

QUINTILIAN ON THE EMOTIONS (*INSTITUTIO ORATORIA* 6  
PREFACE AND 1-2)\*

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I. INTRODUCTION

Antiquity records few more cruel twists of fate than that which met the two-time former consul and conqueror of Macedon, L. Aemilius Paullus, on his return to Rome in 167 B.C. The great victory at Pydna the year before had finally removed the major rival to Roman power on the Greek mainland, and the riches generated in the campaign were such as to permit the abolition of direct taxation at Rome. The grant of a triumph should therefore have marked the acme of an already distinguished public career. Amidst this pomp, however, there intervened the worst of private disasters. For, a few days before the triumph, Paullus lost one of the two young sons born to him from his second marriage, and, only a few days after, the second died as well. The general responded with a notably dignified speech in which he recalled his prayer prior to the campaign, that the gods should reserve any intended catastrophe for his house alone and not for the state, and gave thanks for their having granted him his wish.<sup>1</sup>

Two and a half centuries later another Roman, the rhetorician M. Fabius Quintilianus, could look to the close of a distinguished personal career. The preface to the *Institutio Oratoria* reflects on twenty years in education and identifies the work in hand as the sum of the teacher's gathered wisdom.<sup>2</sup> That Quintilian had reached the very top of his profession may in turn be inferred from the later statement that his pupils included no less than the children of the imperial house.<sup>3</sup> Yet here too is another tale of tarnished glory and blighted hope. For the preface to the sixth book of the *Institutio Oratoria* informs the addressee, Marcellus Vitorius, that death has robbed Quintilian not just of his young wife but also of both his sons; the rhetorical talent and dedication of the elder of these two had marked him out for the rhetor as the natural heir to his achievements, and the *Institutio* had been intended as a surrogate-teacher for the son should his father's death leave him an orphan. Yet this new loss robs the parent of his child and the study, still only half-complete, of its purpose. Quintilian makes no secret of his own desolation but finally resolves to press on.

The comparison of these two episodes is revealing. For the response to bereavement attributed to Paullus is a classic instance of that public sublimation of personal distress which the ancient sources so insistently represent as a characteristic virtue in the Roman male. The unabashed emotionalism of Quintilian, by contrast, is an important reminder that particular contexts permitted a quite different code of behaviour and that the forensic rhetoric which forms a large part of what is taught in the *Institutio* presupposes a distinctly more unbuttