrected from sch. Dem. 1.2 (14c, 20.22).

he made a tacit allusion because it would have been disagreeable, and instead says 'I do not know what to make of our attitude towards them.' Hyposiopesis differs from aposiopesis, in that aposiopesis passes over the matter in complete silence and does not make the additional point even by way of hints (as in that passage in *On the Crown*: 'And to my mind—but I do not want to say anything disagreeable'), but hyposiopesis hints at it, as here. This is what Menander says.

'Hyposiopesis' is not a standard technical term. It occurs in the scholia to the *First Olynthiac* and the *First Philippic*; there is also an occurrence in the scholia to Aeschines, the implications of which are considered in §4.5.[10] A shorter version of this fragment is preserved anonymously in sch. Dem. 1.2 (14c, 20.15–27); for the implications see §4.3. I return to the fragment in §6.1.

F4a Sch. Dem. 19.1 (1a) [FYS]:
ἡ μὲν ὑπόθεσις τοῦ λόγου στοχαστική· οὐ γὰρ συντρέχει τοῖς ἐγκαλουμένοις Αἰσχίνης, ἀλλ' ἀρνεῖται παντάπασι. τὸ δὲ εἶδος οἱ μὲν ἁπλοῦν νενομίκασιν ὕλης πολλῆς ὡς ἐν ἀληθείαις συνδραμούσης, οἱ δὲ συγκατασκευαζόμενον, δύο λαβόντες ἐγκλήματα τὸ κατὰ Φωκέας καὶ Θρᾴκην. Μένανδρος δὲ ἐμπίπτοντά φησιν.

The subject–matter is conjectural: for Aeschines does not concede the actions on which the charge is based, but denies them completely. As to the class, some have considered it simple, but with a lot of material coming together as happens in genuine cases, others co-confirmatory, taking as the two charges that concerning the Phocians and that concerning Thrace. But Menander says that it is incident.

F4b Nilus, commentary on Hermogenes *On Issues*, fol. 20v;[11] *RG* 7.374.7–15:
ἡ μὲν οὖν φύσις τε καὶ ἡ μέθοδος τοῦ ἐμπίπτοντος στοχασμοῦ ἐντελῶς ἡμῖν διὰ τούτων δεδήλωται. ἀναγκαῖον δὲ καὶ τὸ ἴδιον εἰπεῖν τοῦ ἐμπίπτοντος· ἡ γὰρ ἄγνοια τούτου πολλοὺς ἐπιεικῶς ἔσφηλεν, οὐ μόνον τῶν ἀγελαίων τουτωνὶ κατὰ τὸν Ἰσοκράτην σοφιστῶν, ἀλλὰ καὶ τῶν

[10] Sch. Dem. 1.2 (11d), (14b), (14c); 1.9 (67b), surely out of place; 1.12 (93a), corrupted to *ἀπο-* in (93bc); 1.19 (125a–e); 4.15 (78). Also a false variant in Fj at 18.3 (12b): 1.2 (14d) cites precisely 18.3 as an example of aposiopesis. Sch. Aesch. 3.51 (109); Aeschines himself uses the verb *ὑποσιωπᾷ* at 3.239. A related term is *παρασιώπησις*: Hermias *In Phaedr.* 213.28 (note *ᾐνίξατο*); cf. Trypho 3.199.27–30 Spengel (seeming to define it differently); Quint. 9.3.99; sch. Dem. 18.52 (105).

[11] Borzemska-Lesnikowska 1951, 38 (minor variants in *RG* 7).

ἐγχειρησάντων συγγράμμασιν, ὅπου γε καὶ Μένανδρος ἐν ὑπομνήματι τοῦ ῥήτορος τὸν παραπρεσβείας λόγον ἐμπίπτοντος στοχασμοῦ ἐτόλμησεν ἀποφήνασθαι.

We have thus fully clarified the nature and method of treatment of incident conjecture. But it is also necessary to state the distinguishing feature of incident conjecture, since ignorance on this point has caused many to slip up badly, not just of this common herd of sophists (as Isocrates puts it), but also of those who have turned their hands to writing treatises. Even Menander in his commentary on the orator had the audacity to assert that the *False Embassy* is an incident conjecture.

Menander's identification of the issue of *On the False Embassy* involved a modification of the standard definition of incident conjecture,[12] and this made his classification controversial. The commentator on Hermogenes (probably John of Caesarea: §3.8) who protests at Menander's audacity goes on to criticize this interpretation, and elsewhere describes its adherents as 'profoundly ignorant' (*λίαν ἀμαθεῖς*, *RG* 7.252.8f.). A more detailed explanation of Menander's theory and the technical basis of the objection will be given in §6.3, with a full analysis of a lengthy scholion (19.101 (228) [gT]) in which the theoretical objection is recognized and the theory defended. Sch. (228) has a further link to Menander (see on F6), as does sch. 19.114 (239c) [gT] (see on F7), which asserts the interpretation of the speech as incident conjecture against those who read it as a simple conjecture; sch. 19.179 (368a) [gT] reasserts the interpretation as incident conjecture and argues against a rival interpretation of the speech as co-confirmatory (*συγκατασκευαζόμενος*) conjecture. The interpretation is also accepted in 19.101 (227), 179 (368b) [A].

F5 Sch. Dem. 19.4 (26b) [YS]:
Μενάνδρου· προκατασκευή. Ἀσκληπιοῦ· προκατασκευῆς δίκην διευκρινεῖ τὰ ἐν τῇ ὑποθέσει ζητούμενα.

Menander: preliminary confirmation. Asclepius: in the manner of a preliminary confirmation he sets out clearly the points in question in the subject-matter.

This scholion appears in manuscripts YS. A fuller version, without the attributions, is found in two scholia in manuscripts

[12] Heath 1995, 96 (on Hermogenes 56.2–57.11).

gT: (26a) contains Asclepius' contribution almost verbatim,[13] while (25c) (cf. (25a) [FYS]) has a more detailed discussion of the functions of a preliminary confirmation:

τοῦτο τὸ νόημα διπλῆν ἔχει τὴν δύναμιν. ἐπισφραγίζεται γὰρ τὰ προειρημένα διὰ τοῦ προοιμίου καὶ τῶν μελλόντων κατάρχεται, ἅπτεται δὲ ἤδη λοιπὸν τῆς προκατασκευῆς. ἔχει δὲ τοιαύτην ἡ προκατασκευὴ δύναμιν ὥστε τινὰ τῶν λυπούντων περὶ τὴν ὑπόθεσιν διορθοῦσθαι. ἔστι δὲ ἡ χρεία αὐτῆς καὶ οὗπερ ἕνεκα τοῖς ῥήτορσιν ἐπιτετήδευται αὕτη· ἤτοι γὰρ τὴν ὑπόθεσιν ἅπασαν ὁ ῥήτωρ συμπεπλεγμένην ὁρῶν καὶ πολλῶν πραγμάτων περιεκτικὴν καὶ δυσδιάκριτον, διὰ τοῦτο δεῖται τῆς προκατασκευῆς, ἵνα τὴν σύγχυσιν ἅπασαν διαλύσῃ καὶ εἰς κεφάλαια τὴν ὑπόθεσιν ἀνάγων παρασκευάσῃ τοὺς ἀκροατὰς ὥσπερ πρός τινας κανόνας ἀποβλέποντας, οὕτως ἀπαιτεῖν παρ' αὐτοῦ τὰς ἀποδείξεις καὶ περὶ ταῦτα τὰ κεφάλαια ἵστασθαι· ἢ πρὸς τὸν ὅλον ἀγῶνα τοὺς δικάζοντας ἐναντίως ἔχοντας ὁρᾷ[14] *καὶ δεῖται προδιορθώσασθαι τὴν γνώμην αὐτῶν, ὡς ἐν τῷ κατὰ Μειδίου πεποίηκεν· ἢ μέρος τι τῆς ὑποθέσεως ὁρῶν δεόμενον μεθόδου τινὸς κέχρηται τῇ προκατασκευῇ, καθάπερ ἐν τῷ κατὰ Ἀριστοκράτους λόγῳ.*

This thought has a dual function: it puts the seal on what has been said before in the prologue and makes a start on what is to come, and in fact marks the start of the preliminary confirmation. The preliminary confirmation has the effect of putting right some of the adverse aspects of the subject-matter. Its use, and the reason why it is employed by speakers, is as follows. Either the speaker sees that the whole subject-matter is complex and involves many facts and is hard to make out, and for this reason needs a preliminary confirmation, in order to resolve all the confusion and by reducing the subject-matter to its heads prepare the audience to keep certain guidelines, as it were, in view in the demonstrations they require of him, and rest satisfied with those heads. Or else he sees that the jury has a hostile disposition to the whole case, and needs to correct their attitude in advance, as he does in *Against Meidias*. Or seeing that part of the subject-matter requires special treatment he uses a preliminary confirmation, as in *Against Aristocrates*.

[13] Asclepius appears in sch. Dem. 4.1 (1h) (= *RG* 7.1026.10–15); 19.114 (239a) [FYS] = F7 below; 19.122 (262b) [FYS, A, gT]; see §5.6, §5.11. Asclepius is also cited in sch. Thuc. 1.56, and Marcellinus *Life of Thucydides* 57; in both passages editors substitute Asklepiades, the most insubstantial of ghosts (in *RE* 2 (1896), 1631, Asclepiades (32) exists only as the source of these two passages, where his name is a conjecture!).

[14] I revert to the manuscript reading (Dilts prints the Aldine's ὁρᾶν), adjusting the punctuation accordingly.

According to the scholia to *Against Meidias*, Demosthenes faced possible resistance on the part of the jury to his treating assault against an individual as a public, and not simply a private, offence. This was a particular risk in the narrative part of the speech, which might be seen as consisting purely of private matters. The reading of two laws before the narrative was designed to pre-empt this reaction by indicating why the events to be narrated should be seen as having public significance (sch. 21.8 (37) [T]); this section (8–12) is the preliminary confirmation (sch. 21.8 (33a) [T], 13 (50a) [FYLS]). See further on F9, and §5.5, §6.4.

In *Against Aristocrates*, the favourable public image of Charidemus (the beneficiary of the decree whose legality is being challenged) poses a potential problem, which Demosthenes needs to disarm in advance: see sch. 23.1 (1, p.296.20–34, 297.9–17) [gT].

F6 Georgius, commentary on Hermogenes *On Issues*, fol. 55v:[15]
Μένανδρος γὰρ ὁ διαιρέτης φησὶν ὅτι οὐκ ἐχρῆν καθ’ ὅλου εἰπεῖν τὸν τεχνικὸν ὅτι ἡνίκα ἐν λόγοις εὑρεθῇ τὸ σημεῖον ἡ μετάθεσις τῆς αἰτίας κατὰ ῥητὸν γίνεται καὶ διάνοιαν· ἔδει γὰρ προσθεῖναι, ἡνίκα ἀσαφὲς εἴη τὸ ῥητόν· εἰ γὰρ μὴ εἴη τὸ ῥητὸν ἀσαφές, τότε μεταστατικῶς ἢ συγγνωμονικῶς ἐξεταστέον τὴν μετάθεσιν τῆς αἰτίας. τοῦ μὲν οὖν ἀσαφῶς[16] *ἔχοντος τὸ ῥητὸν ὑπόδειγμα τοῦτο· νέος πλούσιος ὤμοσεν ἐν συμποσίῳ τυραννήσειν, καὶ κρίνεται τυραννίδος ἐπιθέσεως. ἐνταῦθα γὰρ ἀσαφοῦς ὄντος τοῦ ῥητοῦ ἐξηγήσεται αὐτὸς ὁ πλούσιος κατὰ ῥητὸν καὶ διάνοιαν φάσκων ὅτι τυραννήσειν εἶπον, τουτέστι κατὰ φρόνησιν τῶν ἄλλων πλεονεκτήσειν πολιτῶν, καὶ ὅτι ἔσομαι προύχων τῶν ἄλλων καὶ περιφρονῶν αὐτῶν τῷ φρονήματι. οὕτως οὖν, ἡνίκα ἀσαφὲς εἴη τὸ ῥητόν, ἐξηγητέον αὐτὸ κατὰ ῥητὸν καὶ διάνοιαν. εἰ δὲ μὴ εἴη ἀσαφὲς τὸ ῥητόν, ἐργασόμεθα τὴν μετάθεσιν τῆς αἰτίας συγγνωμονικῶς ἢ μεταστατικῶς, ὡς ἐν τῷ κατ’ Αἰσχίνου. τοῦ γὰρ Δημοσθένους λέγοντος σημεῖον ὅτι ἀπώλεσας τοὺς Φωκεῖς, ἐπειδὴ ἀπήγγειλας τὰ ψευδῆ, ὁ Αἰσχίνης τὴν μετάθεσιν τῆς αἰτίας συγγνωμονικῶς τε καὶ μεταστατικῶς ἐποίησεν, συγγνωμονικῶς ἐφ’ οἷς ἔφασκεν ὅτι ἠπατήθην, ὅπερ συγγνώμης ἔστιν, μεταστατικῶς δὲ ἐν οἷς ἐπὶ τὸν Φίλιππον τὴν αἰτίαν μεθίστησιν λέγων ⟨ὅτι⟩ ἐκεῖνος αἴτιος. ταῦτα μὲν καὶ ὁ Μένανδρος.*

Menander the divider says that the theorist should not have said as a general rule that when the sign is found in something said, the trans-

[15] Schilling 1903, 745f. [16] Schilling: ἀσαφοῦς cod.

position of the cause is in accordance with letter and intent; he should have added: when what is said is unclear. If what is said is clear, then one must argue the transposition of the cause by transference or mitigation. An example of something that is said that is unclear is this: a rich young man swore at a party that he would be tyrant, and is charged with conspiracy to establish a tyranny. In this instance what is said is unclear, and the rich man will interpret it in accordance with letter and intent, claiming 'I said I would be tyrant, in the sense that I will excel other citizens in wisdom, and I will be superior to others and look down on them in thought.' Thus when what is said is unclear, one should interpret it in accordance with letter and intent. But if what is said is not unclear we will develop the transposition of the cause by transference or mitigation, as in *Against Aeschines*. When Demosthenes said the sign, that 'you destroyed the Phocians, since you made false promises', Aeschines effected the transposition of the cause by mitigation and transference—by mitigation, in that he said 'I was deceived', which belongs to mitigation; and by transference in that he transferred the responsibility to Philip in saying 'he was to blame'. Thus too Menander.

In cases of conjecture the prosecution will adduce allegedly incriminating facts as signs of the defendant's guilt (this is the head known as 'sequence of events'), and the defence has to provide an innocent explanation of facts (the 'transposition of the cause' or 'gloss').[17] According to Hermogenes, the defence's handling of the transposition of the cause will vary according to the nature of the facts adduced against them (49.7–20):

If it [sc. the sequence of events] is based on words, the transposition of cause is introduced according to letter and intent . . . If the sequence of events is based on acts, the transposition of cause is argued in the manner of a thesis . . . If it is based on feelings the transposition of cause arises in the manner of a plea of mitigation.

It is clear from the scholia to Hermogenes that Menander was not alone in rejecting this view.[18] A critique similar to that which

[17] Sequence of events: Heath 1995, 84 (on Hermogenes 47.8–48.2), and for transposition of the cause 87–9 (on Hermogenes 49.7–50.19); see also 86 (on Hermogenes 48.3–9) for different views on the order of these heads. But since the sequence of events is the sign, my schematization of the heads of conjecture (80f.) is flawed: sequence of events should have been grouped in (C) with the heads that respond to it. Hence (B) examines the probability of the crime (witnesses, motive, capacity) and (C) examines the alleged signs. This means that (C) should be regarded as the primary argument, (B) as preparatory.

[18] Heath 1995, 88f. (on Hermogenes 49.23–50.2).

Georgius attributes to Menander, directed against Hermogenes by name, is found in sch. 19.101 (228) [gT]—the same scholion that defends Menander's controversial interpretation of *On the False Embassy* as incident conjecture (see on F4). That scholion will be examined in detail in §6.3.

Sch. (228) uses two declamation themes as illustrative examples (p. 41.8–11, 20–7). The example of an utterance in need of reinterpretation is that of the young man who calls out to prisoners that they will be soon be free, and is accused of conspiring to establish a tyranny. The young man has to provide an innocent interpretation of his utterance. The example of an utterance in need of mitigation is that of the rich man who swears at a dinner-party that he will make himself tyrant; in response, the poor man swears that he will kill a tyrant, and the rich man is subsequently accused of his murder. The rich man's defence is that he was drunk. Comparison with this scholion suggests that Georgius has garbled his report of Menander. The example of an utterance that is unclear and in need of interpretation conflates the young man suspected of conspiracy and the rich man who boasts at the dinner-party. The result is deeply implausible: an obvious plea of mitigation (that the young man was drunk) is overlooked in favour of an extraordinarily unconvincing attempt to reinterpret the utterance. The confusion was no doubt eased by the fact that Georgius' variant does appear in other contexts. Porphyry uses it, more plausibly, to illustrate mitigation on the grounds of inebriation (*RG* 4.397.23–8);[19] *RG* 7.319.4–11 uses it to illustrate the head known as 'persuasive defence' (if I had been conspiring, I would not have said so in public), while *RG* 4.406.13–407.3 shows how to respond to such an argument.[20]

F7 Sch. Dem. 19.114 (239a) [FYS]:
Μενάνδρου· ἐντεῦθεν ἄρχεται τῆς τῶν μαρτύρων συστάσεως τῆς περὶ

[19] Heath 2002*c*, 7, 27; 2003*b*, 158.

[20] Persuasive defence: Heath 1995, 89f. (on Hermogenes 50.20–52.5). The more complex variant, involving the poor man's response and his murder, appears in Sopater *RG* 5.79.26–32. Sometimes in this variant the rich man is charged with conspiracy rather than murder: Zeno 332.27–323.29; Epiphanius *RG* 4.465.7–18; Sopater *Division of Questions* 51.9–13; *RG* 7.383.22–384.3. This changes the logical structure of the case, and creates interesting complications in issue-theory: Heath 1995, 97–100.

τῶν δώρων. Ἀσκληπιοῦ· ἐπὶ τὴν τῶν ἐλέγχων ἀπαίτησιν χωρεῖ τοῦ δευτέρου ζητήματος.

Menander: at this point he begins the substantiation of the witnesses concerned with the bribery. Asclepius: he moves on to the demand for evidence of the second question.

This scholion appears in manuscripts FYS; as with F5 above, manuscripts gT provide in sch. (239c) a parallel in which the sources are not named. In (239c) Asclepius' comment, given in a slightly fuller form (p. 44.24–7), is followed by Menander's comment (p. 44.27f.), given in a much fuller form if (as seems likely) the continuation is his as well (p. 44.28–46.2). Sch. (239c) is the scholion cited above (on F4) as maintaining that the *False Embassy* is incident rather than simple conjecture.

In both versions of Menander's comment the phrase 'substantiation of witnesses' (*μαρτύρων σύστασις* p. 44.19 = p. 44.27) appears in place of the standard technical term 'demand for evidence' (*ἐλέγχων ἀπαίτησις*); I do not know of any exact parallel.[21] A fondness for variation on the standard terminology can be observed elsewhere in the gT scholia: compare 'production of witnesses' (*μαρτύρων παραγωγή*, 19.57 (142a) [gT])[22] and 'demand for witnesses' (*μαρτύρων ἀπαίτησις*, 21.114 (403) [gT]). Sopater *Division of Questions* 7.16–19 uses the standard 'demand for evidence' to introduce his discussion of the head, but when illustrating how a speaker might express himself in making the demand he refers instead to the 'furnishing of witnesses' (*μαρτύρων παράστασις*). The avoidance of technical terminology in a speech or declamation is normal,[23] but Menander (as I take the source of these scholia to be) apparently sometimes felt a similar stylistic fastidiousness in technical exposition (he reverts to 'demand for evidence' at p. 45.11).

F8 Georgius, commentary on Hermogenes *On Issues*, fol. 2r;[24]

[21] Demand for evidence: Heath 1995, 82 (on Hermogenes 45.1–46.7). *μαρτύρων σύστασις* is used differently in *RG* 4.330.30f. and Sopater *Division of Questions* 60.27 (on substantiating a position by means of witnesses) and anon. *In Arist. Art. Rhet.* 83.1 (on topics for 'the discrediting and substantiation of witnesses').

[22] At p. 24.21 the supplement ⟨*μὴ*⟩ is mistaken: see §6.3.

[23] Lucian's tongue-in-cheek allusion to 'sequence of events' (*Tyrannicide* 14) is a special case: Heath 1995, 178.

[24] Schilling 1903, 744.

RG 7.248.8–13; John of Sardis *PS* 356.14–19:
Μένανδρος γὰρ ὁ διαιρέτης διαίρεσιν τῶν λόγων ποιούμενος ἐπληρώθη, φησίν, μέχρι τῶν ἐνταῦθα τὸ δίκαιον κεφάλαιον, ἄρχεται δὲ λοιπὸν τοῦ συμφέροντος. οἶδεν οὖν ὁ Μένανδρος αὐτὸ τὸ ἀποτέλεσμα, φημὶ δὴ[25] *τὸ μέρος*[26] *τοῦ ζητήματος, κεφάλαιον καλούμενον.*

Menander the divider in making his division of the speeches says the head of justice has been completed up to this point, and from here on he begins advantage. So Menander is familiar with the realization—I mean, the part of the question—being called a 'head'.

The point here is the ambiguity of the term 'head' between the head of argument as specified abstractly in the division of an issue, and the head as realized in the presentation of a particular case. The closest parallel to the expression attributed to Menander in the Demosthenes scholia is sch. 20.8 (22ab) [FYLS, gT], *πληρώσας τὸ δίκαιον ἄρχεται τῆς ἐννοίας τοῦ συμφέροντος*, although the term 'head' is not used there, as it is in other examples of this kind of transitional formula (e.g. sch. 15.3 (4) [Y, gT], 17 (2) [gT]; 20.88 (195b) [gT]).

F9 Georgius, commentary on Hermogenes *On Issues*, fol. 142r:[27]
ἔστι δὲ καὶ ἕκτη διαφορά, ἥν φησιν ὁ Μένανδρος, τοιαύτη· ἐν τῷ ἀντονομάζοντι οὐ συλλαμβάνομεν τὰ ἐγκλήματα, ἐπειδὴ τὰ αὐτῶν ἐπιτίμια κατὰ πολὺ ἀλλήλων διεστήκασιν. τῆς γὰρ ἱεροσυλίας τὸ ἐπιτίμιον θάνατος, τῆς δὲ κλοπῆς ἐπιτίμιον τὸ διπλᾶ ἐκτίνειν. ἐπεὶ οὖν οὐ παραπλήσιον τὸ τίμημα τῶν δύο ἐγκλημάτων, εἰκότως οὐ συλλαμβάνονται. ἐν δὲ τῷ κατὰ σύλληψιν τῶν δύο ἐγκλημάτων ἐπιτίμιον σχέδον τὸ αὐτό ἐστιν· τοῦ γὰρ δημοσίου ἀδικήματος τὸ ἐπιτίμιον ὥριστο θάνατος, καὶ ὁ βίαιος δὲ μυρίας ⟨εἰ μὴ⟩[28] *παρεῖχεν, λοιπὸν ἄτιμος ἐγίνετο ἄχρι οὗ ἂν παρεῖχεν ἃ ὤφειλεν τῷ δημοσίῳ· τὸ δὲ ἄτιμον εἶναι ἴσον τῷ θανάτῳ. εὐλόγως οὖν ἐνταῦθα συλλαμβάνομεν τὰ δύο. τὰ ἐπιτίμια γὰρ αὐτῶν παραπλήσιά ἐστιν. οὕτως μὲν ὁ Μένανδρος.*

There is also a sixth difference, which Menander mentions, as follows. In definition by counterdescription we do not include both the charges, since their penalties are very different from each other: the penalty for temple-robbery is death, and the penalty for theft is twofold repayment. So since the penalties for the two charges are not similar, it is reasonable not to include both of them together. But in definition by inclusion the

[25] *PS* φημὶ δὲ.
[26] *RG* 7 μετὰ.
[27] Schilling 1903, 746.
[28] Suppl. Keil.

penalty for the two charges is almost identical: the penalty prescribed for harming the public interest is death, and if the rapist does not pay the 10,000 drachmas, he would be disenfranchised until such time as he should discharge his public debt; and disenfranchisement is equivalent to death. So in this instance it is reasonable to include both of them together, since their penalties are similar. Thus Menander.

Definition by counterdescription and by inclusion are two species of double definition.[29] Hermogenes' example of counterdescription is a man who steals private property from a temple (he is a temple-robber, *not just* an ordinary thief); of inclusion, a general who rapes a woman placed under his guardianship while her father is serving as ambassador (he is guilty of harming the public interest *because of* the rape, in the given circumstances). Hermogenes classes *Against Meidias* as definition by inclusion: Demosthenes claims that Meidias' assault on him is a crime against the public interest, given the circumstances of the assault (see on F5, and §5.5, §6.4). The scholia classify the speech in the same way.[30] So Menander's commentary on *Against Meidias* would provide a plausible context for an elucidation of the theoretical point. But there is no indication of the source, and the fragment could also have come from the commentary on Hermogenes (§4.4). Georgius rejects Menander's suggestion as 'ludicrous', pointing out that it breaks down if the private property stolen from the temple were 10,000 drachmas.

F10 Sch. Dem. 21.16 (68b) [L]:
'*πάντας γε οὔ*', *φησι Μένανδρος*, *ἵν' ᾖ περὶ τῶν στεφάνων*.

Menander says *pantas ge ou*, so that the reference is to the crowns.

Demosthenes reports the results of a nocturnal raid by Meidias on 'the goldsmith's house', part of a campaign to sabotage Demosthenes' preparations as *khorêgos* for his tribe's dithyrambic chorus at the forthcoming Dionysia. According to the variant preferred by modern editors (*πᾶσαν*) Meidias failed to destroy all the sacred clothing; according to the variant preferred by

[29] Heath 1995, 111–13 (on Hermogenes at 62.1–64.3).

[30] Sch. 21.28 (95) [T] (the disagreement with Metrophanes relates only to the point at which the two crimes are brought together), 31 (103) [FYL], 34 (112) [FYLS], 126 (441ab) [FYLS, VfT]. Note that, contrary to 28 (95) and 126 (441ab), 31 (103) identifies the charge as impiety (see §5.5): so two commentators who differ on other points agree on this classification.

Menander (*πάντας*), he failed to destroy all the golden crowns. Since the partial destruction was accomplished in a raid on a goldsmith's house Menander's preference has an obvious superficial logic, but there may a deeper point. See further §6.4.

F11 Sch. Dem. 21.133 (470a) [F]:
παρὰ Μενάνδρῳ "ἀργυρᾶς".

In Menander, *arguras*.

As can be inferred from a more extensive scholion on the same passage (469a) [VfT], Menander explained a text in which Meidias rode on a silver mule-chair from Euboea, while noting that the 'vulgate' text had Meidias riding on a mule-chair from Argoura in Euboea (the location of the military action referred to in the preceding section).[31]

F12 Scholia on Hermogenes *On Types of Style*, *RG* 5.513.23–514.1 with n. 22, cf. 7.1039 n. 21:
Ἰσοκράτους μαθητὴν εἶναι λέγουσιν Ἀνδροτίωνα, καὶ ἦν, ὥς φησιν ὁ ῥήτωρ, τεχνίτης τοῦ λέγειν. ἐπετήδευσεν οὖν ὁ Δημοσθένης κεκαλλωπισμένον ἐργάζεσθαι τὸν κατ' Ἀνδροτίωνος, ἀντιφιλοτιμούμενος πρὸς Ἰσοκρατικὸν ῥήτορα παρίσοις χρώμενον κατὰ ζῆλον τοῦ διδασκάλου. τοῦτο καὶ Μένανδρός φησι διαιρῶν τὸν κατ' Ἀνδροτίωνος.

They say that Androtion was a pupil of Isocrates, and—as the orator says—was an artist of speech. So Demosthenes took pains to give *Against Androtion* a high level of ornamentation, out of competitive ambition towards an Isocratean orator who used parisosis in emulation of his teacher. Menander too says this in his division of *Against Androtion*.

For Demosthenes' description of Androtion see 22.4. Androtion is connected with Isocrates in sch. Dem. 22.1 (1a, p. 256.7–10) [L], 4 (18) [gT].[32]

[31] See MacDowell 1990, 50 and ad loc. MacDowell adopts the silver mule-chair, but eliminates the reference to Euboea from the text. His apparatus attributes this reading to Menander; but sch. (470a) does not allow us to conclude that Menander omitted *ἐξ Εὐβοίας*, and (469a) (especially if the source-critical conclusions reached in §5.6 are correct) makes it improbable.

[32] Rowe 2002 interprets *Against Androtion* and *Against Timocrates* as 'part of a campaign to discredit the school of Isocrates' (148); he detects the influence of Plato (158–61), thus reviving a view held by some ancient commentators (§6.6 n. 58).

F13 Christophorus, commentary on Hermogenes *On Issues*, fol. 102v:[33]
ὁ δὲ Μένανδρος τοιαύτην λέγει διαφοράν, ὅτι ἐν μὲν μεταστάσει κρίνεται ἐφ᾽ οἷς οὐκ ἐποίησεν δέον δὲ ποιῆσαι (ὡς ὁ πρεσβεύτης ὁ μὴ λάβων τὰ ἐφόδια καὶ μὴ πρεσβεύσας διὰ τοῦτο· ἐφ᾽ οἷς γὰρ οὐκ ἐποίησε δέον ποιῆσαι κρίνεται), ἐν δὲ τῇ συγγνώμῃ ἐφ᾽ οἷς ἐποίησε δέον μὴ ποιεῖν (ἡ γυνὴ ληφθεῖσα παρὰ τῶν πολεμίων χοηφοροῦσα τῷ παιδὶ καὶ τυπτομένη εἶτα ἐξειποῦσα τὰ ἀπόρρητα).

Menander says the difference is like this, that in transference one is judged in connection with what one has not done that should have been done (as in the case of the ambassador who did not receive his travelling expenses and failed to set out for that reason: he is judged in connection with what he did not do but should have done), and in mitigation in connection with what one has done that should not have been done (as in the case of the woman captured by the enemy when performing funeral rites for her son, beaten and so revealing secrets).

This specification of transference and mitigation (both the issues and the corresponding heads) is also found in a Demosthenes scholion (sch. Dem. 22.17 (53b–f) [YLS, gT]):[34]

ἀντίθεσις δικαιολογικὴ Ἀνδροτίωνος, ὡς ἔχειν τὸν λόγον κεφάλαια δύο, τὸ νόμιμον καὶ δίκαιον. ἔστι δὲ μεταστατική, τὴν αἰτίαν ἀπὸ τῆς βουλῆς ἐπὶ τὸν ταμίαν μετάγουσα. τινὲς δ᾽ ᾠήθησαν ἐκ δυοῖν στάσεων συνεστηκέναι τὴν ἀντίθεσιν, μεταστάσεως καὶ συγγνώμης. ἔοικε δὲ μεταστατικὴ τυγχάνειν μᾶλλον· καὶ γὰρ καὶ ἐν τῷ περὶ στεφάνου τὰ περὶ Χαιρώνειαν ἀναφέρων ἐπὶ τὴν τύχην οὐχὶ συγγνωμονικῶς, ἀλλὰ μεταστατικῶς[35] *ἔοικε τὰ λυποῦντα λύειν. ὅθεν χαρακτηρίζειν ἂν εἴη λοιπὸν τί μὲν ἐστι συγγνώμη, τί δὲ μετάστασις. ὅσα μὲν οὖν αὐτοὶ φαινόμεθα ποιοῦντες, εἰδότες δὲ ὅτι ἄτοπα, ὅμως δὲ ποιοῦντες δι᾽ ἀνάγκην ἰσχυροτέραν ἐπείγουσαν ἢ καὶ κατὰ ἄγνοιαν ἄλλως ἢ δι᾽ εὐήθειαν, ταῦτα ἂν εἴη συγγνώμης· ὅσα δὲ φαινόμεθα μήτε ποιοῦντες*[36] *μήτε πράττοντες τῷ κωλύεσθαι ὑπό τινος κρείττονος ἢ καὶ ἄλλου τινὸς ἑτέρου αἰτίου ἐν ᾧ τὰ τῆς ἐξουσίας ἐστίν, ταῦτα ἂν εἴη τῆς μεταστάσεως.*

[33] Rabe 1895, 247.

[34] I reconstruct the underlying text of gT from Dilts's apparatus (passing over some minor variants); Dilts gives precedence to the YL recension, mistakenly in my view (§5.1). I have consulted Dindorf to resolve some ambiguities in Dilts's apparatus.

[35] Vf *οὐχ οὕτως εἴρηκε· οὐ γὰρ συγγνωμονικῶς, ἀλλὰ μεταστατικῶς*; Fd *οὐχὶ μεταστατικῶς, ἀλλὰ συγγνωμονικῶς.*

[36] Pr *λέγοντες.*

A juridical counterposition on the part of Androtion, so that the speech has two heads, legality and justice. It is based on transference, shifting the blame from the council to the treasurer. Some have thought that the counterposition comprises two issues, transference and mitigation. But it seems rather to be based on transference. After all, in *On the Crown* too by referring affairs concerning Chaeronea to chance he seems to solve the problematic point not by way of mitigation but by transference. Hence it would remain to characterize mitigation and transference respectively. Whatever we are seen to do in person, knowing that there is something wrong with it, but nevertheless doing it under some pressing compulsion, or indeed through ignorance or naivety, that would be a matter for mitigation. But what we are seen not to be doing or performing because we are prevented by someone stronger or any other responsible party who possesses authority, that would be a matter for transference.

The differentiation of transference and mitigation was a matter of considerable debate.[37] For Hermogenes transference shifts responsibility to an act or person capable of being held to account, while mitigation invokes something that cannot be held to account (39.6–19). Transference is illustrated by an ambassador who does not set out within the specified time because he has not received his expenses from the treasurer, an accountable official; mitigation is illustrated by the generals who fail to recover corpses after a sea-battle because of a storm. But Hermogenes notes that others 'have simply said that arguments transferring the crime to some external factor are all transference (e.g. a storm, torture, or something else of that nature), and defined only arguments transferring the crime to the individual's own internal state as belonging to mitigation (e.g. pity, sleep, etc.)', and he does not think the matter worth arguing about (75.11–21). The most prominent adherent of the alternative differentiation which Hermogenes mentions was Minucianus. For him, the generals' failure to recover the corpses was a matter for transference, since it places the blame on an external factor (*RG* 4.688.14–22, 689.3–12; *RG* 7.206.15–207.8, 582.31–583.19, 586.5–9; cf. Zeno 347.20–4). Internal factors include emotions, ignorance, drunkenness, and youth. But there is evidence that Minucianus' position underwent modification in the third century. Although the link between internal factors and mitigation seemed in principle right

[37] Heath 1995, 129; 2003*b*, 163, on Porphyry F11.

(the unusually eirenic nature of Hermogenes' criticism perhaps attests the perceived strength of Minucianus' position), it seems that Minucianus' classification of a case like that of the generals was found unsatisfactory. More than one attempt was made to reformulate the distinction so as to retain those elements of Minucianus' position that seemed intuitively right while avoiding unintuitive classifications of individual cases.

For Porphyry, the difference is between an avoidable fault and one that could not have been avoided (*RG* 7.203.22–204.4; Christophorus fol. 101v–102r).[38] The ambassador could have acted otherwise (using his own money or taking out a loan), but has some excuse in the treasurer's default; the generals who fail to recover corpses because of the storm could not have acted otherwise, and this is therefore mitigation (as Hermogenes held). Internal factors such as emotions, ignorance, drunkenness, and youth are still assigned to mitigation. We know that others modified Minucianus' position so that external factors which work through an internal response are mitigation (*RG* 4.249.14–16, 688.14–17; *RG* 7.583.9–13). The generals who abandoned the corpses can be shifted to mitigation if they acted out of fear of the storm; similarly, the woman who succumbs to torture in Menander's example can be shifted to mitigation (Minucianus treated a similar example as transference) if it is her own fear or weakness that is seen as the motivating factor.[39] On these lines, Menander would have been able to interpret the woman as doing something wrong (and thus falling under his criterion for mitigation) because of her internal response to an external stimulus. What would he have said about the generals? If they were physically prevented by the storm from picking up the corpses, then they failed to do something because of an external factor; if they decided not to recover the corpses because they were afraid of the storm they did something—abandon the corpses—because of their internal response to an external stimulus.

Hence I do not believe that Gloeckner was right in seeing an inconsistency between this testimonium and scholia that ally themselves to Minucianus' account of mitigation in terms of internal

[38] Rabe 1895, 247; Schilling 1903, 731.

[39] For the woman see Sopater *RG* 5.101.18–20; *RG* 4.661.24–662.13, 674.16–25, 678.2–9. 679.14–19; *RG* 7.203.5–9 (old man, attributed to Minucianus), 553.22–30; cf. the variant in [Quint.] *Decl. Min.* 272.

factors.[40] One such is sch. 19.101 (228) [gT], discussed under F4 above, which refers to the internal factors (p. 41.33–42.8) and criticizes Hermogenes' theory in passing (p. 42.7f.). On the interpretation proposed here, Menander's use of omission and commission as a criterion was an attempt to retain the correlation of mitigation with internal factors while avoiding the unintuitive results of Minucianus' version. Some at least of the internal factors listed at p. 41.32f. appear in the scholion cited here; and the example of transference given in p. 42.5–8 (the appeal to chance in *On the Crown* 252–75) also reappears.[41] This suggests that the two ways of distinguishing the issues were not seen as mutually exclusive. Thus Sopater (*RG* 5.101.11–21)[42] is apparently willing to combine Menander's theory with Minucianus', although he regards Menander's as 'more precise' (*ἀκριβεστέρα*). At *Division of Questions* 360.27,[43] Sopater (in my view, a different Sopater) comments that transference 'in general' relates to what did not happen; the qualification confirms that the criterion was not seen as exclusive.

The Sopater of *RG* 5 was not the only theorist to adopt Menander's view. Christophorus goes on to report that it was accepted by 'the shorthand writer', Phoebammon, and Sopater. 'The shorthand writer' (*ὁ σημειογράφος*) is probably John, a sophist who was teaching in Alexandria in the 480s (§9.5). Phoebammon, too, dates to the latter part of the fifth century or the sixth century, since as well as his commentary on Hermogenes *On Issues* (of which some fragments are preserved by Nilus and Christophorus) he wrote a commentary on Hermogenes *On Types of Style*, of which the prolegomena are preserved (*PS* 375–88); that places him after Syrianus (the first commentator on this work).[44] So

[40] Gloeckner 1901, 97.

[41] Cf. Heath 2002*b*, 661f., on [Aps.] 5.20.1–6; to the references for chance and transference add Syr. 2.28.19–24; Sop. *Division of Questions* 348.8–10.

[42] At *RG* 5.101.14–16 Innes and Winterbottom 1988, 283, supplement *ἐν μὲν τῇ μεταστάσει κρίνεται ὁ φεύγων ὡς ⟨μὴ πεποιηκώς τι ὧν ἐχρῆν, ἐν δὲ τῇ συγγνώμῃ ὡς⟩ πεποιηκώς τι ὧν οὐκ ἐχρῆν*.

[43] Innes and Winterbottom 1988, 283 supply an omission in Walz's text from manuscript C: after *καταχθέντων* read: *τινὲς μετάστασιν ἐπὶ τὸν χειμῶνα· ἀλλ' οὐκ ἔχει το τῆς μεταστάσεως ἴδιον· ἐπὶ μὴ γενομένῳ γὰρ ὡς ἐπὶ τὸ πλεῖστον ἡ μετάστασις*.

[44] Phoebammon is also cited in sch. Thuc. 1.53, and a treatise on figures is preserved under his name; it is uncertain whether it is by the same person. See Gloeckner 1901, 82; Schilling 1903, 723; Rabe 1895, 244, 247f.; 1899; Brinkmann 1906; Stegemann 1941.

Christophorus' reference to Sopater is probably to the latter of the two commentators of that name (see *RG* 4.246.1–5), whom I identify with an Alexandrian sophist contemporary with John 'the shorthand writer' (§3.8, §9.5). Christophorus himself rejects Menander's view. He refers to the case of Archidamus retreating from Attica because of the plague, which Minucianus classified as a combination of transference and counterstatement, as an example of transference with regard to a fault of commission.[45]

F14 John Diaconus, commentary on [Hermogenes] *On Method*, fol. 480:[46]

Εὐκτήμων οὖν καὶ Διόδωρος ἐπιλαμβάνεται κατὰ τέσσαρας νόμους τοῦ ψηφίσματος, ὧν πρῶτός ἐστιν, ἀπροβούλευτον ψήφισμα μὴ εἰσιέναι ἐν τῷ δήμῳ . . . καὶ οὗτος ὁ νόμος κατὰ Μένανδρον μὲν περὶ τοῦ πράγματός ἐστι, κατὰ δὲ τὸν Φοιβάμμωνα μικτός.

Euctemon and Diodorus find fault with the decree on the basis of four laws, of which the first is that a decree should not come before the assembly without a prior resolution of the council . . . This law is concerned with the fact according to Menander, but according to Phoebammon it is mixed.

Menander's view that the first of the legal arguments against Androtion is 'concerned with the fact' is found in sch. Dem. 22.1 (1a, p. 256.21–4) [L]. When Phoebammon (see on F13) claims that it is 'mixed' he means that it is concerned with person as well as fact. The point of the contrast can be seen in sch. 24.17 (44b) [YL]: the head of legality is 'concerned with the fact' if it addresses the inherent character of the law itself, and 'concerned with the person' if it addresses faults in its initiator's conduct of the legislative process. This contrast is also found in the second hypothesis to *Against Leptines*. John Diaconus derived this idea from the second hypothesis to *Against Androtion*, but he used a version fuller than that preserved in the direct tradition (and printed in editions of Demosthenes), which lacks the reference to Menander. See further §5.7.

F15a Georgius, commentary on Hermogenes *On Issues*, fol. 49r:[47]

χρὴ δὲ πρῶτον ἐπισημήνασθαι ὅπερ ὁ Μένανδρος ἐν τῇ διαιρέσει[48] *τῶν*

[45] Minucianus' analysis is accepted in *RG* 4.241.16–22, 675.14–19, 680.23–681.3; *RG* 7.569.17–21, 573.8–16. Syrianus 2.143.16–26 denies that this case involves transference.

[46] Rabe 1908, 143.

[47] Schilling 1903, 745.

[48] Keil: ἀναιρέσει cod.

δημοσίων. φησὶ γὰρ ὅτι οὐκ ἀρραγὲς τὸ παρ' Ἑρμογένῃ καὶ Μητροφάνῃ ἐπικρατῆσαν δόγμα, φημὶ δὴ[49] *τὸ καὶ τὴν μετάληψιν πάντως ἀντιλήψει λύεσθαι. ὅτι μὲν γὰρ ἡ ἀντίληψις μεταλήψει λύεται δῆλον, τὸ δὲ ἕτερον οὐ πάντως ἀληθές. οὐ γὰρ ἡ μετάληψις ἀεὶ ἀντιληπτικῷ ἐπιλυθήσεται, ἀλλ' ἔστιν ὅτε τὴν μετάληψιν τὸ ὁμοιογενὲς ἐπιλύεται μεταληπτικόν, ὥσπερ παρὰ Δημοσθένῃ ἐν τῷ κατ' Ἀνδροτίωνος· ἔστι γὰρ ἐκεῖσε μεταληπτικὴ ἀπὸ τρόπου ἀντίθεσις· εἴπερ, φησίν, ἐποφείλω τῷ δημοσίῳ, ἐχρῆν σε ἐνδεῖξαί με καὶ οὐ παρανόμων*[50] *κατηγορεῖν. οὕτως οὔσης μεταληπτικῆς τῆς ἀντιθέσεως, καὶ ἡ λύσις ὁμοίως μεταληπτική ἐστιν, ἀπό τε χρόνου καὶ τρόπου. καὶ τοῦτο, φησίν, τότε ποιήσομεν, οὐ μὰ Δία νῦν, ὅτε χρή σε ὑπὲρ ὧν ἀδικεῖς δοῦναι λόγον. τοῦτο οὖν λέγει, ὅτι ἐνδείξομέν σε μετὰ ταῦτα. δέδεικται τοίνυν ὅτι οὐ πάντως ἡ μετάληψις ἀντιληπτικῷ λυθήσεται, ἀλλ' ἔστιν ὅτε τῷ ὁμοιογενεῖ μεταληπτικῷ.*

First we must indicate what Menander says in his division of the public speeches. He says that the doctrine which prevails with Hermogenes and Metrophanes is not reliable, I mean that objection is invariably solved by counterplea. Obviously counterplea is solved by objection, but the converse is not true without qualification: objection is not always solved by counterplea, but sometimes the solution to objection is a cognate argument based on objection, as in Demosthenes *Against Androtion*. For in that speech there is a counterposed objection based on manner: if, he says, I am a public debtor, you should have brought an *endeixis* against me, and not a prosecution for illegal proposals. So this counterposition is based on objection, and the solution likewise is based on objection, from time and manner: we will do this, he says, but not now, by god, when you should be called to account for your crimes. So what he says is that we will bring an *endeixis* against you at a later date. So it has been proven that objection will not invariably be solved by an argument based on counterplea, but sometimes by a cognate argument based on objection.

F15b ibid. fol. 197r:[51]
ἐδείξαμεν ἤδη ἐν τῇ μεθόδῳ ὡς ὅτι Μένανδρος ὁ διαιρέτης ἐν τῷ κατ' Ἀνδροτίωνος τὸ μεταληπτικὸν ἑτέρῳ ἐπιλύεται μεταληπτικῷ.

We have already shown in the method that Menander the divider in his commentary on *Against Androtion* solves an argument based on objection with another argument based on objection.

According to Hermogenes (48.10–14, 61.5 f.) the heads counterplea (claiming that a contested act is permitted) and objection

[49] *δὲ* cod. [50] *παρὰ νόμον* cod. [51] Schilling 1903, 745 n. 4.

(which faults an act with respect to one or more circumstances: this is permitted in principle, but not to this person, in this place, at this time, in this way, for this reason) are invariably opposed to each other.

The doctrine that objection can be solved by objection is applied to *Against Androtion* in sch. Dem. 22.22 (65) [YL, gT], 33 (97b) [gT] ~ (97c) [YL] ~ (98) [S]. While arguing that Androtion could not legally bring a proposal to the assembly because he was an undischarged public debtor, Demosthenes anticipates the response that, if so, Androtion's opponents should have used the legal procedure known as *endeixis*. Demosthenes replies that, while an *endeixis* will indeed be forthcoming, currently it is more appropriate to expose the illegality of Androtion's proposal through a *graphê paranomôn*. The scholia identify Androtion's anticipated response as a counterposition based on objection (*ἀντίθεσις μεταληπτική*), since it finds fault with the *manner* of the proceedings; Demosthenes' reply in turn is a solution based on objection (*λύσις μεταληπτική*), since it finds fault with Androtion's counterposition on the grounds that *endeixis* is not the appropriate *manner* in which to proceed at the present *time*. 'Objection' is being used here in a somewhat extended sense of any argument that faults an action or argument on the other side with regard to one or more elements of circumstance.[52]

Metrophanes, whose agreement with Hermogenes is noted by Georgius, is criticized for the doctrine that objection is always solved by counterplea in sch. Dem. 21.26 (93b) [T]. Metrophanes is criticized on other grounds in sch. Dem. 21.28 (95) [T] (see on F9). Hermogenes and Metrophanes are criticised in sch. 24.68 (152c, p. 340.17–22) [gT] for maintaining that opposition to a verbal instrument necessarily makes the issue legal.[53]

F16 Scholia minora on Hermogenes *On Types of Style*, *RG* 7.1080 n.:

περὶ τούτων ὁ ῥήτωρ Μένανδρος ἐν τῇ διαιρέσει τοῦ κατὰ Τιμοκράτους ἀκριβέστερον ἐτεχνολόγησεν.

Menander the rhetor gave a more precise technical account of these matters in his division of *Against Timocrates*.

[52] See Heath 2002*b*, 659–61, on [Aps.] 4.15.13–19.

[53] Cf. Syr. 2.195.19–196.17; Heath 1995, 110f. (on Hermogenes 76.6–11).

The point under discussion is the unresolved conjunction (*μέν* with no answering *δέ*) at the beginning of *Against Timocrates*. Hermogenes' discussion of this point (362.20–363.14) is scathing about earlier commentators on Demosthenes. Menander's 'more precise' account is presumably that found in sch. Dem. 24.1 (2a–d) [YL, gT] (cf. §5.7), where criticism of Demosthenes' 'negligence' is countered by a very detailed analysis of the structure of the proem: the initial premise (*πρότασις*), that Timocrates has brought the prosecution on himself, is supported by a confirmation (*κατασκευή*), that he has acted to deprive the city of money for his own profit, the completion of which is strategically suspended by the insertion of elaborate amplification. Sch. (2e) [A] gives a different, and much simpler account.

F17 Sch. Dem. 24.111 (220b) [A]:
ἐντεῦθεν τὸ δίκαιον κεφάλαιον, ὅπερ καταγίνεται καθαρῶς εἰς τὴν καταδρομὴν τῶν περὶ τὸν Ἀνδροτίωνα, ἣν ἔφησεν ὁ Μένανδρος δευτέραν ὑπόθεσιν.

From here on the head of justice, which concentrates on the attack on Androtion and his associates, which Menander says is a second subject.

The idea that *Against Timocrates* contains a second, supplementary subject involving an attack on Androtion is found in sch. Dem. 24.1 (1b) [YL], 5 (18a) [YL], 8 f. (22, 24b) [gT]. See further §5.7.

F18 John of Sicily, commentary on Hermogenes *On Types of Style*, *RG* 6.382.25–7:
καταχύσματά εἰσι τὰ ἐπὶ τοῖς νεωνήτοις δούλοις διδόμενα τραγήματα, ὥς φησι Μένανδρος ὁ τὸν Δημοσθένην ἐξηγούμενος. καθίζουσαι γὰρ τούτους ἐπὶ τῆς ἑστίας, ὅ ἐστι τόπος πυρὸς ἐν τῷ μαγειρίῳ, αἱ δέσποιναι ἐδίδοσαν κάρυα καὶ κάστανα, εὔκαρπον καὶ ὀνήσιμον τὴν κτῆσιν εὐχόμεναι γενέσθαι.

katakhusmata are the sweets provided in respect of newly purchased slaves, according to Menander the commentator on Demosthenes. For seating them at the hearth (that is a place where the fire is in the kitchen)[54] the mistresses gave them nuts and chestnuts, praying that their acquisition would be fruitful and beneficial.

[54] This parenthetic gloss must have been supplied by John: it is absent from the parallel passage at Syrianus 1.74.10–13 (where Menander is not named).

On Demosthenes 45.74; there are no scholia to this speech. The explanation for the practice (for which see e.g. Aristophanes *Wealth* 768f.) is found commonly in lexica and elsewhere; it is not in any sense distinctive to Menander.

4.3 COMMENTARY ON DEMOSTHENES: (II) OVERVIEW

It is clear from the evidence surveyed that Menander discussed points on more than one level. We have seen him engaging with textual questions (F10, F11), and clarifying details of Athenian life (F18). Since the explanation in this last instance is commonplace the citation attests to Menander's authority as a commentator on Demosthenes rather than to anything distinctive in his interpretation of this particular point. But the main emphasis of his commentary was clearly on the analysis of the argumentative structure of the speeches using the tools provided by issue-theory.

Georgius, in the fifth century (§3.8, §9.5), refers to Menander as 'the divider' (F6, F8, F15b) and to the commentary as a 'division' of the speeches (F8, F15a); and this usage was not limited to Georgius (compare the anonymous F12, F16, and Gregory of Corinth's ἐπιμερίζων, F3). In issue-theory 'division' can be used at different levels of abstraction: of the analysis of an issue into its constituent heads of argument, as in Hermogenes; of the analysis of a theme into the heads under which it should be treated, as in Sopater's *Division of Questions*;[55] and of the analysis of a speech or declamation into the sections which embody those heads, as in a rhetorical commentary. (The corresponding ambiguity of 'head' between the abstract and the realized head of argument is the point of the citation in F8.) Division in the third sense must have been a particularly significant feature of Menander's commentary, and his divisions particularly noteworthy, perhaps for their detail and sophistication. However, division was a standard rhetorical technique, which any rhetor in late antiquity would find it natural to apply to the exegesis of classical oratory; the presence of inconsistent divisions in the scholia proves that the

[55] See Innes and Winterbottom 1988, 2. On the usefulness of division in both exegesis and composition see *PS* 202.15–20, 208.16–24.

extant corpus derives from more than one source (§5.4–5). Division is therefore not a sufficient criterion for the attribution of any particular scholion to Menander 'the divider'.

An obvious question to raise is whether these testimonia give us other grounds for identifying traces of his work in the scholia to Demosthenes. A clear instance in which Menandrian material has been preserved in the scholia without explicit attribution is revealed by F3. Gregory of Corinth's testimonium is a fuller version of material preserved anonymously in sch. Dem. 1.2 (14c, p. 20.15–27), presented here in the right-hand column:

<table>
<tr><td>This figure is called hyposiopesis, when one is about to bring up something harsh and abusive in character, but does not wish to say it because it would cause distress to the hearer, but conveys it by way of hints.
For example, when we see someone who has been sent to a foreign city to study, and who is not studying but spending his time drinking and gambling and suchlike, and we want to tell him off, because that would be offensive we make a tacit allusion to what he is doing and hint at it in other terms, saying 'Your father sent you here to study, and—well, I don't know what you're doing.'</td><td>This figure is called hyposiopesis, when one is about to bring up something harsh and abusive in character, but does not wish to say it because it would give offence, but conveys it by way of hints.</td></tr>
<tr><td>It is the same here. What he wanted to say was that the present occasion does everything to provoke us into securing our affairs, but we are idle and pay no attention to them, but waste our time with shows and self-indulgence; but he made a tacit allusion because it would have been disagreeable, and instead says 'I do not know what to make of our attitude towards them.'</td><td>Here too, what he wanted to say was that the occasion does everything to provoke us into securing our affairs, but we are idle and pay no attention to it, but waste our time with shows and self-indulgence; but he made a tacit allusion because it would have been disagreeable, and instead says 'I do not know what to make of our attitude towards them.'</td></tr>
</table>

Hyposiopesis differs from aposiopesis, in that aposiopesis passes over the matter in complete silence and does not make the additional point even by way of hints (as in that passage in *On the Crown*: 'And to my mind—but I do not want to say anything disagreeable'), but hyposiopesis hints at it, as here.	It differs from aposiopesis, in that the latter passes over the matter in complete silence (as in: 'I do not want to say anything disagreeable'), but hyposiopesis hints at it, as here.

Some other instances come from the scholia themselves. Citations in the form 'Menander said . . .' must derive from a later commentator who reported on Menander's commentary; but the two citations that are merely tagged with his name (F5, F7) may derive from his commentary directly. In both those cases other strands of the tradition preserve what appear to be fuller versions of the Menandrian material without explicit attribution. Several testimonia attribute to Menander doctrine that is paralleled in the scholia (F4, F6, F13, F14, F15, F17). The question whether these are isolated instances or open the way to a more systematic identification of Menander's presence in the scholia will be taken up in the next chapter.

4.4 TECHNICAL COMMENTARIES

The *Suda* attests commentaries on two technical works, Minucianus' *Progymnasmata* and Hermogenes' *Art*. Hermogenes had not, at this time, acquired the pseudo-Hermogenean works (§2.11), and Syrianus, in the fifth century, knew of no earlier commentaries on *On Types of Style*. So the *Art* on which Menander wrote his commentary must be *On Issues*; the narrow use of *tekhnê* to designate a treatise on issue-theory (as, for example, in the case of Minucianus' *Art*: §2.8) is well attested. The writing of commentaries on rhetorical treatises was still a recent development in Menander's time (§3.8), and the adoption of Hermogenes rather than Minucianus as the base text was more recent still. But the only attested commentaries before Menander were on works on issue-theory. In writing on Minucianus' *Progymnasmata* Menander was perhaps seeking to extend this innovation; a commentary on a standard teaching-text for the most elementary

stage of the rhetorical curriculum might have seemed a natural complement to a commentary on a standard teaching-text for the second most elementary stage. However, in this Menander found no followers; there is no known parallel for a commentary on a treatise on the progymnasmata (§8.4).

There are no named citations of either commentary. Two fragments on issue-theory (F9, F13) for which no source is given may come from the commentary on Hermogenes. In F13 we saw evidence that Menander had influenced Sopater's commentary on Hermogenes. But there is also evidence of Menander's influence on Sopater in *RG* 5.132.7–15, referring to the *False Embassy* as a counter-example to doctrine on sequence of events in words, and there the parallel is with the Demosthenes commentary (F6). Since it is clear that the Demosthenes commentary included explanations of technical doctrine and criticisms of theoretical positions adopted by Hermogenes and Metrophanes, technical content alone cannot give decisive grounds for assigning a fragment to the Hermogenes commentary rather than the Demosthenes commentary. Both F9 and F13 are concerned with how the difference between closely related issues (or variants of the same issue) should be specified, and we know from sch. 21.25 (90b) [T] that comments on such points were found in exegesis of Demosthenes. That weakens the case for assigning F9 and F13 to the Hermogenes commentary, and there are other grounds for doubt. The Hermogenes commentator who adapted material from Porphyry's commentary on Minucianus and mediated it to Sopater and other successors is most likely to have been Metrophanes.[56] Metrophanes is cited relatively frequently in the scholia to Hermogenes (and since the citations are generally not hostile it is unlikely that the references to him were derived from the highly critical Menander); the contrast with the absence of named citations of Menander is striking. For that reason I have hesitantly included the two fragments with those of Menander's most prominent and demonstrably influential work.

In both these fragments Menander's proposal differs from that of Hermogenes, and we have already seen evidence of his willingness to criticize Hermogenes sharply (F6, F15a). Menander's commentary would therefore not have treated *On Issues* as

[56] Heath 2002*a*, 294; 2003*b*, 147.

an authoritative text. But that is normal for commentaries on rhetorical technography (§3.8, §8.4).

4.5 COMMENTARY ON AESCHINES?

There is no explicit testimonium to a commentary on Aeschines by Menander. Any such commentary would have been, by comparison with the commentary on Demosthenes, lukewarm, as we can infer from a comment in an introductory scholion to *Against Aristocrates*. After explaining that the heads of justice and legality arise from the speech's subject-matter in the strict sense, the commentator (Menander, if the argument of §5.6 is correct) adds that the head of advantage is a product of the orator's subtlety (*περίνοια*). He continues (sch. 23.1 (1, p. 296.1–7) [gT]):

ὅτι δὲ ἐκ περιεργίας τοῦ ῥήτορος ἐνέπεσε τὸ κεφάλαιον, δῆλον ἐκ τοῦ κατὰ Κτησιφῶντος Αἰσχίνου. τοιαύτης γὰρ οὔσης κἀκεῖ ⟨τῆς⟩ ὑποθέσεως, ὁ μὲν Αἰσχίνης διὰ πενίαν συνέσεως καὶ δεινότητος ἔνδειαν οὐκ εὐπόρησε θεῖναι τὸ συμφέρον, ἀλλὰ τὴν ἁπλῆν ἠγωνίσατο ὡς ἁπλούστερος· ὁ δὲ Δημοσθένης ὡς Δημοσθένης καὶ ἔξωθεν προσεπενόησεν ἐκ τῆς τέχνης καὶ τῆς δεινότητος συμμαχίαν λαβεῖν· διὰ τοῦτο καὶ τρίτον κεφάλαιον ἐκίνησεν ἐν τῷ λόγῳ τὸ συμφέρον.

That the head arose from the orator's thoroughness is clear from Aeschines' *Against Ctesiphon*. Although the subject-matter there too was of the same kind, Aeschines because of the poverty of his intelligence and his lack of eloquence was not resourceful enough to introduce advantage, but conducted the argument simply, being rather simple himself; but Demosthenes, being Demosthenes, managed to devise additional ways to gain the assistance of art and eloquence. For this reason he advanced a third head in the speech, advantage.

It is, nevertheless, likely that Menander would have expounded Aeschines as well as Demosthenes in the course of his teaching activity, and it may be worth asking whether the extant scholia display any evidence of his influence. There is, in fact, an interesting echo of the passage just quoted in sch. Aesch. 1.119 (257ab), where Aeschines' ironical reference to Demosthenes as an 'outstanding' (*περιττός*) orator is explained as 'precise and thorough', or 'always finding things superfluous (*περιττά*) to the subject in hand with a view to deceptive fallacies', with an illustrative refer-

ence to *Against Aristocrates*. Another pointer that seems promising is the following (sch. Aesch. 3.51 (109)):

τὸ δίκαιον κεφάλαιον οὕτω διεῖλεν· εἴς τε τὰ ἴδια Δημοσθένει πραχθέντα καὶ εἰς τὰ δημόσια πεπολιτευμένα, ἀλλὰ τὰ μὲν ἴδια τῷ καθ' ὑποσιώπησιν σχήματι μετέρχεται, τὰ δὲ δημόσια διαιρεῖ εἴς τε τοὺς πρὸ τῆς εἰρήνης χρόνους καὶ εἰς τὰ ἐν αὐτῇ τῇ εἰρήνῃ καὶ τὰ μετὰ τὴν κατάλυσιν τῆς εἰρήνης ἕως τῆς ἐν Χαιρωνείᾳ καὶ τὰ μετὰ Χαιρώνειαν ἕως τῆς εἰσαγωγῆς τῆς γραφῆς. πάλιν δὲ τοὺς χρόνους ὑποδιαιρεῖ.

He divided the head of justice as follows: into the actions performed by Demosthenes privately, and his public acts as a politician. His private actions he passed over by means of the figure hyposiopesis, but the public acts he divides into those before the time of the peace, those during the peace itself, and those after the violation of the peace until Chaeronea, and those after Chaeronea until the case was brought. Then in turn he subdivides the times.

The detailed analysis ('division') is consistent with Menander's procedure in his commentary on Demosthenes, although that is not a decisive criterion (§4.3).[57] More significant is the occurrence of hyposiopesis, which is not a standard technical term (§4.2, on F3). However, there is no reason to believe that the extant scholia to this speech derive from a single source. There is, for example, an apparent divergence of opinion about the beginning of the head of justice (49 (105), 51 (109), 54 (120)) and the epilogue (177 (406a–c), 230 (500a)). Since the rhetorical analysis is very thin by comparison with that in the scholia to Demosthenes, significant progress in the source-criticism of the Aeschines scholia seems unlikely.[58]

[57] For the division of the head of justice into four times cf. sch. 1 (1a). But the same four times appear in the hypothesis, where the characterization of the heads is somewhat different, and terminology such as *κεφάλαια γενικά* (cf. Theodorus *ap*. Quint. 3.6.2) and *ὑποφορά* suggests an older source.

[58] We know very little about commentators on Aeschines. The scholia mention Apollonius (1.56 (130)), also credited with a *Life* (*Vita* 2 Dilts); Aspasius (1.83 (183)), on whom see §3.2; and Marcellinus (2.6 (16a)). Gregory of Corinth (*RG* 7.1183.21–6) mentions Cheirisophus (see Heath 2003*c*, 17). *Vita* 3 Dilts seems to begin with a self-citation of sch. Dem. 19.197 (411) [A] (cf. §7.4 n. 54).

4.6 COMMENTARY ON AELIUS ARISTIDES

Two testimonia allow us to attribute a commentary on one at least of Aristides' works to Menander.

F19 Sch. Aelius Aristides *Panathenaicus* 13 (26.20–2 Dindorf):[59]
τοῦτο ἐκ τοῦ ἐναντίου εἴρηται. ἐχρῆν γὰρ εἰπεῖν· τοῖς δὲ λεγομένοις συμβαίνει καὶ τὰ ὁρώμενα. διὸ καὶ Μένανδρος μέμφεται τῷ Ἀριστείδῃ.

This is said by inversion: he should have said that what is seen concurs with what is said. For this reason Menander finds fault with Aristides.

Aristides describes the visual beauty of Attica, and says that the legends ('what is said') agree with what is seen. The point of Menander's criticism is not clear to me.

F20 Sch. Aelius Aristides *Panathenaicus* 265 (259.33–260.2 Dindorf):[60]
ἐνταῦθα βούλεται εἰπεῖν, ὅσα οὐκέτι μὲν ὑπὲρ ἑαυτῆς, ὑπὲρ δὲ τῶν ἄλλων Ἑλλήνων ἠγωνίσατο πρὸς Λακεδαιμονίους. ἐντεῦθεν γὰρ ἄρχεται τῶν Ἑλληνικῶν καὶ ὧν ἐποίησε κατὰ[61] *τῶν τριάκοντα, ὥς φησι Μένανδρος.*

Here he means the struggles it [the city] undertook against the Spartans, not now in their own interest, but on behalf of the other Greeks. For at this point he begins on the history of Greece and what it did against the Thirty, as Menander says.

This marks the transition from Aristides' account of the Peloponnesian War to subsequent events. Perhaps the translation should read 'he begins on [sc., Xenophon's] *History of Greece*': cf. sch. 264 (259.13–17).

According to the *Suda*, Metrophanes (§3.9) wrote a commentary on Aristides: no identifiable traces survive. The scholia refer by name to Menander, Athanasius, and Sopater. Lenz attempts to identify particular Menandrian elements, suggesting (for example) that the division of the *Panathenaicus* into four parts, opposed to Athanasius' division into three, derives from Menander.[62] These conjectures rest on the premise that

[59] Text: Lenz 1964, 80 n. 3. [60] Text: Lenz 1964, 80. [61] v.l. *μετὰ*.

[62] Lenz 1934 = 1964, 1–99 (esp. 79–86 on Menander); 1959 (with Behr 1968, 142–7). For the division of *Panathenaicus* (Lenz 1964, 86) see sch. *Pan.* 75 (98.31–99.9), 185 (196.28–197.4), 187 (197.34), 228 (228.19–26); *Four* 309 (642.17f.), 320 (648.31–649.3: for the text see Lenz 1964, 250 n. 1). The suggestion (Lenz 1964, 82) that *ἀπὸ τῆς Δημοσθενικῆς διαιρέσεως* (sch. *Four* 1 (440.33–441.1) refers by title to Menander's Demosthenes commentary is particularly unconvincing.

Menander's contribution was mediated through Sopater. But Lenz's theory that the main body of the older scholia goes back to Sopater is not sustained by any satisfactory analysis, and falls foul of the evidence that more than one Sopater contributed to the technical literature on rhetoric (§3.8). When certain testimonia attribute opinions about *On the Four* to Sopater that are inconsistent with Sopater's prolegomena to Aristides, but which agree with the hypothesis to the speech, it is a reasonable inference that more than one Sopater is in question. The Sopater whose work lies behind the hypothesis may be the sophist who taught in late fifth-century Alexandria (§9.5), since he engages with problems and possible solutions of which the Sopater of the prolegomena seems unaware. It is possible to reconstruct in outline the progress of the fourth- and fifth-century debate about the classification of *On the Four* out of which these ideas developed. It seems unlikely, therefore, that the scholia passively or pervasively transmit the views of a late third-century commentator. While it is probable that Menander's influence is present anonymously, no instances can be identified with any confidence.[63]

One point of more general, though entirely negative, significance arises from Lenz's discussion. He compares ἐντεῦθεν ἄρχεται in F20 with F7 above.[64] Parallels are common in the Aristides and the Demosthenes scholia, but also in other commentators (for example, Olympiodorus *In Aristot. Met.* 14.22 ἐντεῦθεν ἄρχεται λοιπὸν τῶν ἀγώνων, 21.9 ἐντεῦθεν ἄρχεται τῶν ἐλέγχων). We are dealing here with typical scholastic language, not a distinctive individual trait. The same must be said of the transitional formula common in the Demosthenes scholia, consisting of a protasis with some form of πληρόω and an apodosis; for example, sch. 20.8 (22ab) [FYLS, gT]: πληρώσας τὸ δίκαιον ἄρχεται τῆς ἐννοίας τοῦ συμφέροντος (see on F8). This kind of formula, too, is so widely distributed among commentators of all kinds as to show that it is a scholastic standard. It is possible to identify individual preferences in the precise wording. Simplicius, for example, favours the compound συμπληρόω, while John Philoponus is more prone than others to a plain λέγει in the apodosis and frequently qualifies

[63] For the debate on *On the Four* see Heath 2003*d*, 151–8; 157 n. 73 contains a wholly unprovable guess of my own about a possible reference to Menander (see too §6.2 n. 22).

[64] Lenz 1964, 80f.

apodosis with *νῦν* where others favour *ἐντεῦθεν* or *λοιπόν*. But I can detect no such marks of individuality in uses of the formula that can plausibly be attributed to Menander. There is no criterion for attribution here.

4.7 EPIDEICTIC TREATISES: (I) TESTIMONIA

F21 John Doxapatres, commentary on Aphthonius *Progymnasmata*, *RG* 2.415.18f.:
περὶ τούτων δὲ πάντων ἐντελέστερον εἴσῃ τῷ περὶ ἐπιδεικτικῶν ἐντυχὼν τοῦ Μενάνδρου βιβλίῳ.

On all these matters you will be more fully informed if you consult Menander's book *On Epideictic*.

F22 John Doxapatres, commentary on Aphthonius *Progymnasmata*, *RG* 2.450.2f.:
καὶ τοῦτο εὕροις μὲν Μένανδρον ἐν τῷ περὶ ἐπιδεικτικῶν αὐτοῦ βιβλίῳ διδάσκοντα.

You will find that Menander teaches this, too, in his book *On Epideictic*.

F23 Anon., *On the Four Parts of the Complete Speech*, *RG* 3.572.22–4:
περὶ λαλιᾶς δὲ καὶ τῶν τοιούτων μάθῃς πλατύτερον ἐν τοῖς τοῦ Μενάνδρου, ἃ ἐπιγράφονται Μενάνδρου ῥήτορος περὶ τέχνης ῥητορικῆς.

You will learn more extensively about informal discourse and such things in the works of Menander entitled 'Menander Rhetor, *On the Art of Rhetoric*'.

John Doxapatres dates to the eleventh century; the anonymous author refers to Psellus (3.572.29, 573.8), and therefore cannot be earlier than the eleventh century.[65] Eleventh-century evidence that both treatises were attributed to Menander tells us nothing, since the attributions are already found in the mid-tenth-century manuscript Parisinus gr. 1741.

Can the attributions be traced further back? In view of the history of the Hermogenean corpus (§2.11), it would not be

[65] Russell and Wilson 1981, pp. xxxv–xxxvi. Doxapatres' sources: Rabe 1907.

surprising if they were established by or in the fifth century.[66] That brings us back to F2, a letter dated to the second half of the fifth century. Victor asks Theognostus to return a borrowed copy of Claudius Alexander's commentary on Demosthenes, and then as an afterthought (§4.1 n. 5) adds other titles: Menander's *Art*, *Methods*, and *Encomia*.

Maehler assumes that the *Art* is Treatise II, comparing the form of the citation in F23.[67] But if one's first thought is for a commentary on Demosthenes, it is not obvious that the second thought will be for a treatise on epideictic. We have noted that *Art* could be used in the restricted sense of a treatise on issue-theory (§4.4), and such a work would arguably be more relevant, since the theory of issues and their division is an essential interpretative tool in the Demosthenes scholia. Perhaps, then, Menander's *Art* was a work on issue-theory: either an otherwise unattested treatise, or his commentary on Hermogenes. There are parallels for a citation of 'X' in the sense 'commentary on X';[68] and since commentary on a technical text was not simply exposition, but might involve disagreement with the author commented on and original theoretical development, the distinction between an *Art* and a commentary on an *Art* was not completely sharp (§3.8). There are parallels for this uncertainty: we cannot be sure whether references to Porphyry's *Art* are to his commentary on Minucianus' *Art* or to another text (§3.7), or whether the *On Issues* and the commentary on Hermogenes with which the *Suda* credits Metrophanes are two works or one work cited under two forms (§3.9). Menander's *Art* might therefore be the commentary on Hermogenes; if not, we cannot exclude the possibility that he also wrote a treatise of his own on issue-theory. However, the apparently limited influence of Menander's commentary on Hermogenes (§4.4) must raise doubts about its availability in the fifth century. Moreover, we are not compelled to assume a

[66] Russell and Wilson include Nicolaus 49.13–23 in their testimonia; the parallels, though of a very general nature, suggest familiarity with Treatise II, but since Nicolaus does not name his source this does not help us with attribution. John of Sardis shows knowledge of both treatises, though he does not cite them under Menander's name; Rabe 1928, pp. xviii, xxi, infers a sixth-century source.

[67] Maehler 1974, 309 (misreported by Russell and Wilson 1981, p. xxxv).

[68] Heath 2003*b*, 144.

connection of relevance linking Victor's first and second thoughts: perhaps he was simply asking for all the books he had loaned to Theognostus. So Maehler's identification of the *Art* is possible, though not certain.

The *Methods* might well be one of the treatises on epideictic. 'Methods' appropriately describes both of them. In Treatise I 'in the technical methods' (332.11) is an internal reference, to 344–67; and in [Dionysius], the closest parallel to Treatise II, five out of seven chapters have *μέθοδος* + genitive in the title. It may be that this was a regular formula for epideictic treatises.[69] On the other hand, 'method' is too common a term in all branches of rhetorical theory for a connection with epideictic to be certain. The salience of the epideictic treatises in modern perceptions of Menander predisposes us to find them in Victor's letter; so we should exercise caution, recognizing that our ignorance of the full range of Menander's bibliography leaves open the possibility that there were other technical works which might have been referred to as his 'methods' or 'art'.

With the *Encomia*, however, we are clearly in the sphere of epideictic.[70] Since the different kinds of epideictic speech are species of encomium (for example, Nicolaus 67.6–10) one might envisage a treatise on epideictic, but the title counts strongly against this. We know that the title *Progymnasmata* can refer to a treatise *about* progymnasmata or to a collection *of* model exercises (like that of Libanius), but the same ambiguity is not attested for encomium: there is no parallel for the title *Encomia* meaning a treatise about encomia. The *Suda*'s bibliography for Onasimus (*Suda O*327, §3.10) includes '. . . progymnasmata, declamations, encomia': we cannot be sure whether he wrote a *Progymnasmata* (linked to the preceding theoretical works) or a collection of progymnasmata, but the declamations are certainly compositions, and so too are the encomia. In Callinicus' bibliography (*Suda K*231, §3.10) a list of epideictic compositions concludes with 'and certain other encomia and discourses': here too the encomia are certainly epideictic compositions. There is a lot of epideictic oratory from the imperial period about which we would know

[69] Cf. the fragment *μέθοδος προσφωνητικῶν λόγων* in Radermacher 1900, 162–4.

[70] Is it relevant that the *Methods* and *Encomia* are mentioned together on the verso, separately from the *Art*?

nothing if the *Suda* had not mentioned it in an author's bibliography. Since Menander's bibliography is incomplete we cannot rule out the possibility that actual encomia by Menander are in question in Victor's letter. If so, it would be tempting to think of the *Methods* as a theoretical treatise on epideictic, with a collection of models attached; but, again, there is no certainty.

In short, therefore, the identity of the three Menandrian texts requested by Victor is uncertain: the letter might refer to either, both, or neither of the epideictic treatises.

4.8 EPIDEICTIC TREATISES: (II) AUTHORSHIP

Even if the attribution of both treatises to Menander in the fifth century was securely attested, that would not prove that the attributions were correct. The history of the Hermogenean corpus and the case of [Apsines] shows that false attributions of rhetorical texts were already current in the fifth century. The existence of one influential text on epideictic under Menander's name would tend to attract another epideictic treatise, as Hermogenes' name attracted other texts to it. We need, therefore, to consider whether internal evidence supports common authorship. Scholars have long disagreed about whether the two treatises are works of one author, and if not which (if either) is by Menander.[71] Russell and Wilson summarize a number of stylistic and doctrinal differences between the two treatises which suggest that they are by different authors,[72] but there is a more fundamental methodological difference, to which Pernot has drawn attention.[73]

'Division' is an important theme in both texts, but the dominant sense in each is different. For the author of Treatise II, division means primarily the division of a text into a linear sequence

[71] Soffel 1974, 100–3, surveys views on the authorship of the two treatises (helpfully tabulated on 104).

[72] Russell and Wilson 1981, pp. xxxvi–xxxix.

[73] Pernot 1986, 46f. Methodological differences between the two treatises are also stressed by Talamanca 1971, 465–70 n. 52, though he concludes (475–7), following Bursian 1882, that Treatise I is by Menander, Treatise II being anonymous.

of headings: the first topic to be treated, the second, and so forth.[74] This usage corresponds to the sense which division has in issue-theory, in which each issue is divided into the sequence of heads which go to make up its characteristic argumentative strategy (§2.1–4). There is therefore a methodological parallel between Treatise II and the best-attested work of 'Menander the divider'. By contrast, division in Treatise I means not just the division into heads and their subordinate topics, but also the division of a single topic into a range of possibilities out of which the speaker may select one or more, as appropriate. For example, in praising a city the head of origin is divided into founders, settlers, date, changes, and causes of foundation; the topic of date is divided into three periods—the oldest, middle, and most recent (353.3–8, 354.22–355.2).[75] Thus Treatise II divides epideictic speeches in the same sense that Menander divides Demosthenes (allowing for the distinction between abstract and realized heads), and applies the term in that sense primarily; Treatise I does not pay much attention to this, and uses 'division' in a different sense. This methodological difference supports other indications that

[74] For such linear analysis into a series of heads see, e.g., on the imperial speech: 369.18, 371.3f., 371.17. Hence 372.14–20 (cf. 376.14f.) offers advice on how to manage the transition from head to head. 'Division' is typically applied in that sense: e.g. 396.1, 409.22–7 (with a claim to have been first to produce a division of the 'bedroom speech'), 412.15 ('the birthday speech is divided as follows: first you will speak the proems, after the proems . . . after the praise of the day you will proceed to the encomium . . . then . . . then . . .'), 415.4, 419.11, 428.9f. ('preserving the same sequence of heads, as we have divided them'), 429.28. Even where Treatise II deals with the subdivisions of a topic, emphasized in Treatise I, it goes on to set them into an ordered sequence: 372.26f., 375.6–8 (with 376.2f.: 'after justice you will praise his moderation'; 376.17: 'you will proceed to prudence after that').

[75] The author of Treatise I habitually thinks in an either/or way, dividing a subject into alternatives. He begins by dividing (331.4) rhetoric into its three kinds, then subdivides epideictic into sub-kinds according to subject (332.6, 332.20, 332.29, 333.2). For his typical procedure see e.g. 353.31–354.4 (the topic of settlers is divided into Greeks/barbarians, and if barbarians then . . .); 354.22–4 (the date of settlement is divided into old, middle, or recent). Often the alternatives are mutually exclusive (e.g. 349.25–7, 355.13–16, 357.13–358.4), though not always (e.g. division into the virtues, 361.13–15). That the heads, topics, and divisions of topics are expressed in a speech as a linear sequence of sections is not something the author emphasizes (although it is implicit in 353.6 and the following discussion; cf. 332.30f. *τμητέον*).

the two treatises were written by different authors. It follows that Treatise I is unlikely to be by Menander.[76]

Who might the author of Treatise I be, if not Menander? The candidate most commonly advanced is Genethlius (§3.10). This attribution arises from the supralinear variant ἢ *Γενεθλίου* above the title of the work in Parisinus gr. 1741. This variant is an attempt to correct the puzzling paradosis *Μενάνδρου ῥήτορος γενεθλίων διαίρεσις τῶν ἐπιδεικτικῶν*,[77] and there is no reason to believe that it is other than conjectural. The conjecture suffers from one serious weakness: the rather distant tone of [Menander]'s allusion to sophistic declamation (331.16f.: 'the displays of political speeches which the so-called sophists make') does not seem to fit the brilliant young sophist described in the *Suda*, who could memorize a whole declamation at a single hearing, and whose own declamations were published.

[Menander]'s distancing of himself from the sophists contrasts with Menander (388.16), and is one symptom of his philosophical background. His concept of division is itself evidence of Platonizing tendencies, and a strong Platonist influence has been detected in various other features of the work.[78] Plato is advanced as the model writer at 334.5–21, and is cited very frequently thereafter (by contrast, Menander refers to Plato only once, at 411.31). These symptoms of a philosophical inclination suggest another possible attribution: the *Suda* attributes a work on epideictic to the 'philosopher and sophist' Tiberius (§3.9).

However, Treatise I is not the only extant treatment of epideictic with a Platonist background. Chapters 1–7 of the pseudo-Dionysian *Art of Rhetoric* are part of a treatise on epideictic oratory.[79] A reference to the second-century sophist Nicostratus (266.14) means that this text cannot be dated earlier than the latter part of the second century; there is no clear *terminus ante quem*, unless one is willing to infer from its less detailed and less technically sophisticated prescriptions for the handling of the various

[76] Thus already Nitsche 1883. Nitsche's argument was based on similarities between Treatise II and the Demosthenes scholia, which he thought to derive largely from Menander.

[77] Russell and Wilson 1981, 226.

[78] Russell and Wilson 1981, pp. xxxviii, 228; Bursian 1882, 23f.

[79] Translation and brief notes in Russell and Wilson 1981, 362–81.

kinds of epideictic speech that it is earlier than Menander.[80] It is stylistically more ambitious than most rhetorical technography, and at least affects a more personal tone. The essays purport to be addressed to one Echecrates (256.6, 272.3, 283.23), a former pupil of the author; at one point (261.13–22) the addressee is reminded of the time when he was practising the progymnasmata at the beginning of his rhetorical studies with the author. At the beginning of chapter 2, on the wedding speech, the author expresses his regret that he will be unable to attend his friend's forthcoming wedding (260.20–261.3); the chapter presents itself as a wedding gift (261.7–13). Chapter 4 begins with a studiedly casual apology for almost forgetting to include a discussion of epithalamium (269.19–22).[81] The addressee Echecrates may be a literary fiction; the name occurs in Plato's *Phaedo*, but is not a common one in the second and third centuries. There are other, less equivocal symptoms of the author's interest in Plato. Chapter 1 opens with a reference to the *Laws* (255.3), and Plato is cited several times elsewhere (267.3, 278.22, 283.19); a comment on the stylistic practice of 'the leader of our chorus' (260.7) refers most probably to Plato.

We therefore have two unattributed works on epideictic in which philosophical influence can be discerned. There is no obvious reason to regard [Dionysius] as a stronger candidate than [Menander] for identification with Tiberius. It would be a mistake to argue that [Menander], who distances himself from the sophists, could not be described as 'philosopher and sophist': 'sophist' is a flexible and ambiguous term, and the *Suda*'s description of Tiberius need mean no more than that he was a philosopher who also taught rhetoric (§3.9). Nor is the treatise on Demosthenic figures likely to help us; it would be unrealistic to expect such a text to provide evidence of common authorship with a work on a different subject which has little occasion to use the technical vocabulary of figure-theory. There is therefore no way to adjudicate with certainty between the rival claims of [Dionysius] and [Menander] to be identified with Tiberius. There is, indeed, no

[80] Russell 1979*a* compares the prescriptions for wedding speeches (also comparing the *protheoria* to Himerius 9).

[81] But there is also some genuine dislocation: chapter 1 (panegyric) and chapter 11 (protreptic to athletes) must originally have stood together (as 283.22f. implies).

absolute assurance that Tiberius' treatise is to be identified with either of these unattributed extant texts. The literature on epideictic must once have been more extensive than that which now survives; this is likely in principle, and is implied by Menander's reference to other epideictic theorists (409.22–7). The one surviving treatise for which we do have a secure attribution is not attested in the *Suda*; it is possible that the surviving unattributed treatises are not attested in the *Suda* either. So judgement on the identity of [Menander] must be suspended.

5
The Demosthenes Scholia

THE sources of the scholia to Demosthenes are not well understood. Nitsche suggested as long ago as 1883 that the main source was Menander, although his promised demonstration was never published; Gloeckner accepted the conclusion with reservations; Drerup regarded the whole question as uncertain.[1] This uncertainty was inevitable so long as scholars were dependent on Dindorf's pre-critical edition. The publication of Marvin Dilts's edition (1983–6) for the first time gave a sufficient purchase on the structure of the manuscript tradition to make a serious source-critical investigation possible. Although I shall argue that a number of weaknesses in Dilts's edition obstruct the enquiry into the sources of the scholia that I undertake here, it must be stated emphatically at the outset that the enquiry could not even have begun if Dilts had not opened the way.

In view of the problems posed by the scholia, it is not surprising that recent studies of ancient commentary on Demosthenes have concentrated on an earlier period.[2] I know of only one detailed study of the scholia themselves since the publication of Dilts's edition, Elizabeth Scott's doctoral thesis (1991). This is a valuable contribution, but because the research was begun before Dilts's second volume appeared Scott had to start the investigation from the beginning of the corpus. This made it difficult to establish reliable conclusions, since the tradition of the scholia to speeches 1–4 is complex and contaminated,[3] and consequently

[1] Nitsche 1883, 10f. (when I began work on the scholia I was confident that Nitsche's view could not be right: my conclusions indicate that he was nearer the truth than I imagined); Gloeckner 1901, 97 (for his reservation see §4.2, on F13); Drerup 1923, 222 n. 1.

[2] See especially Gibson 2002. Gudeman's conviction (1921, 699) that Didymus was the source of the scholia is completely misguided: their rhetorical emphasis is not shared by the earlier extant texts, which are historical and philological in orientation (Gibson 2002, 21–5). No doubt there were earlier rhetorical exegeses (n. 22 below), but the discussion in Lossau 1964, 111–23, is flawed, and I do not understand his suggestion (139) that the scholia tacitly identify Hermogenes with Hermagoras.

[3] Dilts 1979.

resistant to analysis. Conversely, the scholia to speeches 5–11 and 13–17 are too simple to provide useful material for analysis. (There are almost no scholia to speeches 12 and 25–61.) I therefore start with the scholia to speeches 18–24, which have a substantial body of scholia and a tradition of manageable complexity. I then look briefly at speeches 10–11 and 13–17 before making an inevitably inconclusive assault on the earlier speeches.

5.1 *OR*. 18–24: (I) MANUSCRIPTS

The manuscripts which Dilts reports for speeches 18–24 are:[4]

(i) *vetustissimi*: F, Y and its cognate L, S, A, vp, vk.
(ii) *Ulpianei*: g (the common ancestor of Vf and Fd) and T (with Bc and Fj, close relatives which I shall not systematically report).
(iii) *recentiores*: B (an apograph of F), R, Pr.

The *Ulpianei* (so called because they contain scholia on the *First Olynthiac* under the heading 'Ulpian's scholia to the *First Olynthiac*')[5] contain the bulk of the scholia for the speeches in question (except that in *On the Crown* they desert us after 18.136). The *vetustissimi* have smaller collections of scholia, partially overlapping with those of the *Ulpianei*; the distribution varies from speech to speech. Two distinct traditions are discernible within the *vetustissimi*: FYLS form a loose coalition, A stands apart (vp and vk rarely have scholia). Dilts does not systematically cite the *recentiores* for these speeches, and for present purposes it is possible to ignore them. We therefore have to consider three distinct traditions, which for simplicity I designate **u** (the *Ulpianei*, prior to the contamination discussed below), **f** (FYLS), and **a** (A).

There are two respects in which Dilts's reconstruction of the manuscript tradition is open to question. First, his stemma has a unitary point of origin. Although it is a reasonable working assumption that all copies of a conventional literary text ultimately derive from a single original, that assumption is not valid for scholia. The decisive point is not that the Demosthenes

[4] Dilts 1986, pp. vii–ix.

[5] Thus gBc. One manuscript (Pr) has 'Ulpian's prolegomena to the *Olynthiac* and *Philippic* orations': editors down to and including Dilts have printed this wholly misleading variant. I shall cite as 'prol(egomena)', by page and line.

scholia demonstrably derive from more than one source; it is conceivable that material from several sources was compiled into a single corpus of scholia in late antiquity, and that the extant scholia all descend from that compilation. But it is also possible that the lines of descent from multiple points of origin never converged into a single compilation. I shall argue that the three traditions draw independently on a common source, but that two of them also derive material from other sources that were never part of a unified corpus.

Secondly, Dilts believes that the *Ulpianei* have been contaminated twice. Contamination from Y occurred before g branched off, and therefore affects the whole family; contamination from A occurred after g had branched off, and therefore affects only T and its close relatives. The contamination of T from A is beyond doubt: T often contains A-scholia with no parallel in g. Dilts's discovery of a branch of the family free of this contamination is a contribution of the utmost importance. But the contamination from Y is questionable. There are scholia in T that are closely parallel to Y, but which also seem to be abbreviated versions of scholia present in both g and T.[6] These cases suggest that gT and FYLS derive material independently from a common source (a conclusion for which the evidence is overwhelming: §5.3), and that T (but not g) has also been contaminated from Y, with the result that it derives some material from the common source through two independent routes. Consequently it is not safe to assume that the presence of the same scholion in gT and Y is the result of contamination: independent transmission is also possible. I do not believe that Dilts has provided compelling evidence for any contamination in g; but it is certain that contamination cannot always be the explanation. The many instances in which the *Ulpianei* share scholia with Y, but offer a superior text or a fuller version that cannot plausibly be explained as secondary elaboration, put it beyond doubt that the *Ulpianei* had independent access to a common source. I therefore take the presence of material in both g and T as presumptive evidence that it has been transmitted independently of Y. When material is present in T alone, contamination from Y is probable but not certain: an

[6] e.g. 20.3 (14a) [FYLS, T] ~ (14b, p. 98.16f.) [gT]; 20.18 (42a) [FYLS, T] ~ (43, p. 105.9f.) [gT]. The reports of T here are based on Dindorf, for reasons explained below.

alternative explanation is that g has failed to transmit material present in gT's shared ancestor. That g sometimes does not always transmit everything in the shared ancestor is evident from omissions in scholia unique to gT, where the possibility that T's additional material results from contamination does not arise.[7]

This analysis has serious implications for the adequacy of Dilts's edition. T is not cited as a primary source for scholia present in A, and gT are not cited as primary sources for scholia present in Y (although variant readings are intermittently reported). On the premise of contamination Dilts's procedure is methodologically correct, since the contaminated manuscripts would have the status of apographs for those scholia. So the non-reporting of the presence of A-scholia in T causes no problem. But if that premise is mistaken the procedure results in the suppression of primary evidence. One cannot always be sure from Dilts's edition whether a scholion present in Y is or is not also present in gT; nor is it always clear what state or states of the text are to be found in gT.[8] For T one can have recourse to Dindorf, but his edition does not inspire confidence, and he does not report the manuscripts from which g is reconstructed. Attention to Dilts's apparatus, and to various indirect indications, can alleviate this problem, but it remains true that we are still not fully equipped for the investigation which is here undertaken in an inevitably provisional way.

5.2 *OR.* 18–24: (II) TRIPLE TRADITION

I begin with some examples of the relatively rare cases in which parallels can be established across all three traditions. These parallels demonstrate that the three traditions share at least one common source, but leave open the possibility that one or more traditions may conflate material from multiple sources.

Sch. 19.302 (533a–c) provides the first evidence for the existence of a common source.

[7] E.g. 19.1 (2, p. 1.22f.); 24.2 (10, p. 318.5), 144 (283b, p. 363.24f.). The absence of g for most (and of one of g's descendants for all) of *Against Meidias*, is presumably a special case, and not the result of selective copying.

[8] The reader may try to reconstruct the text of gT for 22.17 (53b–f) from Dilts's apparatus, and compare the results with the reconstruction given in §4.2 (on F13). Dilts's apparatus also contains a disquieting number of ambiguities and errors of detail; some examples will be noted below.

u [gT]	**f** [FYLS]	**a** [A]
533a *ἀνακεφαλαίωσιν ποιεῖται τῶν εἰρημένων ἐν τῇ καταστάσει πάντων,*	**533b** *ἀνακεφαλαίωσις τῶν προειρημένων ἁπάντων,*	**533c** *ἀνακεφαλαίωσιν ποιεῖται τῶν προειρημένων ἐν τῇ καταστάσει πάντων.*
	ὡς εἶναι καὶ τοῦτο ἄλλο μέρος τῶν ἐπιλόγων· ἀναλαμβάνει γὰρ ἅπαντα τὰ κεφαλαιωδῶς εἰρημένα κατὰ τὴν ὑπόθεσιν,	
μηδὲν παραλείπων, ὡς εὐσύνοπτον γενέσθαι τὴν ὑπόθεσιν.	*μηδὲν παραλιπών, ὡς εὐσύνοπτον γενέσθαι τὴν ὑπόθεσιν πάλιν τοῖς δικάζουσι διὰ βραχέων. ἐπειδὴ γὰρ πολλὰ τὰ εἰρημένα καὶ πολυμερὴς ὁ λόγος καὶ πλοκὴν ἔχει ποικίλην . . .*	
εἰ δέ τι καὶ παραβέβληται τοιοῦτον ἐκβολῆς ἐλέου ἕνεκα . . .		

This does not prove conclusively that all three traditions descend independently from the common source (it is possible that one tradition mediated the common source to another), but the fact that **u** agrees at different points with each of the other traditions supports the hypothesis of independent descent. The presence of unique material in each of **u** and **f** might result from the two traditions transmitting differently excerpted versions of the material originally present in the common source; alternatively, material from the common source may have been conflated with material from at least one other source in either or both traditions.

In 22.35 (104ab)[9] it is **a** that has the fuller version of the text.

[9] For gT see Dilts's apparatus.

u [gT]	**f** [YL]	**a** [A]
104a *ἐπειδὴ δὲ τῷ πλήθει τῆς βουλῆς ἐπεχείρει δυσωπῆσαι τοὺς δικαστάς,*	**104a** *ἐπειδὴ τῷ πλήθει τῆς βουλῆς ἐπεχείρει δυσωπῆσαι τοὺς δικαστάς,*	**104b** *ἐπειδὴ διὰ τὸ πλῆθος τῆς βουλῆς δυσωπῆσαι τοὺς δικαστὰς ὁ Ἀνδροτίων ἐπεχείρει,*
ἀντέθηκεν	*ἀντέθηκεν*	*ἀντιτίθησι καὶ αὐτὸς τῷ πλήθει ἕτερον πλῆθος πολὺ πλέον ἐκείνου,*
τοῖς πεντακοσίοις βουλευταῖς τοὺς μυρίους.	*τοῖς πεντακοσίοις βουλευταῖς τοὺς μυρίους.*	*τοῖς πεντακοσίοις τοὺς μυρίους.*

The fact that **u** and **f** offer the same abbreviated version might reflect the dependence of one tradition on the other; but the evidence for independent descent in our first example makes it more economical to infer that they share an ancestor more recent than the common source.

Sch. 22.32 (94a–c) is more complicated.

u [gT]	**f** [YL]	**a** [A]
94b *τούτῳ τῷ ἐννοήματι ἀκόλουθον ἂν ἦν εἰπεῖν "ἢ προάγειν ὡς πονηροτάτους, ἵν' ὡς ὁμοιότατοι σφίσιν ὦσιν". ὁ δὲ πρὸ τῆς ἐπαγωγῆς τὴν προτέραν πρότασιν κατεσκεύασεν.*	**94a** *τούτῳ τῷ ἐννοήματι ἀκόλουθον ἦν εὐθὺς ἐπάγειν "ἢ προάγειν ἂν ὡς πονηροτάτους, ἵν' ὡς ὁμοιότατοι σφίσιν ὦσιν". ὁ δὲ πρὸ τῆς ἐπαγωγῆς τὴν προτέραν πρότασιν κατεσκεύασεν. διὰ τί; ὅτι*	**94c**
δύο γὰρ προτάσεων οὐσῶν καὶ τῆς μὲν παραδόξου τυγχανούσης	*δύο προτάσεων οὐσῶν καὶ τῆς μὲν παραδόξου τυγχανούσης τῆς ὅτι καταλῦσαί γ' ἂν*	*ἐνταῦθα δύο προτάσεις εἰσίν, ἡ μὲν παράδοξος ὅτι "καταλῦσαι προέλοιντο*

τῆς ἤτοι "καταλῦσαι ἂν προέλοιντο τὸν δῆμον", τῆς δὲ ὅτι "προαγαγεῖν ἅπαντας ὁμοίους αὑτοῖς εἶναι",	*"δύο προτάσεων οὐσῶν προέλοιντο τὸν δῆμον", τῆς δὲ ὅτι "προαγαγεῖν ἅπαντας ὁμοίους ἑαυτοῖς εἶναι" πιθανῆς ὑπαρχούσης,*	*ἂν τὸν δῆμον", ἡ δὲ πιθανὴ ὅτι "προαγαγεῖν ἅπαντας ὁμοίους ἑαυτοῖς εἶναι".*
τῆς παραδόξου προτάσεως τὴν ἴασιν ἐξεῦρε τὴν αἰτίαν προσθεὶς καὶ προωδοποίησε τὸ πιθανὸν τῇ δευτέρᾳ. πῶς; ὅτι γνοὺς ὁ ἀκροατὴς ἐκ τῆς κατασκευῆς δι' ἣν αἰτίαν ἕλοιντο καταλῦσαι τὸν δῆμον, οὐκέτι ζητήσει κἀπὶ τῆς δευτέρας τίνος ἂν ἕλοιντο ἕνεκα προάγειν αὑτοῖς ὁμοίους τοὺς πολίτας εἶναι, τὴν γνῶσιν ἔχων ἐκ τῶν προειρημένων ἀκριβῆ τῆς αἰτίας.		
	αὐτόθεν ἐδεήθη κατασκευάσαι τὴν προτέραν πρὸ τοῦ τὴν δευτέραν προτεῖναι.	*ὁ δὲ ῥήτωρ αὐτόθεν ἐδεήθη κατασκευάσαι τὴν πρότασιν πρὸ τοῦ τὴν δευτέραν προτεῖναι.*
[*τοῦτο δὲ ποιεῖ, ὅτι καθόλου ἔγνωμεν δεῖν τὰς κατασκευὰς εὐθέως ἐπισυνάπτειν ταῖς ἀπιθάνοις λίαν καὶ παραδόξοις προτάσεσιν.*]	*καθόλου γὰρ ἔγνωμεν δεῖν τὰς κατασκευὰς εὐθέως ἐπισυνάπτειν ταῖς ἀπιθάνοις λίαν καὶ παραδόξοις προτάσεσιν.*	*καθόλου γὰρ δεῖ τὰς κατασκευὰς εὐθέως ἐπισυνάπτειν ταῖς ἀπιθάνοις καὶ παραδόξοις προτάσεσιν, ἵνα διὰ τῆς ἀποδείξεως τῆς προτέρας*

συναρπάσωμεν τὸν ἀκροατήν, ὡσπερεὶ πιθανῆς καὶ τῆς δευτέρας.

We have:

(*a*) an introduction, common to **u** and **f**;

(*b*) a core section common across the three traditions;

(*c*) a continuation unique to **u**;

(*d*) a continuation shared by **f** and **a**. (At first sight it appears that **u** also has part of this continuation; but the bracketed passage, found only in T, probably results from contamination.)

In (*a*) and (*b*) **u** and **f** are closely allied, though **f** has a fuller and superior text; **a** stands somewhat apart in its phrasing of (*b*). This supports the suggestion that **u** and **f** share an ancestor more recent than the common source. In (*d*) **a** has a fuller text, but also a distinctive error (*πρότασιν* for *προτέραν*); so **f** and **a** here depend on a shared source, not one on the other. What, then, is the relation of the source shared by **f** and **a** in (*d*) to the common source of the triple tradition in (*b*)? There are various complex possibilities; for example:

(i) that **f** and **a** derive all their material from the common source (*a*, *b*, *d*), while **u** has conflated material from the common source (*a*, *b*) with material from a different source (*c*);

(ii) that **f** and **a** have conflated material from the common source (*a*, *b*) with material from a different source (*d*); if so, **u** may derive its additional material (*c*) from the common source, or from a different source.

But there is also a simple possibility:

(iii) that all the material derives from the common source by independent but partially convergent processes of selection. The hypothetical original would in that case read roughly as follows:

(*a*) It would have been consequential to this thought immediately to add 'or to lead the people on to extreme corruption, to make them as like themselves as possible'; but before adding that he confirmed the prior premise. (*b*) Why? Because, since there are two premises, and one is paradoxical (that 'they would choose to overthrow the democracy') while the other ('to lead everyone on to be like themselves') is plausible, (*c*) he devised a cure for the paradoxical premise by specifying the cause, and

so prepared the way for the plausibility of the second. How? Because the hearer, knowing from the confirmation the reason why they would choose to overthrow the democracy, will no longer wonder in the case of the second what their motive would be for choosing to lead the citizens on to be like themselves, because from what had already been said they had a precise knowledge of the cause. (*d*) And it was intrinsically necessary for the orator to confirm the prior premise before putting forward the second: for we know that in general one must attach confirmations immediately to particularly implausible and paradoxical premises.

It would be easy to understand the impulse to transmit this somewhat verbose and repetitive exposition selectively. The close integration of the content of (*c*) with (*b*) counts against conflation in **u**'s version. Independent selection is plausible, given that **f** and **a** may be seen as adopting different editorial means in order to effect the elimination of (*c*): **f** deletes the connective at the beginning of the (*d*) ('since there are two premises . . . it was intrinsically necessary . . .'), while **a** turns the genitive absolutes in (*b*) into indicatives ('There are two premises . . . And it was intrinsically necessary . . .'). Such considerations are indecisive, however. To reach a final decision between the possible explanations of this example we need to test the traditions and the relationship between them more extensively. For example, extensive evidence elsewhere of conflation in **u** would support (i); extensive evidence elsewhere that **f** and **a** share a source other than the common source would support (ii). As the first step towards answering these questions, I consider in §5.3 parallels between two of the three traditions. It will be seen that parallels between **u** and **f** are plentiful, parallels between **u** and **a** and between **f** and **a** much rarer.

5.3 *OR*. 18–24: (III) DOUBLE TRADITIONS

The bulk of the extant scholia to *Against Meidias* are in **u**; some of these scholia are paralleled in **f**. Unfortunately, only T (supported by BcFj) is available for the first part of the speech: Vf (one of the descendants of g) joins at 21.45 (138), though there is a gap from 21.81 (263) to 21.125 (440). So for much of this speech we lack this control on contamination of the T branch of **u** where **u** and **f** run parallel. Where this control is available, however, we find evidence that the two traditions have derived

material independently from a common source. In 21.77 (242ab) Dilts's apparatus shows that **u** has a fuller text, which has every claim to be primary.

u [VfT]	**f** [FYLS]
242a *πληρώσας τοὺς μὲν ἀγῶνας, καὶ τὰ κεφάλαια πάντα τὰ περὶ τὸ κρινόμενον πρᾶγμα πεπλήρωκεν· ἐντεῦθεν δὲ εἰσβάλλει λοιπὸν εἰς τὴν παρέκβασιν. παρέκβασις δέ ἐστι λόγος ἐξαγώνιος μέν, συναγωνιζόμενος δὲ πρὸς τὸν ἀγῶνα.*	**242a** *πληρώσας πάντα τὰ κεφάλαια τὰ περὶ τὸ κρινόμενον πρᾶγμα εἰσβάλλει λοιπὸν εἰς τὴν παρέκβασιν. παρέκβασις δέ ἐστι λόγος ἐξαγώνιος μέν, συναγωνιζόμενος δὲ πρὸς τὸν ἀγῶνα.*
242b *βούλεται οὖν . . .*	

The apparent redundancy of **u**'s text is appropriate to the context: since the digression is concerned with matters outside the case (*ἐξαγώνια*) there is a point in emphasizing that the end of the argumentative section (*ἀγῶνες*) is also the end of the heads concerned with the matter to be adjudicated. Moreover, only **u** preserves the lengthy discursive continuation of this note in (242b). Thus **u** has a fuller text, **f** a simplification and abridgement of it. Dilts's hypothesis that **u** was contaminated from Y before the family divided is untenable.

In 19.10 (38abd)[10] **u** again preserves the fuller text, and continues with a lengthy exposition not preserved in **f**.

u [gT]	**f** [FY]
38d *αὕτη ἐστὶν ἡ κατάστασις. διῴκηται δὲ σοφώτατα, ἵνα δι' ὧν ὡς φρόνιμον καὶ πρὸ τῶν ἄλλων αἰσθόμενον εἰσάγει, διὰ τούτων ἀνέλῃ τὸ ὅτι οὐκ ἠπάτηται.*	**38a+b** *ἡ κατάστασις.*

[10] A has *ἡ κατάστασις* (= 38a). S has *πρῶτον μέρος ἢ κατάστασις* (38c), where read *τῆς καταστάσεως*: cf. (62) and (83a), identifying the second and third parts. For an explanation of the fact that this two-part statement has three parts see (38d, p. 40.9).

διμερὴς δ᾽ ἐστὶν ἡ κατάστασις ὥσπερ καὶ ἡ ὑπόθεσις.	*ἔστι δὲ διμερής,*
καὶ τὸ μὲν πρῶτον μέρος αὐτῆς περιεκτικὸν τῆς δωροδοκίας ἐστί, καὶ λαμβάνει πέρας τοῦτο τὸ μέρος ἐνταῦθα "καὶ ταῦθ᾽ ὁ σχετλιώτατος καὶ ἀναιδὴς οὗτος ἐτόλμα λέγειν ἐφεστηκότων τῶν πρέσβεων καὶ ἀκουόντων, οὓς ἀπὸ τῶν Ἑλλήνων ὑμεῖς μετεπέμψασθε ὑπὸ τούτου πεισθέντες, ὅτ᾽ οὔπω πεπρακὼς αὑτὸν ἦν".	*καὶ τὸ μὲν πρῶτον μέρος αὐτῆς περιεκτικόν ἐστι τῆς δωροδοκίας,*
τὸ δὲ δεύτερον μέρος ἐστὶ περιεκτικὸν τοῦ κατὰ Φωκέας ἐγκλήματος, οὗ ἡ ἀρχή . . .	*τὸ δὲ δεύτερον περιεκτικὸν τοῦ κατὰ Φωκέας ἐγκλήματος.*

Compare also (for example) 19.35 (99) [gT] with 19.36 (102a) [FYS]; 19.57 (142a, p.24.22f.) [gT] with (142b) [FYS]; 19.131 (285) [gT] with 19.130 (283) [FYS]. In all these cases **u** has the fuller text. So, too, in 22.5 (21ab), although **f** displays its independence with a greater degree of paraphrase.

u [gT]	**f** [YL]
21b *δεύτερον μέρος τοῦτο τῆς ἀντιθέσεως.*	**21a**
σεσόφισται δὲ οὐδὲν ἧττον ἢ τὸ πρότερον.	*σεσόφισται καὶ τοῦτο τὸ μέρος.*
αὐτὸν γὰρ τὸν Ἀνδροτίωνα ὁμολογοῦντα παρέχει ἐπηρωτῆσθαι τὸν δῆμον διαχειροτονίαν γεγενῆσθαι,	*αὐτὸν γὰρ τὸν Ἀνδροτίωνα ποιεῖ ὁμολογοῦντα ἐπερωτᾶσθαι τὸν δῆμον,*
ἵνα πάλιν τοῦτο τὸ μέρος τῆς ἀντιθέσεως	*ἵνα*
πρὸς λύσιν ἑτέρας ἀντιθέσεως λάβῃ.	*πρὸς τὴν ἑξῆς λύσιν τῆς ἀντιθέσεως αὐτῷ λυσιτελήσῃ,*
μέλλει γὰρ ὕστερον τιθέναι "ἐγὼ δέ, εἰ μὲν ἔδωκα αἰτούσῃ, παρὰ τὸν νόμον εἴρηκα",	*ὅπου λέγει "εἰ μὲν ἔδωκα αἰτούσῃ, παρὰ τὸν νόμον εἴρηκα",*

ἵνα φαίνηται Ἀνδροτίων ἐναντία λέγων αὐτὸς ἑαυτῷ, ἐνταῦθα μὲν ὅτι "ἐπηρώτησεν ὁ ἐπιστάτης", ἑτέρωθι δὲ πάλιν ὅτι "οὐκ ᾔτησεν". αὐτὸς γὰρ ἐξελεγχθήσεται . . .	καὶ αὐτὸς ἑαυτῷ φαίνεται ὁ Ἀνδροτίων ἐναντιούμενος.

Here the independence of the two traditions is so obvious that Dilts prints them as two separate scholia, treating gT as primary witnesses even for the shared material. These manuscripts cease, for him, to be primary witnesses when the shared material is printed as a single scholion (as in 21.77 (242a), above), but it is not clear that this reflects a real distinction. In 19.187 (375b–d), for example, gT are not cited as a primary source for (375d), although it is evident from the apparatus that **u** has the fuller text.

u [gT]	**f** [FYLS]
375b	**375c** πεπληρωμένων τῶν κεφαλαίων καὶ τῶν ἀγώνων ἤδη καὶ τῶν ἀποδείξεων μετελήλυθεν
ἀντίθεσις ἐπιλογικὴ	ἐπὶ τὴν ἀντίθεσιν ταύτην ἐπιλόγου χρείαν πληροῦσαν·
καὶ ἀκόλουθος τῇ προτέρᾳ.	ἔχει δὲ ἀκολουθίαν πλείστην καὶ συγγένειαν πρὸς τὴν προειρημένην ἤδη ἐπιλογικὴν ἑτέραν ἀντίθεσιν.
ἡ μὲν γὰρ ἀρχὴν ἔχθρας λέγει γίνεσθαι, ἡ δὲ νῦν ὅτι οὐκ ἐῶσιν εὖ ποιεῖν τὸν Φίλιππον.	
375d καὶ ἐν ἐκείνῃ μὲν ἐλέγεν ὅτι "ἀρχὴ γενήσεται τῆς πρὸς Φίλιππον ἔχθρας", ἐνταῦθα δὲ ἀκολούθως ὅτι "οὐδὲ εὐεργετήσει"·	**375d** ἐν ἐκείνῃ μὲν γὰρ ἐλέγετο ὅτι "ἀρχὴ γενήσεται τῆς πρὸς Φίλιππον ἔχθρας", ἐνταῦθα δὲ ἀκολούθως ὅτι "οὐδὲ εὐεργετήσει"
οὐ γὰρ οἷόν τε τὸν ἔχθιστον εὐεργέτην γενέσθαι τῶν πολεμίων, ἐκεῖνο περὶ τῆς εἰρήνης ἦν, ἐνταῦθα περὶ τῆς εὐεργεσίας.	

καὶ ὅτι “οὐκ εὖ ποιήσει τοῦ λοιποῦ τὸν δῆμον, εἰ καταψηφιούμεθα τῶν πρέσβεων”. ἡ δὲ λύσις ἐξ ἀτέχνων πίστεων. παρέχεται γὰρ διαφόρους ἐπιστολὰς ἐν αἷς πλεῖστα πολλάκις ὑποσχόμενος οὐδέν τι τὴν πόλιν εὖ ποιήσας φαίνεται.

καὶ ὅτι “οὐκ εὖ ποιήσει τοῦ λοιποῦ τὸν δῆμον, εἰ καταψηφιούμεθα τῶν πρέσβεων”. ἡ δὲ λύσις ἐξ ἀτέχνων πίστεων. παρέχεται γὰρ διαφόρους ἐπιστολὰς ἐν αἷς πλεῖστα πολλάκις ὑποσχόμενος Φίλιππος οὐδέν τι τὴν πόλιν εὖ ποιήσας φαίνεται.

This does not mean that we should draw the opposite conclusion, that **f** derives from **u**. There is no consistent pattern as to which tradition preserves the fuller text. For example, 21.67 (209) [FYLS] is more extensive than (210) [VfT]. Conversely, 21.70 (214a) [VfT] is more extensive than (214b) [FYLS], and in this case each tradition allows us to correct errors of transmission in the other.[11] In *On the False Embassy*, **u** introduces the digression (*παρέκβασις*) at some length in 19.188 (378b) [gT]; **f** preserves this scholion in a radically abbreviated form in (378a) [FYLS]. But the end of the digression is marked by **f** in 19.237 (455b) [FYLS], which **u** preserves in a radically abbreviated form in the first sentence of (455a) [gT], having eliminated the comment on the digression. We must conclude that the two traditions transmit material that their antecedents independently excerpted from a common source.

The fact that **u** and **f** both sometimes preserve material from a common source in a fuller form encourages the inference that cases such as the examples in §5.2, where different traditions each present additional material, are the result of independent excerpting from a common source. That conclusion is further supported by 24.64–6 (140a–c, 142ab, 145a, 148ab). In the following reconstruction broken underlining indicates material found only in **u**, dotted underlining material found only in **f**; the rest of the material is (with minor variants) shared.[12] Although both tradi-

[11] (214b, p. 185.24) preserves the *ἄλλαις* that has been lost at (214a, p. 185.1); but *αὔξησιν γὰρ ἔχει τῶν ἐπιλόγων* at (214b, p. 185.25) can be corrected from (214a, p. 185.2) *αὔξησιν γὰρ ἔχει· τῶν δὲ ἐπιλόγων ἡ αὔξησις* . . . For a further example compare 24.187 (336a) [YL] with (336b) [gT].

[12] At (140b, p. 336.31 f.) [YL] *διαπιστεύειν αὐτοὺς* ~ (140c, p. 357.5) [gT] *δι' οὗ μνηστεύειν αὐτοῖς*. At (148b, p. 338.20) I retain *τοὺς νόμους*, with gBcFj (Dilts omits, after T); at (148a, p. 338.11) I punctuate before, not after, *ἐντεῦθεν*. S has scholia related to those in YL: (142c) and (145b) ~ (142b); (148d) and (149) ~ (148a).

tions contain material not paralleled in the other, in every case the relationship to the shared material is so close as to indicate that the unique matter was originally an integral part of the common source. The interlocking relationship of the material preserved in the two traditions thus reflects their derivation from a common source by distinct processes of selection, condensation, and paraphrase.

'Read that to them again'] Since that is the strong point, he repeatedly says 'let him be imprisoned until he has paid the full amount'. The laws seem then to be somehow genuinely inconsistent with each other. But perhaps they are not inconsistent if one considers the facts. For the former requires imprisonment until he has paid the full amount, and the second likewise requires imprisonment and does not ultimately remit it. It is admittedly different, but makes the slightest possible correction to the former. For the one requires uninterrupted imprisonment, while the other itself also prescribes imprisonment no less, but is willing for remission to be granted them until a certain time, and for this time to be subject to sureties. So it would not be inconsistent: for inconsistency is what invalidates the other, and if it does not invalidate the long-standing law concerning imprisonments, in that it prescribes imprisonment itself, it would not be inconsistent.

'And yet from what would he refrain'] Here he begins the epilogues to the law. They are developed in a rather combative way. They are based on intention. For since after the evidence the hearer wants to know the reason which led him to propose a law of this kind, because he is afraid that he will resort to advantage, he has attached the disgrace of acting for payment, so that by prejudicing the hearer against him he could dispose him not to give a friendly reception to the arguments concerning advantage. There is a reference back to the proem. For in the first proem, too, he says that he was led to legislation because of money, and in these epilogues he slanders his intention in the same way, as if he proposed the law in return for money. Of the topics in the epilogues, one is confirmed from consequence (that it is consequential for someone who legislates like this to have the audacity to do far worse things), and the second ('Therefore, men of Athens, just as . . .') from similarity. For catching criminals in the act is similar to catching Timocrates in the act of making self-contradictory proposals.

'Therefore that both contrary to these . . .'] From here next he has a prologue concerning the second head, i.e. advantage. By 'contrary to those already mentioned': he means those concerning the person, and by '[Therefore that both] contrary to these laws' he means those concerning

the fact, clearly. The point we make repeatedly,[13] that proemal thoughts uttered in the middle of speeches should constitute conclusions as well as thoughts that serve as initial starting-points, is clearly preserved by the present arrangement.

Then he uses eliminations of causes, saying that he will not have the audacity to say that there is no inconsistency, nor that he is inexperienced or a layman, nor that he deserves any indulgence. Elimination would be appropriate to aggressive discourse, and to the topic of intention and motive. He begins the elimination from 'I wonder . . .'. Eliminations always belong to the head of legality alone. He uses them to lead them away from the thought of advantage. That is why, amplifying the wrongdoing from magnitude, he says: Timocrates was not inexperienced in the laws, he was not a layman, since not even advantage is an adequate defence for someone who has had the audacity to make proposals inconsistent with the laws, not even if he can list ten thousand advantages.

In 20.75 (174ab), too, confirmation that **f** preserves the underlying text of **u**'s source is provided by comparison with 20.79 (184) [gT]: *ἠθικὴ δὲ κἀνταῦθα ἡ ἔννοια* presupposes *ἠθικὴ ἡ διάνοια* in (174a) [FYLS], absent from (174b) [gT].

u [gT]	**f** [FYLS]
174b	**174a** *τὸ μὲν σχῆμα τῆς μεταβάσεως πάνυ θαυμαστόν. τὸ γὰρ μὴ ἐκ περιβολῆς μηδὲ πεφροντισμένως ποιήσασθαι τὴν ἀρχὴν*
ἀφείλετο γὰρ τὴν ὑπόνοιαν τοῦ δοκεῖν πρὸς χάριν ὑπὲρ τοῦ Χαβρίου παιδὸς λέγειν.	*ἀφείλετο τὴν ὑπόνοιαν τοῦ δοκεῖν πρὸς χάριν ὑπὲρ τοῦ Χαβρίου παιδὸς λέγειν.*
	ἔστι δὲ ἠθικὴ ἡ διάνοια ὡς ἂν τοῦ πράγματος ἔχοντος τῆς ἀτοπίας τὸν ἔλεγχον, εἰ ἐπὶ τοσούτοις καὶ τηλικούτοις εὐηργετημένοι

[13] There is a reference back to the comments on 'proemal thoughts' (*προοιμιακαὶ ἔννοιαι*) at 24.17 (44d) [YLS], 39 (96) [YL], which make the point more clearly. See also 24.5 (18a) [YL], explaining the difference between a proem and a *προοιμιακὴ ἔννοια* (cf. Nic. 40.11–41.1). This in turn picks up a point about proems already made in common material: 24.1 (2c, p. 316.13f.) [YL] ~ (2d, p. 316.28f.) [gT]. For *προοιμιακὸν ἐννόημα* see also 5.4 (17a) [A]; 20.1 (1) [gT]; 21.126 (441a) [FYLS, VfT]; 22.4 (16a) [YL]

	ἀφέλοιντο τὴν ἀτέλειαν· οὐ μὴν ἀλλὰ κἀκεῖνο ἄξιον κατιδεῖν, ὅτι πανταχοῦ τὸν παῖδα συμπλέκει τῷ τοῦ πατρὸς ὀνόματι καὶ τοῖς ἀπὸ τοῦ πατρὸς εἰς ἀπόδειξιν κέχρηται.
πανταχοῦ δὲ τὸν παῖδα συμπλέκει τῷ τοῦ πατρὸς ὀνόματι καὶ τοῖς ἀπὸ τοῦ πατρὸς εἰς ἀπόδειξιν κέχρηται (δηλονότι διὰ τὸ τοῦ πατρὸς ἀξίωμα τὴν δωρεὰν ὁ παῖς ἔχειν δοκεῖ) δεικνὺς ἐκ τούτων τῆς ἀτοπίας τὸν ἔλεγχον . . .	

However, 19.182 (371ab, d) provides a reminder of the complexity of the questions to which the scholia give rise, and the need for caution.

u [gT]	**f** [FYLS]
371d *ἀντιληπτικὴ ἡ ἀντίθεσις.*	**371a+b** *ἔστι μὲν ἀντιληπτικὴ ἡ ἀντίθεσις.*
"ἐξῆν γὰρ λέγειν", φησί, "καὶ τὸ ἀπαγγέλλειν ἀνεύθυνον."	
	ἔγνωμεν δὲ ἐξ ὧν ἠκούσαμεν ἐν ταῖς τέχναις ὅτι, ὅταν τις κρίνηται ἐφ' οἷς αὐτὸς εἴρηκεν ἢ πεποίηκεν ἢ κέκτηται, τὸ τηνικαῦτα εἰς τὸ τοιοῦτο χωρεῖ κεφάλαιον· ἐπὶ γὰρ τὴν ἀντίληψιν καταφεύγειν βούλεται. τὸ δὲ συνεκτικώτατον τῆς ἀπολογίας Αἰσχίνου τοῦτό ἐστι τὸ κεφάλαιον.
λύει δὲ κατὰ συνδρομὴν ὅτι πάντως λόγων δεῖ παρέχειν εὐθύνας. ἔστι δὲ τῶν σημείων τοῦ προτέρου ζητήματος. τὸ δὲ ἀντιληπτικὸν εἰσῆκται βαρέως. τὸ γὰρ "ἀγανακτήσει" σημαίνει "τὸν τύραννον, μὴ ἀνεχόμενον εὐθύνας διδόναι.	*ἡ δὲ λύσις κατὰ συνδρομὴν ὅτι πάντως λόγων δεῖ παρέχειν εὐθύνας. ἔστι δὲ τῶν σημείων τοῦ προτέρου ζητήματος τὸ ἀντιληπτικόν. εἰσῆκται δὲ βαρέως· τὸ γὰρ "ἀγανακτήσει" σημαίνει τὸ τυραννικόν, οὐκ ἀνεχόμενον ἔτι τὰς εὐθύνας διδόναι.*
καλῶς δὲ ἐφ' ἅπασι τοῖς ἀπ' ἀρχῆς ἄχρι τέλους τέθειται, ἵνα . . .	

The additional material in **f** includes the word *ἔγνωμεν*, also present in the additional material which **f** shares with **a** in 22.32 (a94c) above. The other sixteen occurrences of the word in the scholia are all in **a**;[14] no example is preserved in **u**, although **u** presents the largest body of scholia. This uneven distribution might suggest that the word was favoured by a source other than the common source. On the other hand, this does not exclude the possibility that the word was used occasionally in the common source, and the only other references to 'the technical handbooks' (*αἱ τέχναι*) are both in **u**, in scholia to this same speech. In each case the commentator is critical of the handbooks;[15] but perhaps it is precisely the earlier warnings against uncritical reliance on handbooks that here gives pedagogic point to a balancing reminder of their positive value. A stronger point is that (371c) [A] develops the observation of a counterposition based on counterplea (*ἀντίθεσις ἀντιληπτική*) in quite different terms.

Parallels between **u** and **a** are much rarer than parallels between **u** and **f**. But in *On the False Embassy* there is some evidence that **a** draws material independently from the same source as **u**. For example, 19.60 (147a) [A] is scarcely intelligible without the fuller parallel in (147b) [gT]. In 24.108 (215ab) Dilts does not cite gT as primary witnesses for (215a), although he mentions variant readings in the apparatus; since his stemma does not recognize contamination of g from A, the rationale for this procedure is unclear. In fact **u** offers in (215a+b) a continuous note that has been abbreviated in **a**. The relationship is the same as, for example, that between **u** and **f** in 21.77 (242ab), above.

u [gT]	**a** [A]
215a *ἀνακεφαλαίωσις τῶν δύο κεφαλαίων, τοῦ τε νομίμου καὶ τοῦ συμφέροντος.*	**215a** *ἀνακεφαλαίωσις πάλιν τελείως τῶν δύο κεφαλαίων, τοῦ τε νομίμου καὶ τοῦ συμφέροντος.*
215b *εἰ δέ τις ζητήσει τίνος ἕνεκα τὸ δίκαιον παρέλιπεν, ἐροῦμεν . . .*	

It is even more difficult to find significant parallels between **f** and **a** outside the triple tradition. Some instances are too trivial

[14] 18.11 (40b), 28 (74b), 68 (124), 112 (191); 19.1 (1b), 36 (104b), 60 (147c), 125 (270), 137 (297), 249 (472); 22.15 (51); 24.20 (56), 21 (61), 98 (195), 125 (250), 138 (277).

[15] 19.101 (228, p. 41.17, 43.1) [gT]: see §4.2 (F6), §6.3.

to establish a shared source.[16] Others turn out on closer inspection to be instances of triple tradition. Consider 24.1 (4a, 5ab), where the false reading in **a** could be explained as assimilation to an originally preceding *προοιμίου*, preserved in **u**.

u [gT]	**f** [FYL]	**a** [A]
4a *ἕως δὲ τούτου ἡ πρότασις τοῦ προοιμίου, εἶτα*	**5a**	**5a**
κατασκευὴ τῆς προτάσεως. . .	*ἡ κατασκευὴ τῆς προτάσεως.*	*ἡ κατασκευὴ τῆς προοιμίου.*
		5b *ἐξ αὐτοῦ δὲ νοεῖται καὶ τὸ συμπέρασμα ἐν τῇ ἐπαγωγῇ.*

The absence of parallels between **f** and **a** outside the triple tradition is surely decisive for the question of shared additional material raised in the discussion of earlier examples: **f** and **a** do not have a shared source other than the common source.

5.4 *OR.* 18–24: (IV) THREE COMMENTARIES

We have found evidence for a common source to which all three traditions bear independent witness. But each tradition preserves material that is not present in the others, sometimes within scholia that are for the most part parallel to another tradition. In many cases this is plausibly explained as the result of different selection from the common source, but it remains possible that one or more traditions conflate material from the common source with material from another source.

That the tradition as a whole does contain material from multiple sources is proved conclusively by the following scholia to *On the Crown*.

(i) According to **a**, Epiphanius and Genethlius mark the fourth of six proems at 18.8 (27c). Although the scholion does not explicitly endorse this view, the implication seems to be there;

[16] e.g. 18.3 (8) [FYS, A] *δεύτερον προοίμιον*; 19.119 (249) [Y, A], cf. (251b) [S], where the apparatus reveals that only the standard technical term *ἐλέγχων ἀπαίτησις* is shared

and **a** does mark a fifth proem at 18.9 (31c), and a sixth at 18.12 (43a).[17]

(ii) According to **u**, 18.8 is emphatically not a proem, but a 'proemal thought (προοιμιακὸν ἐννόημα)[18] introducing the arguments', since 'it is impossible for there to be four proems, however much the people who say so rant and rave' (27d) [gT]. Rejection of the view that there can be a fourth proem is also found in 23.7 (12) [gT], against the view of 'some'.[19]

(iii) According to **f**, 18.8 is a proem to the first head of argument, not to the whole speech (27b) [FYS].

The interpretation in **f** is similar in substance to that of **u**, although differently expressed. But substantive disagreement between **f** and **u** soon emerges. For **f** the first head, justice, starts at 18.10 (33b) [FYS], immediately after a weak point has been addressed in 18.9 (31b, rejecting the view of 'some' that there is a proem here—the view taken in **a**). But for **u** the head of justice is not introduced until 18.17, and is preceded by a series of exceptions (παραγραφικά) starting at 18.9: see (31a), (46b), (53b) [gT]. It is true that **f** recognizes a series of objections (μεταληπτικά), which amounts to much the same thing; but as well as the terminological difference, this series starts at 18.12: see (44), (46a), (51) [FYS]. Thus there are some parallels between the analyses in **u** and **f**, but also significant differences, while the analysis in **a** is more radically different.[20] We have evidence, therefore, that the corpus of scholia as a whole contains material derived from three different commentaries.

The three commentaries are sometimes in agreement. For example, they agree (against 'some') that there is no narrative in *On the Crown*. But even this agreement reveals a different

[17] I suspect that (43a) conflates material from two sources, since the second part is parallel to (43b) [gT].

[18] See n. 13 above.

[19] A limit of three proems seems to be assumed by Menander (382.6–9, 369.13–16); cf. John of Sardis 128.19–22, 267.2–12. For six proems see Sopater *Division of Questions* 112.3–113.15; Nicolaus envisages up to five (41.7f.). The notion of a 'law' about the number of proems is opposed by [Dionysius] (368.4–6).

[20] There is agreement in substance without convergence in expression between **u** and **f** in (e.g.) 23.144 (86b) [gT] and (86a) [FYS]; 22.5 (20b) [gT] and (20a) [YL]. But such agreement can also be found between **u** and **a**: e.g. 18.4 (17a) [gT] and (17b) [A]; cf. nn. 28–9 below.

terminological preference between 'statement' (*κατάστασις*) and 'narrative' (*διήγησις*) for the narrative section of a speech (cf. §3.3). According to **a** there is no narrative (53a, 55c); according to **u** (55d) there is no statement, but a head of argument introduced in narrative form (*διηγηματικῶς εἰσηγμένον*); according to **f** (55b) there is no statement, but a 'narrative with demonstrative force' (*διήγησις ἀποδεικτική*). Again **u** and **f** are more closely similar in doctrine to each other than to **a**, but the formulation is not identical. The same difference in terminological preference can be observed elsewhere. According to **u** and **f** *Against Androtion* has a proem but no 'statement' (*κατάστασις*): see 22.1 (1a, p. 256.10) [L], (1f) [gT], (1g) [YL], (16b) [YLS, gT]. By contrast, according to **a** the speech has no proem, as well as no 'narrative' (*διήγησις*) (1b, 1h, 3). Similarly, we find *κατάστασις* in 24.11 (27b) [YL, gT] + (27d) [gT], but *διήγησις* in (27a+c) [A]; in the scholia to 24.5–17, YLS and gT speak of *προκατασκευή*, *προκατάστασις*, and *κατάστασις* (18a, 21bc, 22, 24c, 26abc, 27bd, 44e), while A speaks of *παραδιήγησις*, *προδιήγησις*, and *διήγησις* (21a, 24a, 27ac, 46a).

Genethlius, mentioned by **a** in the scholia to the proem of *On the Crown*, also appears in 22.3 (13a) [A] and 18.52 (104b) [A]. This last instance provides further evidence for three different commentaries. At 18.52 Demosthenes asks and answers a rhetorical question: 'Which do you think, men of Athens: was Aeschines a hireling (*μισθωτός*) of Alexander, or his friend? You hear what they say.' The scholia comment as follows:

(i) **f** records a single explanation (104a) [F]: Demosthenes deliberately misplaced the accent on *μισθωτός*, and took the jurors' correction of his pronunciation as an answer.

(ii) **u** records this explanation and two others (104c) [gT]: that the desired answer was shouted out by a friend in the jury (identified as the comic poet Menander);[21] and that while the jurors were discussing the question with each other ('what does he mean? what should we do?') Demosthenes pre-empted them and supplied the answer.

(iii) **a** records the first two of these explanations, and attributes another view to Genethlius (104b) [A]: 'Genethlius says that it is the normal practice of the orators, and especially of Demosthenes, to treat matters that are open to dispute as agreed.'

[21] Menander as a friend of Demosthenes: cf. 8.1 (3) [F].

5.5 *OR*. 18–24: (V) CONFLATED TRADITIONS

We have established that the tradition as a whole had at least three sources by identifying conflicts between the traditions. But since the three traditions draw on a common source, it follows that at least two traditions must (and all three may) have conflated material from different sources. We should therefore expect to find instances of conflict within traditions as well as between them.

In the case of **f** this prediction is confirmed by scholia to the beginning of *On the Crown*. The contrast between 18.1 (1a+c) [FY], (1d+f) [A], and (1e) [gT] provides further evidence that the tradition as a whole has at least three distinct sources; but since (1e) [gT] is paralleled in (1b) [FYS], **f** must draw on two sources:

1e [gT] *οὐκοῦν τὸ πρῶτον προοίμιον εὐκτικόν ἐστιν κατὰ μερισμὸν εἰσαχθέν, καὶ παρασκευάζει τὴν εὔνοιαν, ἧς μάλιστα ἐν τῷ παρόντι δεόμεθα. Ὁμηρικῷ δὲ εἴρηται ζήλῳ . . .*
1b [FYS] *τὸ πρῶτον προοίμιον εὐκτικόν τέ ἐστι καὶ κατὰ μερισμὸν εἰσαχθὲν παρασκευάζει τὴν εὔνοιαν.*
1a+c [FY] *τὸ προοίμιον ὡς ἀπολογουμένου, ἐξ εὐνοίας λαμβανόμενον. περιβολὴ δὲ τοῦ προοιμίου τῷ διπλασιασμῷ τῶν ὀνομάτων.*
1d+f [A] *εὐκτικὸν τὸ προοίμιον, ἐπειδήπερ περὶ εὐνοίας καὶ αἰτήσεως στεφάνου ὁ πᾶς ἐστιν ἀγών. ἰστέον γὰρ ὡς ὅτι κατασκευὴν οὐκ ἐποιήσατο αὐτοῦ, ἵνα ὡς ὡμολογημένην δείξῃ τὴν εὔνοιαν ἣν ἔχει εἰς τὴν πόλιν.*

The scholia to *Against Meidias* provide corroborating evidence that **f** contains material from at least two different sources. We saw in the discussion of 21.77 (242ab) in §5.3 that **f** shares some scholia on this speech with **u**, sometimes in a more and sometimes in a less extensive form. However, **f** also contains material that is inconsistent with scholia in **u**; indeed, **f** contains material that is inconsistent with material that it shares with **u**. Rhetoricians disagreed as to whether the charge against Meidias was a crime against the public interest (*δημόσιον ἀδίκημα*) or impiety (§2.11; §4.2, on F9). Hermogenes' analysis distinguishes between a private and a public offence. But for [Hermogenes] (*Inv*. 129.16–130.2) and [Apsines] (1.22) the charge against Meidias is impiety; Libanius' hypothesis takes the same view,

as does Syrianus (2.50.3f., 118.14–22).[22] This disagreement is reflected in the scholia. In **u** one observes a consistent position. 21.1 (5) [T][23] states that Meidias is not accused of impiety, but of an offence with regard to the festival, which is a public crime. Accordingly 21.51 (159) [VfT] (partial parallel in (161) [FYL]) notes that impiety is introduced *not* because that is the charge, but for amplification (a point that 'some' have failed to grasp);[24] and in 21.56 (168c) [Vf] what Meidias has done is only *close to* impiety. Likewise impiety occurs several times in the digression (104 (363), 105 (368), 109 (424) [T]), which is concerned with matters 'outside the argument' (*ἐξαγώνια*: see 21.77 (242ab)). Consequentially, the summary of 'the matter in question' (*τὸ ζητούμενον πρᾶγμα*) at 21.207 (700b) [VfT] makes no reference to impiety. By contrast, **f** is inconsistent. In 21.126 (443, 444a, 446 [FYLS]) one finds the interpretation which distinguishes private and public offences; but the rival view, in which the charge is impiety, is accepted in 21.31 (103) [FYL], 127 (447) [FY], cf. 33 (109) [FY]. Again, therefore, we may conclude that in **f** material from a source shared with **u** is conflated with material from a different source.

The scholia from the distinctive source of **f** are not isolated comments, but derive from a substantial, sustained exegesis. This can be seen in divergence between the common source and the distinctive source of **f** concerning the structure of the speech. A number of scholia which assume the interpretation of the charge as a public offence identify 21.8 as the beginning of the preliminary confirmation (*προκατασκευή*), though it is noted that 'others' attach it to the proem: 21.8 (33a) [T], (33b) [FYLS]

[22] Heath 1995, 112; 1998*a*, 102; MacDowell 1990, 424f. P.Lond.Lit. 179 (late first/early second century), which preserves part of a rhetorical commentary on *Against Meidias* (MacDowell 1990, 425f.; Gibson 2002, 201–9; Lossau 1964, 111–23), reports Caecilius' analysis, in which the charge is crime against the public interest. Significantly, there is no trace in this papyrus of the approach to division developed in the second century ('heads' are identified, but in the style of division familiar from first-century rhetoricians); and although the substance of the classification of the speech is there, the technical term *κατὰ σύλληψιν* is not (in view of its absence from Zeno 338.1–18, this terminology is likely to date from the latter part of the second century). Note also the older terminology in hyp. Aesch. 3 (§4.5 n. 56).

[23] As mentioned above, the evidence of g is missing for much of this speech.

[24] Cf. Sopater *RG* 5.155.17–19.

~ (35) [T],[25] (34) [T]. The alternative view is accepted in 21.8 (33c) [FYL], which marks a third proem. Moreover, 21.77 (242a) [FYLS, T] marks the start of the digression (*παρέκβασις*) at 77; 21.123 (434a) [FYLS, T] + (434b) [T] and (444a) [FYLS, T] see a local epilogue to the digression at 123, with the epilogue of the whole speech beginning at 126. By contrast, 21.81 (269a) [FYL] places the digression at 81, and (425a) [FY] places the general epilogue at 123.[26] In these instances, too, **f** displays internal inconsistency.

Different structural analyses can be found in **a** as well. In fact, in *On the False Embassy* there is evidence that **a** draws on two sources other than the common source. Since it also draws on the common source, this means that in this speech, at least, **a** has three sources. According to the analysis of *On the False Embassy* in **u** and **f**, the end of the statement (*κατάστασις*) is immediately followed by the head known as sequence of events (*τὰ ἀπ' ἀρχῆς ἄχρι τέλους*) at 19.29. There is a proem to this head in 19.29f. (19.29 (85a) [gT] ~ (85b+c), (86a) [FYS]);[27] the head proper begins at 19.31 (19.31 (92b) [gT] ~ (92c) [FY]). This analysis prompts an explanation of why the demand for evidence (*ἐλέγχων ἀπαίτησις*) and other heads of argument in the standard division of conjecture are omitted or given only limited treatment (for the explanation see §6.3). By contrast, **a** holds that the demand for evidence *is* present in this speech, but offers two different views about its location. According to one analysis (19.25 (83b), 29 (85d) [A]) the end of the narrative (*διήγησις*) is followed by the first head of conjecture, exception (*παραγραφικόν*), at 19.25; the second head of conjecture, the demand for evidence, follows at 19.29. A different analysis (19.31 (92a) [A])

[25] (35) includes the text of (33b): Dilts's truncated version is based on the, mistaken, diagnosis of contamination. In fact, we have a familiar pattern: in (33b) **f** has material from the common source preserved in fuller form in **u**, alongside material from its distinctive source in (33c).

[26] I think it certain that (425a) is correctly placed in Y; Dilts follows F in attaching it to 119, which makes little sense.

[27] (85b) is parallel to (85a, p. 15.15–17), but gives a fuller text. The second part of (86a) is parallel to (85a, p. 15.19f.), but I doubt whether the first part (*ἔστιν οὖν τῆς ἀντιθέσεως ἡ δύναμις ἐν τούτοις κατὰ ἀναίρεσιν εἰσηγμένη*) preserves text lost in (85a): it does not fit intelligibly into the argument of (85a), and I suspect displacement or contamination.

places the start of the demand for evidence at 19.31, after capacity.[28]

So it is possible to identify inconsistencies in **a**, as in **f**, which indicate that these traditions draw on more than one source. By contrast, I cannot give any example of internal contradictions within **u**. Since **u** preserves by far the largest collection of scholia, the internal consistency of this tradition is very striking. The implication is that **u** has a single source. If so, it follows that **u**'s single source must be the common source shared by all three traditions, and that there is only one common source.

5.6 *OR*. 18–24: (VI) THREE COMMENTATORS

We have seen evidence that the three traditions draw independently on a single common source; that **u** derives only from the common source; that **a** and **f** each draw on a distinct additional source; and that **a** has a second additional source for *On the False Embassy*. Can these sources be identified?

Numerous convergences between **u** and the testimonia to Menander (§4.2) suggest that Menander's commentary was the common source:

F4: the theory that *On the False Embassy* is incident conjecture is advanced at length in 19.101 (228) [gT], 114 (239c) [gT], 179 (368a) [gT].[29]
F6: an analogous critique of Hermogenes is found in 19.101 (228) [gT].
F13: the differentiation of transference and mitigation is found in 22.17 (53b–f) [YL, gT].
F15: the criticism of the view that objection is always answered by counterplea is found in 21.26 (93b) [T], and the doctrine is

[28] Pursuing the A-scholia a little further, since 19.29 (89a) and (89b) seem to be alternative notes, it is likely that (89b) and (92a), which both refer to capacity (*δύναμις*), derive from the same source, while (89a) derives from the source of 25 (83b) and 29 (85d), which leave no obvious room for capacity. (89a), which interprets the speech as incident conjecture (p. 16.12 *φυλάττεται*) as does 19.179 (368b) [A], shares the explanation of why motive is only briefly treated here with (85a) [gT]; but a different choice of words (p. 16.11 *τηρῆσαι*; contrast p. 15.22 *φυλάττεται*, p. 16.32 *διεφύλαξε*) points to a different source.

[29] The theory also appears in 19.101 (226), 179 (368b) [A]; since the latter, like 25 (83b) [A], uses *διήγησις* instead of *κατάστασις* (§5.4), we have material from **a**'s distinctive source (cf. n. 28 above).

applied in 22.22 (65) [YL, gT], 33 (97b) [gT] ~ (97c) [YL] ~ (98) [S].
F16: a plausible candidate for Menander's 'precise' discussion of the prologue to *Against Timocrates* can be found in 24.1 (2a–d) [YL, gT].
F17: the identification of a second, supplementary subject in *Against Timocrates* is found in 24.1 (1b) [YL], 5 (18a) [YL], 8f. (22, 24b) [gT].

Evidence for the date of **u**'s source is consistent with derivation from Menander. The commentators and rhetorical theorists named in **u** are Zeno (20.44 (113b)), Hermogenes (19.101 (228); 24.68 (152c)), Apsines and Aspasius (20.4 (16a)), and Metrophanes (21.26 (93b), 28 (95); 24.68 (152c)). All of these can be dated to the second or third centuries (§2.5, §2.8, §3.3, §3.9), and there is no reason to assume a later date for Alexander (20.18 (44)) (§4.1). A clear parallel to 19.156 (333) [gT] is found in a papyrus containing sporadic and fairly simple notes on the *False Embassy*, dated by the editors not earlier than the third century.[30]

However, the proposed identification of **u**'s source with Menander needs two qualifications. First, **u** does not present a comprehensive (if often abbreviated) version of Menander's commentary. Two **f**-scholia to *Against Meidias* attribute text-critical views to Menander by name: 21.133 (470a) [F] (= F11) reports a reading adopted in (469a) [VfT], but the reading reported in 21.16 (68b) [L] (= F10) has left no trace in **u**. So not all of Menander's comments have found their way into the scholia. Secondly, and more significantly, **u** does not present an unadulterated version of Menander. In two testimonia (F5, F7) comments preserved anonymously in **u** are tagged with Menander's name in **f**; but in each case *two* sources are named, proving that **u** and **f** both contain material derived from Asclepius as well as from Menander.

This observation at first sight calls into question my claim for

[30] P.Rain. 1.25 (inv. 29795): *θρυλοῦντος ἀεί] ἵνα μὴ πρὸς ἀφοσίωσιν ἅπαξ εἰρηκέναι [δοκῇ, προσέθηκε τὸ καὶ θρυ]λοῦντος· καὶ κοινῇ φανερῶς λέγοντος* (cf. Lossau 1964, 139f.). There is also a less striking agreement, in substance but not wording, with 19.47 (124) [A], against (123) [gT].

the unitary nature of **u**. More careful examination shows that the situation is quite different from that observed within **f** and **a**. Menander and Asclepius do not contradict each other: each makes the same point, but in slightly different terms. In F5 Asclepius' note identifies the preliminary confirmation more concisely; in F7 Asclepius substitutes a standard technical term for the less straightforward expression used by Menander. Obviously, it will not be easy to spot other instances of this phenomenon where **f** does not provide a control, but possible examples can be found in the juxtaposition of 20.56 (139a) [gT] with (139b) [gT], and of 20.139 (338) [gT] with (339) [gT]. In each case the second scholion uses *παραγραφικόν* to express what the first has expressed with *μεταληπτικόν*.[31] There is no substantive inconsistency between these scholia, and the terminological variation is not in itself untoward; but the alternation of the terms in adjacent scholia is striking.

Instead of the conflation of material from substantively different commentaries found in **f** and **a**, therefore, we seem to have a single commentary to which a second person has added supplementary comments, possibly to provide the reader with a more succinct or terminologically easier version.[32] It is from this redacted version of Menander that **u** and **f** both descend. But the redacted version is not the more recent common ancestor conjectured in §5.2, since a note attributed to Asclepius appears in all three branches in 19.122 (262b) [gT, FYS, A].[33] We must conclude that the redacted version was the common source of the whole tradition.

It would be too simple, therefore, to claim without qualification that Menander's commentary was the common source, and even scholia in **u** must be used cautiously in reconstructing his exegesis. We cannot be sure how extensive the redactor's

[31] According to Dindorf (139a) and (139b) are separated by *ἄλλως*, not reported by Dilts. *μεταληπτικόν* (or cognates) also at 20.23 (55), (57), 112 (261b) [gT].

[32] One might imagine a copy with marginal annotations, which have subsequently entered the text: see §8.4 for some inconclusive suggestions. Schulz 1946, 325f. (cf. McNamee 1998, 274f.) envisages a similar process for the integration of the notes marked 'Sab(inus?)' into the scholia Sinaitica on the jurist Ulpian, though the additions there are more substantive.

[33] See Dilts 1986, p. ix n. 1 for the reading in gT. According to Dindorf, T and FY omit *Ἀσκληπιοῦ*: if so, Dilts does not report the fact.

additions were, whether he cut any material out, and whether anything was significantly recast in the process. But there are grounds for thinking that the redaction was limited. Where **u** and **f** present parallel material it is not usually attributed by name in **f**: this suggests that occasions when there was a need to distinguish between two sources were exceptional. Admittedly, the apparatus to 19.4 (26b) [YS] shows how insecure the transmission of the attribution was, even in **f**. Even so, we should expect significant departures from Menander's interpretation to be betrayed by internal contradictions within **u**, such as we have seen in the other traditions; the absence of such contradictions is presumptive evidence that the redactional intervention was modest. If so, then caution in our use of **u** as evidence for Menander need not become wholesale scepticism.

Let us turn now to **a**. Menander is cited by name in 24.111 (220b) [A] (§4.2, F17); his view is reported, but not necessarily endorsed. Menander's interpretation of *On the False Embassy* as incident conjecture is accepted in other A-scholia (see nn. 28–9 above). Of these, 19.101 (226) agrees in substance with (227) [gT], although there is no resemblance in expression. But in 19.179 (368b) events in Thrace are treated as a sign of Aeschines' guilt, while according to (368a) [gT] they are mentioned only for amplification. Thus the source in **a** post-dates Menander, and has been influenced by him, but is willing to modify his interpretation in detail.[34] The same conclusion can be drawn from the discussion of 19.25 (83b), 29 (85d), (89a) in §5.5: the speech is interpreted as incident conjecture, as in **u**, but the analysis into heads of argument is different (the modification in **a** is in the direction of a fuller realization of the standard division of conjecture). To take another example, although 19.72 (172b) [A] is in substantive agreement with (172c) [gT], what are presented as two counterpositions in gT are presented (perhaps more clearly) as three in A.

Apart from Menander, **a** cites rhetoricians of the second, third, and fourth centuries by name: Hermogenes *On Types of Style* (18.126 (220a)); Genethlius (18.8 (27c); 19.2 (15a), 148

[34] This further complicates the source-critical problem: it may not be easy to distinguish scholia independently derived from a single commentary from scholia derived from two commentaries, one of which has been influenced by the other.

(315b); 22.3 (13a)) and Epiphanius (18.8 (27c)) (cf. §3.10);[35] and Athanasius (24.104 (207a)) (§3.8 n. 41). Prolegomena to Hermogenes by Athanasius of Alexandria are known from an epitome attributed to 'Zosimus the pupil of Theon' (*PS* 171.1–183.9).[36] If Theon is the sophist who taught Damascius in Alexandria in the 480s (§9.5), this puts us in the right period for the sophist Zosimus 'of Gaza or Ascalon', given a *floruit* under Anastasius (491–518) by the *Suda* (*Z*169),[37] who wrote commentaries on Demosthenes and Lysias and a rhetorical lexicon. There is a pointer towards the identification of Zosimus as **a**'s distinctive source. In 19.297 (524) [A] it is said that Demosthenes' enthusiasm for oratory was aroused by hearing Callistratus; this claim is repeated in 24.135 (271) [A], which adds a cross-reference to the commentator's *Life of Demosthenes* (*ὡς εἰρήκαμεν ἐν τῷ βίῳ αὐτοῦ*), and there is a parallel in the *Life* attributed to Zosimus of Ascalon (3.39–41 Westermann).[38] Since Zosimus' exegesis of the

[35] Although **a**'s source apparently accepted the view of Genethlius and Epiphanius on the proem to *On the Crown* (§5.4), it is unlikely that he always agreed with them. The fragment of Epiphanius in *RG* 4.463.29–465.18 discusses conjunct conjectures; there is no reference to *On the False Embassy*, but the account of incident conjecture implies that he would have rejected Menander's interpretation.

[36] Athanasius and Zosimus both appear in the scholia to Aelius Aristides. Athanasius: *Pan.* 228 (228.22–6), cf. 185 (196.28–197.4); *Four* 25 (456.23–6), 74 (485.15–19) (text: Lenz 1964, 18f.); *Second Leuctrian* 66 (255.9f.). Zosimus: *Second Leuctrian* 72 (355.18f. Dindorf), *Fifth Leuctrian* 13 (*ap*. Lenz 1964, 13; cf. Lenz 1964, 92).

[37] George Cedrenus (1.622.2 Bekker) records the execution of a rhetor named Zosimus of Gaza under Zeno, in 477. If he is the same person as 'Zosimus of Gaza or Ascalon', the *Suda*'s chronology must be wrong. But this entry may conflate the Zosimus of Gaza executed under Zeno with a Zosimus of Ascalon active under Anastasius. Alternatively, it is possible that two sophists named Zosimus taught at Gaza: it was a major school; the name was not rare; and, as Rabe (1931, p. lviii n. 1) points out, it is not uncommon for one man to have two ethnics (the *Suda*'s Zosimus might have been born in Ascalon, studied with Theon in Alexandria, and taught at Gaza). On Zosimus see also Gärtner 1972; Wilson 1967, 254f. Some have viewed Zosimus as a candidate for the last redactor of the Demosthenes scholia (for discussion see Nitsche 1883, 11; Gudeman 1921, 700f.; Gärtner 1972, 792f.); but with no unified corpus, that post does not need filling.

[38] Zosimus' *Life of Demosthenes* begins with a transition from a preceding exposition of Isocrates (see §7.4). There is at least one cross-reference within the Demosthenes scholia to a commentary on Isocrates: 1.1 (2a) [YSvp] ~ (2b) [F] (discussed in §5.10).

Olynthiacs and *Philippics* was accessible to Nicetas Magistros in the tenth century,[39] it is perfectly plausible that his commentary should have been one of **a**'s sources.

There is one complication. We have a significant body of **a**-scholia for four speeches (18, 19, 22, 24); but in the case of *On the False Embassy* we have found evidence that **a** derived material from two sources in addition to the common source (§5.5). There is insufficient evidence on which to base an identification of the second distinctive source, and it is not clear that we can reliably separate out material from these two sources. The fact that there is no more extensive evidence of conflicting viewpoints in **a** (beyond that attributable to the common source) suggests that this extra source had only a limited influence on the tradition; but there remains an element of doubt.

In the case of **f** we have found evidence of a source other than the common source in the scholia to *On the Crown* and *Against Meidias* (§5.4–5).[40] I cannot identify this source. It is certainly not identical with the source of **a** that I have conjecturally identified as Zosimus; considerations of economy suggest that it might be the additional source which has left traces in the **a**-scholia to *On the False Embassy*, but that cannot be confirmed or disconfirmed. The source cites Menander by name (19.1 (1a) [FYS] = F4a; 21.16 (68b) [L] = F10; 21.133 (470a) [F] = F11). We have seen instances in which its interpretation coincides in substance but not expression with Menander's, but it also contains significant departures from Menander, as in the question of the charge against Meidias. There are two features that point to a date not earlier than the late fifth century. First, this source treats the pseudo-Hermogenean works as authoritative. *On Invention* is sometimes attributed to Hermogenes by name (or simply as ὁ τεχνικός),[41] and its influence is evident elsewhere even where

[39] *Ep*. 9.43–5 (Westerink 1973, 78f.).

[40] For speeches 19, 22 and 24 we have a substantial body of **f**-scholia, significantly overlapping with **u** (Dilts's policy on reporting gT means that the extent of the overlap between **f** and **u** is not transparent in his edition); there is no evidence that **f** has also used a distinct source for these speeches. The **f**-scholia for speeches 20 and 23 are sparse.

[41] By name: 19.65 (157b) [FY]; 21.1 (2a) [FYL]. ὁ τεχνικός: 23.8 (13a) [FYL]. Note that (13a) uses the terminology of [Hermogenes] to express a point made in other terms in (13b) and (16) [gT] (ἐναγώνιος for ἐγκατασκευός).

it is not directly cited.[42] *On Method* appears to be regarded in a similar light, although Hermogenes is not explicitly named as the author.[43] Secondly, this source is Christian: it treats Gregory of Nazianzus as an oratorical model.[44] The isolated nature of the citations warrants a note of caution. Since similar references to Hermogenes and Gregory appear in the sparse scholia to later speeches,[45] one might wonder whether these are sporadic marginalia by informed readers, rather than the remains of a commentary. Clearer evidence on this point will emerge later (§5.10–11).

5.7 *OR.* 18–24: (VII) THE SECOND HYPOTHESES

One final question needs to be considered: the origins of the second (that is, non-Libanian) hypotheses to these speeches, a body of exegetical material which is traditionally, though illogically, printed separately from the scholia.

Readers of 18.1 (1e) [gT] who wonder why it begins with a connective (*οὐκοῦν*) will find the answer in Dindorf's annotations: the scholion continues directly from the hypothesis. The analysis of the speech in the hypothesis is consistent with that in **u** (see, for example, 18.110 (189), 126 (219) [gT]). This creates a presumption that the hypotheses (present in T)[46] derive from the redacted version of Menander that we have identified as the source of **u** and the common source. That these hypotheses were

[42] E.g. 19.12 (47a) [FY]. In 23.110f. (65a, 67) [FL], (68b, 69) [L] the terminology (*πρότασις*, *ὑποφορά*, *ἀντιπρότασις*, *λύσις*) is a modification of that of *On Invention*, with *λύσις* replacing *ἀνθυποφορά*; the modification is noted in 21.25f. (90a), (93a) [FYL] (*ὑποφορά* and *λύσις, ἢ καὶ ἀνθυποφορά*), and was presumably motivated by a desire to avoid confusion with the distinctive Menandrian use of *ἀνθυποφορά* (n. 75 below). *ὑποφορά* is used in 21.36 (120) [S], by contrast with *ἀντίθεσις* in (119a) [T] and (119b) [YL]; and in general the *ἀντίθεσις* terminology appears in **f** scholia which have parallels in **u** (e.g. 21.38 (122a) [FYLS] ~ (122b) [T], 41 (125a) [YLS] ~ (125b) [T] ~ (126b) [FY], 42 (127b) [FYLS]).

[43] Citation: 21.191 (641) [FYL] (cf. §5.10). Allusion: 24.104 (206) [FYL] (cf. *On Method* 419.12).

[44] 18.4 (18b) [F]; 19.231 (450) [F]; 20.39 (99) [F]; 24.68 (152d) [F]. For Gregory and Basil as oratorical models cf. §9.5 n. 99.

[45] Hermogenes: 54.3 (2) [F]. Gregory: 29.5 (1) [F]; 57.17 (2) [F].

[46] Since the hypotheses are not included in Dilts's edition of the scholia or his OCT edition of the speeches, we depend on Dindorf and older editions of the speeches, which do not report g.

not originally designed to stand alone (like those of Libanius)[47] but were prefaced to a commentary is clear from the end of the hypothesis to *Against Leptines*, which introduces a detailed treatment of the speech (ἰτέον δὲ ἐπὶ τὴν μεταχείρισιν τοῦ λόγου). Here, too, the analysis is consistent with that of **u** (compare, for example, hyp. 2.8 with 20.1 (5c) [gT]). The hypothesis to *Against Aristocrates* ends 'so much for the subject (ὑπόθεσις)'; 23.1 (1) [gT], which starts (in g and Bc) with a connective (δέ), proceeds to give complementary information about the nature of the speech, the heads of argument, and an outline of its structure. The scholion's initial reference to the dual nature of the speech and its two subjects (ὑποθέσεις) presupposes the explanation of this point in the hypothesis (hyp. 2.4f.).[48] In the case of *Against Timocrates*, 24.1 (1b) [YL] is abbreviated from the last part of the hypothesis. In YL this is followed by (2a) + (2b) + (2c); in gT (2a) and (2c) are omitted, and the hypothesis is followed directly by (2b).[49] There is some reason to associate the analysis of the proem in these scholia with Menander (§4.2, F16), and the account of the speech's two subjects is consistent with 24.5 (18a) [YL], 8f. (22), (24b) [gT]. The hypothesis to *On the False Embassy* also presents an analysis consistent with **u**.[50] The hypothesis to *Against Meidias* agrees with **u** in identifying the charge as a crime against the public interest; this rules out the distinctive source of **f** (§5.5). The significance attached to Demosthenes' being a self-appointed *khorêgos* as establishing his private rather than public status (hyp. 2.7) agrees with 21.17 (77) [T]. The emphasis (hyp. 2.4) on the golden crowns is also consonant with **u** (cf. §6.4),

[47] On Libanius' hypotheses: Gibson 1999.

[48] At p. 295.2f. the transposition of διπλῆν ὑπόθεσιν accepted by Dilts is unsatisfactory: it seems to say that the speech has a double hypothesis (i.e. the one that is subject to adjudication) *and also* has an additional hypothesis. It would be better to retain the manuscript order and delete (ἔχει γὰρ τὴν τῶν παρανόμων [διπλῆν] ὑπόθεσιν τὴν κρινομένην, ἔχει δὲ καὶ ἑτέραν ἐπεισενηνεγμένην . . .), although it is hard to explain the intrusion. The disruption may go deeper.

[49] The text of (2b) is independently transmitted in gT, as p. 315.15 proves. According to Dindorf (not reported by Dilts) the beginning of this scholion in T reads ἐκ διαβολῆς τοῦ προσώπου τὸ προοίμιον. ἡ πρότασις δὲ τούτου ἐστιν . . .; this might be adaptation consequent on the loss of the (2a) material from this branch, but could be primary (cf. (2d) [gT]).

[50] Hyp. 2.14, which mentions Menander by name, is sch. 19.1 (1a) [FYS], not part of the hypothesis: MacDowell 2000, 356.

although the statements (hyp. 2.5) that the crowns were *stolen* and that the sacred clothing was torn *in the theatre* are surprising and disquieting errors. The four definitions in hyp. 2.9f. agree (except for the order) with 21.7 (32) [T] (cf. §6.4), and the following analysis of the first proem has parallels in the scholia: (2b), (3), (17b) [T].[51]

So far, then, all the evidence is consistent with the presumption that the hypotheses descend from the redacted version of Menander. An exception is provided by the second hypothesis to *Against Androtion*. This is in substantial agreement with 22.1 (1a) [L], which partially overlaps with (1f) [gT]; but the amount of duplication suggests that hypothesis and scholion are distinct expositions, rather than an introduction and detailed exegesis. Moreover, there is a terminological difference: according to (1a, p. 257.8–20) two of the laws adduced by Demosthenes have the force of exceptions (*παραγραφικαί*) and are answered by objection (*μεταληπτικῶς*); but according to the hypothesis (hyp. 2.11) it is the replies that are based on exception (*παραγραφικῶς*). It is the terminology of (1a) that is taken up in later **u** scholia: 22.21f. (62d) [gT], (65) [YL, gT], 33 (97b) [gT], (97c) [YL, gT].[52] So in this case the hypothesis does not derive from the source shared by **u** and **f**. Confirmation comes from the fuller version of the hypothesis preserved in John Diaconus, which names Menander in reporting Phoebammon's divergent opinion (§4.2, F14). Since Phoebammon probably dates to the late fifth or sixth century, one might conjecture that this hypothesis derives from the distinctive source of **f**.[53] In view of the fragmented state of the scholia to the beginning of the speech in gT,[54] it is possible that damage occurring at some stage in the text's transmission prompted the appropriation of a hypothesis from another source.

[51] The list of the heads of definition in hyp. 2.9 is the standard Hermogenean division (with legislator's intention and assimilation reversed), and does not agree with the analysis in the subsequent scholia; this is an interpolated expansion of the vague preceding reference to the 'heads appropriate to the issue'. Hyp. 2.12 (in different manuscripts) is not part of the second hypothesis: MacDowell 1990, 425.

[52] See Dilts's apparatus for (65) and (97c).

[53] Not Zosimus, since hyp. 2.13 uses *κατάστασις* (cf. (1f) [gT]); contrast *διήγησις* in (1b), (3a) [A].

[54] Dilts must again be supplemented from Dindorf. See also *RG* 6.533.26–534.23.

5.8 *OR*. 18–24: (VIII) CONCLUSIONS

It may be helpful at this point to draw together the threads of the preceding investigation in a brief summary of its main conclusions.

(i) In these speeches **u** draws on a single source, identified as a redacted version of Menander's commentary, incorporating notes by Asclepius. There are grounds for thinking that the alterations made by this redaction were not very extensive, and took the form of clarification rather than revision or dissent.

(ii) The redacted version of Menander is also a source of **f** and **a**.

(iii) In the line of descent from the redacted version of Menander, **u** and **f** may share a more recent common ancestor than either does with **a**.

(iv) An unidentified commentary is a second source of **f** in at least two speeches (*On the Crown*, *Against Meidias*). This commentator had access to, and was influenced by, Menander, but was willing to modify his interpretations in detail and in substance. He was influenced by the expanded Hermogenean corpus, and was a Christian, and is therefore not earlier than the late fifth century.

(v) Zosimus' commentary was a second source for **a**. Zosimus had access to Menander's commentary and was influenced by him, but sometimes differed from him.

(vi) Another, unidentified source was used by **a** in at least one speech (*On the False Embassy*). The relationship of this source to the distinctive source of **f** is unknown.

(vii) The second hypotheses probably derive from the redacted version of Menander, except in the case of *Against Androtion*, where the source may be the distinctive source of **f**.

(viii) Because of contamination, presence in T (and its close relatives) is not sufficient grounds for attributing material to **u**; presence in g is also needed. This is a problem when g is absent (as in parts of *Against Meidias*); in addition, because of Dilts's reporting policy it is not always possible to tell from his edition when (and in what form) **u** has a particular scholion.

(ix) The source material is abbreviated and excerpted in different ways in each tradition. Hence material in **a** or **f** may derive from Menander despite the lack of confirmation in the form of a parallel in **u**.

(x) The presence of conflicting interpretations is a good diagnostic of different sources. Conflicting divisions are especially useful, since these may embody an interpretation with repercussions beyond the immediate context.

(xi) Agreement in substance between **a** or **f** and **u** should be treated with caution in the absence of close verbal parallels, since a later commentator may borrow ideas from a predecessor. It may not be easy to distinguish cases where **u** and **a** or **f** both derive material from Menander and cases where **u** derives material from Menander and **a** or **f** derives material from another commentary written under Menander's influence.

(xii) Stylistic features should be used as a criterion very cautiously, since we may fail to recognize what is standard scholastic language (§4.6), and since rhetorical terminology is complex and subtle.

5.9 *OR*. 10–17 AND 'ULPIAN'S PROLEGOMENA'

The bulk of the scholia for speeches 10–17[55] are found in **u**. For most of these speeches there are sporadic notes in FY which show no signs of a connection with scholia in **u**. However, most of the scholia to 15 in **u** are also found in Y (variant readings indicate that neither tradition derives from the other). The scholia in **u** are essentially continuous essays outlining the structure and rhetorical technique of the speeches, for the most part not attached to separate lemmata,[56] and are relatively lacking in detail.

If the conclusion reached for speeches 18–24 can be extrapolated, then Menander (with whatever degree of redaction) would also be the source of **u** in speeches 10–17. Internal evidence presents no impediment to this extrapolation. However, there is a clear similarity between these scholia and 'Ulpian's prolegomena' (falsely so called: n. 5 above), found in gTBc and Pr. The 'prolegomena' are in fact an exposition of the *First Olynthiac*, also in the form of a continuous essay, and there is no internal reason to postulate a different source from that of the essays on 10–17. But we are then faced with the attribution of the 'prolegomena'

[55] Excepting 12, which has almost no scholia.

[56] Dilts 1983, p. xiv. The lemmata he prints are mostly editorial supplements or, especially in 15, derived from Y.

to Ulpian, which is the one constant feature in the manuscript superscriptions. The easiest explanation of Ulpian's name being attached to the 'prolegomena' is that he wrote them. If so, then formal resemblance would lead us to infer that the same is true of the other continuous essays, and we should have to conclude that for these speeches **u** drew on a different source from that used in 18–24. There is nothing improbable about this in principle. But reflection on the characteristics of this other source reveals some problems. The commentator makes strong claims to originality and launches vigorous attacks on other named commentators. The named targets coincide with targets of polemic in Menandrian scholia to speeches 18–24, and there is no named target identifiably later than Menander; Menander himself is not a named target. These observations imply a commentator who, if not Menander, is either earlier than Menander or a contemporary who fails to interact with him.[57] We then have to suppose that this commentary was sufficiently influential to have survived (despite being overshadowed by Menander) to enter one part of the tradition, without leaving other traces. This is a possible constellation of features, but arguably not a likely one.[58] So the possibility of Menandrian authorship merits further consideration.

The overall structure of the 'prolegomena' is as follows:

(*a*) introduction, discussing *inter alia* resemblances to Thucydides and Homer (1.3–2.30);

(*b*) identification of the three main obstacles (λυποῦντα) facing Demosthenes (2.31–4.21), with a description of the techniques used to present and resolve these problems (4.22–5.7) and of the heads under which they are handled (5.7–25);

(*c*) more detailed sequential analysis of the speech (5.26–13.6).

Internal cross-references allow us to see how the author conceived of this structure. At 11.27f., 'as we have said in the

[57] The commentator makes claims about all earlier interpreters of the *Fourth Philippic* that are unlikely to be true of Menander, in view of the detail and subtlety of his divisions. This point is weakened by internal evidence that the claims about predecessors are oversimplified (§6.5).

[58] Ulpian of Antioch, who taught Prohaeresius, would be chronologically possible (§3.10); there is no independent evidence of a commentary on Demosthenes, but we cannot be sure that the bibliographical information is complete. Identification with the jurist Ulpian (assumed by Patillon 2002, 1.60 n. 145, 'mort en 223') is completely unfounded.

preliminary division (προδιαιροῦντες) of the speech' refers back to 4.14–21. At 5.26, 'it is necessary to go back to the beginning and divide (ἀναλαβόντα διελέσθαι) the speech' introduces the last section. Thus we have, after the introduction, a preliminary division (προδιαίρεσις), and a division (διαίρεσις).[59] There is one further cross-reference: at 5.25 the summary of heads ends with a reference to a detailed exposition (τὰ καθ' ἕκαστον). This seems to look forward to 11.23–9; if so, the division is the detailed exposition.

Yet the division in the 'prolegomena' leaves considerable scope for further detailed exegesis. The proem, for example, is discussed in 27 lines in the 'prolegomena', but in the scholia in manuscript R it is allocated more than 100 lines (even after maximum allowance has been made for duplication and alternative versions arising from the conflation of material from multiple sources).[60] So might this essay have been composed as an extended introduction to a more detailed commentary? If so, the 'prolegomena' (and the other continuous essays) would resemble the second hypothesis to *Against Leptines*, which explicitly indicates that it was originally prefaced to a more detailed exposition (§5.7). But there is an objection to this conjecture. The scholia to the *Fourth Philippic* at one point direct us to other commentaries to fill out what their own exposition does not cover in detail: 'the interpreters (ἐξηγηταί) will supply the points that are unclear in this' (p. 154.4f.). Likewise the commentator expects his addressees to be able to supplement his *exempli gratia* exposition for themselves (p. 151.31–152.2). These comments would not be necessary in an outline exposition designed to introduce a more detailed commentary. Since the scholia to the *Fourth Philippic* are similar in form to the 'prolegomena', the conclusion presumably applies to both.

[59] If Dilts is right to accept the reading of the Aldine at 8.33f. ('for the reason we have already stated in the theoretical analysis (ἐν θεωρήματι)', referring back to 4.22–5.7) we could separate the preliminary division (2.31–4.21) from the theoretical analysis (4.22–5.25). But I prefer to keep the manuscript reading ('for the one theoretical principle (ἓν θεώρημα) we have already stated'), perhaps deleting ἓν (dittography after προείπομεν) .

[60] The disparity would be explicable if the continuous essays were summaries of a more detailed commentary, in which case we might conjecture that Ulpian was the epitomator. But the continuous essays do not read like epitomes.

The 'prolegomena' and the other continuous essays are similar to each other, but differ formally and in level of detail from the commentaries on speeches 18–24 (although the original format of the latter is doubtless obscured in the extant scholia). This is not in itself an objection to common authorship. We have no reason to assume *a priori* that the corpus of Menander's commentaries on Demosthenes was originally homogeneous. It is possible that he expounded texts to his students at a variety of levels, or for a variety of purposes; the corpus might therefore contain expositions of different kinds. One might envisage a corpus containing overview expositions (such as the 'prolegomena' and the scholia to 10–17) of some speeches, and detailed expositions (such as the scholia to 18–24) of others. Moreover, we have no reason to assume *a priori* that the corpus contained only one exposition of any speech. A rhetor (especially an expert on Demosthenes) would certainly have lectured on a given speech of Demosthenes more than once, and might have had reason to do so at varying levels of detail. If a record was preserved of both an overview and a detailed exposition of a particular speech, then the continuous essay, though not composed as an extended introduction to a more detailed commentary, might have been made to function as such within the gradually accumulating corpus; or they might simply have co-existed in the corpus. We know that material from Menander's commentary is contained in the scholia to the *First Olynthiac*: Menander F3 is preserved in abbreviated form in sch. 1.2 (14c) (§4.3). There is no parallel in the 'prolegomena', but the identification and explanation of a figure (hyposiopesis) is precisely the kind of material that one would expect to be left out of an overview exposition and to be included in a detailed commentary.

To make further progress we need to examine more carefully the relationship between the 'prolegomena' and the scholia. This will not be easy, since (the early speeches in the corpus being studied most in Byzantine schools) the tradition underlying these scholia is exceedingly complex and hard to analyse. Moreover, the investigation is unlikely to be conclusive. Positive correspondences between the scholia and the 'prolegomena' cannot prove common authorship (they could be explained in terms of one author's influence on another, or a common source). The most we can reasonably expect is that an absence of significant

inconsistency will leave the possibility of common authorship open.

5.10 THE *FIRST OLYNTHIAC*

The manuscripts of which we need to take account for the scholia to the *First Olynthiac* differ from those for speeches 18–24:[61]

(i) Among the *vetustissimi* F and S offer plentiful scholia, and other manuscripts very little. Y has only a few scholia on the opening of the speech, and L is entirely absent. A shows little sign of access to independent tradition: (71b) is the only substantial distinctive scholion; elsewhere A is parallel most often (but not exclusively) to F. (vp offers skimpy notes, except in a few scholia where it runs parallel to F or S; the second hand in vp seems to derive its notes from Y.)

(ii) For the *Ulpianei* g is not available; we therefore depend on T and Bc (their derivatives Ac and Ob, and the group AfVb-CaWd, can be ignored), and thus have no control over contamination. Material may be derived from the lost portion of Y (the surviving Y scholia do appear in the *Ulpianei*), or from other unknown sources. Bc has significant scholia not in T, and so is worth reporting separately.

(iii) Among the *recentiores*, B and Pr can again be ignored. But the status of R is a significant question. Dilts believes that R is derivative from S and A,[62] and therefore does not cite this manuscript as a primary source when it agrees with S or the surviving part of A. Yet for speeches 1–4 (unlike speeches 18–24) his stemma credits R with independent access to old tradition, and the assumption that R is derivative from S or A whenever it agrees with them (rather than deriving independently from a shared source) is open to question. Sometimes R preserves correct readings against S (for example, p. 44.12), and in cases such as (26a–d) there is reason to believe that R preserves a fuller version of an originally integral complex of scholia. Scott's discussion of the relationship of R and S reaches the following conclusion:[63]

> There is good reason to think that the scholia which are offered by R form part of a commentary, the remainder of which is found in the

[61] Dilts 1983, pp. xi–xii. [62] Dilts 1983, p. xi. [63] Scott 1991, 85 f.

scholia to S and R. R provides us with a fuller version of this commentary than S. My hypothesis is that there is a core of scholia which form a unified commentary. If this is so, then the importance of codex R is greater than is now suggested, because it does contain all the core scholia, whereas we cannot be certain that S contained all of these scholia. The influence of codices Y and A on R for the *First Olynthiac* appears to be insignificant.

I am in broad agreement with Scott's analysis, and shall therefore report R (relying, with misgivings, on Dindorf)[64] as well as A, FYS, and TBc.

The extent of the contamination means that eliciting Scott's hypothesized core commentary will be difficult. But a good starting-point is provided by Menander F3, and the parallel in (14c) [FRTBc]. The scholion explains the figure hyposiopesis. This term is not part of the standard technical vocabulary of rhetoric, and seldom occurs outside the scholia to this speech (§4.2, F3). It is first introduced in (11d) [R]; (14c) was presumably added to elucidate the unfamiliar terminology. These two scholia were therefore originally consecutive parts of a continuous exposition, rather than separate notes. The continuity is obscured in Dilts's edition by the first sentence of (14c), *τὸ ἐπαχθὲς . . . καὶ οὐχ "ὑμεῖς"*. But these words are really a separate note; in F they appear at the end of the scholion, and they are not present in R.[65] The underlying text of R is therefore:

. . . καὶ οὔτε φανερῶς ὠνείδισε τὴν ῥαθυμίαν (ἀνάρμοστον γὰρ προτρέποντι τὸ τοιοῦτον) οὔτε παντελῶς ἀφῆκεν, ἀλλὰ διὰ τῆς ὑποσιωπήσεως ἐδήλωσε. τοῦτο δὲ τὸ σχῆμα λέγεται ὑποσιώπησις, ὅταν μέλλῃ τις ἐπιφέρειν τραχύ τι καὶ λοιδορίας ἐχόμενον, μὴ βούληται δὲ διὰ τὸ ἐπαχθὲς αὐτὸ λέγειν, ἀλλὰ δι' αἰνιγμάτων σημαίνῃ . . .

. . . He neither openly rebuked their idleness (that kind of thing would be inappropriate in an exhortation) nor allowed it to pass entirely, but he indicated it through a hyposiopesis. This figure is called hyposiopesis, when one is about to bring up something harsh and abusive in character, but does not wish to say it because it would give offence, but conveys it by way of hints . . .

This suggests that R preserves (in abridged form, as Gregory of

[64] Scott 1991, 291–3 also provides a list of scholia in R.

[65] This is reported by Dindorf, not Dilts.

Corinth's fuller version shows) material derived from Menander's commentary.[66] But we cannot assume that Menander's commentary is R's sole source.

Differences in interpretation give us some further purchase. At the start of the speech Demosthenes says that the assembly will listen both to proposals thought out in advance and to impromptu suggestions. According to (9a) [FSR], Demosthenes was placing himself in the latter category (so that his advice will be seen as a response to the immediate circumstances). By contrast, (5cd) [R][67] sees Demosthenes as making capital from the fact that his advice is not impromptu (so that his proposal will be seen as the fruit of careful reflection). That interpretation is found also in (11bc) [R],[68] and (11d) [R] goes on to claim that Demosthenes' reference to 'the present occasion' (2) supports this view: for how could Demosthenes recognize the opportunities offered by the present occasion if he had not already given careful thought to the problem? We can also work backwards from (5cd), which argues that the way in which Demosthenes refers to impromptu advice subtly undermines it. One point is the introductory 'I suppose': 'first by means of the supposition he removes the certainty (for he says 'I believe') . . .' (p. 18.10f.). Glossing 'suppose' (*ὑπολαμβάνω*) as 'believe' (*νομίζω*), implying uncertainty, has a hidden point: for the question whether 'I believe' in the speech's opening sentence should be read as expressing uncertainty was itself disputed. The view that it does express uncertainty is found in (1cd) [R]; an abbreviated version is preserved in (1c+1e) [FYvp]. By contrast, (2a) [YS] ~ (2b) [F] firmly rejects this interpretation.

As well as the connections already established between (5cd) and (1cd), (11bc), and (11d), there are clear links between (1c, p. 14.6 *ἠθικὸν ὁμοῦ καὶ πραγματικὸν τὸ προοίμιον*) and (11bc, p. 19.26 *ἔστι δὲ καὶ τὸ δεύτερον προοίμιον ἠθικὸν ὁμοίως καὶ πραγματικόν*), and between (5d, p. 17.35 *πρόκλησις*, p. 18.3 *προκαλεῖσθαι*) and (11d, p.19.18 *προκαλεσάμενος*). We have already seen that (11d) is continuous with (14c), the abbreviated version of Menander F3. So it is Menander whose commentary lies behind this chain of

[66] Contrast Scott 1991, 97: noting that the scholion is misplaced in R, between (23) and (24), she suggests that it is 'extraneous material incorporated inappropriately', and not evidence that Menander was the source of R's core commentary. [67] (5c) is also in Yvp. [68] (11b) is also in FTBc.

scholia. This inference is supported by the similarly positive view of premeditation in 21.191 (640) [VfT]; contrast the less positive view taken in (641) [FYL], which sees Demosthenes as admitting to premeditation in the present case, but blaming Meidias for forcing him into this evidently rather disreputable procedure.[69]

It seems likely that (1f) [Y] derives from the source of (2a) [YS] ~ (2b) [F]. If so, the adaptation in (1f, p. 16.4–7) of material from (1d, p. 14.26–15.5) points to a commentator familiar with Menander, though also willing to disagree with him. The reference in (2a~b) to the commentator's exposition of Isocrates (*ὡς ἤδη ἐν τοῖς Ἰσοκρατικοῖς εἴρηται*),[70] suggests the possibility that the source was Zosimus (§5.6 n. 37); the relationship to Menander of adaptation and dissent would fit the profile established for Zosimus earlier (§5.6). If that identification is correct, it confirms that the relationship between sources and manuscripts for this speech is quite different from that inferred for speeches 18–24, even if the array of sources is the same.[71]

Let us now investigate connections between the scholia which this analysis has identified as Menandrian and the 'prolegomena'. They agree that the first proem combines feasibility and advantage ((1c, p. 14.15f.) ~ p. 6.10f.); that the opening words contain an oblique reference to the problem of funding ((1c, p. 14.17f.) ~ p. 5.27–9); that this is the first of two thoughts (*ἔννοιαι*: (5cd, p. 17.27f.) ~ p. 6.10–13), the second of which is the challenge to other advisers ((5cd, pp. 17.35, 18.3; 11b, p. 19.18) ~ p. 6.6–9), in which Demosthenes makes capital from the fact that his advice is not impromptu ((5cd, 11d) ~ p. 6.7). According to (11d) 'those matters' (*τῶν πραγμάτων . . . ἐκείνων*, 2) does not refer to the affairs of Olynthus (which would be better expressed by 'these', *τούτων*) but hints at Athens' 'ancient prosperity and hegemony':[72] this

[69] 21.191 (641) quotes [Hermogenes] on the need to dissimulate preparation in judicial oratory (*Meth.* 433.15–434.2); and as a general principle this is acknowledged in all branches of the tradition: 19.332 (588); 20.84 (187); 24.122 (240c) [gT]; 22.14 (47); 24.122 (240d) [A]. [Hermogenes] recommends claiming premeditation in deliberative oratory (*Meth.* 433.5–14), citing Dem. 18.172. [Plut.] *On the Education of Children* 6d takes a view similar to Menander's.

[70] Dobree's emendation of *ἐν τοῖς σωκρατικοῖς* is certain.

[71] Note that FY contain material drawn from Menander (1c+1e) and material drawn from Zosimus (1f+2a/b). In vp, but not Y, the conflation is marked by *ἄλλως* at the beginning of (1f).

[72] The phrase *παλαία εὐδαιμονία* (p. 20.1f.) echoes Dem. 21.143: cf. sch. 21.143 (495) [VfT].

is a recurrent idea in the 'prolegomena' (p. 3.4–16, 6.14–17, cf. 9.15 f., 9.30 f., 10.9).

Looking beyond the cluster of scholia already identified as Menandrian, we find a number of scholia in R and/or S which continue this pattern of correspondence with the 'prolegomena':

(22) [R] argues that in saying that what they have to fear most is Philip's unscrupulous character Demosthenes is distracting his audience's attention from his military strength: this technique is admired in the 'prolegomena' (p. 7.18 f.). Thucydides 1.68–71 is cited as the model for this passage in (23) [R] and the 'prolegomena' (p. 7.23–7, cf. 2.4–12).

(26d) [R] returns to the idea, already mentioned, that Demosthenes is concerned with the recovery of Athens' old hegemony rather than events in Olynthus.

(28) [R] and (33a) [SR] examine how Demosthenes makes Philip's unscrupulous character a source at once of fear and encouragement: compare p. 7.21 f.

(36b) [R] sees Demosthenes as answering a potential weakness in his argument, arising precisely from Philip's deviousness (that it will enable him to win over the Olynthians), and Zeno is criticized for misunderstanding this passage as a solution to a different counterposition (that the Olynthians are untrustworthy). Zeno's interpretation is attacked without individual attribution at p. 8.3–21 ('the counterposition which everyone makes so much of . . . which the commentators have made up for themselves'),[73] and Zeno is attacked by name for a different point ('as Zeno naively supposed') at p. 12.15 f. (cf. §2.6).

(92a) [S] notes that Demosthenes does not openly say that if Olynthus falls Philip will invade Attica, but he leaves it to be understood by implication (*εἰς ὑπόνοιαν καταλιπών*): compare p. 10.12–14 (*ὑπόνοιαν . . . ὑπονοίαις*).

(140c) [SR] sees in 21 the beginning of the second part of the head of feasibility, concerned with Philip's capacity: cf. p. 11.19 f. Demosthenes begins with a counterposition (that Philip's position is strong), which he introduces with a denial; and the denial is subtly handled, since he does not bluntly deny that Philip is

[73] Dilts's punctuation of this passage is puzzling: 8.20f. (to *πλάττονται*) is the conclusion of the previous paragraph, and the following quotation (from 6: Dilts's reference is also wrong) is a lemma introducing the next part of the exposition.

powerful or formidable, but only that his affairs are in so satisfactory a state as a casual observer might suppose (compare p. 41.34–42.5 and p. 11.20–3).[74]

In many cases S and R run parallel to other manuscripts. Since it is unlikely that they reproduce their source in full, it is possible that other manuscripts preserve material from the 'core commentary' that has not been preserved in R or S: compare, for example, (156a) [FTBc] with (156b) [SR]. In this light consider (119ab): A and R preserve only a truncated version (119a) of a scholion preserved more fully in FTBc, the second part of which shares with the 'prolegomena' (pp. 10.26–9, 10.31–11.3) the opinion that Demosthenes' proposal of two military expeditions (17) is a deliberate exaggeration to forestall resistance to the single expedition that is his real aim.

The cumulative weight of these parallels suggests a close connection between the 'prolegomena' and the hypothesized core commentary used by S and R. Since Scott was sceptical of this connection, evaluating her counter-arguments will provide a useful test of the robustness of the conclusion:

(36b) [R] sees Demosthenes as responding to the worry about Philip's deviousness by saying that the danger which the Olynthians are in, and the constraints it places on them, will ensure that they are not taken in by it. Scott (103) takes this as a third interpretation, alternative not only to that of Zeno (for whom the worry is the unreliability of the Olynthians), but also to that of the 'prolegomena', in which the emphasis seems rather to be on the impact of the proposed Athenian embassy to Olynthus (p. 8.18f., 23–6). This is unconvincing. The 'prolegomena' agree with (36b) that the source of the worry is Philip's deviousness (p. 8.18), and it is clear from the citation of the Corcyrean

[74] In (140c) a comma is needed in place of the colon at p. 42.4, and a stop in place of the comma at p. 42.5: Demosthenes' reference to a casual observer concedes (*μὲν*) that Philip appears strong while drawing (*δὲ*) the audience on to a more careful analysis. The following discussion of Demosthenes' 'forcible' (§6.2 n. 23) argument that the attack on Olynthus reveals weakness rather than strength is a separate point. (140c) and the 'prolegomena' both read *εὐπρεπῶς* at 1.21, as against *εὐτρεπῶς* in (141) (Dilts follows Dindorf in using (141) to 'correct' the transmitted reading in (140c), but not in the 'prolegomena': I do not see any methodological justification). But the significance of this agreement is limited, since *εὐπρεπῶς* is the vulgate reading.

speech in Thucydides (1.35.5) that the response envisaged is the same as that in the scholion: the threat posed by an enemy is the best guarantee of their future behaviour.

(105c) [FSRTBc] explains the distinctions between *ἀντιπῖπτον* (a potential problem arising from something one has said, which you guard against unobtrusively), *ἀνθυποφορά* (when the audience accepts what is said in part, but is disposed to dispute the remainder), and *ἀντίθεσις* ('counterposition', a head of argument posited as from the opposing side so that a solution can be offered). This triad is a distinctive usage found in some, but not all, of the Demosthenes scholia, and its distribution suggests that it is Menandrian.[75] Scott (30f.) recognizes its distinctiveness, but claims that the reference to an *ἀνθυποφορά* at p. 11.14 is incompatible with it: 'Ulpian cannot have this definition in mind because the text in D. 1.20 does not fit.' In fact, the text fits the definition well. Demosthenes has recommended the diversion of the theoric fund to military expenditure because there is a need for money; the following words ('various sources of finance are mentioned by various people') represent opponents implicitly conceding Demosthenes' point about the need for funds while questioning the inference that the theoric fund must therefore be diverted.

(124) [FSRTBc] appears to mark the beginning of the head of feasibility at 19: by contrast, the 'prolegomena' mark the proem to this head at 16 (p.10.19). But even if the scholion is not displaced (which is difficult to believe), this would at most be a symptom of the conflation of different sources in R: for R also contains (119a) [FARTBc], which places the start of the head (as distinct from its proem) at 17. The proem to the head at 16 is, in fact, noted in (117c) [FTBc], though this scholion is not preserved in R.

(164a) [FSRTBc] distinguishes *συμβουλή*, *προτροπή*, and *παραίνεσις*. Scott (65f.) sees an inconsistency with the definitions at p. 13.4–6; but there is none. According to the scholion, in *συμβουλή* both the good and the means (*τρόπος*) of acquiring the good are open to debate; in *προτροπή* both the good and the means are self-evident; *παραίνεσις* is concerned with the means. In the

[75] For the distinction compare 2.9 (64bc); 3.34 (154b); 5.24 (37) [AR]. The Menandrian connection is inferred from its presence in gT scholia (20.3 (14b), 98 (226): at p. 131.16 read ⟨*ἀνθ*⟩*υποφορὰ*), by contrast with the incompatible usage found in scholia from other sources (e.g. 21.26 (93a) [FYL]). See n. 42 above; further discussion in Heath 1998*a*, 106f.

'prolegomena', *συμβουλή* suggests actions (*πράγματα*); *προτροπή* directs us towards actions on which a consensus already exists (*ὁμολογουμένας πράξεις*); and *παραίνεσις* suggests the means or manner of action (*τρόπος τῶν πράξεων*). Here as in (164a) *προτροπή* is characterized by the absence of dispute, *παραίνεσις* by a distinction between the action and its manner.[76] Note that, although (164a) does not explicitly mark the beginning of the epilogue (as p. 12.3 does), the transition to *προτροπή*, in which there is no dispute, is appropriate for the beginning of the epilogue: the speaker has finished arguing his case.

There seems, therefore, to be no grounds for denying a close connection between the 'prolegomena' and the core commentary underlying S and R, which appears to be Menander's commentary. But how much positive significance attaches to the absence of conflict between the 'prolegomena' and SR? A standard by which to make this assessment is provided by a series of scholia preserved in Bc. As the following examples show, there is undoubtedly a connection between these scholia and the 'prolegomena', and there are also clear signs of a connection between these scholia and the SR 'core':

(14d) [Bc] sees Demosthenes sowing the seeds of two solutions to 'the first damaging counterposition . . . which was that the war was not their own (*οἰκεῖος*)'. This picks up part of the analysis in the 'prolegomena': 'there are three things counterposed to him and damaging the present subject: first, the war's not being their own (for what relevance to the city of Athens has the campaign against Olynthus?) . . .' (p. 2.31–3). This counterposition is not mentioned in SR scholia; the only other reference is in (51b) [T], which has close echoes of p. 4.29–31. The two solutions are those summarized in p. 3.3–22, and there are some verbal echoes (p. 20.30 *φιλοτιμία* ~ p. 3.5, *φόβος* ~ p. 3.17). The notion that Demosthenes hints at the recovery of Athens' ancient hegemony, which we have already met, appears in (14d), too, although the word itself does not; the phrasing at this point (*ἀντιληπτέον τῶν παλαίων πραγμάτων ἤγουν τῶν εὐδαιμόνων*) seems in fact reminiscent of (11d) [R] (*ἀλλὰ μᾶλλον ἔοικεν αἰνίττεσθαι τὴν παλαιὰν εὐδαιμονίαν καὶ τὴν τῶν πολλῶν ἡγεμονίαν*).

[76] This similarity is significant: in Syr. 2.192.1–14 and [Lib.] *Ep. Char.* 5 it is *παραίνεσις* that is defined (in contrast to *συμβουλή*) by the absence of dispute. For the terminological variations see Mitchell 1991, 50–3; Pernot 1993, 719f.

(30) [Bc] combines verbal echoes of both the 'prolegomena' (p. 7.21 f.) and (28) [R] (p. 23.24), a scholion discussed above.
(46) [Bc] agrees in substance and expression with p. 8.30 f.
(76b) [Bc] has an echo of the 'prolegomena' (p. 9.23f.).
(77c) [Bc] has an echo of (74) (p. 32.18 f.).

This pattern of agreement implies a commentator who had access to both the 'prolegomena' and the 'core', and made use of material from both. However, he did not restrict himself to these sources, since on one crucial point he disagrees with them: the counterposition that the Olynthians are untrustworthy, strenuously rejected by the 'prolegomena' and 'core', is recognized by (21b) [Bc].[77] As well as accepting the disputed counterposition, (21b) refers to Gregory of Nazianzus (*ὁ θεολόγος*, quoting *Or.* 1.1). It will be recalled that Gregory was cited by the distinctive source of **f** in speeches 18–24, a commentator familiar with Menander who often followed him closely but was willing to disagree (§5.6 n. 44). It is a reasonable inference that the source of these Bc scholia is the same commentator. Again, therefore, the relationship between sources and manuscripts is different from that inferred for speeches 18–24, although the sources are the same.

It seems, then that we should attach positive significance to the absence of conflict between the 'prolegomena' and SR. The commentator observed in the Bc scholia had access to both 'prolegomena' and 'core', and stood to them in a relationship of dependence with modification. The relationship between 'prolegomena' and 'core' is much closer: in attacking Zeno and 'the interpreters' with regard to the disputed counterposition they agree on a distinctive position, and they do not display the kind of divergence that would lead us to postulate different sources. This would be readily explicable if, as suggested in §5.9, the 'prolegomena' and the 'core' were both part of the Menandrian corpus.

An example of how difficult it is to assess the consistency of scholia is provided by 1.2 (15c) [FTBc]. This marks the beginning of the head of advantage, and at first sight seems to conflict with p. 6.19 f., which refers to feasibility at the same

[77] The observation that Demosthenes does not formulate the counterposition openly, but discloses it through his solution, agrees with, although it shows no sign of deriving directly from, [Aps.] 4.10.

point. In reality, it is clear that the 'prolegomena' regard 2–15 as the head of advantage and 16–23 as feasibility; but for tactical reasons Demosthenes before openly (p. 6.21 *φανερῶς*) addressing advantage touches on feasibility as an 'advance foundation' (p. 6.22 *προϋπέβαλε*)—for in discussing feasibility he is able to treat advantage as if it were something tacitly agreed, luring his audience into accepting that view. Thus this section of the speech, according to the 'prolegomena', is devoted to the head of advantage, but not always overtly so; and feasibility is interwoven with it in varying degrees.[78] There is therefore no conflict between the 'prolegomena' and this scholion. But other scholia are in clearer conflict with the 'prolegomena':

1.16 (117d) [FTBc], cf. (117a) [FA]: a counterposition based on justice is noted at 16. By contrast, the 'prolegomena' and (117c) [FTBc] identify the proem to the head of feasibility; (117c) agrees that the introduction is 'as if in response to a counterposition' (*ὥσπερ ἐξ ἀντιθέσεως*), but relates it to interest (p. 38.4, 11), not justice. (117e) [TBc] also marks the proem to feasibility at 1.16, and its division of this head into two agrees with the 'prolegomena' (p. 10.22 f.); at p. 38.24 f. ('the interpreters say . . .') it appears to be citing (117c, p. 38.9–11). I suspect, therefore, that (117c), though not preserved in SR, derives from the 'core' and (117e) from the adaptor; (117a) ~ (117d) would then derive from a third source.

1.25 (172a) [FTBc]: the comparison of war in Attica with war in Macedonia is treated as an aspect of feasibility rather than advantage (cf. p. 12.11).

1.28 (187b) [F] ~ (187c) [F] ~ (187d) [S]: marks the begin-

[78] The text at p. 7.7 is problematic. I would retain *εἰπόντων ἁπάντων* with the majority of manuscripts, marking a lacuna before *πρεσβείαν* and placing a full stop after it. I understand p. 7.5–14 thus: 'It is worth noting through the whole speech how almost all my predecessors have said that the embassy ⟨is a matter of advantage⟩. But, on the contrary, Demosthenes himself clearly says that an embassy should be sent and in giving the reason why an embassy is necessary urges Philip's ability [*τὸ δύνασθαι* ~ *δυνατόν*, feasibility] to deceive and manipulate. Now, one could suppose that this is a matter of advantage, the need to send an embassy; for he establishes that an embassy is advantageous. And one would not be mistaken in saying that advantage is introduced here, as if in response to the counterposition that will be discussed shortly [i.e. that Philip is devious, *not* that the Olynthians are untrustworthy]. But all the reasons and proofs relate to feasibility.'

ning of the epilogue at 28; the 'prolegomena' (p. 12.13f.) begins the epilogue at 24. The criticism of Zeno at 12.15f. may indicate that he continued the argument beyond 24, since he identifies a counterposition at 26, but that is not certain, since it is possible to include a counterposition in the epilogue (§2.6 n. 38).

To summarize the conclusions reached so far: the manuscript relationships in the *First Olynthiac* differ from, and are more complex than, those we dealt with in connection with speeches 18–24. It is therefore extremely difficult to assign individual scholia to sources with any confidence. But:

(i) Scott's hypothesis of a core commentary underlying SR is justified.

(ii) This commentary was Menander's commentary.

(iii) Zosimus' commentary has also influenced the tradition.

(iv) Another commentary, which regards Gregory of Nazianzus as a rhetorical model, is also present. It often depends closely on the 'prolegomena' and on Menander, but is willing to modify him. This commentary may be identical with the distinctive source of **f** in speeches 18–24.

(v) The combination of distinctive agreement and absence of conflict shows that the Menandrian scholia stand in an exceptionally close relationship to the 'prolegomena'.

(vi) Since there are independent grounds for suggesting a Menandrian origin for the 'prolegomena' and similar continuous essays (§5.9), the close relationship of the 'prolegomena' to the Menandrian scholia is most plausibly explained on the assumption that both derive from Menander, whose corpus of Demosthenes expositions was therefore complex and diverse.

(vii) If the attribution to 'Ulpian' is not simply a mistake, he must have been involved in the transmission of the 'prolegomena' in some other way (§8.4).

5.11 *OR*. 2–9

The scholia to speeches 2–4 and (in a more limited range of manuscripts) 5–9 are progressively less abundant. An extended discussion would accumulate detail without adding significantly to our understanding of the general picture. I therefore select only a few illustrative cases.

Three scholia present three different explanations of the 'secret agreement' mentioned in 2.6: (50a) [AR] relates it to Oropus; (50b) [S] explicitly denies a reference to Oropus, referring it instead to Amphipolis; (50c) [STBc][79] refers it to Pydna and Potideia. This is consistent with the inference of at least three underlying commentaries which we made in connection with the *First Olynthiac*.

2.1 (1a) [SR] has an introductory outline similar to (though less elaborate than) the 'prolegomena' to the *First Olynthiac* (its initial engagement with a critical question, arguing against Dionysius of Halicarnassus on the priority of this speech over the first, is comparable to the way the essays on speeches 10, 13, and 17 begin). The analysis of the speech set out here can be traced in subsequent scholia:

(i) 2.5 (32b) [FSRTBc]: p. 56.31 f. ~ p. 49.18 f.
(ii) 2.5 (32d) [FTBc]: p. 57.14 f. ~ p. 49.18 f.
(iii) 2.6 (43a) [FSRTBc] + (43b) [S]: p. 58.25–7 ~ p. 49.21.
(iv) 2.6 (45) [S]:[80] p. 55.26 ~ p. 49.21 (*ἣν ἔλυσεν ἀπὸ τοῦ δικαίου*).
(v) 2.9 (64b) [FSRTBc]: p. 62.32 ~ p. 49.26–8. This scholion and its continuation (64c) [SR] have the distinctively Menandrian doctrine about *ἀνθυποφορά*, *ἀντίθεσις*, and *ἀντιπῖπτον* (n. 75 above).
(vi) 2.22 (149a) [FSRTBc]: p. 74.14, 20 (*καθολική*) ~ p. 49.20.[81] This scholion retrospectively summarizes the structure of the speech in the same way that 2.1 (1a) does prospectively; it is a recapitulation (as 2.6 (43a) is an interim recapitulation).
(vii) 2.27 (182b) [SR]: *ἐσχημάτισται* p. 78.14 ~ p. 50.5. This scholion is abbreviated in the first part of 2.27 (182a) [FTBc]: p. 78.9f. ~ p. 78.13 f.; in (185) [FSRTBc] *πάλιν ἐσχηματισμένως* presupposes (182b).

However, we must be cautious in using the correspondences to assign scholia to a particular source: they may indicate that the scholia derive from the same commentary as the introduction, but it is also possible that the scholia derive from a commentary

[79] At p. 61.5 delete *γὰρ* (present in only one manuscript, and evidently secondary).
[80] At p. 59.10 delete the inverted commas round *δίκαιον*.
[81] This is a different way of expressing what is said of the speech in [Aps.] 4.8: there is one counterposition (that Philip is powerful), but its confirmations are introduced as if they were counterpositions in their own right.

that made use of the introduction (just as we saw in the *First Olynthiac* evidence of detailed use of the 'prolegomena' by a commentary that nevertheless rejected one of their most distinctive claims).

In this analysis, feasibility is the only head. But (182a) [FTBc], marking the start of the epilogue at 27, notes the existence of an alternative division favoured by some interpreters, according to which a second head, advantage, starts at that point (compare the differing views about the extent of the epilogue in the *First Olynthiac*). This alternative interpretation is accepted in 2.30 (195a) [FT] and (195b) [FR], which mark the end of advantage and the beginning of the epilogue at 30. It is therefore significant that for (1a) [SR] the speech has one head, feasibility (p. 49.18), while for (1b) and (1d) [FTBc] the speech has the same heads as the *First Olynthiac* (that is, advantage and feasibility) but with the emphasis reversed; here feasibility is more prominent. Since the first part of (1d) is parallel to part of (1c) [SR] (p. 50.25–51.6 ~ p. 51.12–22), the most obvious inference is that SR combines extracts from both the 'one head' source (1a) and the 'two head' source (1c), separated by the formula *καὶ ἄλλως εἰς τὸ αὐτό* (p. 50.19). But this may be an illusion.[82] The combination (1b) + (1d) does not read plausibly as a continuous exposition; the combination (1a) + (1c) does—an introductory overview followed by the beginning of the detailed exposition of the proem, in which a point made briefly at p. 49.11–16 is later restated more fully (p. 50.34–51.6). If so, it would be (1d) that is a composite of material from different sources. That seems to me the more likely possibility, but I do not see how the uncertainty could be resolved.

The need to proceed cautiously can also be illustrated from scholia to the *Third Olynthiac*. According to 3.1 (1f) [SR] the heads are advantage, feasibility, and (to a limited degree) justice; according to (1g) [ARTBc] the heads are advantage, legality, and justice. The introduction of advantage at 3.4 (30) [ARTBc] echoes (1g) (*προηγούμενον*, p. 86.30 ~ p. 82.20), as does 3.10 (63c) [PrTBc], marking the end of advantage; yet this scholion

[82] *ἄλλως* is not a reliable indicator of the combination of extracts from two sources, rather than of two extracts from the same source; see e.g. 1.1 (3a–c) [R], three scholia linked by *ἄλλως* which develop each other (Scott 1991, 92). 2.5 (32d) begins with *ἄλλως* in Bc, but not in FT; I see no reason to assume that it derives from a different source from (32b) [FSRTBc] + (32c) [SR].

introduces the head of feasibility, apparently siding with (1f) against (1g). 3.16 (83b) [ARPrTBc] also speaks of feasibility; yet 3.21 (103) [ARPrTBc] again echoes (1g) (p. 95.30f. ~ p. 82.23f.).[83] This seems paradoxical; but legality (concerned with the laws about the theoric fund) is used indirectly to establish the feasibility of assisting Olynthus (cf. p. 82.26f.). The commentator's shift between two different ways of designating this head is confusing, but not contradictory.

Sch. 4.1 (1d) [A] comments that this proem has no proposition, but begins with a confirmation;[84] (1h) [FPrTBc] (cf. *RG* 7.1026.10–15) attributes this opinion to 'the sophist Asclepius', but evidently prefers Hermogenes' view that the confirmation *precedes* the proposition (*On Types of Style* 284.9–20), as the acceptance of Hermogenes' comparison with Isocrates' *Archidamus* (also in (3c) [FTBc]) shows. So a commentary which contained notes by Asclepius was the source of (1d); we have seen that Asclepius' annotations were present in the redacted version of Menander's commentary that was the common source for speeches 18–24 (§5.6). In (1h) we have a later commentator, with access to that source, for whom Hermogenes had greater authority. This profile is consistent with that of the distinctive source of **f** for speeches 18–24; significantly, 2.1 (1f) [FASTBc] alludes to [Hermogenes] *On Invention* (102.7f.) and cites Gregory of Nazianzus (*Or.* 43.1). We seem once more to be in touch with familiar sources, even though their relationship to manuscripts is less open to analysis.

5.12 CONCLUSION

The one certain conclusion to be drawn from the preceding investigation is that the question of the sources of the Demosthenes scholia is complex. I have argued that a redacted version of Menander is the source of **u**, and a source of **f** and **a**, in speeches 18–24; that this conclusion can be extrapolated to the essays on speeches 1 ('Ulpian's prolegomena') and 10–17 preserved in **u**; and that there is Menandrian material in the scho-

[83] An added complication is 3.20 (99c), where F and S have radically different texts (and there is partial overlap with (100a) [PrTBc]).

[84] For the terminology see Heath 1997, 103–5.

lia to other speeches. Some of these conclusions could reasonably be doubted. Even if they are accepted, we are left with several other sources of uncertainty:

(i) the incomplete reporting of the manuscript evidence: Dilts's edition, while it has opened the way for a systematic enquiry, has not given us complete control of the relevant evidence;
(ii) uncertainty about the extent of the redaction of Menander;
(iii) the possibility of corruption and abridgement of Menandrian material in transmission;
(iv) the difficulty of identifying Menandrian material in **f** and **a** when there is no parallel in **u**;
(v) the difficulty of identifying Menandrian material in the scholia to other speeches.

In what follows I shall use the conclusions of this provisional investigation as a working hypothesis. But readers should bear the element of uncertainty in mind even where I do not explicitly signal it.

6
Menander's Commentary

The scholia to Demosthenes, according to one recent reference work, 'are of little independent value'.[1] One might ask: value to whom, and for what? The scholia certainly have little to offer modern scholars seeking a historical understanding of Demosthenes' speeches. But the commentators whose work is excerpted in the scholia presumably believed that their work was of value; those who excerpted and transmitted the material evidently agreed. It follows that the scholia will also be valuable to modern scholars who seek to understand the rhetorical culture of late antiquity. Our next task must therefore be to gain a clearer impression of the nature of Menander's commentary, and of its probable context.

The uncertainties identified in §5.12 mean that the attribution of scholia to sources is subject to a degree of doubt. But even if some of the material I cite here as Menandrian is misattributed,[2] it illustrates the work of a rhetorician (or rhetoricians) of roughly similar date, and will at least contribute to our understanding of Menander's context—and my main interest in Menander in this project is as an exemplary figure. I shall, however, identify what may be a distinctive emphasis in Menander's commentary (§6.2).

6.1 HYPOSIOPESIS

Gregory of Corinth (*RG* 7.1184.13–1185.4: cf. §4.3, §5.10) preserves a fragment of Menander (F3) which is a fuller version of a scholion to the *First Olynthiac* (14c). In it Menander explains the difference between the figures aposiopesis (in which the speaker breaks off and leaves unsaid something that the audience is nevertheless able to supply) and hyposiopesis (in which

[1] *OCD*[3] s.v. Ulpianus.

[2] Scholia cited in this chapter are present in gT at least, unless otherwise stated.

the speaker does not break off entirely, but goes on to hint at what is left unsaid). Gregory retains an illustration of hyposiopesis omitted from the scholion:

For example, when we see someone who has been sent to a foreign city to study, and who is not studying but spending his time drinking and gambling and suchlike, and we want to tell him off, because that would be offensive we make a tacit allusion to what he is doing and hint at it in other terms, saying 'Your father sent you here to study, and—well, I don't know what you're doing.'

This illustration suggests two things: first, that Menander's commentary derives from lectures to students who had been sent away from home by their fathers to study; second, that Menander had a sense of humour.

Jocularity is not something that we would necessarily expect from a rhetor. Libanius paints a more intimidating picture (*Chreia* 3.7):[3]

For consider: the teacher is seated on some high place, as judges are, formidable, frowning, making his anger plain, giving no sign of contentment. The youth must approach him in fear and trembling to make a varied display of his invention, his composition, his memory also. And if these things are poorly prepared—complaints, insults, blows, threats for the future. But if it all seems practised to perfection and there is not the least opening for criticism, his gain is to suffer no punishment, and instructions to do no worse the next time. Indeed there is hardship in store for those who have fulfilled every requirement: once it is decided they have spoken faultlessly, they have to submit to a greater burden; for it is thought they will soon be equal to greater demands.

But this portrait is itself tongue-in-cheek. Libanius is elaborating on Isocrates' dictum that 'the root of education is bitter, its fruit sweet', and the very popularity of that aphorism as an illustration of the preliminary exercise anecdote (*chreia*) was surely not without a touch of humour on the part of teachers. Libanius may not have been, by our own standards, a progressive teacher,[4] and modern accounts of him often give the impression

[3] The whole *chreia* is translated, with introduction, in Hock and O'Neill 2002, 132–5, 168–87.

[4] He did not always abstain from corporal punishment (*Ep*. 1330.3), despite disapproving comments (*Or*. 2.20; 58.1, 38; cf. Quint. 1.3.13–17). See Booth 1973.

of an embittered egocentric whinger.[5] But Eunapius speaks of his charm and adaptability (495 f.), and anyone familiar with the declamations will be aware of his brilliant capacity for witty characterization.[6] To speak in the character of a miser or misanthrope is to share a joke with the audience at the expense of the 'speaker'; Libanius' skill in adopting such poses is something we would do well to bear in mind when interpreting what he appears to say elsewhere in his own voice. There is, at any rate, no doubt about the joke in *Oration* 3, a close-of-year speech in which he explains that he is going to punish his students' misbehaviour by not giving his customary close-of-year speech.[7] Libanius refers to the same range of misbehaviour as Menander's illustration—drink, gambling, and sex.[8] Such activities consume the money that should be used to pay the teacher's fees; and (worse!) they do not attend their teacher's declamations, or they attend and do not pay attention, or indeed are actively disruptive. Making a jocular paradox of the reprimand to his students does not eliminate it. But by adding this element of charm, Libanius conveys the reprimand in a way that is acceptable and effective; thus at the same time he is giving his students a demonstration of a useful rhetorical technique.[9]

This parallel between Menander and Libanius suggests that jocularity between teachers and students was a commonplace. The evidence for students' choice of nicknames for their teachers (§2.9) shows that the humour was reciprocal. Sophists valued wit, as many of Philostratus' anecdotes show; the spirit which produced the jokes at Hermogenes' expense (*VS* 577f., cf. §2.9) was nurtured in the classroom.[10] It would be interesting to know

[5] e.g. Honoré 1998, 10: 'the whingeing sophist'.

[6] Russell 1983, 88–102; 1996.

[7] Introduction and translation: Norman 2000, 183–92.

[8] Libanius broadens the joke by an echo of *Od.* 15.373 in which *αἰδοίοισιν* is taken as 'genitals' rather than 'people worthy of respect' (Eustathius ad loc. solemnly rejects this interpretation, while conceding that it may be useful for a joke). Student misbehaviour: cf. e.g. Lib. *Or.* 1.22; 62.25.

[9] The remains of Himerius' addresses to his pupils (e.g. *Or.* 16, 65, 66) seem, by contrast, extremely tedious.

[10] For the value placed on wit in sophistic circles see e.g. *VS* 519 (Scopelian), 525 f., 540–2 (Polemo); at 586 f. note the audacious opening to Hadrian of Tyre's inaugural performance on taking up a chair in Athens. Judgement was needed: in *VS* 573 Herodes rebukes a pupil's ill-judged witticism at the expense of Alexander Peloplaton.

what use was made of the opportunities afforded by declamations on tyrannicide in the classes of the fourth-century rhetor Tyrannus.

Menander also draws on student experience for illustrative purposes in his work on epideictic. To explain the division of the farewell speech (*προπεμπτικός*) he posits a young man saying farewell to a friend—that is, a fellow-student leaving the rhetor's school to return to his home town (396.2). The development of this example indicates that Menander taught in Athens (396.25–32: cf. §4.1); the assumptions it makes about the future career of the departing student (397.18–398.1) will be considered later (§8.3, §9.2). Here we may simply recall Genethlius' farewell speech to his companions (pupils or fellow-pupils) Daeduchus and Asclepiades (§3.10). Menander also attests to farewells from teacher to pupil (395.10); conversely, Gregory Thaumaturgus delivered his panegyric on his teacher Origen (according to the transmitted title) 'in Caesarea in Palestine, after his many years of training with him when he was about to depart for his homeland'.[11] Gregory of Nazianzus' description of the day a student leaves Athens includes reciprocal speeches of farewell, as well as less formal displays of regret (*Or.* 43.24).

6.2 THE DIDACTIC PROGRAMME

These glimpses of Menander the teacher in action show him connecting his instruction with the experience of his students at school. But what was the goal of that instruction? The treatise on epideictic has a clear practical aim, providing theoretical guidance for the composition of epideictic speeches. As well as setting out a standard division for different kinds of speech, Menander draws attention to a variety of more general principles and precepts: 'the third thought of the proem (remember this precept [*παράγγελμα*] in general) should be the initial starting-point of the heads' (369.13–16); 'one ought to be aware of and observe the principle [*θεώρημα*] that when one is going to move on from one head to another, one should have a proem on the subject you are going to treat, to make the hearer attentive and prevent the question the heads address going unnoticed or being

[11] Pernot 1993, 65 f., 781–9. For Gregory cf. §8.1.

concealed' (372.14–18). On one occasion he points out that the speeches of Callinicus, Aristides, Polemo, and Hadrian contain illustrations of certain precepts, and encourages imitation of the way these sophists handle them (386.29–387.2).[12] A sampling of Demosthenic scholia reveals that Menander's commentary had a similarly practical aim. He does not simply expound Demosthenes' text, but repeatedly highlights techniques in the orator which his students should observe and imitate.

The *First Olynthiac* provides a convenient starting-point. The analysis of the first proem in (5cd) [R], briefly examined in §5.10, identifies three sections. First, an opening proposition: 'You would, men of Athens, give a great deal of money, I believe, if it would become clear what will be to the city's advantage in the matters you are now considering.' In a standard schema for constructing proems the proposition would normally be followed by a confirmation and a conclusion.[13] Here, however, the proposition's truth would be commonly acknowledged, and no confirmation is needed. Instead Demosthenes introduces a second thought: 'Since that is so, you should eagerly desire to listen to those who wish to give advice. For not only could you listen to anything useful that someone has thought out before he comes, but it is also, I suppose, part of your good fortune that many of the right things to say may occur to some people on the spur of the moment.' In this (Menander argues) Demosthenes implies that his own advice is the fruit of careful reflection and disparages by contrast the impromptu advice of other speakers. Thirdly, there is the conclusion: 'So that out of all these it will be easy for you to choose what is to your advantage.' This completes the second thought, but is also connected to the initial proposition:

> Having introduced advantage as a subject of enquiry at the start of the proem, now he takes it as having been discovered: for it is a principle of general application [θεώρημα καθολικόν] that one both starts what one has to say with strong points and comes to rest with them as well.

Thus the structure of this first paragraph illustrates in miniature

[12] Callinicus (§3.10) is also cited at 370.14; Polemo is cited as a model in Sopater *Division of Questions* 3.14–18, 58.5f., 147.26–148.3. Homer also has something to teach us: Menander 434.11–18. For θεώρημα cf. 377.2–9, 433.19–28, 444.27–31.

[13] Heath 1997, 103–5, with further references.

a rhetorical principle of wider application: strong points are best placed first and last, with weaker points in the middle.[14]

In 23.18 (20) the importance of starting with strong points is described as a 'technical precept' (τεχνικὸν παράγγελμα) of such importance that it can override the natural order (§2.4):

If anyone asks why he changed the order of the heads (since justice naturally precedes advantage, because the one is concerned with the past, the other with the future—so why has he passed over the one that is first by nature?), we will say that, although it is first by nature, the justice in accordance with which he has lived his life has been reserved for later, so that the audience will hear about his actions and cast its vote in a state of indignation, but legality is placed first because it is very strongly in his favour. It is a technical precept of his that one should place strong points first and not follow the natural order (τάξις), but whatever is best.

According to 20.1 (5c), Demosthenes provides a 'technical principle' (τεχνικὸν θεώρημα) in *On the Crown* and *Against Androtion* as well as in *Against Leptines* by making a start on the counterpositions immediately after the proem. Moreover, he chooses to address justice first rather than advantage because justice is stronger on his side, advantage on his opponent's side; thus he starts with his strong point in accordance with a familiar principle (θεώρημα, p. 96.22).

We should not only start with our own strong points, but also dwell on them. In *On the False Embassy* Demosthenes returns repeatedly to what Aeschines said to the Athenians (cf. §6.3); this refusal to retreat from his strongest points teaches 'a principle [θεώρημα] of dwelling on the essentials' (19.39 (106)). Of course, in doing this one should take care that the audience does not get bored: 'it is the orator's habit to dwell on his stronger points and not readily deviate from them: but to avoid tedium his practice is to vary the figures of thought' (20.78 (183)).[15] Figures are also

[14] Cf. 21.178 (606b), 180 (616). See also *Rhet. ad Her.* 3.18; Cic. *de Or.* 2.313f.; Quint. 5.12.14 ('Homeric disposition', alluding to Nestor's advice in *Iliad* 4.297–300 that good troops should be deployed in front of and behind bad ones, to stop them running away), 7.1.10f.; Anon. Seg. 192; Longinus F48.148–57 (= 185.16–26 Spengel–Hammer), F50.4 (= 213.13–214.3); hyp. Dem. 18, 2.5; *PS* 201.22–202.4 (= *RG* 7.16.27–17.8); *RG* 7.613.14–24 ~ Georgius fol. 113v (Rabe 1908*b*, 519f.).

[15] Cf. 21.63 (201ab); 127 (448). On the importance of variety: Heath 1989.

useful in dealing with the opponent's strong points. Strong counterpositions should be delayed, and should be introduced in a way that distracts from or conceals their strength. The head of justice in *Against Timocrates* is handled in this way (24.144 (283a) [YLS], partial parallel in (283b)):

One needs to observe carefully the principle [*θεώρημα*] that, when he is cautious about certain counterpositions because of their strength, he puts them last, as if treating them as trivial, and by this negligence and the point at which he posits them he displays their supposed weakness. This is not the only thing he does: he makes his disdain and contempt for them just as clear by the way the exposition is figured. He somehow has the habit of rebutting even by means of figures. Look how he does it: 'So that I also say something about that law . . .'—as if recollecting some side issue, with the implication that it is superfluous.

The head of justice receives similar treatment in the same speech (24.68 (152b)):[16]

Why has he woven in Timocrates' leading head, justice, in this way—or rather, casually thrown it in? Mainly so that injustice will be confirmatory of disadvantage, as Demosthenes wants. But also so that by mentioning it in advance he can disguise the introduction of justice and not be forced to introduce his opponent's strong points in a way that will attract attention, and can even present the same things twice to his audience without it being noticed. We should present our own points openly, and our opponents' strong points unobtrusively. It is inartistic to do on their behalf what will damage us if they do it.

There are other ways to distract from the opponent's strong points. Androtion adduces against the law on which Demosthenes relies (that the Council should not receive a reward if they have not built warships) another law (that the assembly may reward the Council if it is judged to have deserved that by the discharge of its duties). Demosthenes takes this point out of its natural order (22.5 (20a) [YL] ~ (20b)) and diverts it into an argument from custom, which he caricatures sophistically (22.6 (26a) [YL] ~ (26b)); this makes Demosthenes' task much easier when he turns his attention to the law (22.12 (41c)):

One should admire (*θαυμάσαι δὲ ἄξιον*) his extraordinary cleverness.

[16] Cf. 24.108 (215b) ('if someone asks "why has he left out justice?", we will say: he has not left it out, but because it was very strong he does not posit it openly, but scatters it everywhere'), 110 (219).

Though he is doing battle with the law and arguing against it, he conceals the law, keeping it at a distance from the present discussion, so that he can take his opponent unarmed and unsupported by allies. So then, what was the leading head on Androtion's side he has absolutely rebutted, making it look as if it were just a part of the argument by the way he treats it. In fact, he has not only destroyed it, but actually dissolved it, by placing the argument unsupported here while transferring the law somewhere else.

In *Against Leptines* Demosthenes focuses on the argument that some of those who enjoy immunity are not worthy of the privilege: 'but this', Menander notes, 'was not Leptines' only claim, that they are unworthy, but also that they do not perform liturgies, and it is right that the rich should perform liturgies . . . Thus the orator teaches us to pass over our opponents' strong points and redirect [*μεθοδεύειν*] the jury's attention to other things' (20.56 (138)). Menander thought that Demosthenes had succeeded so well in this misdirection that even other commentators had been taken in (§4.1).

In the speech *On the Freedom of the Rhodians*, Athenian resentment about the Rhodians' revolt against Athens presents Demosthenes with the obstacle that is most difficult to handle (*δυσμεταχείριστον*, p. 181.12).[17] He therefore takes advantage and feasibility first, and only addresses this problem after he has established a strong position on other grounds. Thus the principle (*θεώρημα*) he follows in determining the order of the heads is clear (p. 181.17–182.2). Within the head of justice itself, Demosthenes' rhetorical technique is masterly: he *attacks* the people on whose behalf he is speaking (thus establishing that he is entirely motivated by Athenian interests), while at the same time he works to diminish Athenian anger (the Rhodians have recognized the error of their ways). This is 'amazing' rhetoric (*τὸ θαυμαστὸν τῆς ῥητορείας, θαυμασίως ἐρρητόρευκεν*, p. 182.12, 16).[18] Moreover, although experts can work out from the following

[17] What follows summarizes (5b), (6a), and (6b). Dilts unfortunately follows (and, where he supplies lemmata, further corrupts) a secondary version, which dismantles an originally continuous exposition into a series of separate scholia. At p. 182.3 read *κατατείνει μὲν γὰρ* . . ., with g, since the beginning of (6a) clearly explains the last sentence of (5b). At 181.17 g's text points to an original *εἴτε βοηθήσει . . . εἴτε καὶ μή*.

[18] The same technique is admired in the first proem: see (3). Cf. 5.12 (25) [PrWd].

solutions what counterposition Demosthenes is responding to, he does not state it openly. And in addition to all that, Demosthenes has added another principle (*θεώρημα*): 'he solves it long before he posits it, as he is accustomed to do whenever the counterpositions are difficult and need technical treatment (*μεταχειρίσεως . . . τεχνικῆς*)' (p. 182.20–2).[19] One should also admire (*ἄξιον δὲ θαυμάσαι,* p. 182.25) the way the first part of the solution is handled. In the face of a counterposition to the effect that the Rhodians deserve to suffer, Demosthenes concedes their desert—but not on the basis of the wrongs they have done to Athens. He refers instead to the way they have behaved to each other; and thus he shifts the focus of his attack to the rich among the Rhodians. Hence, in summary (p. 183.5–10):

So, then, he exploits three principles [*θεωρήματα*]: first, in that he seems indeed to agree with the accusation; second, in that he has shifted the accusation from what happened with regard to Athens to what happened to the Rhodians among themselves; and thirdly, in that he has transferred the accusation from the people to the wealthy (as Thucydides does from the Athenian people to the elite).

Another technique is to concentrate on circumstantial points when we cannot attack something directly (21.160 (548)):

Because he cannot find fault with Meidias' donation as such, he bases his rebuttal on its concomitants, and has given a precept [*παράγγελμα*] as to how one should make accusations against what appears to be honourable. It is not appropriate to find fault with the things themselves (that would be shameless), but to disparage them on the basis of their circumstantial features. That is what the orator has done here, denigrating on the basis of the cause (it was due to fear, he says, that he wanted to be seen as ambitious for honour), of the intention with which, of the time when, of the outcome (what resulted).

Alternatively, anything impressive on the other side may be trivialized (19.237 (455a)):

He has given us a principle [*θεώρημα*] for disparaging what everyone regards as very important as insignificant and trivial. Philochares was a painter on a par with Zeuxis, Apelles, or Euphranor, or any of the most distinguished ones, but because he wants to belittle his art he says he was a painter of boxes and drums.

[19] Cf. 4.4 (26b); 19.114 (239c); 24.108 (215c) [YL], 111 (220a) [YL].

Selectivity is also important: 'The ancients have given as principles [θεωρήματα], not to fight against strong points merely for the sake of it, and not to hesitate to base a comparison on just one of the features that can be observed in something' (20.73 (169)). Isocrates' comparison of Helen and Heracles (10.16), in which strength and beauty are set against each other, is mentioned as an example: Heracles' labours (and the benefits they achieved for mankind) are ignored. So, too, as long as we can engage with the crucial points on the other side, less significant ones can be conceded; there is no need to try to answer every opposing point. The most effective defence of Timarchus is to accept that his way of life was recklessly provocative, because that allows us to explain away the alleged prostitution as based on slander rather than reality (19.233 (453)):

> The orator gives us a rule [κανών], that in speeches on behalf of the most discreditable defendants one should let go anything minor and concede what will help us dispose of the more serious points. The argument will be persuasive if we don't reject everything, but instead of prostitution concede recklessness.

The terminology of precept and principle is not, of course, unique to Menander: it is common in other technical writers.[20] [Apsines] is especially fond of it in his treatment of the proem; it also appears in Hermogenes. For example: 'This should generally be your technical principle regarding witnesses: either attack them on the grounds that they give evidence out of partiality or enmity, or because of personal relationships, or for private gain, or because they are untrustworthy because of their age' (45.16–20). Sometimes the theorists turn to a classical orator to illustrate the point. A commentary on Hermogenes' discussion of the head of person (*RG* 4.598.23–599.21, on Hermogenes 65.22–66.4) cites Demosthenes 18.194 to illustrate the principle (θεώρημα), with appreciative comments on the orator's handling

[20] In [Menander] see 335.31, 339.10, 15, 29, 345.5, 346.19, 353.20, 354.5, 358.18. In the Hermogenes scholia καθολικὸν παράγγελμα is found at *RG* 4.683.19, 806.12, 814.6; *RG* 7.557.13, 579.9, 637.22, and καθολικὸν θεώρημα at *RG* 4.87.3, 259.5, 307.22, 346.31, 454.32, 665.22; *RG* 7.372.27, 387.19, 415.1, 601.11, 613.6; Syr. 2.19.14. Similar language (e.g. κανόνα γενικόν, ὁρᾷς ὡς κανονίζει ἡμῖν . . .) is found in the scholia Sinaitica (§5.6 n. 31).

of the point.[21] In his prolegomena to Aristides (123.6f. Lenz) Sopater notes as Demosthenic the principle of turning the opposition's strong counterpositions to one's own advantage (*Δημοσθενικὸν δὲ τὸ τοιοῦτον θεώρημα*).[22] This 'forcible' (*βίαιος*) technique is repeatedly identified as a characteristic of Demosthenes in the scholia.[23]

But while the explicit identification of principles and precepts is, as one would expect, common in technical writing, the examples in which this technical didactic emphasis is prominent in the Demosthenes scholia come almost exclusively from material which there is good reason to assign to Menander (and none from scholia which there is good reason not to assign to him).[24] That may reveal a distinctive dimension to his commentary: perhaps other commentators were not as explicit in the use of exegesis as a vehicle for technical instruction, or their commentaries were not so directly related to a classroom context. It is possible that the dominant influence of Menander's commentary was due in part to the practical didactic emphasis of his exposition, as well as to its sophistication and detail.

[21] The point that is particularly admired is the way Demosthenes avoids compromising his public image, a risk to which illustrious persons who use procedural exceptions (*παραγραφαί*) to evade having to answer charges against them are usually exposed (Longinus F48.6 = 214.7–9 Spengel–Hammer; cf. *RG* 4.317.27–318.13, 596.30; see Heath 2003*c*, 8f., 17). The scholia to Dem. 18 are unfortunately sparse at this point.

[22] Demosthenes and Aristides: Longinus F50.5 (= 214.4–6 Spengel–Hammer); Sopater *Division of Questions* 346.19–24. Sch. Dem. 23.1 (1) derives a *θεώρημα* from Demosthenes, and cites a (lost) declamation by Aristides as a further illustration. Aristides and other modern authors are mentioned in the epideictic treatise (n. 12 above); for obvious reasons (see e.g. Syr. 2.9.2–15) Demosthenes does not feature prominently as a model for epideictic. Since Menander wrote a commentary on Aristides (§4.6), it is interesting to note the discussion of *θεωρήματα* in Aristides at sch. Ael. Ar. *Pan.* 302 (286.9–287.3 Dindorf); similar, though not identical, doctrine is found in Sopater's prolegomena (121.18–124.9, 142.7–14 Lenz).

[23] 1.21 (140cd); 2.15 (108a); 19.38 (105), 47 (121), 134 (291a); 21.103 (352), 114 (401); 24.79 (169) [A]. Cf. [Hermog.] *Inv.* 138.15–140.8; Heath 1997, 112f. John Chrysostom regards this technique as characteristic of Paul, whose rhetorical brilliance he celebrates in much the same way as Menander does Demosthenes: §3.11, Heath, 2004*a*.

[24] Other examples include: 2.4 (30); 16.6 (2, p. 190.14–18); 19.149 (317b, p. 57.28–33), 332 (589); 21.102 (351b), 156 (532).

6.3 *ON THE FALSE EMBASSY*

Menander controversially interpreted the *False Embassy* as a case of incident conjecture (§4.2, F4). This interpretation is defended in a number of scholia (19.101 (228), 114 (239c), 179 (368a)), some of which contain material that can be linked to Menander in other ways (§4.2, F6, F7). The lengthy and subtle discussion in (228), in particular, provides an interesting example of Menander's expository technique, which I wish to examine in detail in this section.[25] By way of introduction I clarify the theoretical point at issue in Menander's classification of the speech, and briefly outline his division up to the crucial point at which the incident conjecture allegedly arises.

Disputes that fall under the issue of conjecture are concerned with a question of fact: did the defendant do it or not? The prosecution will argue that certain acknowledged facts are indicative of the defendant's guilt; for example, the fact that the defendant was seen running away from the scene of the crime shows that he was the criminal. This is the head of argument known technically as 'sequence of events' (*τὰ ἀπ' ἀρχῆς ἄχρι τέλους*).[26] In response to the sequence of events the defence must try to show that the allegedly incriminating facts have an innocent explanation; for example, he was running away because he had seen someone he wanted to avoid, not because he had committed the crime. This response is known as the 'transposition of the cause' (*μετάθεσις τῆς αἰτίας*), or (more perspicuously) as the 'gloss' (*χρῶμα*); in it, the defence tries to put an innocent gloss on the suspicious act.[27] Technically, the gloss is the 'solution' (*λύσις*) to the sequence of events. So in setting out the sequence of events the prosecution needs to pre-empt and undermine this response. There are two ways in which this can be done. The prosecutor may deny that the gloss succeeds in explaining the incriminating act away: in my example, the prosecution, accepting that the defendant had seen the other man, might deny that this was his reason for running away ('he has often been in this man's company and never felt it necessary to avoid him before'). Alternatively, the prosecutor may dispute the factual basis of the gloss: so, in the example,

[25] This discussion builds on Heath 2002*d*, 426–30.

[26] Hermogenes 47.8–48.2 (Heath 1995, 84f.).

[27] Hermogenes 49.7–50.19 (Heath 1995, 87–9); cf. §2.5 n. 25.

he might deny that the defendant had seen the man at all ('the man is known to have been elsewhere at the time'). If the prosecutor takes this latter path, then another question of fact arises: did the defendant see the other man? Thus out of the main question (did the defendant commit the crime?) there arises a second, subsidiary conjectural question (did the defendant see the other man?). This kind of situation is known technically as 'incident conjecture' (*ἐμπίπτων στοχασμός*).[28]

In Demosthenes *On the False Embassy* Aeschines is accused of malpractice as ambassador. One fact adduced as evidence of Aeschines' guilt is the misleading assurances about the security of Phocis which he gave the assembly. Aeschines will try to disarm this evidence by claiming that he was himself deceived by Philip, so that he misled the assembly unwittingly. Demosthenes tries to pre-empt that gloss by claiming that Aeschines was bribed. So the main conjectural question is: was Aeschines guilty of deliberate malpractice? From this arises the subsidiary, incident conjecture: was Aeschines bribed? That, at least, was Menander's claim. But there is a subtle discrepancy between this analysis and the definition of incident conjecture given above. According to the definition the subsidiary question should arise out of the defendant's gloss; but in the *False Embassy* the subsidiary question arises, not out of the gloss itself, but out of the prosecutor's response to the gloss. The subsidiary question is not whether Aeschines was *deceived* by Philip (as he claims), but whether he was *bribed* by Philip (as Demosthenes alleges). It was this discrepancy, minute as it may appear, that made Menander's interpretation provocative to at least some of his professional peers.

Menander unobtrusively begins the argument over the classification of the speech in his analysis of the preliminary confirmation (*προκατασκευή*).[29] Demosthenes' reference to 'times' at 19.4 is explained in (29) with reference to the incriminating chronology of events in Phocis; the possibility that there is a reference to events

[28] Hermogenes 56.2–57.11 (Heath 1995, 96).

[29] The speech begins with a prologue (1–3) comprising three proems: 19.1 (2), 2 (13c), 3 (20c) (in (20c) g's text must be retrieved from Dilts's apparatus, but read ὃ for ὁ). The preliminary confirmation is analysed in detail in a linked series of scholia on 19.4 (25c, 27c, 28, 29, 30b); (25c) preserves a fuller version of the Menandrian note abbreviated in (25a) [FYS] and (26b) [YS]: §4.2, F5.

in Thrace is rejected with the cryptic observation that 'Thrace is not a time' (p. 8.8f.). We know from (1a) [FYS] that some interpreted the speech as co-confirmatory (*συγκατασκευαζόμενος*) rather than incident conjecture. In co-confirmatory conjecture there are two mutually supporting accusations;[30] these interpreters held that the two accusations against Aeschines concern events in Phocis and in Thrace. We also know from (135) [Y] that Demosthenes' reference to 'times' in 19.51 had been taken as an allusion to events in Thrace. So when Menander corrects the mistake of anyone who takes Demosthenes' mention of times in 19.4 as an allusion to Thrace, he is making a sarcastic reference to a rival interpretation of the speech as co-confirmatory conjecture.[31]

After the preliminary statement (*προκατάστασις*, 19.9 (36)) and statement (*κατάστασις*, 19.10 (38d)), the argumentative section of the speech begins with a proem to the sequence of events. In the scholion which marks this transition (19.29 (85a): cf. §5.5) Menander explains the departure from the standard division of conjecture, in which the sequence of events is preceded by the demand for evidence (*ἐλέγχων ἀπαίτησις*), motive (*βούλησις*), and capacity (*δύναμις*).[32] Capacity is not treated directly, but as a counterposition to which the proem to the sequence of events provides a brief response (cf. 19.30 (90)). The demand for evidence is irrelevant because the case is a conjecture about intention (*γνώμης στοχασμός*).[33] Aeschines' agency is not in question, but only his intent: did he bring about the destruction of Phocis deliberately? That is not something to which witnesses could testify. In 19.57 (142a) Menander repeats this explanation of the omission of the demand for evidence (with an apparently characteristic avoidance of the technical term: §4.2, F7) in response to interpreters who identify a demand for evidence at that point, making an explicit cross-reference to the earlier

[30] Hermogenes 58.2–16 (Heath 1995, 97–100).

[31] Menander criticizes the co-confirmatory interpretation further in 19.179 (368a); Zosimus agrees: 19.179 (368b) [A]. *RG* 7.179.28–180.1, 374.22–9 (in explicit opposition to Menander) interprets the speech as a co-confirmatory conjecture, but identifies the two questions as Phocis and bribery.

[32] Hermogenes 45.1–47.7 (Heath 1995, 82f.).

[33] Hermogenes 58.17–59.3 (Heath 1995, 100f.).

discussion (p. 24.20).[34] As for motive, because it is the key point in a conjecture about intention, it is paid only passing attention at this point; it is reserved for more extensive treatment in the gloss, where it will play a pivotal role in the structure of the speech as a whole (cf. 19.29 (86b), 19.30 (91)).[35]

After this proem, the sequence of events proper begins at 19.31 (19.31 (92b) ~ (92c) [FY]).[36] At 19.61 Menander sees a shift from demonstration to amplification (19.61 (148)),[37] and from 19.72 solutions to the counterpositions which Aeschines might bring against the sequence of events (19.72 (172c)).[38] Aeschines' counterpositions naturally culminate with the gloss, introduced at 19.98 in a disguised form ('he does not posit it openly, in the form of a counterposition, but hints at the gloss in introducing the solution': 19.98 (221)). The suggestion that Aeschines acted 'through foolishness, naivety, or ignorance of Philip's character' is countered by Demosthenes' claim that he was bribed. Hence (19.101 (227)):[39]

> You see how out of the gloss a second question emerges, the one concerning the bribery? He will say that he was deceived, but we demonstrate that he spoke willingly, choosing to deceive because of the pay he received.

This brings us to the beginning of the scholion with which I am particularly concerned (19.101 (228)). In the first part

[34] The argument is wrecked by the supplement ⟨μὴ⟩ at p. 24.21, which should be deleted (compare p. 15.17 f.). Zosimus places the demand for evidence at 19.31 (92a) [A].

[35] Zosimus agrees: 19.29 (89a) [A].

[36] The exposition of the sequence of events contains two linked sequences of scholia: (i) 19.35 (99) divides the head into chronology and Aeschines' speeches (cf. the preliminary confirmation), requiring a gloss for both; 19.36 (102b) identifies the gloss for chronology, and 19.38 (106) comes back to speeches (p. 19.37), although the term 'gloss' is not used. (ii) 19.47 (121) (which includes at p. 23.27–9 a cross-reference to 19.38 (105)) mentions an argument from transference (*μεταστατικόν*); a second argument from transference and a solution are identified in 19.51 (133a), and in (134b) and (138b) a second and third solution to the same argument; 19.53 (139a) identifies a third argument from transference (Dilts prints the transmitted 'fourth' at p. 23.26; this surely arose as a confusion after the third solution to the second argument from transference).

[37] Analysis of the techniques used can be found in 19.64 (153b), (156b), 65 (157a), (162), (164), (165b), 67 (167) [FYS].

[38] Analysis in 19.78 (180a), 80 (188b), 83 (194), 88 (205), 91 (210).

[39] Zosimus again agrees: 19.101 (226) [A].

Menander shows how Demosthenes refutes Aeschines' claim that he had been deceived by Philip and puts forward the alternative explanation, that he had been bribed (p. 40.10–27):

From here on he weaves in the second conjecture: if he proves to have taken bribes, it will be clear that he was not in any way deceived. 'If however through corruption he received money and bribes, and this is clearly evidenced by the facts themselves . . .': since he does not himself have any witness to produce to the receipt of bribes, he expects the claim that he was deceived to be evidenced by the facts. And from here he proceeds next to the solutions, that Aeschines was not in any way deceived. As we say repeatedly, every gloss is solved on the basis of the demand for the consequent. 'If he was deceived, necessarily he would hate the man who deceived him; but in fact he does not hate Philip—so he was not deceived.' He divides the sequence of events into two causes. 'You said, Aeschines, that Philip would preserve Phocis either because you personally trusted his character, or because you heard Philip saying so explicitly. If, then, he deceived you, he deserves your hatred; but if you were personally deceived in trusting Philip's character, this too should make you his enemy, since he did not turn out to be the kind of person you expected. So in either case you should by rights have hated him. But no one has ever heard you expressing hatred towards Philip in what you say, nor indeed have you shown this in what you do. On the contrary, you actually speak on his behalf. So how can you have been deceived, and not rather put forward these statements because you had received money?'

At this point (p. 40.28–31) Menander introduces, seemingly in passing, a discussion of some technical doctrine from Hermogenes:[40]

It is worth considering what Hermogenes said in his handbook about the sequence of events: if it consists in things said, the solution is based on letter and intent; if in feelings, by a plea of mitigation; if in deeds, by a thesis. But we will find in the case of those which consist in things said that this principle (*θεώρημα*) is unsound.

To show that the principle is 'unsound' Menander first (p. 41.2–8) reminds us of the text book illustration of letter and intent, the alien who ascends the city wall during a siege and fights heroically, and is then prosecuted under the law which forbids aliens to go on the city wall. The defence here argues that the law has left something unstated; supplying the omission removes the

[40] Hermogenes 49.7–50.2 (Heath 1995, 87–9); cf. §4.2 (F6).

apparent infringement.[41] That principle (*θεώρημα*) is preserved in a textbook illustration of letter and intent in a conjectural case (p. 41.8–11): a rich young man comes in a nocturnal revel to the prison and shouts out 'Cheer up, prisoners—it won't be long before you are freed'; he is charged with conspiring to establish a tyranny.[42] Again, the defence works by supplying what was not made explicit in the utterance. But the principle is not preserved in *On the False Embassy* (p. 41.11–16). Aeschines' misleading assurances to the assembly were utterances, but the defence is based on transference and mitigation: Aeschines claims that he had been deceived by Philip, so it was not his fault that he misled the assembly. Then there is this summing-up (p. 41.16–27):

> So you should not accept uncritically what is said in the technical handbooks, as if that was laid down as the law. You should apply it to many different cases; and if you find that the precept fits them, then you can use it with confidence; but if it fits a few cases, but not all, then clearly it will be seen to be unsound. For example, the precept doesn't hold water in this fictitious case either: 'A rich man and a poor man were political enemies. At a dinner-party the rich man swore that he would make himself tyrant; in reply the poor man swore that he would kill the tyrant. The poor man is found murdered (but not robbed) on the way back from dinner. The rich man is accused of his murder.' What is the first element in the sequence of events? 'The rich man swore that he would make himself tyrant.' Well then: that consists of something said. But the defence here is not based on intent; it is a plea of mitigation—because he claims that he spoke under the influence of alcohol. So how can we say that the author of the handbook laid down the law correctly?

The case of the rich man at the party is used to illustrate mitigation in a fragment of Porphyry that also applies the concept of 'the demand for the consequent' (*ἀκολούθου ἀπαίτησις*) to this part of *On the False Embassy*.[43] It seems likely that Menander had been influenced by Porphyry's doctrine at this point.

Menander goes on to give a more considered statement of the correct technical principle in such situations (pp. 41.27–42.13):[44]

[41] Hermogenes 40.11–13, 82.11–13 (Heath 1995, 143).

[42] Hermogenes 49.10–14 (Heath 1995, 88).

[43] Porphyry F7 (*RG* 4.397.23–8, 399.8–17): Heath 2002*c*, 7f., 26–8; 2003*b*, 158f.

[44] On Menander's understanding of transference and mitigation see §4.2 (F13)

To avoid any unexamined assumption, I say that when the sequence of events consists in things said, sometimes they are said in such a way that no supplement is needed, but sometimes they are said in a way that allows interpretation to go in two different directions. In cases where it is possible to supplement an omission, the solution is by intent. But things in which the meaning is complete will be solved either by transference or by mitigation. Mitigating factors include love, ignorance, inebriation, naivety and stupidity, and things of that nature; for mitigation is characterized by psychological reactions. Since the counterpositions are often found to be intermixed in the same question, both mitigation and transference, the question should always be characterized on the basis of the first. If mitigation is first, it makes the question a case of mitigation; transference, a case of transference. After all, Demosthenes in *On the Crown* by relocating the fault based his defence on transference, and chance cannot be held to account, as Hermogenes says. Here, by taking ignorance as the solution of the sequence of events (he says 'I was ignorant of Philip's character') his solution is by mitigation: if you were genuinely ignorant or deceived, you will be thought to merit forgiveness. In *Against Meidias* he solved anger by mitigation, that being a psychological reaction: 'if Meidias did this in anger . . . (and so on)'.

This exposition clearly has its context in the rhetorical classroom. Menander is lecturing to advanced students: they have a good grasp of the rules taught in the elementary textbooks, but must now be encouraged to take a more critical view of them. While using theory to interpret Demosthenes' text, therefore, Menander is simultaneously using the text to refine and develop his students' grasp of theory. Moreover, when he illustrates his argument by citing declamation themes he also links the discussion to the students' own practical exercises. The purpose of the exposition is thus not primarily philological or theoretical: it is above all practical.

Menander now returns from this apparent digression ('let us return to the text before us', p. 42.14) and points out that the solution to the gloss has introduced the question of motive; he reminds us (p. 42.18–20) of the earlier discussion (85a), where it had been explained that a full treatment of motive was reserved for this point in the speech. Here it has two functions (p. 42.20–2): in the main question (about Aeschines' conduct as ambassador) it solves the gloss, but it also introduces the subsidiary question (about Aeschines taking bribes). At this point, with the subsidiary question arising out of the refutation of the gloss (rather than out

of the gloss itself), the discrepancy with the standard definition of incident conjecture becomes apparent (p. 42.33–43.10):

> The head of motive continues this far; it is shared between the solution to the gloss, and introduces the question concerning bribery. It is worth noting what the conventional handbooks have to say about incident conjectures. They say that it is the gloss which constitutes the second question, since the gloss is identical with the supplementary question. But here we find that the gloss and the question in dispute are distinct. The gloss is: 'I was deceived by Philip when I said that'; the solution: 'you were not deceived by Philip when you said that: if you had been deceived, you would have shown hostility to Philip; but you have not shown hostility, so you were not deceived; you had been bribed to say that.' So this is found to be the cause of his deceit; and the cause here turns into the second conjecture: 'if I was bribed, produce witnesses, Demosthenes'—and so there is an incident conjecture here.

Thus Menander acknowledges and briefly explains the objection to his view, but is undeterred. Now the true purpose of the preceding critique of textbook dogma becomes clear. Menander was preparing his defence in advance (p. 43.10–14):

> If the orator's speech does not conform to present-day textbooks, one should not regard the textbooks as more authoritative than Demosthenes' speeches. It is the originals that we should take as our legislators, not those who have borrowed a few ideas from them. So we should take refuge with the orator.

Moreover, he adds an immediate follow-up (p. 43.14–17):

> After all, in the problem concerning the dissolute son Hermogenes has stated as a general principle that there cannot be a simple conjecture without acts, although Isocrates in his *Against Euthynus* has laid down for us exactly the opposite law.

This alludes to the controversy about incomplete simple conjecture without acts, which Minucianus illustrated with the case of a dissolute son accused of murder when his father mysteriously disappears (§2.7). Hermogenes criticized his rival's theory, and denied the possibility of such cases. Menander points out that Hermogenes' objection is overruled by a counter-example in Isocrates; as in the earlier critique of Hermogenes, the handbooks have to be treated critically, in the light of practical experience and classical models. So by sandwiching his analysis between two examples of defects in textbook doctrine, Menander has

disarmed the objection that his reading of *On the False Embassy* goes against the textbook definition of incident conjecture.

There is one further subtlety. The commentaries show that third-century rhetoricians were almost unanimous in rejecting Hermogenes' views both on the solution to the sequence of events and on incomplete simple conjecture without acts.[45] So Menander has placed his controversial departure from textbook doctrine between two uncontroversial departures. This is in keeping with the principle that weak arguments should be put between strong ones (§6.2 n. 14). We saw in the previous section that the practical orientation of rhetorical commentary is expressed in Menander's habit of pointing out useful techniques; in this discussion we see him going a step further and exploiting a technical principle himself. In these lectures, therefore, Menander was not just talking about rhetoric: he was also using rhetoric. He was giving his students a live model, and they were surely meant to observe and imitate the technique.

6.4 *AGAINST MEIDIAS*

Demosthenes 21.16 reports the results of a nocturnal raid by Meidias on 'the goldsmith's house':

> He plotted, men of Athens, to destroy the sacred clothing (I regard as sacred all clothing that one makes for the purpose of the festival, until it is used) and the gold crowns which I ordered as an adornment for the chorus, by raiding the goldsmith's house at night; and he did destroy it—though not all of it, because he wasn't able to.

This translation (MacDowell's) renders *πᾶσαν* ('all of it', the clothing); a variant *πάντας* ('all of them', the crowns) is also transmitted, and this was the reading that Menander preferred (§4.2, F10). Since the partial destruction was accomplished in a raid on a goldsmith's house, Menander's preference for the variant according to which it was the golden crowns that Meidias failed to destroy has an obvious superficial logic. It is also, and less obviously, related to his interpretation of the speech as a whole.

It was common ground among rhetoricians that *Against Meidias* was a case of definition by inclusion (*κατὰ σύλληψιν*):

[45] Solution to sequence of events: Heath 1995, 88f. Incomplete simple conjecture: §2.7 n. 42 (Metrophanes was an exception: *RG* 7.350.5–351.1).

Meidias admits that he assaulted Demosthenes, but denies that he is guilty of the more serious charge brought against him; Demosthenes argues that an assault committed under those circumstances entails that Meidias is guilty of the more serious charge (§4.2, on F9). There was, however, a disagreement about the nature of the more serious charge (§2.11, §5.5). Some held that it was impiety, others that it was a crime against the public interest (*δημόσιον ἀδίκημα*). This disagreement is reproduced within the scholia; but Menander held to the latter view, and is at pains to show that the 'impiety' interpretation is mistaken (for example, 21.1 (5), 51 (159)).

According to Menander (21.7 (32)),[46] Demosthenes uses four arguments to show that Meidias' crime was a public one: every assault is a public crime, regardless of when it occurs; everything that occurs during the festival is public, regardless of whether the victim is a private individual; *a fortiori*, everything that involves a *khorêgos* is public; and Meidias' treatment of all his other victims shows a tyrannical attitude which deserves the punishment due to a public offence. Demosthenes takes up the first point in 7f., which serves as a kind of proem to the preliminary confirmation (21.8 (33a), (34)).[47] The preliminary confirmation proper begins with the introduction of the laws, where the attention shifts to the second point—the public nature of everything that occurs during the festival (21.8 (33b+35),[48] (36) [FYL]). Because Demosthenes was concerned that a narrative of what had happened to him might lead the jury to conclude that it was a purely private matter, he has these laws read before the statement to pre-empt this reaction and to show that a public significance is conferred on the events by virtue of their occurring during the festival (21.8 (37)).[49] This

[46] See Heath 1995, 112f. (on Hermogenes 63.6–13) for an overview of Menander's division of the speech.

[47] At p. 159.32f. I am inclined to read *ὥσπερ προοίμιον τῆς ⟨προ⟩κατασκευῆς τῆς μελλούσης* (the beginning of the preliminary confirmation proper is marked in (33b)). By contrast, in (31, p. 159.18) neither *προκατασκευῆς* (F) nor *πρώτης κατασκευῆς* (Y) is acceptable: we must read *κατασκευῆς*, since this is the end of the *συμπέρασμα* of the *κατασκευή* of the second proem: cf. (28), (30). This terminology is standard in the analysis of proems in the rhetorical scholia. For the confusion compare (24), p. 158.1 (see apparatus), 4.

[48] On the text see §5.5 n. 24.

[49] For more detail on how the laws are used see 21.9 (42), 10 (44), 11 (45), (46), (47).

agrees with Menander's account of the function of the preliminary confirmation (§4.2, F5).

Once the preliminary confirmation has shown that everything that occurs during the festival is of public significance, Demosthenes can proceed to the statement without fear that the jury will dismiss the matter as merely private (21.13 (50a) [FYLS]). He has four complaints against Meidias. The principle of starting and ending with one's strong points (§6.2) is varied here, so that weak and strong points alternate, with the strongest at the end (21.15 (62)). The first, and weakest, complaint is only mentioned in passing (21.15 (62), (63)); it is followed by the very strong complaint concerning the clothing (21.16 (64)); a weaker complaint follows (21.17 (69)); and he ends with the main point, the actual assault (21.18 (79)).

If we look more closely at the handling of the second of these complaints, we find that before he reveals it Demosthenes uses amplification to catch the jury's attention: what he is about to mention is so extreme that he would not have felt able to raise it if it were not for the fact that the assembly had accepted the claim at the time (21.16 (64)). The complaint is then revealed: 'He plotted, men of Athens, to destroy the sacred clothing'—the adjective guides us to a perception of the act as a public, not merely a private, matter (21.16 (65)). But Demosthenes goes on to remind us that the clothing was made for the festival ('I regard as sacred all clothing that one makes for the purpose of the festival, until it is used'). The fact that he thought it necessary to add this supporting explanation shows that he felt that the description of the clothing as sacred was potentially open to the objection that the clothing was not sacred, since Demosthenes was not a priest. But the explanation is (Menander claims) a sophism,[50] so Demosthenes strengthens his position further, adding a reference to 'the gold crowns which I ordered as an adornment for the chorus': the crowns are more obviously of public concern, since they were for the chorus, not Demosthenes himself (21.16 (66)).

Menander's interpretation of this passage rests on close attention to the way the text unfolds. Demosthenes specifies that the crowns were made for the chorus, but that is not said of

[50] The sacral status of the *khorêgos* could be asserted (Dem. 21.51–5), but also contested (Dem. 20.125–30). Wilson 2000, 160: 'Demosthenes' rhetoric is here . . . straining at the seams . . . Demosthenes' parenthesis gives the game away.'

the clothing; what is the persuasive force of this specification? Menander's premise is that the orator's most pressing need is to establish that Meidias' actions have public, not purely private, significance. It is clear how the emphasis on the sacral function of the clothing might contribute to that; and it is a plausible inference that the construction of the sentence, which leads us from the individual (Demosthenes' clothing) to the collective (the chorus' crowns), has the same function. Hence, because the crowns are the most significant element in the passage relative to the overall thrust of the speech, it was reasonable to prefer the textual variant which preserved the focus on them.

Was Menander right? MacDowell (ad loc.) supposes that the clothing, as well as the crowns, was for the chorus: the relative clause 'which I ordered as an adornment for the chorus' applies to all that precedes. The references to 'the cloaks' (*ἱμάτια*) in 25, 63, and 69 are not decisive: the plural can be used for the clothing worn by one person at one time.[51] But MacDowell's interpretation is plausible; and since the crowns have been mentioned more recently than the clothing, it is easier to explain the corruption of 'all of it' to 'all of them' than the reverse. Menander was probably wrong.

6.5 *FOURTH PHILIPPIC*

The *Fourth Philippic* is seen as a 'problem' speech, most acutely because of the extensive and close parallels with *On the Chersonese* and the *Second Philippic*. A recent survey comments:[52]

> The surviving text of this speech could not have had a separate existence from its immediate predecessors. Sections 11–27 and 62–70 are drawn almost verbatim and entirely from 8.39–51 and 67. This wholesale transference of material must have served the needs of literary composition rather than a speech to be delivered in a live debate. Blass rightly noted an absence of a definite occasion or purpose for it.

[51] e.g. Ar. *Wealth* 940; Xen. *Oec.* 4.23; Aesch. 1.183; Pl. *Crito* 44b. The purported (but hardly authentic) witness statement in 21.22 refers to a single cloak and a single crown: see MacDowell ad loc.

[52] Usher 1999, 241f. Other recent discussions include Worthington 1991, Trevett 1996. The correspondences are (with a good deal of variation in detail): 10.11 ~ 8.38–41; 10.12f. ~ 6.17f.; 10.13–17a ~ 8.41–5; 10.22–7 ~ 8.47–51; 10.55–70 ~ 8.52–67.

Ancient commentators seem also to have been puzzled, and some questioned the speech's authenticity.[53] This gave Menander an opportunity to display his originality and insight (p. 143.2–9):[54]

Those who have interpreted and divided the tenth speech before us have not realized that Demosthenes has difficulty in making this speech in response to the arrival of some unexpected report from Thrace. Hence the speech was delivered then in haste because of the current need. This was the reason for his coming forward without having thought out a distinctive scheme for this subject, because the occasion did not allow him to. Philip is clearly going to the defence of the Cardians in the face of Diopeithes' attack on them.

We should recall that according to Menander's interpretation Demosthenes claimed in the proem to the *First Olynthiac* that his advice was the fruit of careful preparation (§5.10). So when we find Demosthenes apparently recycling material that he has used before, it is reasonable to look for a scenario that would explain why he was unable to undertake the preparation needed to work up a speech entirely from new material. The conjecture that some pressing need forced him to respond quickly is plausible, and the arrival of unexpected news requiring an immediate response is an equally plausible explanation of this pressing need. In *On the Chersonese* Philip taking action against Diopeithes is mentioned only as a future possibility (8.16); in the *Fourth Philippic* his defence of the Cardians is a present reality (10.18). This passage replaces a less specific reference to Philip's future actions (8.46), and is the most striking divergence in an extended adaptation of the *Fourth Philippic*; so it is not surprising that Menander makes it the key to his theory (p. 143.22f., cf. 149.11–13). On the other hand, the fact that in 8.16 Demosthenes regards Philip's intervention as likely must surely count against the suggestion that

[53] *RG* 6.253.22–5: Anastasius of Ephesus (cf. §7.5 n. 63) and other technical writers reject the speech because of the expression, 'we are like men who have drunk mandragora or some other such drug' (10.6). Hermogenes cites this as an example of asperity (*τραχύτης*); though he does not question the authenticity of the speech he does note that the unmixed use of this stylistic idea is uncharacteristic of Demosthenes (255.25–257.26).

[54] In this section I cite the gT-scholia by page and line numbers alone, since they form a continuous exposition, the structure of which is obscured by the division into separate scholia. The very sparse scholia in Y seem to preserve traces of a different division: 10.7 (7), 31 (13).

it took him by surprise. And when Menander seizes on 10.60 as further evidence in support of his theory of the occasion of the speech (p. 156.8–10) it is hard to avoid a sense of special pleading: the parallels between 8.58, 64, 66 and 10.60, 65, 68 make it difficult to believe that the situation with regard to the Cardians had changed as unexpectedly and as significantly as Menander's theory requires.

Menander maintains that his predecessors had also completely misunderstood the speech's argumentative structure (p. 143.24–6, cf. §2.6, §4.1):

> The same people say—Alexander, Dioscorus, and the much-touted Zeno—that advantage is the only head developed in this speech. They seem to have been deeply ignorant of the very nature of the heads. For the speech also has feasibility (and that in two forms); and it has legality and justice as well, as this specified[55] division and order will show.

The interpretation attributed to previous commentators might have taken its cue from the speech's opening paragraph ('I shall try to say what I think advantageous'). Although the point is not made explicitly, there is perhaps an implication that the rival interpretation is based on a superficial reading of the first sentence of the speech. But we should not forget that we have no way of verifying Menander's statement. It later emerges (p. 147.6) that some interpreters had seen the first part of the speech as falling under the head of justice (see the references to justice and injustice that frame 10.2–10). So either previous commentators were not unanimous, or the interpretation that recognized only a single head was capable of greater subtlety than Menander's polemic implies. That there is plenty of scope for such subtlety is shown by the complex interlinking of different heads of argument that will become apparent in Menander's own exegesis.

Whether fair or not, the polemical strain is sustained with particular insistence in the commentary to this speech.[56] The failure of all his predecessors to grasp the orator's aims means they have not understood the place of the question concerning the theoric fund in this speech (p. 144.25–9); none of his predecessors

[55] Russell and Wilson comment on the perfect *εἰρημένην* referring to a *following* division in Menander 409.23: *ῥηθεῖσα* here is similar.

[56] It is by no means unknown elsewhere (e.g. pp. 163.4–6, 170.32f.), but is less insistent.

could see that already in the second proem Demosthenes is indicating the ineffectiveness of diplomacy (p. 145.25–31); predecessors have failed to recognize the head of feasibility in 10.2–10 (p. 147.11–13); they have completely missed the integral connection between the comments on domestic politics in 10.35–45 and the preceding argument about diplomatic overtures to Persia (p. 153.10–17).

Menander's essay has a clear overall structure. The first part covers four introductory topics: the speech's occasion, and the explanation it provides for the reuse of material from *On the Chersonese* (p. 143.2–23); the heads of argument (p. 143.24–8); Demosthenes' aims (*σκοποί*), and how they are addressed (p. 144.1–29); and the mix of styles (p. 144.30–145.4). This is followed by a more detailed analysis, or 'division' (p. 143.28, 144.30, 32: cf. p. 5.26), of the speech (p. 145.5–156.32). However, the analysis is not exhaustive; Menander himself notes that his exposition is incomplete and refers us to other commentators for further clarification of points he has passed over (p. 151.31–152.2, 154.4f.: cf. §5.9). If the scholia to this speech derive from a course of lectures less detailed than, for example, those on the *False Embassy*, and students were expected to supplement them by studying the work of earlier commentators, that might help to explain the particular insistence and sharpness of the warnings against their mistakes.

Although the overall plan of the exposition is clear, there is some obscurity in its detailed execution. According to the introduction, as well as the head of advantage recognized by his predecessors, the speech also deals with feasibility, in two parts, and with legality and justice (p. 143.24–8). Feasibility appears immediately after the proem, in the argument that diplomacy will not be effective and action is needed (p. 145.31–146.13); this is 'the first part of the speech' (p. 146.13f.), and makes three points (p. 146.15–19). So when the next sentence begins, 'after that, advantage is developed as well . . .' (p. 146.19f., referring to 10.6), we may find it easy to assume that we have moved on to a second part, dealing with a different head of argument. If so, we will be surprised a little later when the end of the first part is marked at 10.10, with an explanation of how advantage is used to establish the argument from feasibility (p. 147.8–11). 'After this legality is introduced' (p. 147.13, cf. 21f.): does this, then,

mean that the second part of the speech begins at 10.11? When we reach 10.45, and are told that this is the beginning of the fifth part (p. 154.7, 13), few readers (I suspect) will be entirely clear about the preceding four.[57] It would be easier to keep track of the developing exposition if we had been told in advance that there were five parts, and if the sections were all explicitly enumerated as we progressed. That would, for example, save us from looking in vain for a separate treatment of the head of justice, which the introduction leads us to expect (p. 143.27); it is only in retrospect that one can conclude with any confidence that 'legality and justice' must be taken closely together, referring to the section in which justice provides the solution to counterpositions in the head of legality (p. 149.3f.). The overall shape of the interpretation seems to be:

(i) 2–10 (p. 145.31–147.13): feasibility, with arguments based on advantage. It is not feasible to achieve our aims by diplomacy: that has worked to our disadvantage in the past, and action is needed.

(ii) 11–20 (p. 147.13–149.31): legality, with solutions based on justice. The legality of the action does not need to be secured by a formal proposal, since Philip has already created a state of war, and that is an inevitable part of his relationship to us.

(iii) 21–7 (p. 150.1–151.13): feasibility, with arguments based on advantage. It is not feasible to achieve our ends by piecemeal action; and though concerted action is difficult, it will be to our advantage to act decisively now.

(iv) 28–45 (p. 151.14–154.5): feasibility, with arguments based on advantage. It is not feasible to take such action without funding; this can be secured from Persia, without raiding the theoric fund or appropriation of private property.

(v) 45–74 (p. 154.6–156.32): advantage. This action is to our advantage, since there is a great prize to be won and a great danger to be averted. This develops into an attack on opponents who argue that war is to be avoided.

But it takes some effort to recover that analysis from Menander's exposition.

[57] The speech is divided into five parts, the fifth of which is divided into two parts (p. 154.12–14), the second of which is divided into three (p. 154.27–155.4): it is easy to see why Menander was called 'the divider'.

This is not the only place where Menander can be convicted of a lack of clarity that goes beyond that which is inherent in the very detailed and highly technical analysis in which he is engaged. A striking illustration is provided by 20.134 (324a):

From here he turns to the epilogue, having completed the arguments. He divides the epilogue into the quality of the city—that it is not worthy of the Athenians and their dignity to take away what they had granted, which is a topic based on propriety. A topic based on propriety arises not only when we establish that something is distinguished and proper, but also conversely, i.e. the improper and disgraceful. Every topic can be treated both positively and negatively, and here he also bases the argument on what is disgraceful and improper. With regard to this, the first topic he takes up is this, that it is not right to appear to deceive one's benefactors; and, secondly, that from inconsistency, that you punish anyone who deceives the people, if he does not perform what he promised: so likewise it is disgraceful for them to be seen contravening the law.

Thus Menander starts the division of the epilogue in a way that leads us to expect a summary enumeration of the components of the epilogue introducing a detailed analysis; but after mentioning the first element of the epilogue he is side-tracked into explanatory elaboration. The division of the epilogue is not resumed until 20.143 (354) ('from the quality of the city he moves on to the quality of Leptines') and 20.146 (366) ('the quality of the person is followed by the quality of other persons'). This is potentially confusing, and an epitomator in another branch of the tradition was in fact confused by it (20.134 (324b) [FYLS]):

Epilogue. He divides the epilogue into many parts: first into the quality of the city, second on the basis of the improper and disgraceful, and on the basis of other things.

Here the terms which Menander used to analyse the first element of the epilogue have been misconstrued as a second element.

6.6 CONCLUSION

We have only scratched the surface of the large mass of detailed exegetical material from Menander's commentary preserved in the scholia. But these soundings allow some preliminary conclusions. It is clear that the commentary has a close relation to

its origins in the rhetorical classroom. Menander has merits as a teacher: he attempted to engage with his students' experience (§6.1), and was capable of sophisticated exposition (§6.3). On the other hand, he sometimes fails to cope with the complexity of what he wishes to say, so that the exposition lacks clarity (§6.5). That is not his only fault. He is sometimes carried away by polemical zeal (§6.5). His interpretations are not always convincing. It would be unreasonable to criticize him too severely for not thinking like a modern textual critic (§6.4), but the weakness in his theory about the occasion of the *Fourth Philippic* should have been apparent: it fails to take adequate account of all the evidence which the text provides (§6.5). Yet his commentary is attentive to detail and often subtle; and it offers a wealth of suggestions about useful rhetorical techniques (§6.2). One may feel that his suggestions are not always unduly scrupulous; many more illustrations of this tendency could be given. Menander frequently identifies 'sophisms' (*σόφισμα*, *σοφίζεται*) in Demosthenes, and does not do so in a disapproving tone; on the contrary, 24.112 (223) combines notice of a sophism (p. 353.6f.) with enthusiastic admiration of the technique (p. 353.12). Even the suggestion that Demosthenes suborned false witnesses is entirely neutral; Menander merely comments on the precautions taken to deflect suspicion (21.107 (378ab)). Menander is teaching people how to argue a case successfully, not necessarily fairly. He is a rhetorician, and his purposes are practical.[58]

This brings us back to the questions posed at the beginning of the chapter: what was the value of the commentaries excerpted in the scholia, and to whom? Menander specialized in subtle, erudite, and sophisticated applications of current rhetorical theory to the Demosthenic text. He evidently believed that his analyses were

[58] In Aulus Gellius 1.6.4 a teacher of rhetoric (Castricius: cf. 11.13.1) cheerfully recognizes the use of lies and tricks by advocates. Quintilian's recommendation of underhand tactics is merely more discreet: 2.17.27–9, 4.5.5 (sometimes *fallendus iudex*), 6.4.14; cf. 12.1.36–45. Cf. Pliny *Ep.* 2.3.5f. (§9.9). As one might guess from his approving interest in techniques of rhetorical deception, Menander does not suggest a Platonic influence except in matters of literary technique (19.2 (13c), 42 (112)), and indeed implies an ideological opposition (20.105 (241), 110 (258)); likewise Plato is much less prominent in Treatise II than Treatise I (§4.8). By contrast Zosimus follows a widespread tradition that Demosthenes was a pupil of Plato (22.40 (114c) [A], cf. 19.70 (170b), 24.121 (238): see Hermippus, *FGrH* 1026F49–50, with commentary).

able to throw light on Demosthenes' techniques of persuasion. How far he was justified in that belief is a question that may be left to scholars with equal expertise in the study of Demosthenes and of late ancient technical rhetoric. But Menander also apparently believed that his analyses would be of practical value to contemporary students seeking to master the techniques of persuasion for themselves. That might be true even if his exegesis had no historical validity. The relation between what was studied in the rhetorical classroom and its practical application beyond the classroom is a question that will be addressed in Part III.

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Part III

Classroom and Career

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7
Teaching

THE conclusion that Menander's commentary on Demosthenes originated as lectures to advanced students invites us to explore further the relationship between the technical literature on rhetoric and classroom practice.[1] This chapter examines what these texts imply about the structure of the rhetorical curriculum, and about the teaching that delivered that curriculum. The account will necessarily be incomplete and speculative. Our sources, written for readers familiar with the teaching of rhetoric, provide no systematic description. Even Quintilian's remarks on classroom practice are sporadic and often cryptic. We may try to offset the problem by combining information from different sources, but should not imagine that this will produce a composite picture of a uniform teaching practice. In an educational environment that depended primarily on private initiative there were no formal mechanisms to establish uniformity.[2] Quintilian attests, for example, to divergences between the typical pattern of rhetorical training in the Latin West and the contemporary Greek East, and his criticism of the Latin practice is one of several evidences in his work of variation in individual preference (§7.1). It would therefore be misleading to speak of 'the rhetorical curriculum', if that were taken to imply a prescribed and uniform pattern of teaching. Our sources exhibit a range of possibilities within what was, at most, a relatively coherent tradition, rather than a single normative pattern. But some informal constraints were imposed by the requirements of professional interaction and social expectation. Teachers had to enjoy some measure of mutual recognition to secure credibility, and those they taught had in the end to be able to perform in a way that satisfied the expectations of the

[1] Cribiore 2001 provides a good introduction to ancient educational practice, making use of the evidence of papyri; Morgan 1998 must be used with some caution. Vossing 1997 is a richly documented study of North African schools. See also Wolf 1952, on Libanius.

[2] Kaster 1983, 337–46, discusses factors promoting diversity in patterns of educational provision (not focused specifically on rhetoric).

community. So it is reasonable to look for a degree of convergence in teaching practice that might warrant our speaking, in broad terms, of a typical pattern. One of the questions to be addressed concerns changes in the typical pattern over time: in particular, what implications did the developments in rhetorical theory in the second century (§2.2–5) have for the overall structure of rhetorical teaching?

7.1 THE CURRICULUM IN OUTLINE

The standard rhetorical corpus that developed in the fifth century (§2.11) opens with a work on preliminary exercises (*προγυμνάσματα*) by Libanius' pupil Aphthonius. The corresponding text transmitted under Hermogenes' name, although clearly influential, did not in the end establish itself as the standard text.[3] Aphthonius' treatment has obvious advantages. It furnishes each exercise with a clear, concise outline of its treatment, and a fully worked model,[4] and is better focused than [Hermogenes], which includes material irrelevant to beginning students or beyond them. Beginners will hardly have needed commentary on different opinions about which exercises should be included in the course and in which order (4.7f., 23.15–23, 26.11f.); and how many of them would have benefited from a reference to Aristides *On the Four* (20.16–18) or the allusions to stylistic qualities of the kind treated in idea-theory (3.16, 20.3, 23.9–14)? Despite these features, there is no reason to doubt that [Hermogenes] originates in elementary classroom instruction. Its manner of presentation positively suggests such an origin. Consider the advice on fables (2.12–15, 3.4f.):

One sometimes needs to extend, and sometimes to compress them. How would this come about? If now we speak it in plain narrative, now invent

[3] The influence of [Hermogenes] (conceivably Minucianus: §2.11) is illustrated in Heath 2003*d*, 145–7, in the context of a survey of the history of progymnasmatic literature. For a brief overview of the preliminary exercises see Heath 1995, 13–17; Webb 2001 is good.

[4] One source says that Aphthonius' work was preferred because of its greater clarity: the work attributed to Hermogenes 'seemed somehow unclear and hard to grasp, because it lacked examples' (see the Hermogenes scholia printed in Kowalski 1939*b* (2.4–8), as well as the late derivative in *PS* 157.6–11). The terms of the explanation reflect the perceived relationship between technography and teaching.

words of the given characters—for example, to make it clear to you from an example . . . That's how you would be concise; but if you want to extend it, put it this way . . .

After the preliminaries on anecdote (*chreia*) the author says, 'But now let us proceed to the crucial point, and that is the development (ἐργασία). Well, let the development be like this . . .' (7.10f.); he then sketches out the structure of the exercise with fragments of the illustrative example interspersed (by contrast with Aphthonius' separate and fully worked models), and concludes: 'Last you will put an exhortation.' Then: 'So much for the present. You will learn the more complete instruction later' (8.13f.). The section on common topics ends with a similar promise of a 'more complete' method to follow (14.14f.). The impression is of lectures[5] in which the teacher gives an introductory overview of the exercises that will be fleshed out with more detailed guidance in subsequent practical classes.

Quintilian describes the preliminary exercises as 'so to speak limbs and parts of larger wholes' (2.10.1). They provided an opportunity to practise separately techniques that would later be used in combination to produce proper speeches.[6] So there is a sense in which the preliminary exercises are preliminary *to* rhetoric rather than a preliminary part *of* it. The very term *progymnasma* may carry this implication: it could be debated whether mathematics is part of philosophy or a *progymnasma* to it (David *Prol.* 5.11).[7] The typical structure of exposition

[5] The first promise comes after 134 lines of Teubner text, the second 133 lines later: do they mark the end of separate lectures? The rest of the text amounts to 266 lines. An equal division would come around 20.23; the nearest natural point of division is 20.5. Although there is no similar formula there, encomium and comparison would make a coherent pairing for a single lecture.

[6] Cf. Nic. 1.15–2.10; in the body of his text Nicolaus gives detailed statements on the relationship of individual exercises to substantive oratory. See further Heath 1997, 92–8.

[7] [Hermogenes] consistently uses γύμνασμα; so, too, in the third century [Hermogenes] *On Invention* (113.13f.) and [Dionysius] on epideictic (261.13–20). In the fourth and fifth centuries Aphthonius, Theon, and Nicolaus use both forms. Aphthonius 46.20–2 considers whether proposal of law, the most advanced of the exercises, is a γύμνασμα (i.e. a complete ὑπόθεσις) rather than a προγύμνασμα. The terminological development (see Hock and O'Neill 1986, 12–15: but they date Theon's *Progymnasmata* to the first century and Sopater's to the fourth: I favour a fifth-century date for both: §9.5) was perhaps prompted by this sense that the preliminary exercises are not fully part of rhetoric. Cf. *PS* 77.20–7.

reinforces the point. Quintilian covers the elementary exercises before he addresses the introductory questions about the nature, history, and divisions of rhetoric (2.14–3.5) which precede his introduction to issue-theory. In later Greek technography, too, general prolegomena to rhetoric are a feature of works on issue-theory rather than of works on the preliminary exercises.

The transition from the preliminary exercises to advanced work on epideictic oratory was a smooth one. Encomium as an exercise for beginners is not identical with epideictic speech proper, but as Nicolaus points out (47.5–11, 49.13–23) the different kinds of epideictic speech (what to say when greeting a visiting dignitary or saying farewell to a departing one, what to say on the occasion of a wedding or a birthday, and so on) may all be treated as specialized variants of encomium; a standard schema is adapted to the needs of different types of situation. Theon distinguishes between the 'simpler instruction' on encomium as an exercise for younger students and the 'more precise technical discourse (*τεχνολογία*)' reserved for the 'appropriate place' (61.20–8). In Quintilian's survey of preliminary exercises (2.4.20f.) encomium (together with invective and comparison) likewise elicits a promise of a fuller treatment in connection with that class of oratory; the promise is fulfilled in a very brief discussion of epideictic (3.7). At least from the third century the 'more precise technical discourse' on epideictic to which Theon refers was embodied in independent treatises, such as Menander's (§4.8). But no such treatise was included in the standard corpus; technography in general is primarily concerned with deliberative and judicial oratory. When Quintilian says that a student who has mastered the preliminary exercises is ready to proceed to declamation on deliberative and judicial themes the absence of any reference to epideictic is striking (2.10.1f.; cf. 2.1.2).

The transition from the preliminary exercises to advanced work in deliberative and judicial oratory was more difficult. The function of epideictic is to enhance the perceived significance of ('amplify') something that is taken to be acknowledged (§2.1); in deliberative and judicial oratory the speaker first has to establish something that is in dispute. Rhetoricians recognized that amplifying an uncontested proposition is easier than arguing for or against a proposition that is disputed (Theon 65.7–19). In this sense epideictic, which required only amplification, was less

demanding. But epideictic could also be seen as the most difficult kind of oratory, because of its sustained stylistic demands.[8] Proficiency in epideictic would thus require intensive stylistic training, but not the mastery of a complex theory of invention. It is relatively easy to codify the topics relevant to each type of epideictic situation (for example, those likely to be relevant at any wedding). But it is not possible to list the topics likely to be relevant at a murder trial (apart from the common topic against murder: but this, precisely because it is a *common* topic, gives no purchase on the specific situation), since the underlying structure of the dispute in different murder cases may vary. A case in which an alleged homicide is denied cannot be argued in the same way as one in which the homicide is admitted and exculpated on the grounds of, for example, provocation. Progress in judicial and deliberative oratory therefore demanded a more elaborate theoretical apparatus.

The primary apparatus developed for this purpose was the theory of issues (§2.1). This, at the minimum, sought to classify different kinds of dispute; in the form that was established in the second century AD it also involved division, the analysis of the problem into an ordered sequence of heads of argument (§2.2–4). The theory of issues and division often strikes modern eyes as formidably complex and difficult, and it may have struck ancient students that way too. Near the beginning of *On Issues* Hermogenes claims that the subject is virtually identical with invention (28.11–14); that claim is not true, and may perhaps be understood as an encouragement for students about to encounter an intimidating new challenge. Despite the complexity, the basics of issue-theory were regarded as an elementary part of the subject: they were the subject of the second work in the standard rhetorical corpus.

Here we must consider a divergence between the structure of exposition in later Greek rhetorical literature and in earlier texts.[9] In the *Rhetorica ad Herennium* the issues are introduced only when we reach the section on argument in a sequential survey of the parts of a speech (1.18). In Cicero *On Invention* the

[8] Undemanding: *RG* 2.49.14–18. Difficult: Fronto *ad M. Caes.* 3.17 (49.9–14 van den Hout^{2}).

[9] Wisse 1989, 77–104, discusses the structure of the earlier texts.

discussion of issues (1.10–18) and the Hermagorean apparatus for identifying the crucial argument (1.18f.) appear early in Book 1, before the discussion of the parts of the speech begins, and it is noted (1.19) that the arguments have to be identified before the other parts of the speech can be tackled. Nevertheless, what comes next is a discussion of the parts of the speech in sequence, including techniques for developing arguments (1.34–77); the aspects of argument specific to each issue are explicitly (1.34, 49) deferred until Book 2. Quintilian introduces issue-theory (3.6) and related substructural matters (3.11) after his treatment of the prolegomena to rhetoric, with other prefatory material in between. But he does not discuss the division of individual issues until after the treatment of the parts of a speech which fills Books 4–6, which are in effect his treatise *On Invention* (7.pr.1); division is treated in the section on arrangement (7.pr.4). Thus Quintilian sets out the basics of issue-theory in the prolegomena to invention in Book 3, proceeds sequentially through the standard parts of a speech in Books 3–6, and only gives specific advice on the arguments appropriate to each issue in Book 7. Like Cicero, he recognizes (3.9.6f.) that the theme has to be analysed, the arguments identified, and the best way of approaching the audience assessed before one can work out the parts of the speech. Even so, the discussion of how to conduct this analysis of the theme (7.1.4–63) precedes the survey of issue-specific points.

By contrast, Hermogenes *On Issues* provides a complete introduction to issues and their division that is independent of the theory of the parts of a speech. An unredeemed promise to discuss one point in more detail when he deals with the prologue (53.12f.) must refer to a separate and subsequent treatise on the parts of a speech. Conversely, the third-century Greek treatises that adopt the parts of a speech as an organizing framework tend to presuppose familiarity with issue-theory.[10] Thus we have a separation between technical handbooks *On Issues* (or *On Division*) and *On the Parts of the Political Speech* (still sometimes known as *On Invention*). The analyses of how to argue each issue (now more detailed and systematic) are attached directly to the prolegomena to rhetoric and the introduction to the issues. Invention thus falls

[10] [Hermog.] *Inv.* 129.17–19, 131.3–11, 132.2–9 (referring to his *On Division*: see §3.3), 136.22, 137.6f., 162.3–6; [Aps.] 5.21, 9.1; Anon. Seg. 216.

into two parts: the first, including the prolegomena and instruction on issues and division, teaches the student how to map out an argumentative strategy; the second, including instruction on the parts of a speech, teaches the student how to embed that argumentative strategy in a speech comprising prologue, narrative, arguments, and epilogue. It seems likely that this new structure of exposition was associated with a new structure in the curriculum.[11] One now studied issue-theory in full before learning about the overall structure of a speech. This makes good sense, since (as even earlier theorists recognized) until the student has analysed and outlined the argument required in a given case, he will not know how to handle the other parts of the speech (for example, the image the speaker wants to present in the prologue, what facts need to be highlighted or suppressed in the narrative, what slant has to be put on those facts). Issue-theory gives you the arguments, invention helps you articulate them and embed them in a speech.

Hermogenes was not exceptional in separating issue-theory from systematic instruction in the parts of a speech. Zeno and, so far as we can judge from the fragments, Minucianus both followed the same pattern.[12] But in other respects Zeno and Minucianus provided more extensive prolegomena than Hermogenes (§2.8). Zeno discusses the definition of rhetoric and the division of 'civil questions' into theses and hypotheses, and surveys the three tasks of the orator (analysis, invention, and arrangement), with a summary of aspects of analysis other than issue-theory. Hermogenes rather polemically dismisses such material (34.16–35.14), and commentators saw this elimination of unnecessary prolegomena as a factor that made him clearer than Minucianus.[13] The fact that they thought it appropriate to make good the omission presumably reflects a difference in the purpose and target audience of textbooks and commentaries (§8.4).

[11] But I am more confident about the situation from the second century onwards than about the process of development which preceded it. We do not know enough about the structure of lost texts, or about how closely the structure of the earlier extant texts mapped onto the structure of a teaching programme, for certainty.

[12] Sulpicius Victor is explicitly departing from Zeno's lead when he includes a discussion of the parts of a speech in 321.29–325.2.

[13] e.g. Sopater *RG* 5.14.24–8; *RG* 7.165.17–166.2; ?Marcellinus *PS* 294.17–22. Minucianus' prolegomena: Heath 2003*b*, 155 f.

The fact that treatises on invention did not contain or attract such prolegomena reflects the introductory position of treatises on issues. Another symptom of the separate treatment of division and the parts of a speech is the fact that issue-theorists were uncertain about the status of the last heads specified in the division of each issue: were they part of the arguments, part of the epilogue, or in some sense transitional?[14] It is also interesting that the hypothesis to the first speech in Antiphon's *Tetralogies* explains that there is no narrative section 'because the whole art had not yet been perfected (ἠκριβῶσθαι)'. Conceivably the point is that Antiphon, whose early place in the history of rhetoric is stressed in the biographical tradition, composed before the discipline was fully developed. But this explanation seems unlikely, since the four-part schema for the structure of a speech is generally attributed in late ancient histories of rhetoric to the legendary founder-figure Corax.[15] The point may be instead that he is seen as composing examples of how to conduct the argument for pupils who had not yet mastered the whole of the art: the narrative section was omitted because these students were studying techniques of argument, and were not yet concerned with the structure of a whole speech. The issue-theoretical terminology of the hypotheses to Antiphon presupposes the second-century developments, and the use of the term 'statement' (κατάστασις) for the narrative section of the speech implies a date in the third century or later (§3.3, §5.4).

What is taught at this early stage of the curriculum, therefore, is not the composition of a speech but a technique for analysing a problem and identifying the nature of the dispute and the basic steps in an appropriate strategy of argument (cf. §9.8). But *On Issues* is preparatory in another sense as well. It is repeatedly emphasized that what is being provided is only a general indica-

[14] Heath 1995, 110 (on Hermogenes 61.6–15). Heath 1995, 26 (in *On Issues* 'it is assumed that a student . . . will be able to supply a suitable introduction and narrative') is the wrong way round: the student will later be taught to do so. Note that the distinction between judicial and deliberative oratory is not crucial in issue-theory (in the Hermogenean system, for example, deliberative questions do not necessarily fall under the practical issue: Heath 1995, 130f., on Hermogenes 76.6–11), but becomes important at the stage of invention concerned with the parts of a speech (e.g. the question of whether deliberative has a narrative: Quint. 3.8.10f.; [D.H.] 369.20–2; sch. Dem. 3.4 (32b), 24.11 (27c)).

[15] Heath 1995, 9f. n. 24 (with further references).

tion of the nature of the heads of argument, and not a proper division of the themes used to illustrate the theory.[16] Here, as in [Hermogenes] *Progymnasmata*, we may think of an introductory outline of the theory that will be fleshed out in subsequent practical classes. It may be relevant to recall the works put into circulation under Quintilian's name by pupils (1.pr.7). These were based on his lectures: one discourse, delivered over two days, was recorded by boys (*pueri*); the other, spread over several days, was recorded by youths (*iuvenes*). The longer lecture-course was given to older students, and was presumably more detailed and more advanced. One possibility (but not the only one) is that the boys recorded lectures introducing the preliminary exercises, and that the youths recorded lectures introducing declamation classes and covering the ground of a work on invention (issue-theory and the parts of a speech).[17]

Having mastered the theory of issues and their division, students progressed to the overall structure of the speech. The third place in the standard corpus is held by [Hermogenes] *On Invention* (perhaps by Apsines: §3.1),[18] but Syrianus refers to 'a myriad others' who have written on 'the parts of the political speech' (2.11.5–10; cf. *PS* 205.8–10); extant examples are Rufus, the Anonymus Seguerianus, and [Apsines]. In their treatment of the argumentative section these treatises address the articulation of arguments at a more detailed level than *On Issues*. [Hermogenes], for example, develops an innovative multi-layered approach to the evolution of arguments, which progresses from the abstract head of argument through the epicheiremes that embody it to the techniques for their concrete elaboration (§3.3).[19] There are similar discussions of the presentation of prologue and

[16] 67.19–21 ('We have made these comments not as a division . . . but just so as to indicate the nature of the heads'), cf. 81.13–16, 85.16–86.3, 86.15–17. See Heath 1995, 61 f. (on 28.7–14).

[17] Quint. 3.6.68 shows that issue-theory figured in at least one set of pirated lectures. If the plural *sermones* implies it was in both sets, we would have to think of more advanced and detailed treatment of ground previously covered in outline; but that is not necessary. 10.5.1 connects Book 1 with *pueri*, Book 2 with *robusti*; but the two-day discourse to *pueri* can hardly have been on exercises with the *grammatikos*: the terminology is fluid. Russell translates *pueri* in 1.pr.7 as 'slaves', but in parallel with *iuvenes* that seems unlikely.

[18] On the absence of the epilogue from this text see §8.3

[19] Heath 1997, 106–17, includes an illustration of this mechanism.

narrative. From such analyses of the microstructure of each part of the speech it is no great step to the kind of advice on style that appears in Book 4. The style appropriate to different parts of the speech is also considered by the Anonymus Seguerianus.

Style was not entirely neglected at earlier stages. The *grammatikoi* provided tuition in correct language (Quint. 1.5f.), and their expositions of literary texts also covered such topics as figures (Quint. 1.8.16, cf. 8.5.35). Theon includes paraphrase in the preliminary exercises (62.10–64.24, and chapter 15 in the Armenian). Quintilian (1.9.2f.) gives paraphrase a place among the elementary exercises handled by the *grammatikos*; but he regards it as a demanding discipline and a good test of a student's potential for more advanced work, and returns to it when he sets out a programme of exercises for the student whose training is complete (10.5.5–8: cf. §7.6). So paraphrase was not simply an exercise for beginners, but something of value at every stage of one's training in rhetoric and beyond. There existed a technical literature on 'transformation' (*μεταποίησις* or *μεταβολή*) to which Apsines' teacher Basilicus contributed (*Suda B*159), as did Tiberius (§3.9) and probably Ulpian (§3.10). Sopater's work on 'transformations' has survived, although there is no way of telling which of the three rhetoricians of that name (§3.9, §4.6, §9.5) was the author.[20]

So exercises in style started early and continued throughout the student's rhetorical training. But there is evidence that intensive work on style began at an advanced level, and was an especial concern of the most advanced teachers.[21] [Hermogenes] apologizes at the start of *On Invention* for the rudimentary style of his illustrative examples (94.22–95.1):

> Do not worry about the baldness of the style: since my aim has been to explain theory in a rather didactic manner, I have stripped away the power of discourse, presenting the ideas naked for greater clarity.

A similar apology is found in Quintilian (7.1.54). At this stage of the course, polishing the student's style was not the primary

[20] See Gloeckner 1910 for the text of Sopater. Although it is usually cited as *μεταποιήσεις*, the common source of Gregory of Corinth (*RG* 7.1294.7f.) and John Diaconus (fol. 466, Rabe 1908*a*, 141–3, with fuller text) referred to *μεταβολαὶ καὶ μεταποιήσεις* (cf. §3.9 n. 70).

[21] Schenkeveld 2000, 44–6.

concern. Philostratus (*VS* 604) says that Phoenix of Thessaly, although skilled in invention, composed in a disjointed style, lacking rhythm; his compositions set out the facts with no verbal clothing to cover their nakedness, and for this reason he was thought better suited to teaching beginners. The point is not that Phoenix was only competent to shepherd complete beginners through the preliminary exercises, but that invention is less advanced tuition than style. Hence Quintilian opens his treatment of style by contrasting it with the teaching of invention and disposition to beginners (8.pr.1–5); style is the most difficult part of rhetoric (8.pr.13f.). Similarly, in the introduction to *On Issues* Hermogenes refers forward to *On Types of Style* (§2.10), stressing that this is the most difficult and advanced subject (35.10–12): 'The theory of styles of discourse and their respective use is the subject of a separate and far from trivial treatise—in fact, a very important and advanced one.'

When Philostratus says (*VS* 527) that Lollianus gave 'didactic classes (*συνουσίας . . . διδασκαλικάς*)' as well as classes in declamation, the phrasing recalls the 'rather didactic' (*διδασκαλικώτερον*) technical exposition of [Hermogenes]; the implication is that Lollianus lectured on theory (§2.6). This goes together with Lollianus' extensive theoretical writings (well-attested, though not mentioned by Philostratus, and now lost, since Lollianus worked at the wrong end of a century which rendered earlier texts obsolete). On his death the Athenians erected an inscription testifying to his ability as a declaimer and advocate (§2.6); another, less flattering, epigram envisages Lollianus' soul lecturing Hermes (a god hardly in need of instruction in rhetoric) while being conducted to the underworld; the prospect of such posthumous lectures makes death seem less enticing (Lucian *Epigram* 26 = *AP* 11.274). This joke about Lollianus' insatiable tendency to lecture fits in with Philostratus' comment on his teaching. The fact that Lollianus' 'didactic' classes are worthy of comment suggests that a stricter division of labour was normal at the highest level of the profession. The implication is that the groundwork of theory would be laid at relatively elementary stages, and many, if not most, of the top-level sophists in their advanced classes would concentrate exclusively on the development of style and performance through practical classes.

Some independent teachers would not be able to cover the

whole range of levels: imagine, for example, a teacher in a small town teaching some range of elementary topics, and sending some of his students on to work at a more advanced level in a major centre. Quintilian reports that some thought it best in any case for elementary teaching to be handled by less eminent teachers (2.3.1–4). He rejects this view; his school, like that of Libanius, took students at all levels, from beginners through to the most advanced. But there is a suggestion that the leading teachers were (or might be expected to be) disdainful of elementary material (2.3.4–6). One would expect to find teachers who taught only advanced students in a city such as Athens, which attracted the brightest advanced students and in which many top-level teachers were available, including specialists in different aspects of the discipline (§2.6, §3.7). It is in such a context that one can best make sense of Phrynichus' dismissal of issue-theory (§2.5). Disdain for theory is a pose most easily adopted by those who have absorbed the theory and achieved distinction; those who have climbed up a ladder naturally like to give the impression that they flew. Likewise, it is easier to neglect theory in one's teaching if you only take advanced students who have already mastered the theory than if you have to provide complete beginners with a basic framework in which to operate.

7.2 AGE AND PROGRESSION

In a letter describing the launch of his school in Antioch Libanius (*Ep*. 405.4) records that he began with a performance that followed the standard pattern of informal introductory discourse (§2.9 n. 54), here called a 'prologue', and a declamation; the latter was a 'contest' (*ἅμιλλα*) against a speech of Demosthenes, and Libanius comments on its multifaceted virtuosity.[22] The launch of his new school was obviously a special occasion. But this way of marking the start of the academic year is likely to have been common practice, a counterpart to the customary end-of-year discourse (§6.1). Himerius welcomes his students back from their summer break in an informal discourse in which existing students

[22] For 'contest' cf. *Ep*. 243.2 (Libanius 'contesting' with one of Demosthenes' speeches against Philip), 283.5, 631.2 (Palladius' *πάλαισμα* against Aristides). The term is ambiguous, and could designate a reply to, or an attempt to outdo, the original (§7.5).

are exhorted to look after the newcomers (54.3); in another address, at the beginning of a session delayed by injury (69.1), he welcomes newcomers (69.1, 8f.) and exhorts his students to avoid distractions and concentrate on their work (69.7).[23]

For new students this start-of-year display would be their first experience in the rhetor's school—or in *this* rhetor's school: one might expect that the students of a sophist as eminent as Himerius would not be total beginners. But some schools did take pupils at all levels. If we ask at what age they started, Quintilian's answer ('when they are able', 2.1.7) reminds us that we are not dealing with a regimented system. Individual aptitude was not the only variable. Quintilian goes on to discuss the division of labour between *grammatikos* and rhetor. In Roman schools the preliminary exercises, even up to simple deliberative themes (*suasoriae*), had been assigned to grammarians (1.9.6).[24] This development reflects the ambiguous status of the preliminary exercises in the rhetorical curriculum (§7.1). Quintilian disapproves (2.1); consequently, on his view, study with *grammatikos* and rhetor should overlap, as is the Greek practice (2.1.12f.). It is sometimes claimed that Libanius employed sub-rhetorical teachers in his school;[25] the evidence is not convincing, but if the study of grammar and rhetoric overlapped collaboration between independent teachers would be convenient.[26]

Can we at least estimate the typical age of a rhetor's pupils? According to Quintilian (2.2.3) boys start with the rhetor when they are *adulti fere pueri*, and continue *iuvenes etiam facti*; but these are imprecise and shifting terms (§7.1 n. 17). Petit's study of Libanius' pupils led him to propose an age range from 15 to 20,[27]

[23] Partial translation in Walden 1909, 265f. There are other examples in Himerius of speeches related to school events (e.g. farewells to students, such as 10, 15; welcomes, such as that to his first student from Cappadocia); but their fragmentary state and Himerius' candyfloss style mean that they are not very illuminating.

[24] Cf. Kaster 1995, 279f. (on Suet. *de gramm. et rhet.* 25.4).

[25] Petit 1956, 84f., 94 (followed by Cribiore 2001, 37f.); *contra* Wolf 1952, 69–73.

[26] *Ep.* 625.4 is sometimes taken to imply that Calliopius (a grammarian, described as 'lightening my burden') is one of Libanius' assistants; Wolf 1952, 70, suggests that it means simply that 'Er leistet . . . eine für mich nützliche Vorarbeit', but one might also envisage an association without a unified school.

[27] Petit 1956, 139–45. Age grades in ancient education: Kleijwegt 1991, 88–123.

although he acknowledges that the evidence is meagre, imprecise, and uncertain. He also concludes that, though it was normal to study with Libanius for three years, the period ranged from one to five years; a few students stayed even longer.[28]

Petit certainly sets the lower end of the range too high: the 15-year-old pupil of Libanius who gave a public display (*Or.* 34.3) cannot have been a beginner. Admittedly the fact that his age was worth remarking shows that he was ahead of his peers (which in turn helps us appreciate how phenomenal it was that the 15-year-old Hermogenes performed for the emperor: §2.9). But Libanius himself had certainly begun his study of rhetoric with an unnamed rhetor (conjecturally identified as Ulpian: §3.10) at a younger age, although without much commitment; he was 15 when he started taking his studies seriously, by which time Ulpian was dead. Finding no satisfactory tutor he gave up practical exercises to concentrate on the study of classical literature (*Or.* 1.5, 8). A less eccentric career was that of Eunapius, who was 16 when he went to Athens to study with Prohaeresius (493); he would not then have been a beginner.

At the upper end of the age range Petit's estimate is more plausible, at least for typical students; but we must allow for late starters and for students pursuing advanced studies. Hippodromus had a 22-year-old pupil (Phil. *VS* 617), who was perhaps in the latter category. As for late starters, Libanius' unusual path meant that he was 22 when he went to Athens for advanced study (*Or.* 1.9); he stayed there until he was 26, and by then he was in the running for teaching posts (1.24–6). One pupil (whose father was poor) came to study with him aged 20 or more, and went on to have a career as an orator or rhetor (*Ep.* 693, cf. 175); Libanius mentions other mature students (e.g. *Ep.* 1511).[29] Damascius (*Life of Isidore* F61 Athanassiadi) records Superianus, 'a late learner and somewhat dull by nature', who took up the study of rhetoric at the age of 30; he 'compelled himself . . . to learn at

[28] Petit 1956, 62–6. Epitaphs offer some additional evidence (cf. Puech 2002, 482–4, 490f.). Calpurnianus had been studying rhetoric in Ephesus for five years when he died, aged 20 (*IEph.* 1627); the possibility that he had done some previous study in his home town Prusa cannot be excluded. Cornutus, another rhetoric student from Prusa, died in Athens at the same age (*IG* II^2 10118). An anonymous Ephesian rhetoric student died at the age of 18 (*IEph.* 2101).

[29] Older students: Petit 1956, 143.

such an age what is demanded of everyone else in their youth, when they are still boys', and was so successful that he went on to become a sophist in Athens.

As for the length of study, one does not have to read far in Libanius' letters and speeches to see that the paths followed by individual students were very varied; we shall return to this point, and to the questions it raises about the different sets of rhetorical skills associated with successive exit points, in connection with students' subsequent career paths (§9.4, §9.9). Here we should simply note the implausibility of Petit's suggestion that the standard three years comprised one year of theory, one year studying the classical orators, and one year of practical exercises.[30] This does not agree with the conclusions about curriculum structure and progression drawn from our survey of technical literature, and it has wholly implausible implications—for example, that students did not compose simple preliminary exercises until their third year. The promissory references found in a number of texts (§7.1) suggest instead that the cycle of theoretical exposition followed by practical exercises was iterated at successively higher levels.

The fact that the rhetor's students had progressed to a more advanced stage in their education was a resource that a teacher could exploit. In one of his essays on figured speeches [Dionysius] discusses a problem in *Iliad* 2. After the miscarriage of Agamemnon's speech 'testing' the army the troops are rallied, and Odysseus and Nestor both address them. But if Nestor says (as he seems to do) essentially the same as Odysseus, why does Agamemnon single out his superiority in council for praise (*Il.* 2.370)?

> The schoolmasters (*διδάσκαλοι*) say that, because the mass of the army praised Odysseus, Agamemnon praised the old man as well, so that he would not be upset—as when little children (*παιδάρια*) are giving displays in school and the teacher hands out encouragement all round so that the children don't cry. (331.13–17)

[30] Petit 1956, 65, 88f. (followed by Cribiore 2001, 56). Petit cites *Ep.* 1394, but this only says that a student withdrawn by his father needed an extra year to consolidate the skills he had already acquired, and tells us nothing about the structure of the course. The student is attested as a pupil over two years, but it is (as Petit notes) possible that he had started attending Libanius' school before the earliest attestation (in *Ep.* 743).

In fact, our author argues, Agamemnon realizes that Nestor has simulated agreement with Odysseus in order to say something more, and more important. The schoolmasters are evidently grammarians. They have missed the true rhetorical point of the speech, in part because they lack the specialist expertise that enables a rhetorician to understand such subtleties, but also because they are interpreting the speech out of their own, rather limited, experience: the rhetorical strategy which they misattribute to Agamemnon is one suited to dealing with the kiddies they teach. The observation involves a sarcasm at the grammarians' expense, and enlists in its support the sense of superiority which the rhetor's pupils would feel towards the younger children in the grammarian's school.

What of progression within the rhetor's school? Quintilian shows that in some schools *pueri* and *adulescentes* sat together (2.2.14f.); he disapproves of this on moral grounds. Philostratus (*VS* 604) mentions that age groups were seated separately to listen to declamations in the school of Proclus of Naucratis. But the seating arrangements are less important for our purposes than the targeting of specific teaching to students at different stages of their progression. The recording of different sets of lectures by boys and youths (Quint. 1.pr.7: cf. §7.1) points towards separation, and the monthly competition to be top-of-class assumes that pupils were distributed in classes at roughly the same level of progression (Quint. 1.2.23–5). [Quintilian] refers to the needs of new entrants when apologizing to his class for repeating something he has often said before (*Decl. Min.* 314.1). We may envisage an ongoing declamation class, which new students joined when they were deemed ready. The rotation into the class will have been balanced by rotation out (out of the school, or conceivably into a more advanced class, perhaps with more attention to style). The presence of newcomers alongside those who have been at that level for some time shows that new cohorts entered at intervals shorter than the average time spent in the class. But we need not assume that the rotation was regularly periodic; promotion may have depended on the rhetor's judgement of each individual's progression (see §7.5, on Libanius *Or.* 34)

The rhetor cannot rely entirely on whole-class teaching: individual attention is also necessary. This could make for a heavy workload. When the enrolment in Libanius' newly-established

school in Antioch reached fifty he had to skip meals and work into the evening (*Ep*. 405.6); under more normal conditions, contact hours might not extend beyond mid-day (*Or*. 58.9).[31] The fact that students would spend much of their time in private study helped (Quint. 1.2.11–14). Even so, teaching a large number of pupils spread over different levels single-handed is difficult, and it would be much easier if there were assistants able to take some of the burden. Quintilian (2.5.3) mentions the use of assistants in Greek schools to supervise students' reading, a task thought to be beneath the rhetor—a view from which Quintilian dissents (2.5.4f.). This is similar to the debate about whether beginners should be sent to less eminent teachers (2.3, cf. §7.1), and suggests that in schools that taught at every level there might have been a variation in the extent to which the senior rhetor was directly involved in teaching at lower levels. Did he move from classes on preliminary exercises with beginners to lectures on issue-theory with older boys to declamation classes with his most advanced students, delegating each class to assistants while he was occupied elsewhere? Or did he concentrate on the advanced classes, delegating elementary work to his assistants? Libanius, too, provides evidence of assistant teachers.[32] *Oration* 31 is a request to the council for a grant of land to support the income of four teachers (8, 45).[33] They are his 'companions' (2), he is 'the leader of the chorus' (14, cf. 34). They vary in age; the oldest has been teaching for more than thirty years (45). They entered teaching because they preferred the quiet to the disturbance of other professions (9), and moved from their home cities (where there was little income to be had from teaching) to Antioch, a major and long-established centre for rhetoric, in the hope of a good income. Elsewhere he contrasts his own affable and egalitarian treatment of these assistant teachers with the domineering attitude of his predecessors (*Or*. 36.10–12).

[31] The afternoons could then be devoted to other activities: Eunapius studied philosophy (502f., cf. §3.9); others frequented the courts (Lib. *Or*. 51.13–17, cf. §9.4).

[32] Libanius' assistants: Petit 1956, 84–94; Wolf 1952, 60–75. For assistants in lower-level schools see Goetz 1892, 226, 646 (ὑποδιδάκτης); Dionisotti 1982, 99f., 111 (ὑποσοφίστης).

[33] Background: Kaster 1983; for a parallel case see Kaster 1988, 115f.

7.3 THEORY

According to a recent study, ancient education was 'based on the transmission of an established body of knowledge'; it imparted 'an unchanged, rigid, and basically theoretical knowledge', 'an accumulation of systematic rules administered in order', 'an inert subservience to conventional values and contents and a passive receptivity to the knowledge imparted, with no attempt to question the transmitted doctrine'.[34] This characterization is misleadingly one-sided. Seneca offers a different perspective, eloquently distinguishing passive reception of other people's teaching from the understanding that leads to independence of judgement and the capacity to make new discoveries (*Ep.* 33.9). Although he is talking about philosophy, the encouragement to make the subject one's own and not to rest wholly on what is presented to you by authority, together with the aspiration to make a contribution of one's own, accords with the practice of teachers of rhetoric, and with the nature of the discipline they taught.

We have observed Menander encouraging his students to take a critical view of what they have learned from textbooks (§6.3). Admittedly, he does this by pronouncing on the errors of the textbooks, which could be seen as a demonstration of his own authority. But the exercise of judgement was essential to the skill it was his purpose to inculcate. The principle of natural and artificial order (§2.4) requires the adaptation of a generalized theory to the particular needs of a given situation. Hence Quintilian insists on the need for adaptability (2.13, cf. 7.pr.4). Menander advises students to adapt the theoretical template for an epideictic speech to the particular *laudandus* (369.27f., 370.9–11), and to be selective and to vary the order of heads (409.19–22).[35] Nicolaus, discussing encomium, says that one should learn the standard division but exercise judgement in its application to ensure that what one says is appropriate to the occasion, persons, and facts involved (58.4–8).

[Hermogenes] distinguishes between theorizing for didactic purposes (*τεχνολογῆσαι διδασκαλικὴν θεωρίαν*) and an understanding of how a particular speech has been organized to meet the

[34] Cribiore 2001, 8, 46, 247.

[35] Cf. Pernot 1993, 251–3. Surprisingly, [Hermog.] *Meth.* 440.14–441.8 says that the order of heads in deliberative and panegyric is fixed.

demands of its judicial context (*Inv*. 128.2–4, cf. 129.5–9). This arises in a discussion of why what is foreshadowed in the preliminary confirmation (*προκατασκευή*) of *On the False Embassy* does not correspond to Demosthenes' actual conduct of the case in the rest of the speech (127.20–129.9). [Hermogenes] reports his own puzzlement when he confronted this question, and the solution he found ('what I have noticed in the orator' 128.13, cf. 15). Thus he claims that reflection on Demosthenes' deviation from standard theory has led him to an original discovery. As the context shows, this discovery, despite its particularity (it is a discovery about what Demosthenes has done in this passage), can be generalized: it leads to the formulation of new theoretical principles. This is not the only instance in which [Hermogenes] lays claim to an original discovery (cf. 165.1–3, 208.15–18). Rhetoricians were well aware that rhetorical theory developed, and were proud if they thought they had made a contribution to that development.[36] Some rhetoricians, such as Hermogenes (216.12–217.12) or Menander (§6.5), are strongly, even arrogantly, self-assertive in making such claims. [Apsines] strikes a more modest tone: 'perhaps I myself might also be able to make a contribution to the shared meal, not useless or unhelpful' (1.2).[37] In either case, the development was understood as a better articulation of what was implicit in good practice, and good practice was understood as the practice of the classical masters. [Hermogenes] regards the innovations in his analysis of the detailed articulation of arguments (§3.3, §7.1) as returning to, not progressing beyond, the pinnacle of achievement in the classics (126.2–15). In that sense rhetoricians might be said to have conceived of their knowledge as having a stable object; but their knowledge of that object was anything but 'frozen'.

Theory makes explicit what is implicit in the practice of good orators, so as to make it easier to grasp. But a principle that has

[36] The agonistic spirit is relevant here. Theoretical innovation is an opportunity for competitive display: cf. Heath 2003*b*, 161f. (on *RG* 4.522.12f.); Barton 1994, 139–41. But the impulse to impress (the social dimension) and the impulse to precision (the technical dimension) are inextricable: one cannot impress by innovations that peers do not recognize as a contribution to the development of the subject.

[37] Nicolaus is positively self-effacing: 'when there are so many who have composed *Arts*, there is nothing left to discover, one might say' (1.4–6).

been grasped explicitly must again become implicit, internalized in the student as a habituated skill. As Augustine (*On Christian Doctrine* 4.3f.) observes, there is a difference between speaking in accordance with the precepts of eloquence, and speaking with reference to them:

> In the speeches and utterances of the eloquent, the precepts of eloquence are found to be fulfilled, even though they did not think of them in order to speak while they were speaking, whether they had learned them or had never even come across them. The fact is that they fulfil them because they are eloquent, rather than adhering to them in order to be eloquent.

Augustine is arguing for the priority of practice over precept. Learning rhetorical precepts is suitable for younger students, but not for adults; reading and listening to examples of eloquence is more important than learning the precepts of eloquence, especially in conjunction with practice in writing (or dictating) and speaking. Quintilian strongly asserts the importance of theoretical instruction (2.11f.),[38] while of course stressing the need for adaptability (2.13); but the classroom practice which he describes consists mainly of practical exercises and reading. Precept needs to be illustrated by examples, daily and diverse (7.10.5–9).

Here we may look at two of the essays of [Dionysius], whose warning against mechanical adherence to a fixed order of heads of argument (§2.4) further illustrates the emphasis on judgement in rhetorical teaching. The discussion of the evaluation of texts in chapter 11 displays an exemplary clarity and orderliness: after an introduction which clearly sets out the purpose of the discussion (374.7–375.1), the organizing framework is stated (375.4f.) and immediately reinforced by repetition (375.5–8); each point is sign-posted (e.g. 375.9–13) and summed up (e.g. 377.2–4), often with a memorable catch-phrase ('So much for common character: avoidance of vice and acquisition of virtue', 377.2–4; 'That is the art of division: one is many, many one', 382.12f.). Transitions explicitly refer to the overall framework (e.g. 384.22f.), and the whole is recapitulated at the end (387.1–14). In chapter 10, too, there are summaries of individual points (e.g. 361.12–17),

[38] His opponents here are *indocti* (2.12.1), not perhaps 'untrained' (Butler, Russell) so much as uninstructed in theory: hence they proceed *nulla ratione* (2.11.4): cf. §2.4.

and a summary at the end of the first part (367.15–17) is immediately followed by an outline of the second part (367.18–21); both parts are recapitulated at the end (373.23–374.3). This is a good lecturing style; and since the discussion of rhetorical character in chapter 11 is summed up and illustrated using a declamation theme (381.11–382.9) the target audience is presumably students whose reading is meant to furnish them with models for declamatory practice. Chapter 10, offering specific advice on errors to avoid in declamation, is thus a natural complement to the discussion of the evaluation of texts in chapter 11.[39]

The students to whom these lectures are addressed must already have received a good deal of instruction in theory. They are familiar, for example, with the topics of encomium (377.16f.), the heads of purpose (370.21–371.1), the concept of a standard division into heads (363.11–20), and the four-part structure of a speech (367.20f.). These lectures are not theoretical, so much as a programmatic introduction to the practical classes through which their theoretical knowledge will be converted into an applied skill. The outline guidance which the lectures provide would of course need to be supplemented in detail. So we have here two (there may originally have been three: §7.5) introductory lectures prefaced to a course of classes in declamation. Chapter 10 accordingly ends by noting that only the most obvious points have been covered: much remains to be said in subsequent classes (374.3f.). This promise provides a parallel to the indications which we found in [Hermogenes] *Progymnasmata* and Hermogenes *On Issues* of a course of lectures introducing practical classes (§7.1).

7.4 MODELS

Theory teaches general principles, but an effective speaker must be able to judge the needs of each particular situation. There are, Quintilian observes (2.13.14f.), few universal principles (καθολικά: cf. §6.2) that do not sometimes need to be adapted or abandoned; so it is not enough to learn a textbook (*artis libellus*)

[39] The first part of ch. 10 exploits without further explanation the framework carefully introduced in ch. 11, while the framework used in the second part of ch. 10 is set out in advance. So the two lectures were written as a pair, with ch. 10 as the sequel. See Heath 2003*a*, 93–7.

off by heart on the assumption that the theorists have issued decrees that will keep you safe (compare Menander's warning against treating textbooks as 'legislators': §6.3). One way to acquire a sense of what lies beyond the theoretical textbooks is to observe how skilled practitioners go about their task; example is more potent than precept (2.5.14f., 10.1.15). The teacher's demonstrations and the reading of classical texts are both important in their own way. There is more to learn from Cicero and Demosthenes than from any teacher's declamations (2.5.16); even so, the teacher should declaim at least once a day, since the 'living voice' of a respected master's performance has greater impact (2.2.8).[40]

Although the living voice is not accessible to us, we can get some sense of a teacher's demonstrations from such texts as the declamations of Libanius. These display varying levels of complexity, and have a variety of emphases: in some argument is important, while others are primarily displays of characterization (of which Libanius was a master). In the brief prefatory comments (*προθεωρίαι*) to a few of the declamations Libanius draws attention to aspects of the handling of the theme. For example, there is a discussion of the care with which Orestes must manage the attack on Clytaemnestra which, though necessary to his defence, might easily give a bad impression of his character (*Decl.* 6).[41] These comments are generally not concerned with issue-theory (although the preface to *Declamation* 24 touches in passing on the argument from letter and intent); it is perhaps assumed that the students for whom these declamations are to serve as models are sufficiently advanced not to need such elementary instruction, and will be able to discern the underlying division for themselves.[42]

[40] 'Living voice': cf. (e.g.) Pliny *Ep.* 2.3.9; Sen. *Ep.* 6.5. Alexander 1990; Karpp 1964; Mansfeld 1994, 123–5 (on Galen).

[41] See also (e.g.) the *protheoriai* to *Decl.* 3–4, 12, 46. What is printed as a separate *protheoria* to *Decl.* 4 is surely a scholion: compare e.g. the introductory scholia to *Decl.* 13 (6.7.1) or 36 (7.207.8).

[42] See Heath 1995, 156–60, 194–7, for Libanius' use of standard divisions in the declamations. Two prefaces, both to declamations which Foerster believed misattributed, do deal with issue-theory. That to [Lib.] *Decl.* 43 paraphrastically identifies the case as conflict of law, and notes its resemblance to a case used to exemplify the 'prejudiced' category of themes that come close to lacking issue: Hermogenes (34.8–14) is cited as *ὁ τεχνικός*. The preface to [Lib.] *Decl.* 49,

It is not only one's own teacher whose displays are worth hearing. Libanius defends the practice of closing school on days on which the sophists gave displays, claiming that this provides an opportunity to hear models to imitate (*Or*. 34.26–8). Philostratus reports Herodes discussing Alexander Peloplaton's performance with his advanced pupils after a declamation (*VS* 573); Marcus recorded his impressions of Polemo in a letter to his teacher Fronto (*ad M. Caes*. 2.10). In Athens, above all, one had the chance to hear many orators and sophists perform. Libanius was a pupil of Diophantus, but attended the displays of Epiphanius and Prohaeresius (*Or*. 1.16f.); characteristically, he was unimpressed by any of them, and presents himself as in effect self-taught (1.17), a picture to which Eunapius gives a nicely malicious twist (495). A student in first-century Alexandria, claiming that he has been unable to identify a suitable teacher, reports in a letter to his father that he is depending largely on his own efforts, supplemented by attending public displays (P.Oxy. 2190).[43] The arrangement scarcely seems satisfactory, but the public displays at least meant that he had some access to the 'living voice'. Reading the classics on one's own is only beneficial when the pupil has reached the stage at which he can understand them without a teacher's explanation (Quint. 10.1.15). Libanius, of course, would like us to assume that he was never at any other stage.

Guided reading of the classics was an important part of what went on in the rhetor's school. When Libanius (*Or*. 62.12) speaks of the labour of reading poets, as well as orators and other prose writers, it is not clear whether he is describing the course in rhetoric specifically or the whole of a literary education, including the school of the *grammatikos*.[44] But the orators, and especially Demosthenes, were central to his teaching. In his end-of-year speech (§6.1) he rebukes his errant pupils for their neglect of

commenting on the difficulty of organizing cases in which two parties accuse each other, reports that 'those who have written treatises on division' recommend treating defence and accusation as separate wholes rather than opposing them head-by-head, accepting the risk of tedium for the sake of clarity. This is puzzling, since Hermogenes comes to the opposite conclusion (55.18–56.3), as does Zeno (318.27–319.4) and all the commentators.

[43] Rea 1993; Cribiore 2001, 57f.

[44] Wolf 1952, 32f. Cribiore 2001, 226–8, argues for the importance of poets in rhetorical classes, but nothing can be inferred from 'dramas' (surely metaphorical) in Lib. *Ep*. 1066.2.

Demosthenes (*Or*. 3.18). He reminds errant former pupils how he strove to overcome their dislike of Demosthenes (*Or*. 35.16); their fathers provided them with enough money to buy the books they needed (35.12).[45]

Libanius reports to one father (*Ep*. 894.2f.):

> Your sons have spent one of the two months concerned with both the classics and myself, the second with the classics alone . . . But, Hermes and the other gods willing, we will make a start on the classes this month, on the fourth.[46]

It is clear from the defensive opening of the letter ('Do not blame me, but the occasion, which has brought many troubles, and from them grief, and from them tears') that the parent has expressed concerns about the delay in the start of these classes. The second month was therefore an interruption (possibly due to illness: *Or*. 1.268) of an expected pattern in which students were engaged in parallel with 'the classics' and 'myself' throughout. This suggests that Libanius was responsible for the practical classes, while the reading classes could be taken by his assistants even in his absence.[47] But reading was not always delegated in Libanius' school. In *Oration* 34 he replies to criticism by a pedagogue, who complains that three months of study have been lost. The details of the criticism will concern us later (§7.5); the relevant point here is that a pupil was required to read a book before being allowed to progress to a more advanced composition class (34.15). That required a class of about ten, and others were not available; so the reading of the book was delegated. The implication is that Libanius would normally have taken the text class himself; but since there were not enough to make a class, and Libanius would not take a one-pupil class himself, the pupil was assigned to read a text with an assistant. Presumably the assistant gave the one-on-one tuition that Libanius did not think a good use of his time (cf. Quint. 2.5.3f.).

[45] Cribiore 2001, 144f.

[46] The fourth of the month is Hermes' birthday: e.g. Plut. *QC* 738f.

[47] Wolf 1952, 64. Wolf also suggests that Lib. *Or*. 31.8 ('leading young people to the knowledge of the classics') may imply that the assistants' primary role was to take reading classes. Epictetus 1.26.13 provides evidence for older students supervising younger students' reading in a philosophical context; cf., in more elementary schools, Goetz 1892, 225, 646; Cribiore 2001, 42. But I do not know of any comparable evidence for schools of rhetoric.

In the light of Menander's lectures on Demosthenes, one would not in any case have expected all reading classes to be delegated. Texts were studied from the early stages of the course in rhetoric (Theon includes reading in his treatment of the preliminary exercises: see 61.28–31, and chapter 13 in the Armenian translation), and it is the elementary reading classes that are most likely to have been entrusted to assistants. Quintilian recommends close reading of historians and orators with students at an early stage of rhetorical training. He admits that an experiment in incorporating reading classes of the kind he describes into his own teaching had been unsuccessful;[48] but he says that it was the standard practice in Greek schools, where it was delegated to assistant teachers (2.5.1–4). The procedure he recommends involves members of the class reading a passage aloud in rotation; the tutor, who will have introduced the reading by explaining the details of the case, will then point out the features of rhetorical technique (2.5.5–9). It is also possible to read bad speeches and explain what is wrong with them (2.5.10–12). Menander's exegesis of Aeschines would presumably have pointed out missed opportunities and shortfalls by comparison with Demosthenes (§4.5).

Reading does not always require a teacher. Private study is essential for the breadth of reading a student needs (1.2.12); in fact, most of a student's time will be spent in private study—writing, learning, thinking, reading (1.2.11 f.). This is even more true when Quintilian has finished with the trainee orator (10.1.4) and turns his attention to the incipient and practising orator who has left the rhetor's school but needs to keep up his studies to enhance and maintain his facility (e.g. 10.5.19). At this level reading has a particular advantage: models must not be regarded uncritically, and it is easier to exercise critical judgement while reading than when listening to (and watching) a live performance (10.1.17, 24–8). Quintilian's reading-list (10.1) is directed towards this level.[49]

Lucian represents a caricature sophist ridiculing (in an

[48] His explanation is not entirely clear. Was the problem that he was using for relatively advanced students (*robusti fere iuvenes*) a pattern (students reading aloud, master providing commentary) more suited for less advanced classes, and failing to provide sufficiently sophisticated exegesis?

[49] On this and other reading-lists see Rutherford 1992; 1998, 37–53.

inversion of the choice of Heracles) the demanding requirement to study and imitate Demosthenes, Plato, and other classical authors (*Rhetorum Praeceptor* 9).[50] Conversely, a lecture on the proper route to literary success demands a thorough grounding in the poets (read with teachers) and orators before one approaches Thucydides and Plato (*Lexiphanes* 22). The separation of these two authors is reasonable: they are difficult, and there are aspects of their styles which trainee orators would do well to approach with caution. It is probably in this sense that Longinus (F49.100–11 = 211.24–212.7 Spengel–Hammer) distinguishes Thucydides and Plato from five 'flawless' authors.[51] Dio Chrysostom, advising an adult who will be studying independently, identifies Demosthenes and Lysias as the greatest of the orators, but recommends that he concentrates on Hyperides and Aeschines, whose qualities are simpler and easier to grasp (18.11).

The *Lives* of authors studied in rhetorical schools provide further evidence for the reading programme. Zosimus (§5.6, §9.5) begins his *Life of Demosthenes* (3 Westermann) with a transition from the reading of Isocrates which marks the increasing level of difficulty (1–8):[52]

> Next in second place it is time to move on to the Paeanian. And do not be annoyed with me, divine individual, because you are placed second, I would gladly say: for if the truth needs be told, you yourself have procured this order for yourself, since you do not give yourself freely at all to youth by the greatness of your utterances, nor do you allow those who are not initiates in rhetoric to enter upon what is yours. That is why we were initiated in those of Theodorus' son before thus daring to take in hand your mysteries.

Marcellinus makes similar use of the imagery of initiation at the

[50] A little later (17) the reading of recent texts and declamations is recommended, instead of Isocrates, Demosthenes, and Plato. The dismissal of the classics is parodic, but the recommendation of modern authors is not: Menander 386.30 cites Callinicus alongside the great second-century sophists Aristides, Polemo, and Hadrian (§3.10). Libanius claims that his own writings were already studied in schools in his own day (*Or.* 1.155); they certainly were in late fifth-century Alexandria (§9.9 n. 99).

[51] Heath 1999, 70.

[52] Zosimus' *Life of Demosthenes* is discussed in Drerup 1923, 215–22. Note that the order of treatment is determined by pedagogical considerations, not (as Gärtner 1972, 793 assumes) by chronology.

beginning of the *Life of Thucydides* to mark the progression from Demosthenes to Thucydides:[53]

Now that we have become initiates in Demosthenes' divine speeches and contests, and are full of deliberative and judicial thoughts and sufficiently replete, it is time next to take our stand within the rites of Thucydides.

The sketch of Thucydides' life, and of his literary characteristics, that follows is a necessary introduction: 'It is necessary first to speak of the man's family and life: sensible people should examine these things before the speeches.' The function of such *Lives* as a preface to exegesis can also be seen, for example, from the seamless connection between a *Life of Isocrates* (3 Westermann, perhaps also by Zosimus)[54] that ends 'So much concerning the marvellous orator', and the beginning of the scholia: 'Next it is now necessary to proceed to the actual exposition of his speeches . . .'.

It is clear from what we have seen of Menander's commentary (§6.3) that, while the basics of issue-theory provided a relatively elementary course, more sophisticated instruction could be given in the context of advanced reading classes. As Quintilian (8.pr.1 f.) observes, beginners need a relatively brief and simple introduction to theory (to avoid demoralizing them or stifling their initiative), but a deeper understanding is required for mastery of the subject. In Menander sophisticated theory is used as a tool for understanding Demosthenes' technique, while the exegesis of Demosthenes is used as a vehicle for advanced theoretical instruction. But the interlinked theoretical exposition and exegesis are intended to inform the students' practice—in

[53] For the language of initiation in connection with a sophist's exegesis of classical authors cf. (e.g.) Choricius *Or.* 7.7. Mystery imagery in rhetoric: Korenjak 1999, 214–9; in teaching more generally: Sluiter 1999, 191–5. Maitland 1996, 541, entirely misunderstands the educational context of this passage ('This chapter begins with the suggestion that a study of Thucydides would be a refreshing change from that of Demosthenes. This may be a stab at contemporary enthusiasms, or indeed a veiled attack on Dionysius of Halicarnassus . . .'). Her paper contains many other errors, of which the most extraordinary is that citations of [Dionysius] are consistently attributed to Proclus (548 f., 549 n. 48, 554).

[54] Zosimus *Life of Demosthenes* 3.15–17 tallies with *Life of Isocrates* 3.2–4 Westermann. For possible evidence of a *Life of Aeschines* by Zosimus see §4.6 n. 58.

both senses: both their practice compositions, and the speeches they will make in due course as practising orators.

7.5 EXERCISES

Just before the end of his lecture on mistakes in declamation (§7.3), [Dionysius] makes a brief statement about the true nature of imitation (373.14–21). Simply reproducing something that is found in a classical author is not enough; what should be imitated is not what (for example) Demosthenes said, but the underlying artistry that he displayed in saying it. A successful imitation will prompt the reader to reflect not 'that is very like something Demosthenes said', but 'that is just how Demosthenes would have said it'. Longinus similarly encourages us to imagine how one of the classical authors would have said this (*Subl.* 14). Seneca (*Contr.* 10.pr.11) says of an unsuccessful attempt at imitation that there was no resemblance, 'except when he said the same thing'. This, for [Dionysius], would be another mistake in declamation. But it is, he adds, a lengthy topic which will be considered later in the treatment of imitation that has already been promised (373.21f., cf. 364.23f.). This appears to foreshadow a further programmatic lecture in the same course (or perhaps another, more advanced course of instruction). A lecture on imitation would be a good complement to the first, on the evaluation of texts. Quintilian's juxtaposition of advice on the reading of texts (10.1) and on imitation (10.2: cf. 10.2.14 on judgement and imitation) shows how closely related these topics are.

What is learned through precept and the observation of models is transformed into habitual, internalized skill by practice. So practice is fundamental to rhetorical training. Fronto jocularly suggests that Marcus has turned from rhetoric to philosophy to reduce his workload. Rhetoric involves difficult and time-consuming labour (*de eloquentia* 4.5, 49.1–6 van den Hout^{2}).[55] When a text is being studied in a philosophy class the students apparently take turns to read a section; the master then asks questions about and explains the text. When it is his turn the student has to keep up an appearance of attentive understanding—which

[55] van den Hout ad loc. is wrong to take *exaggerandum* and *ambigendum* to refer to the argumentative section (already mentioned): rather, amplification and diminution in the epilogue (not otherwise mentioned).

he can do by nodding, a tactic also used by the student who is too timid to ask the teacher to explain something, according to Plutarch (*Mor*. 47d). But he can doze off when others are on the spot, and at the end of the day he goes away without any homework. By contrast, the student of rhetoric goes away with work to do (composition, learning by heart, and so on) and therefore (by implication) also has to pay attention in class (*de eloquentia* 5.4, 151.2–152.2). Other passages from rhetorical sources could be cited.[56] But perhaps the most telling evidence of the strength of the sense that rhetoric demands practice as well as theory comes from outside. Galen insists repeatedly on the need for practice in the study of medicine, and turns to rhetoricians to illustrate his point. It is not enough for them to learn the method of division: they need to supplement their theoretical knowledge with practice (*Plac. Hipp*. 2.3.16), and they engage in exercises every day (*Plac. Hipp*. 9.2.31, referring to declamation).

Theon gives some idea of the nature of practical classes at the elementary stage. First the teacher gives students classical models to learn (65.30–71.1). When they are in a position to write their own compositions, the teacher should dictate directions about (for example) the order of heads and manner of treatment (71.2–72.3): this, presumably, is the stage to which progymnasmatic texts such as [Hermogenes] or Aphthonius are addressed. Then the master corrects the students' compositions—not all the errors, but only a few and the most glaring, to avoid discouraging students; the teacher should explain the errors and give advice on how to improve (71.4–9). It is a good idea to set themes handled by classical authors, so that after trying their hand the students can compare their own work with a classical model (71.9–16).

Quintilian assigns some elementary composition exercises, such as fable and anecdote (*chreia*) to the grammarian (1.9); these involve paraphrase and the kind of grammatical manipulation known as 'declension' (κλίσις), in which the model is recast using different grammatical constructions (1.9.5).[57] On this scheme the

[56] Himerius 74 is an exhortation to constant practice (delivered ἐν θεριναῖς, according to the title in R: an end-of-year performance, to encourage the students to go on practising during the summer holiday?). Cf. Choricius 18.

[57] See Hock and O'Neill 2002, 51–73. A wooden schoolbook of the late third century (Bodleian Greek Inscription 3019) published in Parsons 1970 includes a *chreia* varied in case and number (143 f.), and a paraphrase of *Il*. 1.1–21 (135–8); cf. Morgan 1998, 198–226 for further examples.

programme of preliminary exercises with the rhetor begins with narrative (2.4.2).[58] The Greek practice, to judge from the theoretical treatises, assigned fable and anecdote to the rhetor as well. For Nicolaus fable is clearly a rhetorical exercise, though it affords continuity with the poetry which pupils have been studying previously (5.19–6.7); so is anecdote, though there is a difference between those who treat it as a simple exercise in declension (who place it first in the series) and those who have made it a more sophisticated exercise in composition based on a structured series of heads (17.15–19.6). Theon, who places anecdote first, gives detailed instructions on declension (101.8–103.2), although that is not the only use to which he puts the exercise; he subjects it to confirmation and refutation (104.15–115.22), a practice which Nicolaus opposes (21.18–22.9), but he does not have the division into heads recommended by the other extant treatises.[59]

Whatever the scope of the introductory course, it is important that the teacher provides appropriate feedback and guidance. Quintilian is clear that excess is a better fault than deficiency; judgement will develop with maturity, but sterility is incurable (2.4.1–8). Hence, like Theon, he says that feedback on an exercise should not be unduly severe or discouraging (2.4.10); not every fault should be corrected; where a fault is pointed out an explanation should be given, and the teacher should show how to make an improvement (2.4.12). If the composition is beyond remedy, the teacher can go over the material again and tell the pupil to make another attempt at it (2.4.13). When a student has gone too far, encouragement and correction can be combined: that is praiseworthy now, but there will come a time when it will not be accepted (2.4.14).

The next step, according to Quintilian (2.10.1 f.), is declamation: the order *suasorias iudicialesque materias* is probably significant, in view of the evidence that *suasoriae* were regarded in Roman schools as an easy transitional stage (Quint. 1.9.2, Tac. *Dial.* 35.4). But the distinction between *suasoriae* and *controversiae* was not current in Greek schools,[60] where the transition may have

[58] Quintilian on progymnasmata: Viljamaa 1988; Henderson 1991.

[59] Heath 2003*d*, 148 f.

[60] Hence it would be best to avoid the Latin terminology in a Greek context, especially since there is a tendency to confuse (as Brunt 1994, 32, seems to do: §9.6) the distinction between *suasoria* and *controversia* with that between

been handled differently. Here we return to Libanius *Oration* 34 (cf. §7.2). Libanius reports and responds to several criticisms concerning wasted time. One of the causes was the interruption of studies in the aftermath of the riots in Antioch in February 387: Libanius replies (6–12) that the student and his attendant fled Antioch against his own advice, stayed away longer than necessary, and did no work while they were away. So the loss of study-time was not the teacher's fault; some students stayed, and he went on teaching when numbers dropped to twelve, and even seven (13f.).[61] Reference is also made to Libanius' illness—but this was not his fault, and his proneness to ill-health was known before the student enrolled in the school (17–21); to the closure of the school to observe honours to the dead—but this is in accordance with established custom (22–5); and to days off school when the sophists gave displays—but this is not time off teaching, so much as an opportunity to hear models to imitate (26–8: cf. §7.4). In addition (the grievance which immediately precipitates the complaint: 3–5), lessons end after a pupil has given a public display.

However, and most relevantly to our present concern, it is also objected that day after day has been spent on 'contests' (ἅμιλλαι) against Homer and Demosthenes (15f.).[62] Libanius' response is that the pupil had finished part of the course, but could not go on to 'more complete' compositions without reading a book first. 'More complete' suggests declamation, which was defined as a complete subject (ὑπόθεσις) as distinct from the piecemeal treatment of the preliminary exercises (Nic. 5.20f., 24.20 etc.: cf. §7.1). As we have seen (§7.4), because there were not enough pupils to make up a reading class the boy was set to read a text with an assistant; meanwhile, Libanius himself corrected the 'contests'. That is, in addition to reading the text the pupil was given further practice in less advanced composition under Libanius' own

historical and fictive themes. Most *suasoriae* were based on history or legend, but not all: the crucial distinction was between the judicial *controversia* and the deliberative *suasoria* (respectively *de factis* and *de futuris*: Quint. 7.4.2, cf. 2.4.25). A judicial declamation based on historical events is a *controversia* (e.g. Sen. *Contr*. 9.2); fictitious deliberative themes are *suasoriae*.

[61] On the flight, and pupils who stayed, see also *Or*. 23.20–8.

[62] A good discussion of this passage in Wolf 1952, 65. At 34.16 (199.1f.) perhaps read ἅπερ ἂν ἐγώ (Festugière 1959, 480 n. 1).

supervision—perhaps not in a class, but as written assignments which Libanius corrected.

The complaint over the time spent on these 'contests' implies that the boy had already been working on them. What were they? We met the word in connection with Libanius' performance at the opening of his school in Antioch (§7.2); but that was surely not the kind of exercise that might occupy and frustrate a pupil not yet ready for advanced composition. Dio recommends two exercises to a mature non-specialist who sought his advice (he thought them more suitable for such a person than 'the fictions of the schools'): replying to passages in the books he was reading that had especially pleased him (18.18), or paraphrasing them. Either might give a clue to the nature of the evidently less advanced composition that irked Libanius' disaffected student. Quintilian does not think much of writing replies to old speeches as an exercise (10.5.20), but his comment shows that others did. It may seem that replying to a classical speech would be a rather advanced exercise, but Theon includes 'counter-speech' (*ἀντίρρησις*) among the preliminary exercises (70.7–23, and chapter 17 in the Armenian). Perhaps it would be suitable for students who had been through the preliminary exercises but were not yet ready for declamation proper, in that the original text provides a template to follow. But paraphrase is also a possibility; 'contest' would be an appropriate term for this, since Quintilian (10.5.5–8) says that paraphrase should involve 'contest and rivalry' (*certamen atque aemulationem*), not just reproduction of the original. Sopater speaks of rivalry with the text (*ἁμιλλώμενος τῷ ἐδάφει* 506.15 Gloeckner) in his 'transformations' (§7.1 n. 20), which demonstrate techniques for the stylistic manipulation of passages from Homer and Demosthenes—a pairing which matches the exercises Libanius set for his pupil.

Once a student does progress to declamation there are two ways of introducing each exercise. The tutor may give a division together with more detailed instruction on the handling of arguments and emotions as prior guidance; or he may give only a bare outline (that is, a division), supplying the more detailed instruction by way of feedback on the students' attempts at the theme. Quintilian sees merits in both approaches, but thinks it better to give sufficiently clear guidance in advance to prevent students going astray, rather than to let them fall into error and

provide correction (2.6.1–3). Beginners will need most detailed prior guidance; this can be reduced progressively for more experienced students (2.6.4–7). An indication of the kind of guidance that might be given can be gained from the *Minor Declamations* attributed to Quintilian and Sopater's *Division of Questions*. The format, slipping backwards and forwards between comment on and exemplification of the treatment of a given theme, can be found already in a first-century papyrus.[63]

Auditing students' exercises and giving feedback could be a tedious chore. Libanius tells a correspondent (*Ep*. 128) how he received his letter in mid-class, while listening to a student; because he was eager to read the letter he found the student's long-windedness annoying and was unable to concentrate.[64] Experts at the highest level could dictate their own terms, and might avoid the chore. Latro and Nicetes refused to hear and correct student compositions; they only provided models (Sen. *Contr*. 9.2.23). But this was abnormal. In general, providing feedback was an essential part of the teacher's role. Libanius reminds errant former pupils how he used to correct errors in language and explain how to put right mistakes in their exercises (*Or*. 35.16: 'mistakes' are πλημμελούμενα, as in [Dionysius]). Feedback was important to the student's progress: Cicero declaimed mostly in Greek, because otherwise he would not get correction and teaching from his Greek teachers (*Brut*. 310).

Some exercises were heard by the master alone, and feedback given to the individual student. Libanius (*Or*. 5.46–8) reports an occasion when classes were cancelled because the students were reluctant to attend. Libanius initially put this down to idleness (one might suspect that the concurrent festival had some-

[63] BM inv. 256: Kenyon 1898; Milne 1927, 101–18. Other examples of such collections are listed at Heath 2003*b*, 144 (but I now date Theon to the fifth century: Heath 2003*d*, where see 142 n. 45 on the title of Theon's work): add Anastasius of Ephesus (cf. §6.5), quoted by Georgius fol. 143r (Schilling 1903, 733–5).

[64] When at last he had a chance to read the letter and saw how elegant it was he abandoned his lesson-plan and read the letter out to the class as a model. For a letter as a demonstration of the writer's invention and style cf. *Ep*. 1242.3. Philostratus (*VS* 628) mentions a dispute about epistolographic theory between Aspasius of Ravenna and the younger Philostratus. Letter-writing in rhetorical training: Kennedy 1983, 70–3; Schenkeveld 2000, 44f.; Cribiore 2001, 216; Poster 2004.

thing to do with it), though the sequel showed that it was due to a premonition. One student, who had repeatedly been told to bring with him a (written) composition that needed to be discussed with the tutor when there was an opportunity, seized the chance to secure Libanius' full attention. The student read out his text,[65] but Libanius' feedback was pre-empted by the collapse of the entrance to the classroom (where he had been standing to listen until a providential attack of gout forced him to sit down).

But exercises were also done before the full class. Students could benefit from hearing fellow-students' exercises and the tutor's feedback (Quint. 1.2.15, 21–9). Quintilian notes especially that beginners may gain more from imitating what is commended in their peers' performances than the models provided by the master, which are likely to be beyond their powers (although he also stresses that a good teacher will adapt his models to the capacity of the pupil: 2.3.7–12). But listening to fellow-students' exercises may expose you to bad models as well, so feedback in these cases is important not only for the performer, but also for the rest of the class: they should not be allowed to conclude that a fault is acceptable (2.6.4). The tendency to indulge in exuberant applause when listening to fellow-students' performances, to which Quintilian attests disapprovingly (2.2.12f.), would presumably make it particularly important to give clear guidance on what was and was not acceptable.[66]

It was customary, according to Quintilian, for students to learn and declaim their own compositions frequently. He disapproved: pupils should concentrate on written composition and exercise their memories on classical models; they should learn and declaim their own work only occasionally, when they had produced something of special merit (2.7). One of the disadvantages of frequent declamation emerges in a later passage (10.5.21–3). Declamation in schools should be realistic, and students should therefore treat whole themes (*ire per totas materias*), not just pick

[65] More than 400 lines: lengthy, to judge by Menander 423.3–5, 434.7f., 437.2–4. Quintilian (10.3.32) mentions a pupil whose compositions were too long because his notebook was too wide (the extra space would make revision easier if left blank: if filled it upsets the number of lines as a standard measure of the length of a composition).

[66] Conversely, hissing and mocking in the classroom: Phil. *VS* 604. Misbehaviour in philosophy lectures: Plut. *Mor*. 44d–48b.

out the highlights. The implication is that some teachers did not require students to treat themes in full and thoroughly, but only to give parts of a speech (10.5.23); large classes, the limited time available on days fixed for displays, and parental expectation of frequent performance made complete treatment impossible.

Quintilian's stress on the importance of written composition goes with his disapproval of improvisation by beginners. The pupil has to learn how to compose correctly before he can learn how to compose quickly (2.4.15–17, cf. 10.3.9f.). Quintilian (10.7) recognizes that the practising advocate must be able to improvise; but he maintains that some pause for reflection is needed (and is usually available in a real court situation), and he criticizes declaimers who show off with an immediate response to a theme given to them (10.7.20f.). Quintilian was not alone in this. Cicero had presented the same point of view (*de Or.* 1.149–53). The importance of frequent written composition in Libanius' school is evident from a reference to former pupils filling their notebooks with rhetorical compositions many times a month when they were younger (*Or.* 35.22). [Plutarch] (*On the Education of Children* 6c-7a) is also strongly opposed to children learning improvisatory speaking.[67]

It follows that we should take care not to overstate the importance of improvisation in schools, or indeed for mature sophists. Aristides' huge contemporary reputation and long-term status were not impaired by his refusal to improvise (Phil. *VS* 582 f.). According to Philostratus (514) Isaeus too did not improvise; Pliny's testimony does not confirm this (*Ep.* 2.3), but whatever the truth Philostratus evidently did not think failure to improvise implausible or discreditable on the part of a sophist such as Isaeus. Likewise Dionysius of Miletus did not improvise (523), while Philostratus' teacher Proclus prepared his declamations the day before (604). Philostratus himself takes it for granted that some will be good at improvisation, others at prepared speeches (565). It would be entirely unrealistic to suppose that improvised declamation was the staple of rhetorical education.

We should, finally, consider some evidence of progression in the themes of declamation. In an analysis based on the declamations mentioned in Philostratus, Kennedy stressed the predominance

[67] Might Menander's emphasis on premeditation (§5.10) be connected with this?

of historically based themes in Greek (as distinct from Roman) declamation.[68] But it is not self-evident that the themes favoured by leading virtuoso performers for public display would be identical with those favoured for use in schools. To test this, we need to extend the census to texts of scholastic origin. Kennedy notes that the proportion of historical themes in [Apsines] is comparable to Philostratus; it is about 65% by my estimation.[69] However, of 100 declamation themes analysed or mentioned in Sopater's *Division of Questions* only sixteen specify a (quasi-) historical event or person. Sopater's 16% is comparable with Hermogenes *On Issues*, which by my estimate has around 17% historical themes; Zeno has only one historical theme (342.24f.).[70]

Thus we seem to have a difference, not only between sophistic display and the schools, but also between different levels within the school curriculum. Comparing a historically specific theme with a non-specific variant may help us to understand the reasons for this difference:

(i) A poor man is recalled from exile despite the opposition of a rich man; after his return the poor man is murdered, and the rich man is accused (Marcellinus *RG* 4.409.10–17).

(ii) Demosthenes is recalled from exile despite the opposition of Demades; after his return Demosthenes is murdered, and Demades is accused (Sopater *Division of Questions* 14.24–16.5; Sopater *RG* 5.130.1–10 (cf. 4.342.26–343.5); Syrianus 2.85.13–26).

These two themes place different demands on the student, which in at least three respects make sense of the progression towards historical themes in more advanced teaching. First, in purely practical terms, the historically based variant assumes some knowledge of Demosthenes, Demades, and their historical circumstances; so students will need to have built up a base of reading before they can handle it adequately. Secondly, from a rhetorical point of view, the historical variant is more testing: the need to adhere

[68] Kennedy 1974: see further §9.6. Cribiore 2001, 228–38, notes that historical themes dominate in the papyri.

[69] The corresponding figure in [Hermog.] *Inv.* is 41%, but this author's obsession with incest increases the proportion of fictive themes.

[70] The original may have contained other Greek historical themes suppressed by Sulpicius Victor, who has introduced some Roman historical themes.

to the constraints of the historical scenario limits the freedom to make up facts which Quintilian identified as a weakness in declamation (7.2.54–6). Thirdly, the historical theme puts the student more closely in contact with the cultural tradition, which would be less strongly emphasized in the elementary rhetorical courses that laid the foundations of argumentative technique than in the advanced courses that provided it with stylistic polish and cultural depth (§9.9).

7.6 CONTINUING STUDY

Galen emphasizes the importance of practice for rhetoricians (§7.5); he also says that they go on practising throughout their lives (*CAM*, 1.245.5–11 Kühn). Libanius, criticizing former pupils who do not make use of their rhetoric, contrasts them with others who have had successful careers (§9.2). The latter have preserved what they learned, but these have forgotten; the others have kept up their studies, but these would sooner pick up a snake than a book (*Or*. 35.13, cf. 17f., 25). This is a useful reminder of the difference between the non-specialist majority of the rhetorically trained social elite, and the minority of expert rhetoricians. A socially adroit mediation of this difference can be observed in one of Plutarch's *Quaestiones Convivales* (9.13), in which rhetoricians at a symposium are invited to join in the conversation by applying their professional skills to a long-standing problem in Homeric scholarship.[71] This choice of subject-matter ensures that none of the guests will be excluded by what follows: a continuing interest in poetry might be expected of any cultured gentleman, whereas a continuing interest in technical aspects of rhetoric would imply some professional need. Nevertheless, it is assumed that the other guests have had a sufficient grounding in rhetorical theory to enable them to follow and appreciate the rhetoricians' arguments.

It is with a view to this need for continuing study that Quintilian describes in Book 10 a regime for someone who has completed his school study of rhetoric, and is aspiring to (or beginning, or keeping up with) practice as an orator. This involves wide-ranging reading (10.1), painstaking and self-critical written composition

[71] Heath 1993.

(10.3), revision of one's compositions (10.4), and exercises to improve fluency—paraphrase, preliminary exercises, such as thesis and common topic, and declamation (10.5). Quintilian is in no doubt that declamation remains a valuable form of exercise for an adult orator (10.5.14), although it is also important to become familiar with the conditions of real courts (10.5.17–20, 12.6.4–7: cf. §9.6). In any event, daily practice is advisable (10.7.24).

8
Technography

QUINTILIAN denies that rhetoric can be learnt from a technical handbook (2.13.15: §7.4). Why, then, did rhetoricians write such books and put them into circulation? The formal diversity of the literature suggests a diversity of functions, and it would not be realistic to suppose that we can discriminate between the many overlapping possibilities precisely enough to reach a confident conclusion about how and why each individual text came into being. My aim in this chapter is more modest and exploratory: to offer a brief survey that may help to clarify some possibilities. But there are more basic questions about the mechanics of the composition and transmission of technical literature that need to be considered first.[1]

8.1 GALEN

In what follows it may prove helpful to keep in mind the rather extensive commentary which Galen provides on his own books. That these comments often reflect conventionalized *topoi* of modesty is not crucial; provided the kinds of situation they envisage are realistic, they provide models for understanding the rhetorical literature.[2]

Not all of Galen's writings were designed to be published or preserved. Some were dictated to beginning-level students (19.11.17, 49.6–50.2); others were written at the request of friends or (presumably more advanced) pupils (19.10.4–7; 11.18, 49.4). Texts 'written' for friends might in fact be dictated (19.56.15–17);

[1] Ancient compositional practices: Dorandi 2000; Small 1997 collects useful material on working methods. Schenkeveld 2000 is a pioneering investigation of the public and purpose of rhetorical treatises.

[2] The following summary draws especially on *On His Own Books* and *On the Order of His Own Books* (on these 'autobibliographical' essays see Mansfeld 1994, 117–47; translation in Singer 1997, 3–29), but also on other works. All references are by volume, page, and line in Kuhn (*On His Own Books* is 19.8–48, *On the Order of His Own Books* 19.49–61).

sometimes the friend who requested the text sent a stenographer to take it down (19.14.6–19; 11.194.7–195.1; 14.630.5–9). These requests were often for a 'reminder' (*ὑπόμνημα*) of something they had heard in a public lecture or demonstration (19.10.4–7; 21.18–22.2; 2.779.2–4; 5.1.1–5); they might also have questions to which they sought answers (1.224.1–6). Sometimes the request was for material that the friend could use in his own public discourse (19.14.13–19). On one occasion he gave a fellow-student who was returning home texts which he could use as the basis for a public display (19.17.4–8; 2.217.6–11).

Such occasional texts generally had the characteristics of a lecture rather than a formal treatise (*σύγγραμμα* 11.194.7–195.1; cf. 7.854.17; 17a.314.9f., 822.14–823.2; 18a.102.5–11, 529.15–530.2). They were also adapted to the ability of their recipients (19.49.4–6), varying in length and style, and in the comprehensiveness with which the topic was treated (19.10.15–11.1); but they could never provide fully comprehensive or precise instruction, since that requires a thorough grounding in the essentials (19.11.1–5). It is only from the 'living voice' (§7.4 n. 40) and through practice that one can learn a subject properly, not from books. But if one does not have access to teachers a clearly written and thorough book can be of considerable help, especially after repeated readings (6.480.1–12; 12.984.1–6). So Galen sometimes took care to write in a way that would be more generally accessible, elucidating the subject for those who had not been present at his demonstrations, as well as providing a reminder for those who had (2.651.1–652.1).

Galen did not necessarily keep copies of his occasional compositions (19.11.16–18), other than those which had been written up in a more finished version (19.13.2f.). Many of them were put into wider circulation without his consent, either by the friends to whom they were given (19.50.18–51.7, 56.15–17; 11.194.15f.; 14.630.5–9), or by those who found them among the friend's papers after his death (19.10.7f.; 2.217.6–17). Slaves provided another avenue by which texts could get out of his control (19.41.16–19), including notes on logic which he had made as a student for his own use (19.43.1–8). This created a situation in which misattribution was easy. Since texts were sometimes falsely ascribed to Galen (19.8.1–9.5) such misattributions were presumably not always piratical. But sometimes other people

deliberately presented pirated versions of Galen's occasional writings with cuts, additions, and changes as their own lectures (19.9.16–19, 17.8–12).

In the following sections I shall not systematically draw attention to the parallels in the rhetorical literature to points arising in this summary of Galen; but readers will be able to observe many.

8.2 COMPOSITION

Libanius composed pen-in-hand, and then had his secretary prepare a fair copy. His working pattern could be disrupted by the arthritis that prevented him from writing (*Or.* 3.5), or by the death of the secretary who used to write up his compositions in a more legible script than his own (*Or.* 1.232). This pattern was doubtless common (compare Marcus to Fronto, *ad M. Caes.* 5.41). But for ancient authors 'writing' often meant dictating to a secretary. Pliny, for example, composed in his head, and then summoned his secretary to take dictation section-by-section (*Ep.* 9.36.2, cf. 9.40.2). Dio Chrysostom positively recommends dictation as an aid to composition, since it is easier and closer to making a speech; written composition may be more forceful, but dictation helps us to compose more readily (18.18). Quintilian takes the opposite view (10.3.19–22). Writing is slower, and so gives more time for reflection; self-consciousness makes one reluctant to pause or revise when dictating. A slow secretary can interrupt the train of thought at crucial moments; it is also easier to concentrate when alone. Quintilian, like Dio, was referring to the composition of exercises and speeches, but the same factors applied to the composition of technical or exegetical literature. Jerome, in the preface to Book 3 of his commentary on Galatians (*PL* 26.427c), gives a splendid vignette of the psychological pressure which an impatient secretary's body language places on you if you pause for reflection while dictating.

The pressure imposed by dictation has occasionally left identifiable traces in the rhetorical technical literature. [Hermogenes] mentions it explicitly (*Inv.* 161.15–18):

> When we read the classical authors, and especially the master [sc. Demosthenes], we find thousands of fine things; whatever springs to

mind under the pressure of dictation (πρὸς τὸ κατεπεῖγον τῆς ὑπαγορεύσεως) I shall give you.

There is the same implication in this apology from Hermogenes *On Types of Style* (348.5–7):

There are few examples of this kind of method. So I was not able to produce on the spur of the moment an example of this kind of method from the orator [sc. Demosthenes] or anyone else.

A very different working method may be conjectured for [Aristides] *On Political Discourse*, the first part of which is richly illustrated, while the latter part (129–40) is entirely lacking in illustrations; the simplest explanation is that the author first set out the theoretical framework, then began to introduce examples, but failed to complete the process of revision.[3] Dictation of *On Types of Style* would be consistent with the expansive and often rambling style characteristic of this work. The following passage illustrates its tendency to sprawl (224.9–23):

Since it is not possible to find any type of style worked out separately by itself at length—unless one speaks of an individual's work as a type of style (for example, the Platonic or Demosthenic style): but since, as I said, it is impossible to find solemnity or any of the others by itself without interruption in any of the ancients, and it is not possible either to understand properly or to produce a mixture (whether in discourse, or in anything else at all) without first recognizing the distinct elements from which the combination arises or could arise (for example, the nature of white and black, from which when they are combined grey arises): since, then, this is the case, it is necessary to set all these aside (I mean the styles of individual writers, such as Plato, Demosthenes, Xenophon, and all the rest) and to proceed to the original elements (so to speak) of discourse and treat each separately.

Nevertheless, *On Types of Style* is composed in an elaborately formal manner; *On Issues*, by contrast, is a curt handbook. That does not necessarily imply a difference in the mechanics of composition, but must have implications about the different aspirations of the two texts (§8.4).

There may also be traces of the dynamics of composing through dictation in Origen's biblical commentaries. In his discussion of John 4.32 ('I have food to eat of which you do not know') he explains why it makes sense to say that not just humans

[3] Heath, 2004*c*.

and angels, but also Christ needs spiritual nourishment. He moves on to another point, but then adds: 'It is not untoward to say that the Holy Spirit is nourished as well: look for a passage of Scripture which suggests that to us. Also collect the parables about meals from the gospels' (*In Joh.* 13.219–21). This looks as if an afterthought has prompted a stopgap memorandum to himself that was dictated, but not caught and corrected in the preparation of a fair copy. Origen's commentaries were on a huge scale (the first two books of the commentary on John cover just seven verses), and we know a good deal about the (admittedly exceptional) arrangements that made this massive productivity possible. The project was supported by a wealthy patron, who provided a team of stenographers (seven or more, working to a rota) to take dictation, with associated copyists and calligraphers (Eusebius *HE* 6.23.1f.). Jerome claims that the patron was responsible for putting into circulation texts which Origen had not revised (*Ep.* 84.10).

Secretaries skilled in shorthand (a standard Greek term is *ταχυγράφοι*, 'quick writers')[4] would exacerbate one of the problems identified by Quintilian (the pressure to compose without pause for reflection or revision) while reducing another (the interruption of one's train of thought). But shorthand was not simply a useful adjunct to the standard practice of composing written texts by dictation. It also facilitated the recording of oral expositions, such as displays or lectures. In his sixties Origen began to allow stenographers to record his 'public discourses', that is, his exegetical sermons (Eusebius *HE* 6.36.1).[5] The impromptu nature of these discourses is sometimes evident. At the beginning of the homily on the witch of Endor Origen observes that the reading is too rich in content to be covered in its entirety in a single sermon; so he asks the bishop to decide which part he should preach on and reports the bishop's reply. The large body of homiletic material from the church fathers reflects the extent

[4] Ancient shorthand: Boge 1973; Teitler 1985. McDermott 1972, 271f., eliminates Tiro from the story. Origen's use of stenographers: Preuschen 1905. More generally: Deferrari 1922; Hagendahl 1971; Schlumberger 1976; Scheele 1978.

[5] For this interpretation see Nautin 1977, 92–4. Nautin questions Eusebius' claim on chronological grounds, but verisimilitude is sufficient for present purposes.

of this practice. For example, the heading to John Chrysostom's sermons on *Hebrews* records that they were 'posthumously published from shorthand (ἀπὸ σημείων) by Constantine, presbyter of Antioch'. Socrates (6.4) distinguishes between the discourses published by John himself and those recorded by stenographers. But the sermons which John published need not have been written out in advance; he may instead have revised the text of the sermon as recorded by stenographers.[6] Such a procedure might have attractions for a teacher who regularly lectures on a subject in which he has developed a particular expertise, and who decides at some point that his lectures (unscripted, but the fruit of extended study, reflection, and rehearsal) were worth publishing; he could engage a stenographer to record the next iteration of the course.

Explicit evidence for the use of shorthand writers in sophistic contexts is sparse. In the second century Herodes included ten shorthand writers among gifts given to Alexander Peloplaton (Phil. *VS* 574). In the third century Malchion, a sophist in Antioch, made use of shorthand writers to expose the elusive heretic Paul of Samosata (Eusebius *HE* 7.29).[7] In the fourth century Prohaeresius asked for shorthand writers to be fetched from the courts to record an improvised declamation, to prove that he was able to deliver it a second time verbatim from memory (Eunapius 489). Norman, arguing against the use of shorthand writers by sophists, observes that Malchion was following ecclesiastical practice, and that the circumstances of Prohaeresius' performance were exceptional;[8] he does not mention Herodes' gift, but could have pointed out that Herodes was himself an exceptional figure. But the argument that the sophists' eschewal of shorthand writers 'was in keeping with their tradition of memorization, public exhibition and limited distribution, with which the methods of the stenographer were incompatible' is flawed. Dictation to a secretary was commonplace, and does not become less compatible with memorization because

[6] Goodall 1979, 62–78, examines internal and external evidence for stenographic recording of John's exegetical sermons. The co-existence of sermons that were prepared for publication and less polished ones that represent unrevised transcripts provides an interesting opportunity to compare the improvisation of a speaker highly trained in rhetoric with his written output.

[7] On the interpretation of this incident see Richard 1959.

[8] Norman 1960, 123f. (270 in the reprint).

the secretary knows shorthand; and the fact that a text is written up from shorthand notes has no bearing on how widely it was circulated. In the absence of any reason why rhetoricians should not have made use of stenographers, the argument from silence is exceptionally weak.

Gregory of Nazianzus, in a farewell sermon after his dismissal from the see of Constantinople (*Or*. 42.26), refers to 'lovers of my discourses . . . pens seen and unseen'. This takes us a step further: shorthand makes it easier for orally delivered texts to enter written circulation without their authors' consent. When the sophist Philagrus pretended to be improvising a declamation he had previously given elsewhere he was exposed to ambush (members of the audience joined in the recitation) because copies, presumably unauthorized, had reached Athens (Phil. *VS* 579). The unauthorized publication of Quintilian's lectures by his students (1.pr.7, §7.1) shows that strictly academic discourse was exposed to the same risk.

Was this process aided by shorthand? In a sense, that does not matter. Student note-taking is (not surprisingly) well-attested. Cicero's son, when a student in Athens, wrote to request a Greek *librarius* to copy out his lecture notes (*commentarii*, *ad Fam*. 16.21.8). Lucian's Hermotimus has spent the best part of twenty years studying philosophy, hunched over his notebook taking notes (*ὑπομνήματα*) of the classes he attends (*Hermotimus* 2). Amelius compiled a hundred books of notes (*σχόλια*) of Plotinus' classes (Porphyry *Life of Plotinus* 3.46f.). Once notes had been taken, by whatever means, there was nothing to prevent them entering circulation, and we should not infer from Quintilian's protests that publication by students was anything other than a familiar part of academic life. Philodemus *On Frankness* is headed 'from Zeno's lectures' (*ἐκ τῶν Ζήνωνος σχολῶν*); in *On Signs* 'Philodemus simply reproduces his own notes on Zeno's lectures, plus those of his fellow pupil Bromius, who . . . had attended a different set of Zeno's lectures from himself, appending for good measure the Epicurean Demetrius of Laconia's very similar account of the same debate'.[9] The fifth-century Platonist Plutarch encouraged Proclus to take notes (*σχόλια*) of his classes

[9] Sedley 1989, 103f., adding: 'it seems not over-bold to suggest that many of his works should be thought of as in some ways comparable in content to Arrian's transcripts of Epictetus' teaching.'

on *Phaedo* with a view to publishing a commentary (ὑπομνήματα) under Proclus' own name; Proclus' commentary on *Timaeus* was likewise based on Syrianus' lectures, though this did not exclude the exercise of independent judgement in its preparation (Marinus *Life of Proclus* 12f.). The superscription to John Philoponus' commentary on Aristotle's *Prior Analytics* identifies it as notes from Ammonius' classes. Asclepius' commentary on the *Metaphysics* is also identified as notes of Ammonius' oral teaching; the expression used here (ἀπὸ φωνῆς) is a common formula in Neoplatonist commentaries indicating their origin in oral discourse.[10] The prolegomena to the *Categories* and the commentary on the *Prior Analytics* preserved under Ammonius' own name are described in the same terms, although without any indication of who recorded them. In rhetoric, the superscription to Georgius' commentary on Hermogenes identifies it as a record of his oral discourse (again, ἀπὸ φωνῆς); a note at the end says that the transcription was made by Zeno *skholastikos* (§3.8, §9.5). It is relevant to recall the instances of teaching mediated by pupils discussed above in Chapter 3 ('Apsines and Aspasius', §3.2; 'Evagoras and Aquila', §3.9).

Nor should we necessarily infer from Quintilian's comments that the students had done their work badly. Cicero retrospectively disparages *On Invention* as casual extracts from his student notes (*commentariolis*, *De Or.* 1.5). That is a useful way to distance himself from a youthful work; Quintilian takes the cue, and assumes that the work's shortcomings are attributable to the teacher (3.6.59). Needless to say, that is not the view which he invites us to take of shortcomings in the texts that were put into circulation under his own name by the pupils who had taken notes of his lectures (1.pr.7). Yet it may be that Quintilian's oral expositions were adequately reported, but simply did not have the comprehensiveness, organization, stylistic polish, and carefully constructed *persona* that Quintilian aspired to in his written formal treatise. Nevertheless, student notes are not (as any lecturer will be aware) an entirely reliable medium.[11] Unauthorized publication from notes was often associated with distortion (Sen. *Contr.* 1.pr.11 *falsi commentarii*).

[10] Richard 1950. Neoplatonist school practices: Sorabji 1990, 5–10; Praechter 1909 = 1990, 38–40.

[11] Westerink 1962, pp. xxxvii–xl, gives an example of note-taking gone wrong.

Even when there is no distortion of substance, one would not expect student notes to approximate closely to the lecturer's *ipsissima verba*. Origen, discussing the authorship of *Hebrews*, recognizes that its style is non-Pauline but believes that the ideas are Paul's; he compares the author to a student taking notes (*σχολιογραφήσαντος*) of what his teacher says (*PG* 14.1309.11–15). The student envisaged by Origen is clearly not trying to produce a verbatim record. But that was the professed aim of some note-takers. Arrian claims that he tried to write down the discourses of Epictetus as a 'reminder' (*ὑπόμνημα*) to himself, but to do so as far as possible verbatim (*Ep. ad Gellium* 2).[12] Seneca refers to those who attend philosophical lectures with their notebooks, aiming to record the words rather than the substance (*Ep.* 108.6). How was it possible to approximate in any measure to a verbatim record? Teachers sometimes dictated notes to students (Theon 71.2–4), probably mainly with beginners. But what might be appropriate for an outline of basic theory would not be feasible for extended exposition. We cannot assume that notes were typically dictated in advanced courses, and therefore still face the problem of distortion.

Here the question of shorthand does become significant. Shorthand does not guarantee accuracy (Quintilian claims that his own speeches were spoiled by the *notarii* who recorded them: 7.2.24); but if student note-taking was facilitated by shorthand, a closer approximation to a verbatim record could be expected. It is sometimes assumed that Quintilian's students used shorthand to record his lectures.[13] But there are grounds for caution. In particular, the social status of shorthand raises doubts. The disdainful view which Seneca takes of those who exercise the art of shorthand writers (*Ep.* 90.25), and Libanius' description of it as a servile skill (*Or.* 18.131),[14] give reason to doubt whether training in shorthand and literary education went together. On the other hand, the future emperor Titus, educated in the imperial household with Britannicus, managed at some point to acquire a facility

[12] Opinions differ on the degree of fiction in this preface: Wirth 1967; Stadter 1980, 26–9; Mansfeld 1994, 109f.; Dobbin 1998, pp. xx–xxiii. Boge 1973, 90–2, is prepared to believe that Arrian used shorthand.

[13] Boge 1973, 64, 70. Russell translates 'notare' (1.pr.7) as 'shorthand'.

[14] See (e.g.) P.Oxy. 724, a second-century contract to train a slave in shorthand.

in shorthand that rivalled that of his professional secretaries (Suet. *Titus* 2f.).[15] The problem is not a simple one.

A late second-century papyrus of Plato's *Republic* (P.Oxy. 1808) has marginal annotations partly in shorthand, demonstrating 'a rudimentary and incomplete knowledge' of the system.[16] This establishes that one person, at least, combined advanced cultural interests with a sub-professional knowledge of shorthand. Was he exceptional? It is difficult to answer such a question, because we rarely if ever have adequate, still less complete, knowledge of any individual's education. Consider Gregory Thaumaturgus. Gregory of Nyssa's 'biography' speaks of his having undergone a complete secular education (*PG* 46.905.34f.). What does this vague expression include? We would probably not have inferred from this alone that Gregory's education included Latin, studied 'not with a view to perfect fluency, but so that I should not be wholly unacquainted with this language'; it was at his Latin teacher's instigation that he began to study law alongside rhetoric (before he went to study law at a more advanced level at Beirut). We know this only because Gregory himself records the fact, and that was the result of the very unusual concatenation of circumstances (he was diverted from Beirut as a result of his encounter with Origen) which made these facts relevant to the panegyric which he composed on leaving Origen's school (*Panegyric on Origen* 56–9: cf. §6.1).[17] It is thus only by chance that we have this illustration of the variety of subjects that one might study alongside the 'core' subjects, acquiring a sub-professional knowledge. The fact that shorthand is not mentioned is not evidence that Gregory did not study it at some level: for even if he did, he had no reason to mention it.

Athanasius studied with a shorthand teacher and *grammatikos* before entering the clergy (Rufinus *HE* 1.14); if he studied rhetoric at all, it was not at an advanced level.[18] But it is possible that some students whose early schooling followed this pattern did go

[15] Teitler 1985, 41f.; Boge 1973, 64.

[16] McNamee 2001, 109, cautiously noting the possibility (114f.) that in these notes we have 'the recorded remnants of a lecture'.

[17] Gregory's early career: Lane Fox 1986, 517–28. The attribution of the *Pangeyric* to Gregory has been questioned (Nautin 1977, 81–6, 183–97), but for present purposes it is enough that it reflects *someone's* early career.

[18] Shorthand: Teitler 1885, 116. Rhetoric: Barnes 1993, 11. Kennedy 1983, 255, suggests that Athanasius used rhetoric's 'techniques of invention, but not of

on to study with a rhetor. The only objection to this possibility would be the status-based argument, that those on a trajectory to advanced literary education would not study shorthand.[19] But a bilingual schoolbook of (perhaps) the third century includes the phrase 'I go out to the school of the arithmetic/shorthand/Greek/ Latin/rhetoric teacher',[20] suggesting a connection between shorthand teaching and elementary schooling on an educational path that would lead to the rhetor's school. By the end of the third century, at least, that would not be surprising. In his discussion of the social origins of imperial *notarii* Teitler concludes: 'a process was initiated in the third century . . . which, by the turn of the century, resulted in the imperial stenographers being of not too humble social birth.'[21]

In the fourth century Gregory of Nyssa gives an account of Eunomius' early career (*Against Eunomius* 1.49f.): the son of a working farmer, he learned shorthand, gained employment as a secretary, acted as pedagogue to his employer's children, and was fired with enthusiasm for rhetoric. The account is heavily polemical, and the reference to shorthand might be taken as one of the series of social put-downs from the perspective of someone for whom rhetorical education was taken for granted.[22] But Gregory of Nazianzus took a close interest in the education of his niece's children, who studied shorthand (*Ep.* 157.2) and rhetoric (*Ep.* 167, 174–7, 187, 190).[23] The combination of rhetoric and shorthand can be paralleled among the pupils of Libanius.[24] Rhetoric and shorthand could be combined, just as rhetoric and law could be (§9.4). When we think of Libanius' expressions of disdain for or hostility towards these subjects we must not swallow the rhetorical slant naively. The point is not that Libanius' personal

arrangement or style', which would be consistent with study of rhetoric at a relatively elementary level. Stead 1976 shows a limited grasp of late ancient rhetoric.

[19] McNamee 2001, 100. [20] Dionisotti 1982, 98f.

[21] Teitler 1985, 67 (supporting evidence: 64–8).

[22] Eunomius' background and education: Vaggione 2000, 1–29, perhaps still not fully alert to the tendentiousness of hostile sources (see 184–7 for evidence of how sharp the divergence between polemic and reality could be). On the social class of the Cappadocian fathers: Kopecek 1973.

[23] Teitler 1985, 153. Hauser-Meury 1960, 128–33, assumes that different sons must be involved: *contra* Teitler 1985, 92f., 298.

[24] Lib. *Ep.* 300.2, with 366.4; 324.2. Libanius and shorthand: Teitler 1985, 24f., 27f.

viewpoint was biased, but that his task was not to express a personal viewpoint so much as to achieve an effect in context; and he had at his disposal the rhetorical resources of a culture which devoted careful attention to techniques for speaking selectively and tendentiously (as Menander's commentary shows: §6.2).

This evidence suggests, not necessarily that shorthand was commonplace, but that there would be nothing surprising if the students of a fourth-century rhetor included some who had a knowledge of shorthand (perhaps at a less than fully professional level). By the fifth century, when Zeno recorded Georgius' lectures, shorthand was evidently not unexpected in a sophistic context: a sophist known as John 'the shorthand-writer' is attested in Alexandria in the 480s (§9.5). The further back we go, the less grounds we have for confidence; but neither can we confidently exclude it.

Mention should also be made here of the contribution of memory. We have reports of some remarkable examples of the memorization of written texts.[25] Damascius mentions two pupils of the sophist Eunoeus who had memorized Demosthenes' public orations and the whole of Thucydides respectively (*Life of Isidore* F60 Athanassiadi). But these are less interesting for present purposes than the impromptu memorization of oral performances. Galen writes scornfully of those who, lacking even the basic education in grammar and rhetoric, cannot follow his lectures; he takes it for granted that the combination of natural talent and education will make a man able to reproduce any lecture that he hears immediately, either orally or (failing that) in writing (5.64.4–65.10). Proclus is said to have been able as a student to reproduce Olympiodorus' lectures word-for-word immediately after the class (Marinus *Life of Proclus* 9). What is singled out as remarkable here is not the ability to reproduce lectures, so much as the ability to reproduce lectures that, because of Olympiodorus' rapid delivery, other students in the class were not even able to follow. But Proclus' talent was no doubt unusual. It must be significant that Genethlius' ability to 'memorize a complete declamation at single hearing' is worthy of special comment (§3.10).[26]

[25] Small 1997, 126–31.

[26] Phil. *VS* 523 puts the ability of the pupils of Dionysius of Miletus to memorize his declamations down to frequent repetition rather than any special talent or technique; for his comment (524) on the corruption of these memorized declamations cf. Dio Chr. 42.4 on the corruption of his own works.

We may well doubt whether even Proclus' or Genethlius' recall came close to anything that we should recognize as verbatim. Yet it would hardly be enough to reproduce only the sequence of arguments in a declamation; expression was a key element in the artistry of a rhetorical display. On the other hand, a rhetorician (perhaps Longinus)[27] who discusses techniques for memorizing oral performances and lectures at varying levels of detail stops just short of claiming verbatim accuracy (*On Memory* 180–203 Patillon = 204.23–205.22 Spengel–Hammer). So when Libanius speaks of students collaborating in reconstructing his declamations from memory (*Or*. 3.17), or enthusiastic members of an audience learning the text of his performance before they leave (*Or*. 1.88), it may be best to take an agnostic view of what is envisaged. Verbatim recall would not, in any case, be essential for the kind of technical lecture that is our primary concern here. Memory, individual or (as in the case of Libanius' students) collaborative, of the substance of an oral exposition would suffice.

8.3 COMPILATION AND TRANSMISSION

The composition of a technical work occurred within a continuing process of tradition and innovation, and some thought must be given to the dynamics of this process if we are to have an adequate understanding of the nature of these texts. Existing literature might be assimilated into new compositions more directly than we are used to, and the texts might be transmitted more freely. Commentaries were especially vulnerable to such treatment, as we can see from the complex history of the scholia to Hermogenes (§3.8) and to Demosthenes (§5.1–12). But technical treatises were not immune.[28]

The Anonymus Seguerianus is an obvious example. It is overtly a compilation that assembles material from a range of existing authorities. In its extant form, it has also demonstrably under-

[27] The attribution is uncertain. The obvious fact that the essay is not part of Longinus' *Art of Rhetoric* does not warrant the inference (Patillon and Brisson 2001, 125) that it is not his work; in favour of the attribution see Aulitzky 1927, 1411–13. It is, at any rate, by a rhetorician with clear Platonist inclinations.

[28] As well as Galen (§8.1) see Artemidorus 2.70, asking users of his treatise on the interpretation of dreams not to add to the text or leave things out. Fluid transmission of technical literature: Reynolds and Wilson 1991, 234–6.

gone epitomization. This is proved by passages in later commentaries on [Hermogenes] *On Invention* which cite the same range of authorities (Alexander, Neocles, Harpocration, Zeno), and which preserve material not found in the extant version.[29] A less obvious case is [Apsines]. The text is preserved in two recensions, and shared disruptions (such as the lacuna at the beginning of chapter 6, and a dislocation in 1.4 that can be corrected from the hypothesis to Isocrates 8) show that the text had already been exposed to corruption when the two recensions diverged. Authorial revision is therefore ruled out; the text in one recension has been revised by a later hand.[30] This treatise is not a compilation in the same way as the Anonymus Seguerianus, but variations in style and presentational technique between different sections have made some scholars suspicious of its integrity. The final chapter, on the epilogue, has attracted particular attention. Patillon supposes that it replaces the original treatment of the epilogue, Kennedy that it substitutes for one absent from a text which its author did not manage to complete.[31] The evidence is not, in my view, sufficient to establish multiple authorship. It may be that the sections were composed separately over an extended period, and that the treatise as a whole has been assembled from what were originally short essays on specific aspects of rhetorical technique.

More detailed analysis of the treatment of the epilogue reveals that [Apsines] has compiled material from multiple sources: in the discussion of recapitulation he has failed to integrate his borrowings completely.[32] That is consistent with a general

[29] Getting at this material is not straightforward. Since editors of the Anonymus have not collected it, it is still only available in Walz, and must be pieced together from two volumes, since when he printed the anonymous commentary in *RG* 7 Walz did not reproduce the extracts in the commentary attributed to Planudes already printed in *RG* 5 (where the superior text of the *RG* 7 version has to be reconstructed from the apparatus). The relevant passages are: *RG* 7.752.5–9 + 5.395.13–397.3; 7.762.18–763.15 + 5.403.16–404.2 + 7.763.17–766.4 + 5.406.18–410.5 + 7.766.4–16 + 5.410.5–7. Careful examination might reveal further material from the original text that is not identified as such by the names of the sources.

[30] Patillon 2001, pp. xxviii–xxx.

[31] Patillon 2001, pp. xxx–xxxi; Dilts and Kennedy 1997, pp. xvi–xvii (but θεώρημα is not unusual (see §6.2) and is not equivalent to *topos*).

[32] Heath 2002*b*, 662–7. In Nicolaus' *Progymnasmata* (itself imperfectly transmitted: Felten 1913, p. xx) the collation of views is also not entirely consistent (Felten 1913, pp. xxvii–xxxii).

impression that his treatment of the epilogue is less directly rooted in teaching than the earlier part of the treatise, with its catalogues of 'principles' (*θεωρήματα*: cf. §6.2). It is striking, therefore, that there is no treatment of the epilogue in [Hermogenes] *On Invention*. Some scholars have taken this as evidence that we do not have the treatise in its original form.[33] But there is reason to believe that the text is as the author organized it: the introduction to Book 3 carefully sets out a programme (accidentally disrupted in transmission), and Book 4 begins with a summary of what has preceded.[34] If we take [Apsines] and [Hermogenes] together, the *prima facie* anomalies seem to constitute a pattern. It is not obvious why the epilogue should stand apart in this way. It may be relevant that the epilogue's primary function is amplification, which is easier than demonstration (§7.1); that the epilogue is partially covered in teaching on issue-theory (§7.1); and that an elaborate epilogue is the part of the standard structure most likely to drop out in routine forensic practice, as distinct from declamation (§9.7–8). Whatever the explanation, the example indicates that we should not be too hasty in assuming that apparent anomalies are due to accident or deliberate adaptation in transmission.

Given the variety of possible methods of composition or recording (including ones which, by our standards, seem unsatisfactory and prone to distortion), and the risks to which technical texts were exposed in transmission, the fact that any rhetorical technography has survived in a reasonably stable textual form may come as a surprise and a relief. This may be related to the strength of the sense that professional rhetoricians in late antiquity clearly had of individual ownership of these technical treatises—both their own (they used them self-assertively: §7.3) and others' (their interest in attribution extended to conjecture when they were faced with an anonymous text).

[33] Radermacher 1913, 873; Keil 1907, 213 n. 1. Rutherford 1998, 105 n. 2, considers the possibility that Book 4 (or 3 and 4) has 'replaced an earlier book on epilogue', but reserves judgement: 'one cannot be sure that works on *εὕρεσις* from this period always included a treatment of the *epilogue*.' On the presence of material on style in Book 4 see §7.1.

[34] Patillon 1997, 2068–73, 2076f., is good on the unity and coherence of the work.

8.4 PURPOSES

The contrasting characteristics of the treatises on preliminary exercises provide a useful starting-point for thinking about the variety of purposes and audiences for technical writing on rhetoric. [Hermogenes] is the least polished, and retains traces of its origin in the classroom (§7.1). Aphthonius, though not innovative in content, is an improvement in respect of presentation. It is also stylistically more polished; unlike much technography, this text is a display of the author's rhetorical ability. This suggests that the purpose is in part self-promotion. One could conjecture that a younger rhetorician might hope that the prestige obtained from publishing such a work would help to recruit students, or to secure appointment to a civic or imperial chair. [Hermogenes] and Aphthonius could be read by students as well as by teachers, who might use it as a basis for their own teaching. Theon, by contrast, addresses teachers specifically. Chapter 2, on the conduct of classes, includes a catalogue of examples which he eventually admits are not all relevant to beginners (70.24f.); his readers are meant to select from the material he gives them. Moreover, his ambitions show themselves in substantive innovation; he aims at a reform of the progymnasmatic syllabus (59.13f.). Theon's role is therefore that of an expert giving other teachers the benefit of his expertise. This is a role which Quintilian adopts even more clearly; he explains, for example, that he has given a comprehensive account of theory, and that teachers will have to judge what to extract for beginners (8.pr.3). Nicolaus, by contrast again, is explicitly making a compilation from earlier texts (1.7–14), claiming no originality (§7.3 n. 37); that he does not achieve a wholly consistent integration of his material (§8.3 n. 32) suggests that he is writing at a certain distance from the classroom. The elaborate comments on which aspects of rhetoric each exercise serves suggest that his purpose is more theoretical than didactic. The opening address to 'children' (1.2–7) will then be a formal device, indicating the indirect beneficiaries rather than the direct target audience.

We have already commented briefly on the divergence in style and presentation between Hermogenes *On Issues* and *On Types of Style* (§8.2). The curt and cryptic expression of *On Issues* suggests a less ambitious text. That inference is supported by the

introduction to *On Types of Style*, which is conscious of making an original contribution to the study of Demosthenes' style (216.17–22). The complexity and sophistication of the system of stylistic analysis developed in *On Types of Style* perhaps reflect a distance from workaday teaching. Here, then, we may suspect 'academic' motives: the desire to advance the subject, and in doing so to win the respect of fellow professionals (§7.3). Such concerns are not entirely absent from *On Issues*; Hermogenes engages in sporadic debate with theoretical positions which the scholia identify as those of Minucianus. But the promises of more detailed instruction to follow are evidence that *On Issues* originates in a context close to teaching (§7.1). Indeed, these promises suggest that Hermogenes' exposition was directed towards students, rather than (as Gloeckner conjectured) teachers.[35] However, it is possible that the motive for recording this student-directed exposition was to provide a model for other teachers to follow; if so, in this text, too, we have an expert giving other teachers the benefit of his expertise.

There is evidence that [Hermogenes] *On Invention* was a dictated text (§8.2). But the dedication to Julius Marcus at the beginning of Book 3 suggests a higher degree of formality than, for example, Hermogenes *On Issues*.[36] By contrast with those works which look forward to subsequent classes (§7.1), this dedication looks back to technical instruction which the author imparted to the dedicatee in the past (126.2–4). Longinus, too, presents his *Art* as a concise reminder (*ὑπόμνημα*) for those who had attended his lectures regularly (F48.313–23 = 192.14–193.1 Spengel–Hammer). A reference work for those who have studied rhetoric makes good sense in the context of the need for continuing study beyond school (§7.6): the rhetorically trained might well find a textbook useful for reference later in life. But it is also possible to extend one's knowledge by reading new theory. Longinus suggests that, even without having heard his lectures, a talented and intelligent reader might be put on the right track by the contents of this book (F48.323–8 = 193.1–193.6). Longinus

[35] Gloeckner 1901, 114: 'non id sibi proposuit, ut pueris discentibus, sed ut viribus docentibus praecipua artis capita exponat.'

[36] Heath 1999, 48, assumes that the dedicatee was a Roman: but the name is consistent with a Greek with Roman citizenship. On the dedication of a single book in a larger collection see Rabe 1913, p. ix.

has provided a limited starting-point, from which the gifted and creative student will be able to extrapolate (F48.435–9 = 197.13–18). It should be noted that Longinus does not think that attending his lectures is sufficient preparation: the techniques which he has described in outline must have been observed carefully in the student's reading and practised (F48.321–3 = 192.23–193.1). Julius Severianus, too, presents his compendium of the principles of judicial oratory as an easily readable reminder, but warns that it should only be read after extensive study of Cicero (355.13–16).[37]

Longinus' teaching and expertise were wide-ranging (§3.6), but in rhetoric his reputation was founded less on technical aspects of theory than on his ability as critic; so one might envisage Porphyry's association with Nicagoras, Maior, and Longinus as an association with declaimer, theorist, and critic respectively (§3.7). In any event, Longinus was not teaching beginners, and that may explain why his *Art* does not adopt the typical order of exposition that emerged in the second century (§7.1). The progressive structure of the standard curriculum is irrelevant if one is teaching advanced students, or giving a retrospective overview to former students who have already mastered the basics of theory and achieved some measure of practical mastery.

Menander's treatise on epideictic is also addressed to a former student, though in a different way. It is a written composition (416.30) addressed to a specific individual (387.5f.), a pupil or former pupil (ἑταῖρος). The addressee has had a rhetorical training in Athens (392.14f., 426.5; cf. 396.26–31), and may be about to return home, since Menander gives instructions on a farewell speech to be made on leaving Athens for his native city or *vice versa* (393.31–394.12; cf. §6.1). We know that a student of rhetoric might be expected to give a display on his return home (Greg. Naz. *de vita sua* 265–9). The native city of Menander's student is Alexandria Troas: the addressee might deliver a *Trojan Oration* (387.3–28), and Menander makes many references to Alexandria Troas (423.17–19, 426.11–15, 429.1–3) and the city's cult of Apollo Sminthius (427.21f., 428.3–6, 444.2–20), with an extended treatment of the *Sminthiac Oration* (437.5–446.13).

[37] Cf. Gaines 1986 and Patillon and Brisson 2001, 242 ('un aide-mémoire, voire un mémento pour l'apprenti sophiste'), on the short treatise by Rufus.

The addressee is going to be a sophist (388.17); when he uses his public displays to comment on the political life of the city (390.14–17, 397.17–398.1: cf. §9.2) he will be able to say that he is offering the first-fruits of his rhetorical training to his native land (391.16). It is doubtless because he is to become a sophist that the informal discourse (*λαλία*), which might be used as a preface to a declamation or as a performance in its own right (§2.9 n. 54, §7.1), receives so much attention (388.16–399.10 etc.)

The scale of Menander's commentary on Demosthenes suggests a record of oral discourse. This might be a dictated composition (like Origen's commentaries), or a record of lectures; the closeness to the classroom (§6.2) may be evidence for the latter (unless a familiar style of exposition has been carried over into dictation). If it is a record of lectures, then either Menander employed a stenographer to record them (like Origen's sermons) or they were recorded by students (like commentaries *ἀπὸ φωνῆς*). The latter alternative would open up some speculative possibilities for the roles of Asclepius and Ulpian (§5.6, §5.9). John Philoponus' commentaries on the *Posterior Analytics*, *On Generation and Corruption*, and *On the Soul* have similar headings to that on the *Prior Analytics* (§8.2) with the rider 'with some observations of his own' (*μετά τινων ἰδίων ἐπιστάσεων*); Asclepius' clarificatory supplements to Menander might be so described. Since we do not need to assume that the whole corpus was committed to writing at one time, Ulpian might have been responsible for recording other lectures. These are, needless to say, wholly unverifiable conjectures, and do not attempt to exhaust the range of possibilities.

If we assume that the recording was done with Menander's approval or at his instigation, a motive is not difficult to see: the commentary secured his reputation among his professional peers and successors. But a record of the lectures might also have served a function within the school. Menander could hardly have covered the whole Demosthenic corpus in detail with each cohort, and a collection of past lectures would provide students with a valuable resource to support their private study (§7.4). The exposition of the *Fourth Philippic*, which is avowedly not exhaustive (p. 152.2), at one point directs us to commentaries ('the exegetes' p. 154.4f.) to fill out what is not covered in detail (§5.9, §6.5). It would doubtless be useful if the collection of commentaries to

which students had access included Menander's own detailed expositions. Philostratus' teacher Proclus gave his students access to his own library as a supplement to his lectures (Phil. *VS* 604). Libanius, intervening on behalf of a law teacher whose fees have not been paid, mentions his books as one of the things that make the fees worthwhile; the reference is presumably to a personal library made accessible to his students (*Ep*. 1539).[38]

What of Menander's commentaries on technical literature (§4.4)? The commentary on Hermogenes *On Issues* was written in an existing tradition which continued to flourish (§3.8). The commentary on Minucianus' *Progymnasmata* had no known precedent, and no immediate successors. Some of the theoretical questions that one might expect a commentary to cover are addressed by Nicolaus' reflections on the structure and rationale of the preliminary exercises, and it was Nicolaus' teacher Syrianus who wrote the first commentary on Hermogenes *On Types of Style*. Thus issue-theory was exceptional in attracting an early and continuous tradition of commentary. The subject's potential for intricate development and its fundamental role in rhetorical training might be enough to explain this phenomenon. But we should also ask why the commentary format was favoured. The precedent of Maior (§3.5) shows that this was not the only possible format for advanced exposition of issue-theory, and the commentators certainly did not regard Hermogenes' views as inherently authoritative. Having a common point of reference to which theoretical debate could be anchored might be convenient for the theoreticians, but it is also possible that there were advantages for teachers in the emergence of a recognized standard teaching text. The fact that *On Types of Style* did not establish itself as a standard text (at least until Hermogenes' reputation had grown sufficiently to make it standard) might have been a consequence of its sophistication and complexity—it did not lend itself readily to teaching; but there is nothing to suggest that any other text on style became an established standard either. Instruction in style was an advanced subject (§7.1), handled by teachers at the highest level, who had less need to rely on another's textbook. By contrast, the basics of issue-theory might be handled by teachers at a lower level, for whom the guidance of a textbook would be

[38] McNamee 1998, 275.

useful. Moreover, a relatively standardized elementary curriculum would be convenient for a high-level teacher whose students had progressed from a number of different elementary teachers. He might wish to correct what they had learned previously, as Menander does in his commentary on Demosthenes; but at least he would know what they had learned.

What, then, of the commentaries? It is difficult to imagine that students taking elementary courses would need the kind of sophisticated exposition found in them (or their extensive discussion of divergent opinions), whether in lectures or as a reference resource in their teacher's library. It is easier to imagine one of the advanced students who had attended Menander's lectures on Demosthenes wishing to follow up the criticisms of Hermogenes or Metrophanes by consulting a commentary. (It is difficult to see a comparable need for a commentary on the progymnasmata: that could be why Menander's commentary was unique.) But at least some of the commentaries on Hermogenes show signs of their origins as lectures, Georgius most explicitly. So there were advanced courses on issue-theory. Who were they addressed to? The people who might have most need of a deeper and more reflective grasp of the theory are those who would go on to teach it. If *On Issues* could be used as a guide to teaching the standard introduction to issue-theory, then the people who are going to teach the course, and in particular the practical classes that develop the sketch contained in that introduction, would need a deeper understanding of the rationale and possibilities of the system. Russell comments impatiently on the attention which the scholia give to discussing the order of the issues in the exposition of the theory: 'All this is not arguing about the subject but about the best order of lessons in a textbook.'[39] That is true; but if you are going to teach a subject, the order of lessons is something well worth understanding.

Of course, we should not overlook the probability that the technical commentators also had academic ambitions, in the sense of wishing to contribute to the advance of the subject (§7.3). After all, the first commentary on a work on issue-theory was written

[39] Russell 1983, 42 n. 10. Discussion of the order of heads in the division of each issue, which is a substantive question about the optimal argumentative strategy, is of course not open to the same objection.

by Porphyry (§3.7). John of Caesarea was set the task of defending Hermogenes against critics by his teacher Paul (§3.8); that was a kind of research project, and would combine academic purposes (a contribution to the subject) with personal purposes (establishing a reputation—for his teacher as well as himself). The only entirely safe conclusion, therefore, is that the purposes of rhetorical technography were very various, and cannot be reconstructed with any confidence in individual cases.

9
The Relevance of Rhetoric

The emphasis placed on the practical orientation of rhetorical teaching raises further questions. What was the practice towards which rhetorical teaching was oriented? And how did that practice relate to its social context?

9.1 THE 'TRIUMPH' OF EPIDEICTIC?

In his comprehensive survey of the 'rhetoric of praise' Pernot succinctly expresses a widely held opinion when he speaks of the 'triumph' of epideictic eloquence in the second and third centuries AD.[1] A standard literary history of the period tells us that under the conditions then prevailing 'toute éloquence devient épidictique', and quotes with approval Bompaire's assessment of contemporary rhetorical technography and teaching:[2]

> En un sense le traité *Περὶ τῶν στάσεων* d'Hermogène est anachronique, et c'est par exemple dans le traité *Περὶ ἐπιδεικτικῶν* de Ménandre et de son continuateur qu'il faut chercher l'écho des soucis de l'école à cette époque.

There is no doubt that epideictic eloquence was important in this period. There were good social and ideological reasons for this, given the place that honour had in the structure and functioning of late ancient society.[3] No doubt the trend to the greater elaboration of epideictic theory in third-century writers such as Menander reflects this fact. But a broader perspective on the output of the schools of rhetoric casts doubt on Bompaire's understanding of their concerns. It was precisely Hermogenes' allegedly 'anachronistic' *On Issues* that became the object of a

[1] Pernot 1993, 102f.

[2] Reardon 1971, 136, quoting (n. 37) Bompaire 1958, 269.

[3] Lendon 1997 provides an excellent analysis. Of course, the social structures that gave epideictic its importance were not unique to late antiquity: Quintilian (3.7.2) rejects a distinction between epideictic and 'pragmatic' oratory on the grounds that epideictic is required in *negotia*.

vast industry of commentary from the third century onwards (§3.8, §8.4). Menander himself was one of the first of those commentators (§4.4), and also applied his expertise in issues and their division to the minute analysis of Demosthenes' judicial and deliberative speeches (§4.2); it was on this, not the epideictic treatise, that his ancient fame rested.

By far the largest part of the huge mass of rhetorical technography extant from late antiquity is concerned with techniques of judicial and deliberative speech. This preponderance does not provide a straightforward measure of the relative importance of judicial and deliberative as against epideictic oratory. Because epideictic is in one respect easier than judicial and deliberative oratory (§7.1) it does not need such elaborate theorization; so one would expect it to be less visible in the technical literature. Even so, the absolute bulk of judicial and deliberative theory is sufficient evidence that these forms were of central importance in rhetorical training, and the survey in Chapter 7 supports the inference that they were its most prominent component.[4]

The theory of the triumph of epideictic eloquence therefore presents a paradox. If oratory was primarily epideictic at a time when rhetoric was primarily judicial and deliberative, then the pattern of rhetorical training reflected in the theorists was ill-adapted to the realities of contemporary oratory. Some scholars have accepted that conclusion:[5]

> The educational tradition, in fact, never really caught up with the real situation under the empire, when epideictic was the centre of activity for many orators, though of course forensic and deliberative speeches were still needed.

But that sentence needs to be read with care. It does not say that epideictic was the centre of activity for *most* orators, or that those who centred on it did so to the *exclusion* of other kinds of oratory. The observation is perfectly consistent, therefore, with judicial and deliberative speech still being the central activity for most orators, and with few (if any) devoting themselves exclusively to

[4] Pernot recognizes that epideictic had a comparatively marginal role in the curriculum: 1993, 70 (cf. 350–2 on the marginalization of epideictic in stylistic theory); the subsequent claim that 'cette absence sporadique de l'éloge confirme paradoxicalement son triomphe' (103) seems strained.

[5] Russell 1998, 25.

epideictic. But if that were the case, it would be difficult to maintain that rhetorical training had become detached from the real situation. The justifiably cautious claims advanced fall short of the conclusion they are meant to sustain.

Forensic and deliberative speeches were indeed still needed. Throughout the empire courts and local and regional councils took decisions about matters which, even if not epoch-making in world-historical terms, were important to those involved.[6] People still entered into disputes that had to be resolved, and still needed to reach decisions on matters of common concern. As a consequence, it was necessary that there should be a social elite in which the ability to speak competently in public on judicial and deliberative questions was widely disseminated—that is, a rhetorically trained elite. The simplest inference is that the continuing focus of rhetorical training on judicial and deliberative persuasion was a response to this continuing need. It is, admittedly, conceivable that rhetoric was taught in schools in a way that failed to connect with the practical demands of contemporary courts and councils. But that, if true, would be surprising. In what follows I shall argue, on the contrary, that rhetoric remained closely integrated with its practical context.

9.2 CAREER PROSPECTS

Menander's treatise on epideictic provides evidence for the use of oratory in his pupils' future careers; epideictic is not the predominant feature. One of his illustrative examples envisages a pupil making a farewell speech to a fellow-student who is about to return home at the end of his studies (§6.1, §8.4). The departing student's future is pictured as follows (397.17–20): 'you will be your city's champion in courts of law, in speakers' contests, on embassies, and in literary rivalry.' Courts of law and embassies are clear enough. The meaning of 'literary rivalry' (*λόγων φιλοτιμία*) is suggested by similar expressions elsewhere: a little later a 'literary struggle (*ἅμιλλα*)' is a competition-piece of the

[6] Pliny *Ep*. 2.14.1 complains about the triviality of the cases he has on hand; other letters prove that this was not always true (2.11–12, 3.9, 4.9, 5.20). Pliny was, of course, at the top of his profession. But even minor cases need advocates: Quint. 12.9.

kind presented at festivals like the Museia (398.6),[7] and in Libanius 'literary contests (ἀγῶνες)' refers to a sophist's public declamations and epideictic performances (*Ep*. 364.4)—also intensely, if less formally, competitive (e.g. Lib. *Ep*. 405.11 f., *Or*. 1.37 f., 40–2, 87–91). 'Speakers' contests' (ῥητόρων ἀγῶνες), if the phrase is not to duplicate another item in the list, must designate a different activity; the reference is presumably to deliberative oratory in the city's council or assembly. Another option open to Menander's pupil is to enter the service of the emperor (399.27). If he is very well educated in rhetoric, he might teach (397.28); but if he does, he will not be like Isocrates, Isaeus, or Lysias (397.29)—that is, he will not be disengaged from the city's affairs. Menander's addressee, himself a prospective sophist (388.17), will comment on the city's politics in his informal discourses (390.14–17).

It comes as no surprise that a sophist's pupils would pursue careers that might involve some combination of advocacy, local politics, imperial service, or the teaching of rhetoric. As a matter of course they would be drawn predominantly from the social class that supplied the personnel for such careers. Philostratus' distinctive preoccupations mean that he tells us little about the careers of those pupils of second- and early third-century sophists who did not in turn became sophists (we shall meet one exception in §9.7); but if we look at his accounts of the sophists themselves we find that many were also active and successful in judicial and deliberative oratory and served on embassies.[8] The evidence will be noted in subsequent sections; for the present Philostratus' nephew Philostratus of Lemnos (*VS* 628) may suffice as an example: judicial and deliberative oratory head the list of his triumphs; declamation and improvisation follow as separate areas of achievement. It was not, it must be stressed, because they were sophists that they engaged in these public activities, but because these activities were typical for men of their social standing. Hence, as Bowie has observed, 'the indubitably relevant skills of rhetoric were not so monopolized by sophists as to give them an immediate advantage'.[9] Such a monopoly, had it existed, would

[7] Competitions: Pernot 1993, 63–5.

[8] Pernot 1993, 71–6.

[9] Bowie 1982, 37, responding to Bowersock 1969; see also Millar 1977, 83–101, 236–8; Lewis 1981; Brunt 1994.

have been striking evidence of the sophists' failure in their primary role as teachers. The fact that sophists were not systematically preferred for roles that involved public speaking (or, in the imperial service, official composition, including correspondence) suggests that they were successful in transmitting relevant skills to a sufficiently large proportion of their pupils to ensure an adequately broad pool of rhetorical competence within the elite.

Sceptics might propose an alternative hypothesis: that the skills which the sophists transmitted were simply irrelevant to public roles of this kind. After all, not every sophist was active in practical oratory; so, it might be argued, there was no correlation between the rhetoric which the sophists taught and success as an orator outside the sophists' closed and artificial world. The argument is unconvincing. It shows that the rhetorical skills which were possessed and imparted by sophists were not enough for success in public roles. Other personal qualities (such as wealth, status, personal connections, temperament, ability in practical affairs) were needed which did not correlate systematically with being—or with not being—a sophist. But it does not follow that the rhetorical skills possessed and imparted by sophists made no contribution to success in such roles. Nevertheless, if we are to establish a positive connection between the sophists' training and their pupils' capacity to fill these roles a further step is needed. Here we may turn to Libanius, whose well-known complaints about the decline of rhetoric in the late fourth century raise questions about rhetoric's relationship with its social context and its responsiveness to contextual change.[10] It must be remembered, however, that Libanius was not a social historian. He was a rhetorician, and his complaints need to be interpreted in the light of their rhetorical context (§6.1, §8.2). The picture that emerges is more complex than is sometimes supposed.

In his autobiography (*Or.* 1.6) Libanius tells us that, if his father had lived, he would not have become a sophist: his career would have taken him into local politics, advocacy, or the imperial administration.[11] We have here the same range of career prospects as we found in Menander. The criticisms of his professional

[10] Liebeschuetz 1972, 242–55.

[11] Libanius' senior uncle Panolbius was also opposed to his sophistic ambitions, and obstructed his plan to study in Athens; after Panolbius' death Phasganius proved more accommodating (*Or.* 1.13). See Pack 1951, 178f.

ability to which Libanius responds in *Oration* 62 likewise confirm that a sophist's pupils would be expected to enter careers in advocacy, in civic life, in teaching rhetoric, or in the imperial administration (62.5):

> Some . . . say that I may be good at making speeches, and better than most, but that I am not equally good as a teacher. At once they ask: 'Which of his pupils has distinguished himself in law-suits? Which in the ranks of politicians? Which from the teacher's chair? Which from the official's chair?' And they pre-empt those they questioned, and make themselves a gift of the answer: 'No one!'

What is interesting here is the implication that the sophist's training would help to equip his pupils to distinguish themselves in these posts; his pupils' failure to do so would hardly reflect badly on Libanius as a teacher if that were not expected. The same implication is found in *Oration* 35, where Libanius rebukes former pupils who, though now members of the political class in Antioch, avoid speaking in court (35.1) and in council (35.6); this default, contrasted with others' readiness to speak, reflects badly on their teacher. Libanius denies that he is to blame: other pupils of his have gone on to successful careers elsewhere, and the addressees were as good as them when they were still at school; delinquencies after they left Libanius' care are the cause of the problem (cf. §7.6). But the very fact that the blame needs to be shifted shows where it is naturally thought to lie.

In *Oration* 62 Libanius' initial response is to maintain that the fault lies not with him, but with the context in which he works: changing social and political conditions have brought rhetoric into disfavour with students and their parents, who see shorthand (8–16) or law (21–3) as better routes to social advancement. At first sight this argument may seem to miss the point of a criticism directed, not against rhetorical teaching in general, but against *his* teaching of rhetoric (the critics are likely to include his professional rivals). Libanius may have expanded the discussion in this way in part to distract attention from the criticism's individual thrust. But the emphasis on the difficulties facing rhetors in general also helps throw into sharper relief the individual success which he goes on to claim when he shows that his pupils have distinguished themselves as orators (27f.)—not, perhaps in great numbers as teachers (30–6), but in civic

life (37–40), the courts (41–9), and imperial government (50–62).[12]

Libanius praises one former pupil for the distinction he has achieved both in legal advocacy and in sophistic display (*Ep.* 1000.1):

> I am grateful to Priscio both for his former and for his latter achievements. The former were contests in the law-courts, the latter contests in the theatres—respectively an advocate's and a sophist's role. Because he was great in both on his own account he also made, and is making, my account greater.

Note, once again, that the teacher gains glory from the pupil's success both as advocate and as declaimer. These were not Priscio's only achievements; elsewhere we learn that he has delivered a panegyric on the emperor (*Ep.* 1053.1): 'Priscio who has won many victories in the law-courts, and many in the theatres that receive speeches, and filled the earth with his labours and pleased the emperor by his composition on him . . .' In this letter Libanius rebukes Priscio for his bad relations with Hilarius, governor of the province in which he is teaching and himself a former pupil. Despite his critics, Libanius' pupils achieved distinction in public service, too.

So Libanius assumes that his pupils' performance in subsequent careers would be seen as a direct reflection on the quality of his teaching. That assumption can be paralleled. To take just one example, consider the case of Tiberius Victor Minervius, who taught rhetoric in Constantinople, Rome, and Bordeaux in the fourth century and composed epideictic speeches and declamations. When Ausonius wants to celebrate him he first refers to the multitude of his pupils who had entered advocacy or politics ('mille foro dedit hic iuvenes, bis mille senatus / adiecit numero', *Prof.* 1.1–16). So we need to examine more closely how and why rhetoric would have been relevant to these careers.

[12] Elsewhere (*Or.* 1.151–3) Libanius seems to concede that his pupils were less successful than he had hoped, and offers by way of excuse that the best died young (though here he does claim to have trained successful teachers). On student careers see also *Or.* 11.186–8. For Libanius' pupils and their careers see the prosopographical study by Petit 1956, 154–8, 170–85; Wolf 1952, 75–92.

9.3 POLITICS

In his *Precepts on Politics*, an essay addressed to someone intending to enter political life in his own city (798b, 798de), Plutarch maps out two ways to make an entry into public life.[13] The spectacular route involves making a name for oneself by some conspicuous achievement. Since civic politics no longer provides opportunities for military leadership, overthrowing tyrants, or negotiating alliances, many of the short cuts to glory available in classical times are closed to the modern politician; but he can undertake public lawsuits, serve on embassies to the emperor, take the initiative in reforming abuses, or achieve success in important private cases, especially those which involve defending the weak against the powerful or opposing those who are powerful but corrupt (805a–c). The quieter route involves advancement under the patronage of an established political figure (805e–806b).

Plutarch has no doubt that oratory is essential for success in politics (801e, 819e), and he discusses the appropriate style for political speeches (802e–804a). So the restrictions on civic autonomy under the empire did not abolish the need for deliberative oratory in the management of civic affairs.[14] The parameters of feasibility within which cities operated were subject to severe external constraint. But not even classical Athens had been able to act without constraint, and the question of what is, in given circumstances, feasible is central to deliberative argument (feasibility is one of the heads of purpose on which the division of the practical issue is based).[15] That the decisions open to cities lacked the glamour of classical debates over wars and alliances does not mean that they were necessarily unimportant. Plutarch, certainly,

[13] On this text: Jones 1971, 110–21; Swain 1996, 161–83. Political life in the cities: Brunt 1990, 522f.; Salmeri 2000, 66–76; Ma 2000, 117–22.

[14] Nor in the city's external relations: if you have no coercive power, persuasion is your only recourse and rhetoric is therefore even more important. So Libanius' praise for the rhetorical skills of Antioch's councillors (*Or*. 11.139–45) emphasizes representation of the city's interests to the governor and other officials. Naturally, success is not guaranteed: the orator determines the input, but the outcome is partly contingent on other factors. Hence the goal of rhetoric is typically formulated as speaking persuasively (§1 n. 3), not persuasion (e.g. Quint. 2.15.12; Sopater *RG* 5.15.20–9, 16.17–21, 17.15f.; Athanasius *PS* 172.6f., 173.6–9; ?Marcellinus *PS* 285.7–18; Nic. 3.10–12).

[15] Hermogenes 77.20–78.9.

does not draw that conclusion. He pays particularly close attention to the proper handling of situations in which the popular assembly takes a sceptical view of a measure that is of crucial importance to the city's well-being (813b). The political elite, he suggests, should on those occasions present a united front, but should take care not to be seen to do so. Overt unanimity would make the assembly suspicious of collusion, and risk provoking a hostile reaction.[16] The collusion should therefore be concealed by a staged debate, in which it is made to appear that genuine opposition is overcome by the force of the argument.

Several inferences can be drawn from this remarkable advice. First, and most obviously, popular assemblies still had the power to take decisions on important matters. Secondly, the assemblies were not tamely subservient to the political elite; according to Plutarch the attitude of popular assemblies towards politicians is characterized by malice and fault-finding (813a). Thirdly, the assembly was accustomed to genuine political debate among the elite; otherwise its absence would not make them suspicious and recalcitrant. The collusive politicians must create an appearance of real political debate because that is what was familiar to the public they aim to deceive. It follows that the elite was normally engaged in genuine political rivalry, and competed to win support in the assembly. Plutarch recommends collusion only with regard to critical decisions; in less important matters he sees nothing wrong in publicly airing genuine disagreement (813b). Moreover, Plutarch does not suppose that the kind of collusion which he thinks *ought* to take place typically *does*. On the contrary, he recognizes that in reality political conflict is typically unrestrained (814d–815c), and is commonly used as an opportunity for the pursuit of private enmities (824f–825a).[17]

[16] Hostility to collusion is reflected in a declamation theme mentioned in [Aps.] 1.33: 'speakers who take counsel with each other prior to the assembly are brought to trial' (Heath 2002*b*, 657f.).

[17] Factionalism: e.g. Ameling 1983, 1.136–51, and the references in n. 13 above. Schmitz 1997, 212f., gives a different account of this passage in Plutarch; but the conclusions he draws ('Politische Debatten sind in dieser Zeit zu einem reinen "als ob" geworden: wichtige Entscheidungen waren in der Volksversammlungen nicht mehr zu fällen . . . Die Masse der Bürger hatten bei den politischen Debatten der eigenen Zeit nicht mehr Entscheidungsgewalt als bei den fiktiven Debatten über der Ereignisse nach Marathon') make Plutarch's concerns unintelligible.

In this essay Plutarch is critical of the application of historical exempla popular in the schools to contemporary politics (814a–c). But it is important to be clear what point he is making. He does not say that these scholastic exempla are irrelevant in the sense that they could not be used effectively in political debate. On the contrary, he recognizes the effect they have on the masses and deplores it (814c). His contention is not that contemporary rhetorical training was detached from the realities of contemporary political debate, but that contemporary political debate was too often based on inadequate appreciation of the realities of the contemporary situation. The schools, then, taught prospective politicians effective techniques of persuasion, but not sound policy. That, it might be argued, was not the point: after all, the schools taught prospective advocates how to argue a case, not what case to argue (that would depend on the client). That is only a partial truth. Rhetoric's tools of analysis and invention would also have been, for the rhetorically trained, heuristic tools in another sense, since what one can make appear plausible and what one is likely to find plausible cannot be entirely unconnected. But to some extent, at least, rhetorical training should be seen as offering advice on technique that is neutral with regard to substantive questions. It would also provide you with resources to turn against the exempla whose influence Plutarch deplored.

Plutarch's evidence does not tell us whether civic politics enjoyed a continuing reality in subsequent centuries. Brunt thinks not. Men like Hybreas of Mylasa in the first century BC, he suggests, 'surely . . . owed their influence primarily to their talent in deliberative and forensic oratory', and 'in Plutarch's time political oratory still counted for something in the cities'; but 'Scopelian and Polemo, the sophists represented by Philostratus as most politically active, belong to a dying tradition'.[18] This understates the evidence in Philostratus for political activity on the part of his sophists: as well as Scopelian (*VS* 519) and Polemo (531) one might mention Lollianus (526), Herodes (559), and Philostratus of Lemnos (628). The fact that Nicetes rarely addressed the assembly is a matter for particular comment (511), as is Antiochus' avoidance of political activity (568). More importantly, Brunt's obituary for the tradition of local politics

[18] Brunt 1994, 35f.

leaves unexplained the expectation of political activity that is still present in Menander at the end of the third century, and Libanius in the fourth (§9.2).

A. H. M. Jones, outlining the decline of popular assemblies and city councils, concludes that 'local politics had become a rather futile make-believe in which no important question could ever be raised'.[19] This formulation helpfully points the way towards some necessary clarifications. What we are currently trying to establish is whether rhetorical training equipped students with skills which were useful to them when they engaged in local politics; the importance of the questions addressed by those who engaged in local politics is not the point at issue. Even if it were, we should have in any case to ask: important to whom? If they were taken seriously by the participants, it is irrelevant whether *we* judge them important in some larger frame of reference. Things that seem trivial to a detached observer may be very important for those who stand to gain or lose from them. We may confidently conjecture that Libanius' assistants did not think it unimportant when the council in Antioch discussed their salary (*Or.* 31, cf. §7.2).[20] It may also have been important, in a different way, to Libanius. For the sake of illustration, let us suppose (what I do not believe) that his complaints about the decline of rhetoric are unvarnished truth: then we might picture him struggling to overcome indifference and hostility in order to persuade the council to adopt his proposal; rebuff would have marked a catastrophic defeat both for his own prestige and for that of the profession of rhetoric. The importance of the questions addressed in local politics cannot be judged solely from the immediate points at issue: these may have been important to the participants because they provided a vehicle for other kinds of competition. One might attach considerable importance to victory or defeat over a personal enemy or a rival for standing within the local community, even if the ostensible occasion of the dispute is intrinsically trivial.

In the course of his speech on his assistants' salaries Libanius imagines someone complaining that there was no need to waste

[19] Jones 1940, 170–91, quotation from 182; the parallel to Schmitz on Plutarch (n. 17 above) is striking.

[20] The relationship between the published speech and what was actually said in any council meeting is, as always, a matter for conjecture. City councils in this period: Liebeschuetz 1972, 101–5, 167–74.

time on an elaborate debate: he should have resolved the question by speaking briefly to individual politicians before the meeting (*Or*. 31.36). A possible implication is that the proposal was so uncontroversial that it did not need debating. Another, more certain, implication is that council business was sometimes, perhaps often, settled by informal consultation outside the meeting. What would that imply about the value of rhetorical training for the prospective politician? Imagine an influential councillor cornering Libanius before the meeting: 'Tell me why I should support this proposal—quickly: I've no time to listen to you make a speech.' A possible response would have been: 'Unless we provide adequate funding for the salaries they deserve it will be impossible to attract and retain high-quality assistant teachers. Antioch's reputation as a centre for rhetorical study will decline, and that will have an adverse impact on the city's reputation and prosperity.'[21] The arguments here (based on the heads of purpose: justice, feasibility, honour, and advantage) are ones that the techniques of analysis and invention taught in training for deliberative oratory might help one to find. (That is not to say that they could not be found by anyone who lacked such training: rhetoric sought to make explicit what was always grasped implicitly by naturally talented persuaders.) Wherever the power to take decisions resides, there will be advisers and lobbyists attempting to persuade. Even if that persuasion is divorced from the contexts in which formal speech-making is required, there is a need for the skills of deliberative *argument*. Politicians acting in accordance with Plutarch's recommendation would have had to draw on their rhetorical training even before staging their collusive debate, since they must first reach agreement among themselves about what they are to collude in. Consensuses do not appear by magic: persuasion and argument are needed even in private or informal consultations. It is on this basis that Quintilian (3.8.14f.) argues for a broad view of the scope of deliberative rhetoric, so that it includes what is said in private consultations and when advising the emperor, as well as the public expression of opinions in the senate (3.8.70).

[21] Cf. Phil. *VS* 531, 612, for a flourishing school of rhetoric as a source of civic prestige and prosperity; Lib. *Or*. 11.181–92 for praise of Antioch as a centre of rhetorical education.

9.4 ADVOCACY

Plutarch (§9.3) recommends forensic activity on the public behalf and serving on embassies as ways to achieve political prominence. Menander (§9.2) likewise envisages his pupils championing their cities in courts of law and on embassies. These two activities were not entirely unrelated. Some embassies were purely honorific, but many were undertaken in pursuit of disputes between cities (or between a city and some individual) and thus involved advocacy.[22] Plutarch notes that advocacy in private cases could also provide a route to political advancement. But even in the absence of a political dimension, litigants needed advocates. Here, then, we enter on a vast field of professional activity.

Many leading teachers of rhetoric were also successful advocates. Quintilian will spring to mind at once,[23] but Philostratus' sophists, too, often acted as advocates. Philostratus draws a contrast between sophistic and judicial style, but the contrast is not *between* sophists and others but *within* the range of styles which sophists might be expected to command. Nicetes, who excelled in both kinds of oratory, enhanced his judicial speeches with sophistic features and *vice versa* (*VS* 511, 516).[24] The vigour of Scopelian's forensic oratory is particularly remarked (517, 519). Ptolemy of Naucratis 'nibbled' at forensic oratory, though he did not achieve distinction through it (595). Advocacy is also recorded for Polemo (524f.), Theodotus (567), Apollonius of Athens (600), and Damianus (606). Some also appeared on their own account: Herodes (555, 559),[25] Hadrian (587f.), and Heliodorus (627). Quirinus (621) and Heliodorus (626) were appointed

[22] e.g. Phil. *VS* 539f., 625. Philostratus records service on embassies for Scopelian (520), Marcus of Byzantium (529), and Polemo (521, 531, 536, 539f.). Embassies: Millar 1977, 217–18, 375–94; cf. Bowersock 1969, 43–58; Bowie 1982, 32–8, 55f.; Liebeschuetz 1972, 107–9, 266–9.

[23] Clarke 1967 gives a convenient overview of Quintilian's career; see also the introduction to Russell's Loeb translation. Quintilian reports on his own cases in 4.1.19, 6.1.39, 7.2.24, 9.2.73f.

[24] Messala, in Tac. *Dial.* 15.4, disapproves of Nicetes' innovations; but the important point is that he did practise as advocate, and evidently had admirers in that role. Contrast (e.g.) Bowie 1970, 6: 'law-court oratory, usually looked upon with contempt by sophists.'

[25] Cf. 563 on his opponent's speech. For another case involving Herodes, with Fronto on the other side, see Fronto *ad M. Caes.* 3.2–6, with van den Hout 1999, 94–7; cf. Ameling 1983, 1.64f., 74–6, 2.30–5.

to the post of *advocatus fisci*; advocacy and the imperial service were career paths that could intersect. Philostratus' evidence is not exhaustive: he says nothing about Lollianus' activity as advocate, attested in an honorific inscription (*IG* II^2 4211, cf. §2.7). The younger Minucianus, too, appears in the sources as a sophist, an advocate, and an ambassador (§3.4).

Not all sophists were at home in court. So the claim that sophists are 'more mute than fish' in court (Sextus Empiricus *Adv. rhet.* 17f.) can be made to look plausible so long as one is careful to select the right examples. There is no reliable correlation between success as advocate and being a sophist or a successful declaimer, but it does not follow that rhetorical skills of the kind possessed and taught by sophists were irrelevant to the practice of advocacy. The argument here has already been rehearsed (§9.2). The personal qualities required for the exercise of rhetorical skills in different contexts vary. A famous classical example will serve to illustrate the point: Demosthenes, who was masterly when addressing the Athenian assembly, was less assured before Philip. That incident was the basis of a declamation theme proposed to Heliodorus by Caracalla after the sophist had succeeded in outfacing an intimidating situation as advocate before the emperor (Phil. *VS* 626).[26] Heliodorus was one of two advocates bringing a case on behalf of his city; the case was called unexpectedly early, while his colleague was ill and before he had completed his preparation, and in order to gain an adjournment he entered a procedural exception (*παραγραφή*) against himself, on the grounds that he did not have imperial authorization to plead alone. The taste for paradox which this ingenious manoeuvre displays may seem typically sophistic; but since Heliodorus was appointed *advocatus fisci*, and later successfully defended himself on a murder charge, he was clearly not one of those sophists who were 'more mute than fish' when they appeared in court. On the other hand, Apsines' teacher Heraclides broke down in a declamation before the emperor Septimius Severus, and Philostratus' comments on the incident (*VS* 614) reflect his awareness of the different personal qualities needed for success in different contexts. The capacities that enable successful performance before a class of adolescent pupils or an audience at a public display

[26] Cf. Heath 2003*c*, 20, and §9.8 below.

that was either admiring or (in the case of rivals) critical within the familiar norms of a shared expertise, are clearly not identical to (nor are they universally accompanied by) the capacities that enable successful performance before a less predictable set of potentially hostile adults.

So far we have focused on sophists who were also advocates. But most advocates were not sophists. The question, then, is whether those pupils of the sophists who went on to practise as advocates acquired from their study rhetorical skills practically useful in their careers. Quintilian obviously believed that his teaching had relevance to advocacy. One of his pupils was Pliny,[27] and although Pliny's only extant speech is epideictic, it was forensic oratory that made his career. But Quintilian, with his own distinguished career in the courts behind him, might be thought a special case; so let us turn again to Libanius. His comments on the state of rhetoric have given rise to the impression of a weakening of the connection between rhetoric and advocacy. Certainly he argues at one point (*Or*. 62.41–5) that the kind of eloquence (and the kind of ethics) that his pupils learn from him has no place in contemporary courts; we shall return to this claim later (§9.9). But that is not the only line he takes. When he contrasts those trained in rhetoric (who speak in the courts) and those trained in shorthand (who record the speeches) there is no implication that rhetorical training has ceased to be a useful preparation for practical advocacy; rather, advocacy has ceased to be the chosen route to social advancement (*Or*. 62.16). So, too, the claim (*Or*. 2.45) that rhetorically trained advocates who have saved many people's property have now abandoned the courts because they can find better opportunities for advancement elsewhere assumes that rhetoric retains its importance for the advocate. The point in these passages, then, is not that a rhetorical training has no practical relevance to advocacy, but that advocacy no longer offers an attractive career path.

In reality, advocacy remained an attractive and lucrative career path. This is why so many of Libanius' pupils became advocates (e.g. *Ep*. 539, 831, 858).[28] According to the church historians Socrates and Sozomen, his pupils included John Chrysostom,

[27] Pliny *Ep*. 2.14.9, with Sherwin-White ad loc. Cf. 6.6.3: Julius Naso's father came to hear Quintilian and Nicetes (n. 24 above) when Pliny himself was studying with them.

[28] On the careers of Libanius' pupils see n. 12 above.

Gregory of Nazianzus, and Basil of Caesarea (§3.11). They assume that when Gregory and Basil took to the monastic life they were turning their backs on careers as sophists or advocates,[29] and that John was destined for a career in advocacy (although it has been argued that Palladius *Dialogus* 5 points rather to a high-ranking civil service post).[30] In his reply to critics of the monastic life (3.5, *PG* 47.357) John pictures fathers encouraging their sons to apply themselves to the study of rhetoric:

> So-and-so, a humble man of humble origins, acquired power through speech (*λόγοι*), held very important offices, acquired a lot of money, got a wealthy wife, built a splendid house; he is feared by everyone and famous.

He goes on to give a similar picture of the secular advancement that can come from learning Latin; but, unlike Libanius, he does not pretend that Latin has displaced rhetoric as a route for career-advancement. Themistius, like John, treats rhetorical training as the key to a lucrative career, whether in advocacy or politics (*Or*. 27, 339bc):

> If you have your sights set on money, and use that as your measure of what is useful, go after the kind of speech (*λόγοι*) that will yield wealth for you. This seed is plentiful in law-courts and assemblies, and grows especially well around the market-place and the speaker's platform. I could tell you myself the people here who have it in plenty, and if you approach them and dance attendance on them, they will soon make your tongue great and exceptional . . . That's how clever our sophists are.[31]

Libanius himself can cite examples of distinguished careers founded on rhetorical ability when it suits his purpose (*Ep*. 379.2f.), and is happy to claim that the study of rhetoric brings earning opportunities: 'Pandorus . . . is last in the reckoning of money, first in the desire for speech (*λόγοι*), since he is well aware

[29] Gregory taught in Athens for a time (*de vita sua* 245–64), and a number of his letters recommend young men to teachers or take an interest in their progress (e.g. 174–7, 187–92, 234–6). If Basil is the addressee of Lib. *Ep*. 501 he taught in Nicomedia.

[30] Jones 1953. Socrates *skholastikos* (see n. 42 below) was probably a practising advocate, as Sozomen certainly was (2.3.10), despite his disparaging description of the life of an advocate (6.3.2): compare Pliny *Ep*. 2.3.5f. (§9.9).

[31] An echo of Pl. *Menexenus* 235c, substituting 'sophists' for 'orators'.

that those who lack the former should acquire the latter, since it can bring the other with it' (*Ep*. 743.1). Clearly, his more defensive statements are tendentious. The interestingly varied paths followed by individual students tend to confirm this. One pupil in his second year with Libanius was taken away by his father to begin a career as an advocate; Libanius regarded this as premature (*Or*. 57.3). Another continued his studies to the point where he did seem ready to speak in court, but then after going abroad on business returned for more advanced study (*Or*. 38.3). One practising advocate simultaneously studied with Libanius to enhance his existing skills (*Ep*. 203.2). So a basic course in rhetoric was sufficient for advocacy, but opportunities for more advanced study were also available, and did have potential relevance to advocacy (as well as, presumably, to a career as a sophist).

There was another option open for those who wished to undertake further study. The old separation of roles between rhetorically trained advocates and legal experts was giving way to a situation in which some knowledge of law might be expected of an advocate. One pupil who had reached the point at which the alternatives of further rhetorical study or entering advocacy were under consideration absconded to the law-school at Beirut after a quarrel with his father; the father had designated him for rhetoric and his older brother for law (*Ep*. 1375). This incident reflects the fact that a legal training was increasingly seen as desirable—though the fact that the father had not intended the boy to study law shows that it was not essential.[32] And even now it was seen as an adjunct to rhetoric, not as a substitute. So, for example, Libanius wrote a series of letters of recommendation for Apringius, a former pupil and experienced advocate who had decided that he needed to study law (*Ep*. 1170, 1171, 1203, cf. 422). He wrote many other letters of recommendation for pupils going on to law school (*Ep*. 117, 533, 1131, 1431), and speaks of this as the student's extending his armoury (*Ep*. 1539.1). He is not always so positive. Legal training, he says, was once the preserve of the poor, while the prosperous studied rhetoric; now the latter add legal study to their rhetorical training, and this

[32] It was not until 460 that advocates were required to have a legal qualification, and then only for the court of the praetorian prefect: Kunkel 1966, 144. Hence it is misleading to render *συνήγορος* as 'lawyer': even if advocates had studied law, it was not by virtue of their legal expertise that they practised as advocates.

addition makes them forget their rhetorical skill (*Or*. 62.21–3).[33] But this, too, is tendentious: elsewhere he acknowledges at least one pupil whose study of law did not eradicate his previous rhetorical training (*Ep*. 339.5–8). Libanius' view of legal training is as elusive as his view of shorthand (§8.2).

One final point needs to be emphasized:[34] it was still true in the fourth century, as in the second and third, that teachers of rhetoric might also apply their skills to the practice of advocacy. Of course, not every rhetor was at home in the courts; Libanius requests official protection for the sophist Strategius, 'a good man with no experience of the courts' (*Ep*. 1145). And when Libanius speaks of rhetors who teach in the mornings and supplement their income by busying themselves in the courts in the afternoons (*Or*. 51.13–17: cf. §7.2 n. 31), the reference is to informal lobbying rather than formal advocacy. But we have already seen (§9.2) that Libanius' pupil Priscio achieved success both as an advocate and as a sophist (Lib. *Ep*. 989.1, 1000.1, 1053.1). Amphilochius, a fellow-student with Libanius, was both an advocate and a teacher (Lib. *Ep*. 670.3; Greg. Naz. *Epit*. 103–9 = *AP* 8.132–8). There is no reason to believe that this was particularly rare: at least three of Ausonius' thirteen Burgundian teachers of rhetoric had careers that also involved advocacy (*Prof*. 2.15–18, 5.13–34, 23.1–8).

[33] Cf. Julius Severianus 356.2–5: 'iuris vero civilis neque omittendum studium est nec penitus adpetendum: nam nec rudis esse debet orator, et si se multum iuris scientiae dederit, plurimum de cultu orationis atque impetu amittet.' Honoré 1998, 10, reports this as claiming that 'too much legal study reduces an orator's dash (*impetus*): rightly, for *impetus* depends on holding morally simplistic views about complex problems.' One might question the slide from 'legal' to 'moral'; and it is a lawyer's, not a rhetorician's, perspective that makes the views the advocate holds, rather than the case he is retained to uphold, decisive (see the excellent discussion of 'agonistic law' in Frier 1985, 127–38). In any case, advocates will sometimes need to make a simple problem seem complex, and to do so with vigour. The problem is rather that intensive study of another complex discipline makes it harder for the rhetorician to keep his rhetorical skills honed by constant practice. (There is also perhaps a risk of the rhetorician 'going native', and coming to see the law as a canon for deciding, rather than a resource for influencing, the outcome of disputes.)

[34] It is denied (e.g.) by Wolf 1952, 22f.; Liebeschuetz 1972, 198.

9.5 THE PERSISTENCE OF RHETORIC

We have seen evidence that there remained a close connection between the study of rhetoric and the practice of advocacy in the fourth century. We know already that the study of rhetoric continued to be intensively cultivated at an academic level in the fifth century. This was the period that saw the emergence of the Hermogenean canon (§2.11), and the proliferation of commentaries on Hermogenes that began in the third and fourth centuries did not diminish in the fifth, but broadened its scope to embrace *On Types of Style* (§3.8, §8.4). An examination of the schools of Alexandria and Gaza in the late fifth and early sixth centuries will show that the connection with practice persisted as well.

In his biography of Severus (later bishop of Antioch), Zacharias records that they met as students in Alexandria in the 480s.[35] Severus was studying *grammatikê* and rhetoric in Greek and Latin (11.9–11); the rhetoric course was an advanced one, involving the study and imitation of classical orators (12.12–15). Two sophists who taught Severus are named (12.1–3). One is John 'the shorthand writer' (*ὁ σημειογράφος*, *smgrpws* in the Syriac). John's distinctive title makes it likely that he is the theorist cited in some commentaries on Hermogenes simply as *ὁ σημειογράφος*; since the fragments are concerned with the definition and distinction of issues it is also probable that he is the sophist John of Alexandria whose 'technical rules' (*τεχνικοὶ κανόνες*) on the recognition of the issues and the differences between them were reported by Janus Lascaris.[36] Severus' other teacher was Sopater. I have already suggested that he was the commentator on Hermogenes who was excerpted in *RG* 4 (§3.8; cf. §4.2, on Menander F13), and that his work on Aelius Aristides lies behind the hypothesis to *On the Four* (§4.6); he is also likely to be the Sopater whose *Progymnasmata* are quoted by John of Sardis.

There is evidence that Sopater's *Progymnasmata* made use of (and was sometimes critical of) Theon. There are independent grounds for dating Theon's *Progymnasmata* to the fifth century;

[35] Extant only in a Syriac translation: I depend on Kugener's French version (*Patrologia Orientalis* 2.1, 1903).

[36] *ὁ σημειογράφος* (= *notarius*): see §4.2, on F13; further fragments in Rabe 1895, 246f.; Schilling 1903, 730 (read '79v' for '75v'); Gloeckner 1901, 9. John of Alexandria: Rabe 1931, p. lxvii. See further Heath 2003*c*, 32f.; 2003*d*, 137–9.

and since its author, an Alexandrian sophist Aelius Theon (*Suda* Θ206), is sometimes referred to as 'Theon the Platonist', it seems likely that he is the sophist of that name with whom Damascius studied in Alexandria in the 480s (that is, at about the same time that Zacharias and Severus were students there).[37] Thus the connection between rhetoric and philosophy observed in the third century (§3.9) was still flourishing in the fifth. Damascius himself taught rhetoric for several years.[38] Nicolaus, whose *Progymnasmata* also shows signs of responding to views accepted by Theon, had studied in Athens in the late 420s with the sophist Lachares, fragments of whose writings on style survive.[39] Lachares was a close associate of the philosopher Syrianus, who wrote commentaries on Hermogenes, including the first on *On Types of Style* (§3.8). I have argued that the distinctive source of the A-scholia to Demosthenes was a commentary by the late fifth-century sophist Zosimus of Ascalon, who also wrote commentaries on Isocrates and Aristides (§5.6). If he is the 'Zosimus, the pupil of Theon' who made an epitome of the prolegomena to Hermogenes by Athanasius of Alexandria (*PS* 171.1–183.9), and if his teacher is correctly identified with Damascius' Theon and the Platonist author of the *Progymnasmata*, then it is easy to understand why he saw a closer connection between Demosthenes and Plato than did Menander (§6.6 n. 58).

Another fifth-century rhetorician, Georgius, is identified as an Alexandrian sophist in the superscription to his lectures on Hermogenes (§3.8, §8.2). Zeno, who transcribed the lectures, describes himself as a *skholastikos*. This title may denote 'a man qualified by having passed through all the stages of a general education to practise law . . . it records a professional qualification, rather than an officially awarded honour or office'.[40] So, for example, Procopius refers to Diodorus, an advocate in Caesarea (*Ep*. 29.4), as *skholastikos* (*Ep*. 21.7), as does Aeneas of Gaza (*Ep*. 7, 22). In the fifth-century letter that mentions Menander (§4.1, F2) Victor addresses Theognostus as 'your eloquence' (*ἡ σὴ λογιότης*), 'an honorary title often applied to advocates (*σχολαστικοί*) and *defensores* (*ἔκδικοι*)'.[41] These observations might encourage us to

[37] See, in detail, Heath 2003*d*, 141–58.

[38] Damascius: Athanassiadi 1999.

[39] Nicolaus' life and writings: Felten 1913, pp. xxi–xxvii. Lachares: Graeven 1895; Radermacher 1921; Puech 2002, 324–6.

[40] Roueché 1989, 76f., cf. 107.

[41] Maehler 1974, 306, cf. 308.

speculate. Do we have in Zeno a practising advocate transcribing lectures on Hermogenes, and in Victor an advocate with an urgent need for a commentary on Demosthenes, along with other works of rhetorical theory? Might Victor's pressing need be preparation for an important forensic engagement? Perhaps in preparing his case he has consulted Menander's commentary on Demosthenes, is puzzled by some point, and wants to compare it with another commentary and with a more systematic exposition of Menander's views in his *Art*. Such speculation is possible, but obviously outruns the evidence. Victor's hurried note is evidence of some practical need; the contrast with more elegantly elaborated requests for the return of a borrowed book in collections of sophistic correspondence (Aeneas of Gaza *Ep*. 1; cf. Procopius *Ep*. 71) is striking. But *skholastikos* has a wide range of applications: it designates teachers of rhetoric as well as advocates and holders of a range of official posts, and the honorific 'your eloquence' is addressed to many kinds of educated men.[42] So it is entirely possible that Zeno, Theognostus, and Victor were interested in technical works on rhetoric for purely academic reasons. Equally, they may have had both academic and forensic interests, since it was still possible, as in Philostratus' and Libanius' days (§9.4), to combine teaching and advocacy. Sergius of Zeugma, praetorian prefect in 517, had been an advocate in the prefect's court and a sophist (*Suda Σ*246; John of Lydia *de mag*. 2.21).

There is ample evidence for the continuing connection between rhetorical study and subsequent careers in advocacy in this period. Severus and Zacharias both went on from Alexandria to study law in Beirut; Severus abandoned his plans for a career in advocacy to become a monk, but Zacharias did practise as an advocate in Constantinople (he is sometimes known

[42] *Skholastikos*: Claus 1965, updated in Sijpesteijn 1987. 'Your eloquence': Isidore *Ep*. 5.125 uses this form of address to Harpocras, recipient of a number of letters and usually designated as a sophist (5.458, to Asclepius, a sophist, recommends Harpocras for a teaching post), though he may be identical with Harpocras *skholastikos* (2.228). In other collections of letters the formula is addressed to (e.g.) Gregorius, governor of Cappadocia (Greg. Naz. *Ep*. 195); Asterius, *assessor* to the governor (Greg. Naz. *Ep*. 148); Adelphius and Eupatrius, both *skholastikoi* (Greg. Nyss. *Ep*. 11, 20); Eudoxius, teacher of rhetoric (Greg. Naz. *Ep*. 175); Eustathius and Olympius, philosophers (Basil *Ep*. 1; Synesius *Ep*. 133); Joannes, *grammatikos* (Theodore the Studite *Ep*. 528). For the prosopography see *PLRE*.

by the title *skholastikos*).[43] Zacharias knew the sophist Aeneas of Gaza (*Life of Severus* 90.2; *Life of Isaiah* 270.31–271.6 Ahrens-Krüger), who had himself studied in Alexandria (*Ep*. 15). The sophists Sopater and Zosimus to whom Aeneas addressed letters (*Ep*. 9, 10) may well be the teacher of Severus and Theon's pupil respectively. Aeneas' correspondence includes a letter of recommendation for a former pupil, Ponto, who had gone on to study law (*Ep*. 11). Procopius of Gaza, who also studied in Alexandria (Choricius 8.12–15), had many pupils who pursued the same path. We have a letter of recommendation for an unnamed pupil going to Constantinople to study law with a view to advocacy (*Ep*. 143); a letter to Zosimus and Macarius, former pupils studying law to become advocates (*Ep*. 153; for Macarius cf. *Ep*. 97); and two letters to Orion, a former pupil studying law in Constantinople (*Ep*. 144, 155). Epiphanius, another former pupil (*Ep*. 135), acquired legal expertise and became a high-ranking official (*Ep* 19). Diodorus *skholastikos*, already mentioned, was also probably a former pupil, and Procopius (*Ep*. 8.1–10) speaks of his pleasure and pride on hearing of good reports of him: 'I thought I myself was being praised.' Like Libanius and Ausonius (§9.2) Procopius saw a pupil's career as a reflection on the quality of his teaching.

Damascius, too, provides evidence of the continuing connection between rhetoric and practice. Among the individuals mentioned in his *Life of Isidore* is Salustius (F60 Athanassiadi). At first he aimed at a career in the courts, so he studied with the sophist Eunoeus in Emesa; then he switched the focus of his ambition to a career as a sophist, and moved to Alexandria to continue his rhetorical studies at a higher level. Severianus (F108) studied literature, rhetoric, and Roman law; his philosophical ambitions were opposed by his father, who planned a career as an advocate for him (in the event his career took him into politics and the imperial administration).

There is, then, ample evidence that the teaching of rhetoric, the exegesis of classical orators, and the study of rhetorical theory continued at the highest levels in this period, and that the students in these schools had career prospects comparable to

[43] In the sixth century Agathias *skholastikos* also studied at Alexandria before his legal training at Beirut: Agathias 2.15.7, with McCail 1977; cf. Greatrex 2001.

those in earlier times (although there is no mistaking the decline in the importance of civic politics and the growing importance of the imperial bureaucracy). There is no evidence that the study of rhetoric had declined, nor that it had become detached from preparation for practical affairs.

9.6 DECLAMATION

The continuing connection between rhetoric and advocacy has been questioned in part because of a widespread belief that the nature of school rhetoric increasingly distanced it from reality. Brunt, whose premature obituary on local politics was considered earlier (§9.3), summarizes the supposed development in rhetoric thus:[44]

> In the second century BC Hermagoras assumed that rhetoric was to prepare men to speak on civic questions . . ., in Augustus' time Apollodorus . . . devoted his one published treatise entirely to the forensic art . . ., and Theodorus, the preceptor of Tiberius . . . defined rhetoric as the art of persuasion 'in materia civili' . . . But later theorists like Hermogenes concentrate on epideictic in the strict sense, or on political or forensic themes derived from the schools of declamation.

This analysis is vitiated by its asymmetric treatment of evidence. The premise that rhetoric was concerned with speech on civic questions is something on which Zeno, Minucianus, and Hermogenes still agreed in the second century AD, and it remained a commonplace for Hermogenes' commentators (§2.8 n. 47). The sophist Onasimus (§3.10) published a treatise devoted to the forensic art (*τέχνη δικανική*) in the time of Constantine. It is not true that Hermogenes or other later theorists concentrated on 'epideictic in the strict sense', and their illustrative use of political or forensic declamation themes is hardly different from Cicero's practice in *On Invention*.[45]

Brunt is not alone in assuming a disjunction between declamation and oratorical practice. Schmitz claims that rhetoric in

[44] Brunt 1994, 36. Cf. 30: 'It is clear from almost every page of Philostratus's work that it was in epideictic that his sophists excelled, epideictic in the strict sense, but still more in declamation.'

[45] e.g. *Inv*. 1.18f. (cf. Lib. *Decl*. 6), 55f., 68–70 (cf. [Aps.] 10.12), 92; 2.69f., 78f., 87–90 (cf. Hermog. 39.11–14), 95–8, 116, 118 (cf. Hermog. 41.16–20, 91.2–92.11), 122–4, 144 (cf. Lib. *Decl*. 43), 153f. (cf. Hermog. 41.5–8, 85.1–88.1).

the imperial period was 'almost exclusively' directed to declamation.[46] He recognizes that there were real judicial and political speeches under the empire, and does not deny that the recommendations in rhetorical handbooks appear to be applicable to real political and forensic situations. But he judges this appearance illusory because the examples used to illustrate them are all drawn from fictive declamation themes:

> Selbstverständlich hat es auch in der Kaiserzeit reale Gerichtsreden und reale politische Reden gegeben. Doch die Tatsache, daß die Aufmerksamkeit der Redelehrer nahezu ausschließlich diesen fiktiven Deklamationen gilt, beweist zur Genüge, daß die Redner dieser Zeit ihre Hauptaufgabe nicht mehr darin sahen, vor Gericht oder in politischen Versammlungen aufzutreten, sondern ihr wichtigstes Aufgabenfeld auf dieser Art der Beredsamkeit verlagert hatte.

The assumption that the rhetoricians' use of declamation themes was a substitute for real judicial and deliberative persuasion rather than a way of practising for it needs closer examination.

First, a clarification is needed about the typical subject-matter of declamation. Schmitz introduces declamation in a way that gives no hint that declamation themes were ever other than mythological or historical.[47] Brunt says that 'Greek declaimers preferred *suasoriae* to *controversiae*; the reverse was the case in the Roman schools'.[48] He suggests that the Romans emphasized *controversiae* because 'there was now seldom room for deliberative oratory . . . and little point in preparing students for it'; the Greeks emphasized historical themes because 'at least they could inspire loftier strains of sophistic eloquence than those of mock trials . . . and the latter were just as much divorced from reality'. Brunt cites as evidence Kennedy's survey of declamations mentioned in Philostratus; but that invalidates the comparison, since like is not compared with like—school exercises on the Roman side are contrasted with public displays by leading virtuoso performers on the Greek side. The exercises of Greek rhetorical schools, at least in the earlier stages of the curriculum, share the forensic and

[46] Schmitz 1997, 11f. [47] Schmitz 1997, 10, cf. 112f.

[48] Brunt 1994, 32 (see §7.2 n. 60); cf. Schmitz 1999, 72: 'The fictional legal pleas that were so popular with Latin declaimers and audiences . . . play a less important role in the Greek part of the Empire . . . by far the most important class of μελέται was historical declamations.'

historically non-specific emphasis of Roman schools (§7.5). It is, even so, worth pausing to ask why the use of historical themes should seem problematic. Quintilian uses historically non-specific themes (such as the man who steals private property from a temple) to illustrate a point at 5.10.39; then at 5.10.110–18 he uses a historical scenario. Are we to assume that here he abandons the aim of illustrating practically applicable techniques? And that he reverts to his original plan when he analyses a historically non-specific theme in 7.1.41–63? Obviously not.

The historical scenario in 5.10.110–18 in fact provides Quintilian with an opportunity to reinforce an eminently practical point. The case involves a hearing before the Amphictyony, and Quintilian reminds us that the approach to a case depends on the nature of the court before which it is to be heard (5.10.115). Thus the rhetor teaches a general principle: persuasion, if it is to be effective, must be adapted to the requirements of the particular context. He does not teach what the requirements of each particular context are—for example, what is required in this court or that. This means that the rhetor does not provide a complete training for the advocate. Nor could he. Even if he gave advice for each individual court he could not do so for each individual judge, and the advocate will need to adapt himself to particular judges; as Quintilian points out, it is relevant whether a judge tends to favour *ius* or *aequum* (4.3.11; for judges who like *aequitas* cf. 7.1.63). It makes sense, therefore, for the rhetor to concentrate on general principles, leaving the particulars to be learned by observation and experience. That applies also to the question of the realism of the laws assumed in declamation. Rhetorical training aims to produce skills in advocacy, not jurisprudence.[49] From the point of view of an advocate, laws are resources to exploit (or sometimes obstacles to overcome) in making one's case. In this respect they are on a par with the facts of the case, or with the communal values that may allow the facts to be characterized in various ways (an assault, for example, as an outrage, as legitimate retaliation, or as an excusable momentary loss of self-control). The advocate needs to be able to take *any* relevant datum and

[49] The arguments of Bonner 1949 therefore miss the essential point, and are in any case open to question: Crook 1993; 1995, 163–5. On the advantages of using fictive cases and not attempting to emulate real law see also Winterbottom 1982, 64f.

discover how it can best be used to his own party's advantage (or how best the disadvantage can be minimized). So the actual legal content of an exercise in advocacy is not the point; what is important is the ability to adapt oneself to whatever the legal content of a given case turns out to be. The predicament of Theodorus (§9.7) shows why: if your opponent invokes an unexpected law, you must have the argumentative resources to be able to produce a response to it. Quintilian commends knowledge of law (12.3); but that is not something which an expert in advocacy skills is, as such, qualified to teach, just as legal experts do not necessarily have the distinctive skills required for advocacy.[50]

Sceptics might still deny that declamation succeeded in exercising the skills needed for genuine advocacy. This line of argument can be found in ancient sources. Seneca attributes it to Cassius Severus (*Contr.* 3.pr.12–18) and Votienus Montanus (9.pr.1–5). But we should not assume the truth of these criticisms, or even their objectivity, without further investigation. It is hardly surprising that Severus does not rate declamation highly: he was not a good declaimer (3.pr.1). Philostratus observes that Antiochus, a noted declaimer, dismissed the informal *dialexis* as 'puerile' because he was not good at it (*VS* 569), while Aelius Aristides, who was not good at improvisation, famously described it as 'vomit' (583). Moreover, Severus' analysis is open to dispute at a number of points. The claim (3.pr.13) that declaimers are unable to cope when put in a real situation is open to many counter-examples: consider the Philostratean sophists who achieved distinction as advocates and the inscription in honour of Lollianus which specifically pays tribute to him as 'both a speaker of law-suits and excellent in declamations' (§2.7, §9.4), a judgement similar to that of Philostratus on Apollonius of Athens (600).[51] The complaint (3.pr.5) that students have a lot to learn from experience means that declamation was not a complete training. But that is uncontroversial, and irrelevant: the question

[50] According to Quintilian (12.3.9, 11) only failed orators become jurists. Libanius shares this low opinion of the intellectual calibre of legal experts (*Or.* 6.18, 62.21).

[51] It is disappointing that even Crook can refer to 'the contemporary evidence that the leaders of declamation were mostly no good in a real court' (1995, 165) without assessing the tendentious and anecdotal nature of this evidence, or the extent of the counter-evidence.

is whether declamation could make a positive contribution to the formation of effective advocates.

The extent of ancient criticisms of declamation should not be exaggerated. 'Nothing is more common in ancient discussions of declamation . . . than complaints about the fatuity of declamation.'[52] In fact, what is overwhelmingly most common in ancient discussions of declamation is advice on how to do it. Giving such advice implicitly assumes the value of the exercise even when it is not explicitly asserted. But explicit assertions of its value are not rare. In his commentary on the *Metaphysics* Syrianus (96.22–5) suggests that mathematical exercises prepare philosophers to engage with intelligible forms 'just as rhetors by practising fictitious speeches prepare for real contests because the fictions resemble judicial scenarios'. According to Eumenius (*Pan. Lat.* 9.2.3) the intellect is armed in school for genuine combat in court; despite his heavy emphasis on the difference between real forensic conflict and 'those private school exercises of ours', he sees the school exercises as preparation for the real thing and not as something unrelated to it. For Quintilian, too, a recognition of the difference between declamation and forensic reality does not create an either/or. He includes declamation in his regime both for the incipient and for the experienced orator (10.5.14, 17: cf. §7.6), while stressing the need to familiarize oneself with the courts as well (10.5.19, cf. 12.6.5f.). He would have approved of Jerome's experience as a student in Rome: he declaimed *controversiae*, using fictive law-suits to practise for genuine struggles, and at the same time frequented the courts as an observer (*In Gal.* 1.11–13, *PL* 26.365a).

For Quintilian it is obvious that students who go on to practise as orators will carry with them what have learned in school: the way they speak will be founded on the way they declaim (9.2.81). So it is vitally important for the teacher to get training in declamation right (5.12.17–23). Quintilian maintains that declamation would have no justification if it did not prepare for courts (2.10), and that the exercise should approximate closely to the real thing.[53] He is alert to errors into which the artificiality

[52] Bloomer 1997, 136.

[53] [Dionysius] likewise insists that declamation should be governed by the same constraints as genuine oratory (370.16f., 371.22–372.2); see Heath 2003*a*, 95.

of declamation can lure students. They need, for example, to be warned against attributing conveniently feeble arguments to their imaginary opponents; real opponents will not be so obliging, so teachers should praise pupils as much for finding strong arguments on the other side as on their own (5.13.42–4). On the other hand, though in court it is rare for the advocate who speaks first to suggest what the opponent is going to say (and dangerous: it plays too easily into the opponent's hands), in declamation it is common, and justifiably so in Quintilian's view: the student needs the opportunity to practise answering the opponent's arguments (5.13.45–50). Quintilian is not so simplistic as to suppose that declamation should—or could—be identical to the real judicial oratory for which it is a preparation. Differences create dangers, but do not in themselves invalidate the exercise.

Moreover, Quintilian claims that declamation should be preparation for the courts, not that it should be this alone. His carefully balanced discussion acknowledges that declamation also has an element of display in it, which makes a degree of licence admissible (2.10.10–12). Indeed, since that licence is likely to do more to excite the young declaimer's enthusiasm (2.10.5 f.) it may even enhance declamation's value as an educational device. The teacher's responsibility is to keep it within reasonable bounds, so that the transition to the tighter constraints of real forensic practice is not too deflating (2.10.6 f.).

Declamation as a school exercise therefore had two dimensions: it was both an image of real oratory and an opportunity for display. Mature practitioners could develop either or both dimensions. When Seneca remarks that Votienus Montanus was so far from declaiming for display that he did not do so even for practice (*Contr*. 9.pr.1), he shows that both options were available and implies that one would expect an orator to declaim to keep in practice. Quintilian confirms this implication (§7.6). Declamation was an exercise rich and interesting enough to become a sophisticated entertainment, competitive activity, and literary form in its own right as well as a preparation for real oratory. It would be crass to measure the value of the stylistic virtuosity and wit of one of Libanius' declamations according to its forensic utility alone. It does not follow from this that declamation had ceased to function as a means to acquire and maintain skills in persuasive speaking. It does follow that there was scope for

tension between the two aspects in the teaching of declamation, so that there was a risk of teachers failing to maintain its connection to reality. Montanus explains his failure to declaim (evidently not complete, since Seneca cites his declamations) by saying that he does not want to get into bad habits: declamation is too easy, and the element of display exerts an irresistible attraction. But this may be due more to his own characteristic weakness, his 'inability to leave well alone' (9.5.17), than to any inherent defect in declamation.[54] Quintilian, who was aware of the tension and the risks it incurred, was confident that those risks could be averted by careful teachers.

It follows that we should be careful not to generalize about the nature of declamation from a sample (such as Philostratus) that may not represent its full diversity. It is also important to have as complete an understanding as possible of what declamation involved. Schmitz reflects on the difficulty in an improvised performance of simultaneously coping with an atticizing *Kunstsprache*, respecting the historical constraints of the scenario, and maintaining the character of the speaker whose role one is playing.[55] Gleason, too, emphasizes the element of role-play, and (correctly noting that 'the art of self-presentation through rhetoric entailed much more than mastery of words') draws attention also to factors such as 'physical control of one's voice, carriage, facial expression, and gesture, control of one's emotions under conditions of competitive stress'.[56] Imber considers declamation in terms of characterization, 'stylistic rhetorical innovations', use of stereotypes, 'witty *sententiae*'.[57] None of these accounts is wrong, but all are damagingly incomplete. They lack, most crucially, any reference to techniques and structures of argument.

This defect in perspective is revealed, for example, by Imber's comment that 'despite the great number of surviving *controversiae*, the corpus is characterized by a limited number of topical themes'. She concludes that 'the student *rhetor* . . . had covered almost all the topics of the *controversiae*' once he had declaimed

[54] The fact that (according to a plausible restoration of the text in 9.pr.1) he is giving the true explanation, as distinct from a 'respectable' one, may reflect his awareness of this point.

[55] Schmitz 1997, 115f. The element of improvisation should not be overemphasized: §7.5.

[56] Gleason 1995, p. xxii.

[57] Imber 2001, 206f., 205, 211.

about a shortlist of common *personae*—rivalry of rich and poor men, rapacious tyrant, rape victim choosing between death and marriage, and so forth.[58] The implication seems to be that any two themes about, for example, the rape victim's choice are effectively equivalent ways of 'covering' that part of declamation's repertoire of *personae*. But consider these two themes:

(i) 'On a single night a man rapes two women; one demands his death, the other marriage' (Sen. *Contr*. 1.5; Quint. 7.7.3);

(ii) 'A woman who has been raped asks for marriage; the accused denies the rape. He is convicted, and agrees to marry her, but she wishes to make her choice' (Sen. *Contr*. 7.8; [Quint.] *Decl. Min*. 309).

In (i) two claims, each legally valid in isolation, are brought into conflict by the special circumstances. Hence the issue is conflict of law.[59] In (ii) the key question is whether the victim is still in a position to make a valid choice: has the victim irrevocably exercised her right of choice, or has she up to this point merely been expressing a preference? Hence the issue is definition (§2.3). Accordingly the themes need to be argued in different ways. They are not interchangeable occasions for adopting a conventional persona.

Given the absence of strategies and structures of argument from Imber's account, it is no surprise that she should find the relationship of declamation to advocacy opaque.[60] In this she is not unique. But the problem lies in the misperception rather than in declamation itself. Argument was a basic element in the

[58] Imber 2001, 202.

[59] Quintilian 7.7.3; Hermogenes 41.9–12, 87.14–19. Syrianus (2.195.16–196.17) argues against 'Hermogenes and Metrophanes' that it falls under the documentary species of the practical issue: Heath 1995, 130f. (on 76.6–11). On ancient debates about the technical validity of the theme see Heath 1995, 149 (on 87.14–19).

[60] Asking 'how could this exercise possibly prepare a Roman boy to become an *advocatus* or *orator*?', she dismisses (rightly: n. 49) the question of a relationship between declamation and law, and focuses on its role in preserving and transmitting ideological values (declamation 'ensured that they [sc., the sons of Roman parents] would become Roman'). Kaster 2001 also stresses the transmission of values: declamation 'sustained the social reproduction of the conservative elite' (326). As indicated in Chapter 1, I do not deny this: my contention is that such approaches are not a substitute for understanding declamation's role as a preparation for practical oratory.

theoretical teaching that underpinned declamatory practice. Admittedly, Seneca quotes Votienus Montanus as claiming that declaimers avoid argument (*Contr.* 9.pr.1); but the claim is not supported by Seneca's anthology. Seneca warns us (1.pr.22) that he has not given this aspect proportionate representation: he has only recorded the outline division into questions, without the supporting argumentation. Despite this limitation, he presents ample evidence of the importance of argument to his declaimers. Seneca regards the division as the *fundamentum* of Latro's declamations (1.pr.21). It is a regrettable paradox, therefore, though a symptomatic one, that when Parks translates the first two of Seneca's *Controversiae* 'in order that a *controversia* may be read in its entirety' he deliberately omits the divisions.[61]

Were things different among the Greeks? Quintilian claims (5.14.32) that contemporary Greek orators were *too* dependent on explicit tight argumentation; this (he says) is the only point on which they are worse than the Romans (and he has a high opinion of contemporary Roman advocates: 10.1.122). The huge effort invested in the complexities of issue-theory from the second century onwards gives us no reason to suppose that Greek advocates, or the rhetoricians who trained them, lost their addiction to argument after Quintilian's day. In the fourth century Sopater, in his *Division of Questions*, still 'relies mainly on reason': 'on the whole he remembers the lesson of the sophists preceding him . . .: style is there to support argument, and argument is what wins cases.'[62]

In fairness to those scholars who have failed to emphasize the importance of argument in declamation, it must be acknowledged that this feature is not at the centre of attention in all of our sources. If we had to rely solely on Philostratus' accounts of declamation, we should scarcely have suspected that teachers of rhetoric were able to deploy the massive apparatus of theory and exegesis that we have considered in the preceding chapters; still less would we have been able to reconstruct that apparatus, even in outline. That Philostratus does not attempt to give a

[61] Parks 1945, 68–78. Despite this, Parks provides a useful treatment of 'the Roman rhetorical schools as a preparation for the courts under the Early Empire'; see also Winterbottom 1982; Crook 1993; 1995, 163–7; Bloomer 1997, 135–42; Vossing 1997, 384–91, 577 f.

[62] Innes and Winterbottom 1988, 11 f.

full and balanced picture of rhetoric is by now a familiar point. But the larger perspective supplied by other sources may help us discern what is being taken for granted when Philostratus attends to the declaimers' style and flamboyant effects. For example, Favorinus' song-like epilogues, bewitching even to audiences who did not understand Greek (*VS* 492), were sung after the proofs (*τοῖς ἀποδεδειγμένοις ἐφυμνεῖται*), not instead of them. Philostratus' words echo the formulations of the technical handbooks, which define the function of the epilogue as amplification of what has been established argumentatively;[63] but he does not feel that the point needs to be emphasized, because the preceding argumentation was not where Favorinus saw most opportunity for the ambitious display (*φιλοτιμία*)[64] of his distinctive techniques. Argumentation was not the most conspicuous feature of this kind of declamation, or the feature which won most prestige, in part because competence in the conduct of argument was a basic part of the broader rhetorical culture, something that one should be able to take for granted in an expert at the top of the profession. At this level, such basic matters only achieve prominence when there is a suspicion that something has gone wrong. Philostratus pays attention to claims that Ptolemy of Naucratis had declaimed on a technically invalid theme, because that would be an elementary blunder in preliminary analysis (595 f.).[65] Aulus Gellius reports on how an insoluble theme was used to set a trap for an over-confident declaimer (9.15.5–8). In Eunapius' anecdote about Anatolius' trick theme (§2.5 n. 35), the fact that the sophists were unable to agree on the theme's issue is pointed precisely because that is such elementary doctrine. On the other hand, subtleties in the conduct of argument that needed a mastery of advanced technical doctrine to discern are not very effective in display-pieces aimed at an audience that is not limited to specialists. Pliny (*Ep*. 2.19.7 f.) is proud of a technical innovation in the argument of one of his speeches, but notes that it will only be appreciated by experts, limiting the speech's appeal.

[63] Rufus 41; Anon. Seg. 198; cf. *RG* 4.424.27 f. (with Heath 2003*b*, 165), Nic. 5.6 f.

[64] Mistranslated as 'affectation' in Wright's persistently unhelpful Loeb. On the status of epilogue in texts on invention cf. §8.3.

[65] Invalid themes: Heath 1995, 66–9 (on Hermogenes 31.19–34.15).

9.7 ADVOCACY IN PRACTICE

It would be appropriate to turn now from the teaching of rhetoric, through theory, exegesis, and declamation, to the practice of advocacy. But here we encounter a problem: the literary tradition has not preserved judicial speeches from the Roman empire. Speeches did circulate; for example, brief extracts from speeches by three Greek advocates (of unknown date) are preserved by Stobaeus. They are mainly concerned with cases of a 'bizarre and scandalous' character:[66] they range over (alleged) adultery, pederastic seduction (or rape), and poisoning, and include a stepmother and a man who killed his son while insane. But these were speeches, not declamations: their titles name the defendants. The parallels with declamation should not be seen as casting doubt on their reality; they may instead explain why these speeches were popular enough to have entered circulation. Pliny once spoke on behalf of a woman disinherited by her octogenarian father a few days after he remarried for love (*Ep.* 6.33). Stepmothers and infatuated old men are declamatory commonplaces, and it is not surprising that when they appeared in a real case the court was (Pliny tells us) packed.[67]

In the absence of speeches preserved in the literary tradition, the advocacy of the sophists and their pupils is known almost entirely indirectly (§9.4). One surprising, though tantalizingly incomplete, exception occurs in an inscription. In 216 one Aurelius Carzaeus, acting as representative of the Syrian village of Goharia, arrived in Antioch to pursue a dispute between the villagers and a local businessman, Avidius Hadrianus, about an allegedly usurped priesthood in their Temple of Zeus. The case would normally have been heard by the governor, but Carzaeus found

[66] Russell 1983, 12f., noting the declamatory feel of some of the quotations. The advocates are Gaius (3.3.53; 3.11.25; 4.22.18, 89, 200f.; 4.26.8; 4.40.17f., 22), Obrimus (4.5.69, 101; 4.54.16), and Theodorus (3.14.13; 4.22.117).

[67] Juristic parallel: *Dig.* 5.2.4 (Gaius): 'non est enim consentiendum parentibus, qui iniuriam aduersus liberos suos testamento inducunt: quod plerumque faciunt, maligne circa sanguinem suum inferentes iudicium, nouercalibus delenimentis instigationibusue corrupti.' Stepmothers in Roman literature and life: Watson 1995, 92–175. Though they are relatively less common than in the Roman sources, there is more evidence for stepmothers in Greek declamation than Watson (93 n. 4, 110) recognizes (e.g. Hermogenes 56.15–20, 58.19–59.3; Sopater *Division of Questions* 28.5–32.25, 77.24–8).

the emperor Caracalla in residence and petitioned him to hear the case instead. Caracalla agreed; and apparently he found in favour of the villagers, since they had a transcript of the court proceedings inscribed on the temple wall.[68] The names of the advocates have become garbled in the preamble, but in all probability the villagers were represented by L. Egnatius Victor Lollianus, and the defendant by Aristaenetus of Byzantium. Since they were two of the leading orators of the day, these advocates were presumably assigned out of the emperor's entourage (the kind of advocate that the parties to this dispute would normally have been able to employ might have found the imperial presence intimidating). Aristaenetus is of particular interest, since he is mentioned by Philostratus (*VS* 591) among the distinguished pupils of the sophist Chrestus of Byzantium. Philostratus does not usually mention pupils who did not themselves become sophists, but here is arguing that Chrestus has been unjustly underrated; for Philostratus, as for Libanius and Procopius (§9.2, §9.5), the quality of a teacher can be judged from the pupils' success.

Proceedings begin with Aristaenetus, for the defence, entering a procedural exception (*παραγραφή*): since the case has not been heard by the governor an appeal to the emperor is not possible. This argument is questionable: although it was unusual to take a case directly to the emperor, it is not clear that it was strictly irregular. But the emperor would certainly have been entitled to refer the case to the governor; so when Aristaenetus speaks as if Caracalla had been ambushed at the end of a busy day of legal business ('after many judgements and decisions application was made to you . . . It was not a legal representative or an ambassador, but an individual litigant with no standing who introduced the application') he may be presenting the emperor with a respectable excuse for revoking his consent to hear the case. The fact that Aristaenetus thought this manoeuvre worth trying suggests that he shared the plaintiffs' view that a hearing before the emperor could work to their advantage. Perhaps there were technical weaknesses in the case for the plaintiffs: a judge at a lower level, whose decisions were subject to appeal, would have had

[68] *SEG* 17.759 (the 'Dmeir inscription'). See Kunkel 1953 (who discusses the prosopography: Puech 2002, 131–8, 330–6, collects the epigraphic evidence); Lewis 1968; Millar 1977, 233, 535, 455 (including partial translations), 514f. (on limitations of appeal to the emperor); Crook 1995, 91–5; Heath 2003*c*, 19f.

less freedom than the emperor to waive legal technicalities in the interests of equity. But Caracalla rejects the procedural argument and the hearing continues.

Lollianus for the plaintiffs begins by saying that he will speak for less than half an hour. In a jurisdiction in which the judge may be impatient of long speeches it seems prudent to offer reassurance that you will not speak too long; one might imagine Lollianus looking enquiringly at Caracalla here and proceeding on his nod of assent.[69] Then there is a brief proem on the theme of piety, linking the subject-matter (a temple), the plaintiffs (pious villagers), and the judge (for whom 'there is nothing held in greater reverence than piety').[70] Unfortunately the inscription breaks off shortly after this, denying us the opportunity to observe top-level advocates at work.

Some of their less distinguished colleagues are more accessible. Transcripts of court proceedings of the kind which the Syrian villagers inscribed on a temple wall were more conventionally recorded on papyrus, and some have been recovered from the Egyptian desert. These transcripts, written up from the shorthand record taken during trials, give us more direct access to the courts than do the works of the classical orators: the speeches they preserve are not literary texts revised and embellished at leisure after the event, but as near as possible a record of what was said in court.[71] We should not expect to find textbook examples

[69] Impatience of long speeches: Crook 1995, 135, citing Tac. *Dial*. 19.3–5; Pliny *Ep*. 6.2.7f.; Dio 71.6.1. Reassurance that one will speak briefly is recommended in theory (Anon. Seg. 15) and found frequently in declamation (Lib. *Decl*. 25.3, 30; 27.2 (note the joke!); 47.7) and in the classical orators and commentary on them (e.g. sch. Dem. 23.21 (26)).

[70] Crook 1995, 94, appositely refers to the preamble of the *Constitutio Antoniniana* for this motif.

[71] Publication of revised speeches: e.g. Pliny *Ep*. 7.17, 9.13.23, cf. 1.20.6–8; Quint. 12.10.49–57. With the papyrus transcripts we need not worry about subsequent authorial improvements on what was said, but we have no control over errors or omissions. Some transcripts are explicitly selective ('after other things, so-and-so said . . .'), but we cannot be sure how much tacit or accidental selection and compression there has been (Coles 1966, 9–29, takes a cautious view of the balance between verbatim reporting and abridgement). For claims that the shorthand record does not do justice to the speaker see Quint. 7.2.24; Suet. *Julius* 55.3. Damage to the papyrus means that in many cases the text is incomplete or partially illegible.

of sophistic eloquence in these papyri. They do not come from the main centres of culture and are not concerned with affairs at the highest social level; this is not a context in which the most elaborate and sophisticated advocacy is likely to be found. In any case, rhetorical training was not intended to produce orators who would adhere rigidly to a set framework; rather, it used a set framework to impart a repertoire of skills and techniques meant to be applied flexibly according to the needs of each concrete situation (§2.4, §7.3). So it would be astonishing if the practice of advocates in these courts was identical with what was taught by sophists and academic theorists; but sufficient similarity for the two bodies of material to prove mutually illuminating would be significant.[72]

We have already met one relevant case, a hearing before the *stratêgos* of Arsinoe in 127 concerning a claim for the repayment of a deposit (§2.5).[73] The plaintiff, Demetrius, is a freedman; the defendant, Paulinus, is a former gymnasiarch. The wide social gulf across which the two parties face each other is reflected in the quality of their advocates.

Ammonius, for the plaintiff, opens with a brief statement; this is his only contribution to proceedings, and it is riddled with errors. One of them is certainly his client's fault. In the petition by which he launched the case Demetrius had made reference to another dispute with Paulinus. Ammonius naively repeats his client's claims; but Palamedes, for the defence, is subsequently able to force Demetrius to admit that the claims were false, and thus strikes a damaging blow to his credibility. A better advocate might have been less trusting: Quintilian advises advocates to take a sceptical view of what their clients tell them (12.8.9–13). But a second, more trivial, error suggests that Ammonius did not have the time needed for the probing investigation of his client that Quintilian recommends: he says that his client has a receipt made out in the name of Atrenus, when he should have said Deius son of Atrenus; the most obvious explanation is that he mis-

[72] More detailed discussion of the following examples in Heath, 2004*b*; but I have amplified some points here. Crook 1995 provides an indispensable survey of the material; Coles 1966 analyses the format of the reports. For a brief survey of the legal system in Roman Egypt: Lewis 1983, 185–95.

[73] P.Mil.Vogl. 25, reprinted *SB* Beiheft 2 (1961), 30–3; Heath 2004*b*, 65–70; see §2.5 n. 28.

heard in a hasty pre-trial briefing. The third error is the most interesting. The receipt which shows that Geminus (Paulinus' deceased brother, with whom the deposit was allegedly made) received 2,000 drachmas from Deius leaves a huge gap in the evidence: there is nothing to show that the 2,000 drachmas which Geminus received from Deius were a deposit made by Demetrius. Palamedes seizes on this point, making the demand for evidence (which the textbooks place near the beginning of the argument) into his final, climactic move. But Demetrius then produces a note from Deius, apparently completing the chain of evidence that connects him to the money which Geminus received. Why was this not mentioned at the beginning? When the new document is examined, questions arise about its authenticity; so it was tactically prudent to keep the note in reserve, for use only if it became necessary. Since Ammonius has shown no other sign of tactical subtlety I suspect that Demetrius had concealed the note's existence from him; but a better advocate would have noticed the gap in the evidence and questioned it.

Given his client's wealth, Palamedes was probably retained before the trial and had time to plan at least part of his speech in advance. Since Demetrius' petition referred to the other dispute, Palamedes would have been able to ascertain the facts and work out his treatment of that point with confidence. The arguments from motive and capacity, depending solely on knowledge of the social status and past history of Demetrius and Geminus, could also have been prepared in advance. However, Demetrius' petition apparently did not mention the receipt made out to Deius (if it had done, Ammonius would surely not have made his mistake about Deius' name). That implies that Palamedes' exploitation of the gap in the plaintiff's documentary evidence, and consequently also the overall structure of his speech, was improvised during the hearing—something it is fascinating to be able to observe. Palamedes could reasonably have felt that the inferences on which he based this improvisation were safe: the missing piece of evidence was so important that if it had been available to the plaintiff he was (surely) bound to produce it; his silence must therefore be significant. In fact Palamedes drew the wrong conclusion from the gap in the evidence, and the appearance of the note from Deius must have come as a nasty

shock.[74] But the subsequent wrangling confirms that his judgement was basically sound: the opposition's failure to mention the note *was* significant—of its irregularities, if not of its non-existence.

My second example, like the cases mentioned at the beginning of this section, has some sensational aspects. When a single text offers us an accusation of poisoning against a woman, with the counterclaim that this allegation was the last desperate act of a rejected lover's jealousy, and that his death was suicide, or even parricide, then it might seem obvious that we are dealing with the lurid fantasies of declamation. But all this is entangled with an obscure allegation of mortgage fraud involving the woman's daughter; the parties are all named (even down to the slave who, the prosecution claims, has absconded with some crucial paperwork); and another papyrus preserves related documents that allow us to follow the tortuous and inconclusive progress of the case through the courts, in around 130.[75]

The case is one of conjecture: did the defendant, Hermione, poison Mnesitheus? The signs of her guilt are the man's death in suspicious circumstances, and the fact that before his death he claimed that she had poisoned him. If we examine the circumstances, we note the time and place of the accusation: he came out of his own house, not hers. So it is not that she poisoned him, and he at once exposed her. Would it not be more natural to suppose, therefore, that the poisoning took place in his own house? If so, it might have been suicide (perhaps his business affairs were in crisis). Or it might have been something more sinister; after all, the son (the accuser in the present case) as the man's heir was the one who stood to gain from his death. But why then did the dead man accuse the woman? It is easy to see how their business relationship might have given rise to grievances. Or perhaps the truth was quite the reverse: if he was in love with her, jealousy might have made him want to ensure that she did not outlive him.

Hermione died before the case was heard; so this document is not a transcript of a speech delivered in court, but preparatory work. That would account for the compressed and confus-

[74] Quintilian 6.4.17f. observes that it can be useful to hold back a document, to trick one's opponent into assuming that it does not exist; that is the outcome here, though I suspect the motives were different.

[75] P.Oxy. 472; Crook 1995, 77; Heath 2004*b*, 70–2.

ing presentation of some of the material, and for the fact that the prosecution arguments are cited conditionally ('if they should say . . .'), although the prosecution would have spoken before the defence. The text might be a draft speech, or a brief prepared for the advocate who will handle the case in court, sketching out the main line of argument with suggestions about how to meet various possible contingencies. That would make it a precursor of several fourth-century papyri in which the introductory formula 'You speak on behalf of . . .' reveals the nature of the document. Typically these later briefs have marginal annotations in a second hand. The client has (presumably) been interviewed and the case prepared by someone other than the advocate who will appear in court. That could be accounted for in a variety of ways; one possibility is that an experienced advocate is giving guidelines to less experienced colleagues.[76] The practice of relying on written briefs produced by an advocate who does not plead, or on briefings conducted through a third party or in writing by the client, is attested by Quintilian, who disapproves of it (12.8.4–6). Because Hermione died before the case was heard we cannot tell how well the proposed defence would have worked in court. What is certain is that the person who conceived it thought and argued in ways that would not have been out of place in the rhetorical schools. It is not just the defence's sensationalism that is suggestive of the rhetorical schoolroom, but also its underlying logic: the route from theory to implementation is easily traced.

My third example is a case heard by the prefect of Egypt early in 250.[77] The council of Arsinoe had appointed some villagers to civic liturgies, but the villagers had ignored the appointment, neither discharging the office nor formally appealing against it. When summonsed to the court of the *epistratêgos* the villagers failed to appear, and judgement was given against them by default. Presumably they have ignored the judgement, for the council is taking its attempt at legal coercion a stage further. The villagers advance a procedural exception (challenging the validity of the suit), claiming that the council meeting at which the appointments were made was not validly convened; the appointments would thus be invalid and the case against them void. Once the

[76] Thus Crook 1995, 114–18, with references to the original sources.

[77] *SB* 7696. See Skeat and Wegener 1935; Crook 1995, 98f.; Heath 2004*b*, 72–4.

prefect has satisfied himself that the council meeting was validly convened, attention turns to the substantive case. The villagers cite a decision of the emperor Severus that exempts villagers from civic liturgies, and the prefect challenges the council to match it: 'You read me a law too.' The response is an argument from letter and intent: since the laws exist to sustain civic life a tacit restriction of the law must be understood when application of its letter would be detrimental to the cities. This may be the best that could have been done; but it is very feeble, and the prefect not surprisingly finds for the villagers on the basis of Severus' law.

There is much in this papyrus that is obscure, in part because it is incomplete and badly damaged, but also because the discussion it records is in places very confusing. The prefect is highly interventionist and there are unusually many participants: there are three speakers on the side of the villagers, while the council fields five—the president of the council and four advocates. Of the council's advocates, Lucius apparently does no more than read out documents. Ischyrion makes a single intervention, answering a question from the prefect with a remarkably ill-judged evasion. He is rescued by Philip, the advocate who speaks most in the extant portions of the papyrus. But according to the record the prefect twice addresses himself specifically to the council's fourth advocate, Serenus, whose interventions are few and for the most part laconic. Serenus, perhaps, is the most senior member of the team, overseeing the performance of assistants with varying levels of experience and competence. The extent of Philip's contribution suggests that he is the one most trusted. There is evidence in literary sources for young aspirants attaching themselves to a senior advocate while gaining practical experience. Pliny (*Ep*. 6.23) accepts one case on condition that the client agrees to his appearing with a younger colleague whose career he wishes to forward. The team of advocates representing the council in this example perhaps reflects such tutelage in operation at a lower social level.[78]

[78] Crook 1995, 129. Quintilian (10.5.19f., 12.11.4–7), Pliny (*Ep*. 2.14.2), and Tacitus (*Dial*. 34, Messala) draw a sharp (and evidently exaggerated: cf. *Dial*. 2) contrast between traditional and contemporary practice; perhaps there was a tendency on the part of ambitious young men in contemporary Rome to bypass this junior stage of an aspirant advocate's career. The phrase *tirocinium fori*, much used in this connection by modern scholars, does not appear in any classical source.

My final example is a case heard in Arsinoe in 339.[79] Nilus, acting for his wife and sister-in-law, has brought a case against the heirs of Atisis about the ownership of some land—evidently unproductive land, since both parties *deny* that they owned it (presumably wishing to avoid the tax liability). The plaintiffs' advocate Theodorus must have thought he had a strong case: the disputed land was registered in the name of Atisis, and the defence acknowledges that there is no documentary record of any transfer of title. But after some initial formalities Theodorus is barely able to complete a sentence before his opponent Alexander interrupts with a procedural exception: the law says that 'if a period of forty years passes with someone in possession of property, no one is to proceed in any way against the property or put an end to the long-standing possession'. Theodorus can be forgiven for having failed to anticipate this clever ambush, which turns a law designed to protect the rights of possessors into a tool for pinning them to the corresponding responsibilities; even so, it is disappointing that it leaves him so evidently at a loss. A nimbler advocate might have produced an argument from letter and intent, to the effect that the defence's argument is an abuse of the law.[80] As the hearing progresses other things go wrong for Theodorus. He calls a witness who gives evidence against his client—predictably so, given his role in the background to the case: this mishap does not give a good impression of Theodorus. But it is not his fault when the client responds to another ambush sprung by Alexander with a lie that he contradicts in his next answer. Theodorus is unfortunate in his client, but is also manifestly on a different level from Alexander, who is fluent, lucid, well-prepared, and tactically astute.

9.8 THEORY AND PRACTICE

There is a wide variation in the competence of the advocates whose performance was surveyed in the previous section, and in the role they perform for their clients. Ammonius acts as a mere

[79] P.Col. VII 175 (= *SB* 12692); Crook 1995, 104–7; Heath 2004*b*, 74–6. The new material published in Kramer and Hagedorn 1982 is crucial to an understanding of the case: it shows, in particular, that the heirs of Atisis (not the villagers) were the defendants.

[80] He would have got a sympathetic hearing for this argument if Crook had been presiding: 1995, 106.

spokesman for his client, a role needing little if any formal training; and he does not do it well. Theodorus has higher aspirations, though he is not able to fulfil them (or not yet: perhaps he was inexperienced). Palamedes and Alexander display a higher level of technical skill, as does Hermione's anonymous defender. There are a number of connections between the techniques of argument observable in the papyri and those recommended in theoretical textbooks; the most conspicuous example is Palamedes, whose conduct of Paulinus' defence shows such striking parallels to the standard division of conjecture that it may provide evidence for the development of issue-theory in the early second century (§2.5). But it might still be argued that this is weak evidence for a positive connection between theory and practical advocacy. All that has been shown is that arguments useful in the mock-forensic exercises of sophistic schools bear *some* resemblance to arguments useful in real forensic practice; but it would be astonishing if the divergence were complete. If the arguments used by these advocates are such as any intelligent, articulate, and reasonably experienced person could have found in a similar situation, they have no bearing on the question of the value of formal rhetorical training to advocates.

If that renders the evidence for the influence of academic rhetoric on practical advocacy indecisive, perhaps we should approach the problem from the opposite direction. Is there evidence that practical advocacy influenced what was taught by academic rhetoricians? This may seem an implausible idea. There is an obvious contrast between Quintilian, from whose thinking the realities of the courts are never very far, and later Greek theoreticians, on whose thinking the realities of the courts at first sight seem never to impinge. But since there were teachers who were also practising advocates throughout the period under consideration in this book (§9.4–5) a complete divorce between theory and practice would be surprising. Later rhetoricians were, in fact, aware of the differences between real and fictive cases.[81] Given their constant attention to classical oratory, it could have hardly have been otherwise. Admittedly, classical orators did not practise under conditions identical with those of the courts under the Roman

[81] *RG* 4.145.8–16, 275.6–17, 329.13–24, 334.1–16, 357.17–358.2, 780.9–21 (see n. 86 below); Syr. 2.29.21–30.4; Nic. 78.3–9 (cf. Hermogenes 78.10–21, discussed below).

empire (it is unclear whether scholars who think that declamation on classical themes was irrelevant to advocacy would disapprove of studying Demosthenes on the same grounds). But the rhetorician's job was not to teach the requirements of this or that particular court, but general principles that can be adapted to whatever is required in a given court (§9.6).

In at least one area there is evidence that the development of academic rhetoric was influenced by the conditions of practical advocacy. In §2.7 we observed how the issue of objection (*μετάληψις*), which in Zeno's system had embraced a single, coherent category of disputes, was expanded by later theorists. The result was an anomalous hybrid issue, embracing disputes which need to be argued in different ways. There is no satisfactory explanation of this development internal to issue-theory; on the contrary, it goes against the inner logic of the system. But court procedure does suggest an explanation. A recurrent feature in the cases discussed in §9.7 is an attempt by defence advocates to pre-empt or disrupt the plaintiff's case by means of a procedural exception (*παραγραφή*).[82] The creation of the hybrid issue brings together under a single heading the various ways in which a case may proceed after the defence has made this move; it is this aspect of contemporary court practice, rather than the inner logic of issue-theory, that made the modified classification convenient. The subsequent history of theoretical discussion of objection, the complexities of which are utterly bewildering at first sight, becomes more readily intelligible when viewed in this light.[83]

There may be a more fundamental adaptation at work in the change in the structure of the rhetorical syllabus which accompanied the evolution of issue-theory in the second century (§7.1). Older rhetoricians explained the basics of issue-theory in the prolegomena to invention, and then proceeded sequentially through the standard parts of a speech; it was only in the section on proof that specific advice was offered on the arguments appropriate to each issue. Greek theorists in the second century produced more detailed and systematic analyses of how to argue each issue, and attached them directly to the prolegomena. In

[82] In the incident described in §9.4 (n. 26) it was Heliodorus, for the plaintiffs, who paradoxically entered an exception against the plaintiffs' case.

[83] Heath 2003*c*, 19–23, sets out the evidence in detail.

other words, the student now learned in detail how to evolve an appropriate strategy of argument for any given case before learning how to organize a speech according to the standard structure. This development makes good sense on internal grounds: one needs to know how the case is to be argued before even the prologue can be composed. But it also seems well-adapted to a jurisdiction in which the conduct of a trial is very largely at the magistrate's discretion.[84] An advocate who has a set of argumentative tools that he can apply as opportunity arises without being bound to a formal structure will be able to function even if interruptions by the magistrate or the opponent replace the traditional exchange of extended formal speeches with less structured forms of interaction. In this respect, too, it is possible to detect a sensitivity to the conditions of practical advocacy in the development of academic rhetoric.

It is symptomatic of this disengagement of analysis and invention from the standard structure of a speech that a text such as Hermogenes *On Issues* sets out the model strategy of argument for each issue in a quasi-dialogical form, alternating argument and counter-argument. This has, indeed, been interpreted as evidence of rhetoric's retreat from reality.[85] Patillon contrasts Cicero's treatment of issue-theory with that of Hermogenes:

> Cicéron ne songe pas à proposer un plan type qui intègre successivement tous les points dont la controverse appelle le développement, alors même que certains de ces points sont à prendre en compte par l'une des deux parties adverses et certains autres par l'autre. Et il n'envisage pas un discours, du demandeur ou du défendeur, où devraient apparaître systématiquement tous ces points.

And he concludes that Hermogenes' treatment is purely scholastic:

> En revanche, les développements proposés dans notre traité, où l'orateur

[84] For impatient judges and their tendency to interrupt see Quint. 4.5.10; Tac. *Dial*. 19.5 (cf. n. 69 above). On the implications of the *cognitio extra ordinem* (without set procedure) for long speeches see Crook 1995, 134f., and Harries 1999, 99–107, on court proceedings.

[85] Patillon 1988, 71. This does not lead Patillon to treat rhetoric dismissively: 'A ceux qui reprocheraient à cet enseignement rhétorique de ne pas préparer les jeunes gens aux réalités de l'existence . . . il faut répondre que l'art de la rhétorique est ici un jeu de l'esprit qui, comme une algèbre, a d'abord sa fin en soi' (43). I think a different response is called for.

prend en compte systématiquement, généralement en les introduisant sous forme d'objection (*ἐξ ἀντιθέσεως*), à tout le moins en les réfutant, les points qui reviennent à partie adverse, ne peuvent convenir qu'au discours d'école.

Cicero's principal preoccupation, by contrast, 'est de préparer à l'exercice de la parole publique qui engage les intérêts vitaux des citoyens'; Quintilian, too, 'reste soucieux de former des avocats'. However, Hermogenean issue-theory is not a recipe for producing texts, but a resource for preparing cases (§7.1). Hence Hermogenes carefully distinguishes between the division laid down by theory and its adaptation to the needs of particular cases—which may involve, for example, the omission of certain heads (78.19–21):

The one is a matter of invention, the other a matter of judgement; in particular, we will not use everything that invention generates in a speech—we should only say whatever we judge appropriate.

If declamations display a tendency to go through all the heads laid down by theory, this difference between declamation and real oratory could be defended on the same grounds that Quintilian used to defend the unrealistic practice of posing and answering hypothetical objections (5.13.45–50, cf. §9.4).[86] It surely cannot be maintained that a technique which requires and assists in systematic reflection on the arguments available to both sides of a case and on the dialectic between them is purely scholastic, without application in preparing genuine judicial oratory. I would argue, in fact, that this is one of the great strengths of the system that developed in the second century (§2.4).

9.9 RHETORIC: DIVERSITY AND SOCIAL CHANGE

The advocates in the sample of papyri considered in §9.7 varied in sophistication and ability. There is every reason to believe that

[86] In a discussion of procedural exception (*παραγραφή*) *RG* 4.780.9–21 contrasts declamation, in which the exception and the primary case are both always addressed, with 'real cases', in which it is not always necessary to deal with the primary case (Heath 2003*c*, 47) The artificial declamatory convention ensures that every technique that may be needed in handling a real case is practised; but in any actual case only an appropriate subset of those techniques will be deployed.

some of them had received formal training in rhetoric, but that is not to say that any had studied with a sophist in a narrow, Philostratean sense of the term. It is, in fact, improbable that they had done so. Unlike Aristaenetus, about whose sophistic training we know from Philostratus, none of these men was an orator at the pinnacle of the profession. Our sample therefore raises questions about the diversity of rhetorical training. We have already seen evidence for one kind of diversity: there was a division of labour between specialists at the top of the profession (§7.1). That is not surprising. If you are studying at the very highest level you will want to get the best expertise in each aspect of the subject, and will therefore seek out specialists. Such specialization would be less necessary at a lower level, where it is more likely that one teacher will be able to cover to an adequate standard everything that is required. But we need to consider more carefully what is added as one moves further up the ladder of rhetorical training.

A starting-point for this enquiry is provided by an anecdote in Philostratus' *Life of Apollonius* (6.36), describing an encounter between Apollonius of Tyana and an ill-educated young man whose hobby was teaching birds to talk.[87] Apollonius criticizes the youth for substituting his own ill-educated Greek for the beauty of the birds' natural song, but also for putting his property at risk; if harried in the courts, he will have no power to defend himself. The solution is to go to school. If he were younger, Apollonius would have advised him to study with philosophers and sophists; since he has left it so late, he should at least learn how to speak on his own behalf. 'There is', Apollonius tells the young man with heavy sarcasm, 'in every city a race of men (perhaps you have not yet come across them?) which they call "teachers". If you give them a little of your property, you will keep the majority of it safe, since they will teach you the rhetoric of the *agoraioi*.'

Agoraios, 'of the market-place', equivalent to the Latin *forensis*, is commonly used of professional advocates; hence in Themistius (*Or*. 27, 339bc: §9.4) 'law-court' stood to 'market-place' (*agora*) as 'assembly' to 'speaker's platform'. The market-place connec-

[87] Compare the threat posed to Libanius' education by his pigeons (*Or*. 1.5). Children and birds: Cribiore 2001, 112.

tion brings with it connotations of trade and the concomitants of trade: low status, vulgarity, greed, and dishonesty. So it is a disparaging term. Philostratus (*VS* 570) says that the father of the sophist Alexander Peloplaton was very accomplished in 'market-place oratory' (τοὺς ἀγοραίους λόγους); the *Suda* (*A*1128) gives the same information more neutrally by describing Alexander's father as a *dikêgoros*, speaker in law-suits. An equivalent neutral term is *dikologos*. Sergius of Zeugma (§9.5), a *dikêgoros* in the court of the praetorian prefect, wrote a defence of the *dikologoi* against Aristides (*Suda Σ*246); it is not clear what work of Aristides he was replying to, but Galen's catalogue of his own writings includes a single volume against the market-place orators (19.46.2). The choice of differently weighted terms in attack and defence is significant.

What is it about the *agoraioi* that excites disapproval? The professional advocate's charging of fees is one issue. Quintilian (12.1.25) distinguishes his ideal orator from the mercenary market-place (*forensis*) orator, or ('to avoid harsh words') the admittedly useful kind of advocate they call a *causidicus* (= *dikologos*). Pliny imagines a correspondent's astonishment when he demands a fee (*Ep*. 6.23): but the fee turns out to be the client's agreement to his appearing with a junior (§9.7); the demand in fact displays Pliny's generosity in nurturing rising talent. Dio Chrysostom (22.1) suggests that there is much in common between philosophers and orators—that is, deliberative orators who give advice on public affairs: not, of course, those who are *agoraioi* and mercenary, whose only concern is money and private disputes about contracts and such-like. But Plutarch, though he notes that waiving one's fee might be a good political move, does not have any problem with taking a fee in principle (*Precepts on Politics* 805c: §9.3). And sophists who practised as advocates did take fees: Philostratus thinks it worth remarking that Damianus was willing to waive his fee for clients unable to afford it (*VS* 606), and that Scopelian represented those on capital charges for free (519). Quintilian's tortuous discussion of whether one ought to take fees (12.7.8–12) shows that this was not a straightforward issue. The difference between willingness to accept a reasonable recompense for one's trouble and a mercenary pursuit of profit is unlikely to be a stable or objective distinction. This is a first indication that being *agoraios*, like being a 'sophist', is not a clear-

cut matter.[88] So far as fees are concerned it is perhaps not what he does that marks out the *agoraios*, so much as the absence of the characteristics that command respectability in the eyes of the person making the classification, which will not be independent of any personal relationship, friendly or hostile, between the two.

Dependence on income from advocacy is a factor in this judgement in part because it is a marker of status: if you cannot afford to waive a fee you are too lowly to command respect. But the question of fee-waivers also reveals character: if you can afford to waive fees and do not you are avaricious. In Philostratus' eyes it is particularly important to avoid giving this appearance, since rhetoric in general is suspected of being 'unscrupulous and avaricious' (*VS* 499); Scopelian's waivers show that he was free of this fault (519). But avarice is not the only appearance that needs to be avoided. Philostratus also notes that Scopelian's conduct as advocate proved that he was not abusive. We are here concerned with the moral dimension of the term *agoraios*. In his defence of Heraclides' failure before Severus (§9.4) Philostratus contrasts the temperament of sophists and *agoraioi* in morally weighted terms (*VS* 614): one could criticize an *agoraios* who broke down like that, because *agoraioi* are brazen and audacious. (Note the neat catch: the *agoraios* could be criticized for failing to show the traits of character which he is criticized for having.) Cassius Dio (30–35 fr.100) captures this character in his description of the leader of a mutiny: 'an *agoraios* man who made his living from the law-courts, and who combined excessive freedom of speech with shamelessness.' When Philostratus says (*VS* 566) that the sophist Theodotus was one of the *agoraioi*,[89] he is expressing moral and political disapproval; there is no reason to assume that this judgement would have commanded universal assent any more than Philostratus' disparaging evaluation of Soterus (§2.9). After attending a performance by the sophist Isaeus, Pliny remarks on the innocence of scholastic declamation: those who practise

[88] The more elusive a difference, the greater the need to emphasize it to protect status or class boundaries (cf. Schmitz 1997, 61, on the need for high-class sophists to insist on a difference between them and other practitioners of rhetoric); equally, the elusiveness of a difference gives it a flexibility that can make it polemically useful.

[89] Rothe 1988, 60f.

in the forum and in real cases inescapably (he includes himself) learn *multum malitiae* (*Ep.* 2.3.5 f.: cf. §6.6 n. 58).

A further dimension to being *agoraios* is lacking the kind of education and culture that is evidenced by linguistic usage and style, familiarity with the Greek tradition, and participation in that tradition through imitation of the classical masters.[90] Dionysius of Halicarnassus anticipates that his discussion of the care that classical writers took over prose rhythm will be mocked by uneducated people 'who practise the market-place branch of rhetoric, without method or art' (*Comp.* 25, 131.14–17). It is a mistake, [Dionysius] warns, to use plain language on the assumption that it is natural and readily intelligible:[91] language that is *agoraios* is not clear, let alone readily intelligible, because it lacks precision and vividness (365.3–9). One's diction should be classical, though not recondite, and it should display a moderate (though not excessive) use of figures; a style without figures is analogous to *agoraios* vocabulary (367.11–15). In his work on types of styles Tiberius (§3.9) described 'the layman's (*ἰδιωτικός*) type of distinctness and purity' as *agoraios* (F4 Ballaira = *RG* 7.943.24–944.8).[92] Phrynichus' guide to Attic vocabulary contrasts the *agoraioi*, who say *ὀπωροπώλης* ('fruit-seller'), with the educated, who say *ὀπωρώνης* like Demosthenes (*Ecl.* 176).[93] He remarks on non-classical usages current among orators in the law-courts—*αὐθέντης* in the sense 'master' (89), *ἀγωγόν* in the sense 'aqueduct' (289), *πρόσωπον* in the sense 'person' (357). He praises his dedicatee Cornelianus for avoiding the last of these

[90] On the normative status of the classical Attic form of the language for the educated elite: Swain 1996, 17–64. Tradition and imitation: Russell 1979*b*; Schouler 1984.

[91] Galen argues for the use of current rather than classical Attic vocabulary because of the overriding importance of clarity (6.579.8–580.3); his criticism of the atticizing imperative (19.60.11–61.25) acknowledges the general association between Attic language and professional and social respectability. See Staden 1995; Swain 1996, 56–62.

[92] For this sense of *ἰδιωτικός* cf. (e.g.) Longinus *Subl.* 43.1; Iamblichus in Syr. 1.9.13; [Hermog.] *Inv.* 109.13 f. (equated with *ἄτεχνος*).

[93] Phrynichus' comments on the usage of the 'layman' (*ἰδιώτης*) are not always disapproving (*Ecl.* 184, 214, 239), though the reports of *οἱ ἰδιῶται* in *Praep. Soph.* are always critical (62.2 f., 104.14 f., 116.4 f.). But his sharpest and most frequent criticisms are of errors made by sophists, who should know better, in their written texts (*Ecl.* 140, 170, 234, 236, 396).

errors, and so by his good example 'hellenizing and atticizing the imperial law-court'.

Let us return now to Philostratus' anecdote about Apollonius. The young man is not planning to become an advocate: he is to learn rhetoric only so that he will be able to speak on his own behalf. Rhetoric for him will be a way of protecting his existing property, not a way of making money; so fees are irrelevant. Obviously, he is not being encouraged to adopt the other morally dubious traits of the *agoraioi*. So it must be the linguistic and cultural dimension that is predominant. It is too late for the young man to put right the neglected schooling that has left him unable to teach his birds proper Greek; instead he is to learn the techniques which *agoraioi* use for arguing cases in court without acquiring the linguistic, stylistic, and cultural refinement that a sophist would provide. It is important to realize, however, that the anecdote does not treat this aspect of sophistic rhetoric as useless, academic, or purely decorative, in contrast with the down-to-earth practical rhetoric of the *agoraioi*. On the contrary, Apollonius compares the latter to the equipment of light-armed skirmishers; the sophists provide the more complete and more formidable equipment of the heavy infantry.

It is clear how a speaker might become better armed through more systematic and extended study of techniques of argument. But why should the sophist's linguistic, stylistic, and cultural refinements make an advocate more effective in court? In a society in which status influenced one's treatment under the law in a variety of formal and informal ways,[94] the evidence of high status provided by a display of advanced education is likely in itself to command respect and strengthen a speaker's authority. When addressed to a judge who shares that education it will also foster a sense of solidarity. Moreover, anything that pleases the audience will tend to make them more receptive and help to gain a favourable hearing for what you say; a speech which by its language, style, and cultural allusions satisfies the taste of an appropriately educated and cultivated judge will do that. Quintilian speaks of judges who want to be entertained as well as informed (4.1.57); it is easier to believe what is pleasant to hear (4.2.119), and this principle can justify effects that might otherwise seem showy (4.2.121f.). Aper, in Tacitus' *Dialogue* (19f.), agrees. An anecdote

[94] Garnsey 1970, e.g. 100, 207–18; Harries 1999, 109, 140–3.

such as Eunapius' account of Prohaeresius' defence speech before the proconsul (484f.: cf. §3.10) illustrates the psychagogic power of well-judged sophistic eloquence on an educated audience.[95]

Libanius offers a different view. Why, if he is such a good teacher, is there no great demand for the services of those former pupils who have become advocates? Because they are not like the *agoraioi* (*Or*. 62.41–5). On the one hand they did not learn from Libanius the moral defects characteristic of modern oratory; on the other hand they did learn the kind of eloquence that is now excluded from the courts. So little time is allocated to any case that long speeches and beauty of style is impossible. That has strengthened the position of 'all these ignoramuses who are no better than *agoraioi*' (43), and reduced the demand for the services of those who can turn out a well-formed speech on the classical model. The context is one in which we might expect to find, and indeed have found (§9.4), a good deal of tendentiousness.[96] As evidence for a specifically fourth-century trend the passage would be more convincing if the connection between the decline of eloquence and the time allocated to advocates did not go back at least to the first century: compare what is said by Maternus in Tacitus' *Dialogue* (38f.). The flourishing rhetorical culture of classical Athens was not inhibited by the use of water-clocks to time forensic speeches, and the initiative for short time-limits sometimes came from the speakers themselves. Pliny speaks of advocates *applying* for and being granted only a little time (*Ep*. 6.2.5). Rhetoric is the art of speaking persuasively, not at length.[97]

As always with Libanius, it is hard to be sure what conclusions

[95] On this incident see Penella 1990, 81.3. Walker 2000, 57–9, has good observations on the 'escalating cycle of stylistic and technical facility in the Hellenistic period'. Origen (*Against Celsus* 3.39) argues that, being untrained in sophistic or judicial rhetoric, the gospel writers were able to convince only by virtue of their transparent sincerity. This assumes, obviously, that the techniques of sophistic and judicial rhetoric, including 'abundance of style and the composition of words' as well as the technicalities of argument (Origen refers specifically to division), do convince—if not as effectively and with less guarantee of truth.

[96] Libanius' criticism of Constantius in *Or*. 62.8–16 should be read in the light of Henck 2001, documenting the promotion of the arts under Constantius and the continued domination of the highest levels of public service by the classically educated.

[97] Against the myth of a decline in the importance of advocacy see (for the early empire) Parks 1945; Crook 1995, 180–92. On the courts in later antiquity: Harries 1999.

can legitimately be drawn from social commentary that is variously allusive, tendentious, ironical, and clearly indebted to traditional motifs.[98] It does not follow that his evidence should be dismissed entirely. The attractions of entry into the imperial bureaucracy, with its attendant privileges with regard to taxation; the growing importance of knowledge of Latin, law, and shorthand; changes in court procedure—all these are factors that are likely to have had some impact on the profession of rhetoric. One might conjecture that, though a basic training in rhetoric remained the norm, there was a reduction in the demand for advanced rhetorical training. But the evidence of students in the late fifth century taking advanced courses in rhetoric, in an environment which saw heavyweight theoretical work, before studying law and practising as advocates (§9.5) should warn us not to over-estimate this change. It is nicely symbolic that the authors read by Severus while studying rhetoric before he left Alexandria to go to law school included Libanius himself, 'whom he admired equally with the classical orators' (Zacharias 13.1f.).[99] One has only to look at the letters of Aeneas and Procopius of Gaza, and Choricius' speeches and declamations, to realize that the demand for the most sophistically elaborated rhetorical education was by no means extinct in the late fifth and early sixth centuries.

Libanius' practice was more flexible than his posturing might suggest. As we have seen (§9.4), the length of time students spent with him varied considerably, and some at least were ready to enter the courts after relatively short courses. This flexibility is inherent already in the changes in rhetorical theory and the structure of the rhetorical curriculum that occurred in the second century (§7.1, §9.8). The result of these changes was to separate study of the basic techniques of argument from study of the structure of an extended formal speech and advanced stylistics. For many practising advocates, opportunities to deliver extended formal speeches in court would be scarce. For them, there would be little to be gained from learning how to elaborate such a speech according to the traditional structure, still less from the cultiva-

[98] Heath 1995, 6f., is too credulous.

[99] But Libanius' paganism was a problem (religious questions were acute in late fifth-century Alexandria: e.g. Athanassiadi 1999, 24–9); Severus' friends succeeded in shifting his rhetorical allegiance to Libanius' Christian pupils Basil and Gregory (§3.11 n.92, §5.6 n.43).

tion of a virtuoso style. What is taught in the elementary stages of rhetorical study matches what is needed for practical advocacy at a basic level, reducing the need or the incentive to progress to the more advanced stages. The syllabus structure that emerged in the second century thus makes it possible to drop out at an appropriate stage, still having acquired skills that would be applicable in practice.[100] But it was possible for those with higher ambitions to pursue their studies further. Those ambitions might have been in the sphere of judicial oratory (opportunities for extended speeches were likely to be more common at higher social and professional levels) or sophistic. For some, they may have been primarily social: the discussion of the *agoraioi* has brought us back to aspects of rhetoric's role in the formation of elite identity which, though they have not been foregrounded in this study, were undeniably real.

The second-century transformation of issue-theory also introduced a system based on preformed templates, which makes the process of analysis and invention easier (even, as I suggested in §2.4, for a self-taught amateur). This would obviously be of value to a sophist improvising declamations. It is also relevant to the practice of advocacy at any level. Quintilian (10.7) discusses the necessity of improvisation in court. This applies even when an advocate has prepared the case thoroughly: Palamedes' improvisation, and Theodorus' inability to improvise a response to an unexpected challenge, provide positive and negative illustrations of the point (§9.7). But thorough preparation is not always possible: busy advocates with little time to prepare cases would find the aid to invention useful, too.[101]

[100] A merit of Morgan 1998, 190–239, is that it raises the question of the significance of rhetorical training for those who did not progress beyond the elementary stages, 'most of whom are likely to use their literacy as bureaucratic middlemen in a variety of posts' (225). But her discussion tends to lose sight of everyone between very low-level students, 'pupils who may not have reached the end of the *progymnasmata*' (197: these, in a sense, had not even started the study of rhetoric: §7.1) and Quintilian's ideal orator.

[101] On the importance of careful preparation see Quint. 12.8. But the fact that Cassius Severus refused to take on more than two private or one public case *per day* to avoid negligence in preparation (Sen. *Contr.* 3.pr.5) suggests that from many advocates not much could be expected by way of preparation; Scaurus is said to have prepared negligently at the last moment (10.pr.2). Quintilian emphasizes the importance of order, even in improvisation: 10.7.5–7 (cf. 2.11.5–7, 11.2.36–9).

Moreover, a development that makes analysis and invention easier would have the effect of reducing the entry-threshold for advocacy. The system makes it easier to become at least minimally competent, and thus may enlarge the potential pool of effective, if low-level, advocates. There is a possible parallel in the codification of Roman law that began in the third century (§3.11), which could also be seen as lowering the discipline's entry-threshold. Kleijwegt observes evidence that many who studied law were satisfied with a basic knowledge, and did not take a full four- or five-year course.[102] This might be compared with the abbreviated courses in rhetoric, and is especially relevant to rhetoric students who went on to study law as an aid to advocacy, rather than with a view to becoming legal experts. The opportunity for wider study of law, and the opportunity for shorter study of rhetoric, were convergent trends. Both disciplines develop in ways that are responsive to the empire's need for a cadre of trained entrants to legal-administrative posts.[103]

An argument that the pattern of rhetorical training which developed from the second century onwards was well-adapted to producing large numbers of low-level advocates and administrators might appear to confirm the idea of a decline of eloquence—at any rate, if we look at rhetoric from a primarily literary and cultural perspective. That is a legitimate perspective (I suggested in §9.6 that declamation should not be valued exclusively in terms of practical utility), but it can hardly be the sole consideration. In any case, the production of low-level advocates was not the only thing which this pattern of rhetorical training was good for. It had a wide range of outcomes: a large number of low-level advocates; *and* a smaller number of advocates capable of performing at a higher technical level and/or a higher cultural level; *and* a smaller number of people (who may or may not practise as advocates) capable of sophistic display. Sophistic declamation for display gives an outlet to artistic ambitions in rhetoric; the training system makes that possible, while also providing a constant supply of advocates capable of doing routine work. The evidence of

[102] Kleijwegt 1991, 182–6.

[103] Of course, it is not suggested that this was centrally planned: see Pedersen 1976 on the absence of any 'recognized official need for better non-service public education' (46).

technography that teaching focused on judicial and deliberative rather than epideictic oratory, and on techniques of argument rather than style, thus reflects the rhetoricians' pragmatic realism. Most of a rhetorician's pupils would not become sophists; the pattern of training typical of the rhetorician's classroom therefore concentrated on the techniques which most students would need most, while also giving scope for developing skills of display for which most students would have less need (or none), but which a few would need above all.

The story of rhetoric in late antiquity is therefore not one of decline under the pressure of social change, but of persistence. The explanation for that persistence lies in rhetoric's adaptability, which is rooted in turn in its diversity and in the firm connection with practical affairs that was always at the heart of that diversity. That is one reason why it is so profoundly misleading to focus on sophistic in a restricted sense. Not only were the Philostratean sophists not representative of the whole profession of rhetoric, but the aspects of their activities on which Philostratus focuses were not the whole of what they did. The crucial diversity of rhetoric is obscured if one assimilates rhetoric to sophistic in this narrow sense. Conversely, sophistic cannot be understood outside the context of the broader rhetorical culture that this book has tried to document.

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AA	*Antike und Abendland*
AC	*Antiquité Classique*
AJP	*American Journal of Philology*
ANRW	*Aufstieg und Niedergang der Römischen Welt*
BICS	*Bulletin of the Institute of Classical Studies*
CQ	*Classical Quarterly*
CR	*Classical Review*
CSCA	*California Studies in Classical Antiquity*
EMC	*Échos du Monde Classique*
GR	*Greece & Rome*
GRBS	*Greek, Roman and Byzantine Studies*
HSCP	*Harvard Studies in Classical Philology*
ICS	*Illinois Classical Studies*
JAC	*Jahrbuch für Antike und Christentum*
JEA	*Journal of Egyptian Archaeology*
JHS	*Journal of Hellenic Studies*
JRS	*Journal of Roman Studies*
JSNT	*Journal of the Study of the New Testament*
JTS	*Journal of Theological Studies*
MH	*Museum Helveticum*
PCPS	*Proceedings of the Cambridge Philological Society*
PLLS	*Papers of the Liverpool Latin Seminar*
PLRE	A. H. M. Jones, J. M. Martindale, and J. Morris, *Prosopography of the Later Roman Empire* (Cambridge, 1971–92)
PS	H. Rabe (ed.), *Prolegomenon Sylloge* (Leipzig, 1931)
PW	*Philologische Wochenschrift*
RE	Pauly-Wissowa, *Realencyclopädie der classischen Altertumswissenschaft*
REG	*Revue des Études Grecques*
RG	C. Walz, *Rhetores Graeci* (Stuttgart, 1832–6)
RM	*Rheinisches Museum*
Spengel–Hammer	L. Spengel and C. Hammer (eds.), *Rhetores Graeci* I/2 (Leipzig, 1894)

TAPA	*Transactions of the American Philological Association*
WS	*Wiener Studien*
YCS	*Yale Classical Studies*
ZPE	*Zeitschrift für Papyrologie und Epigraphik*

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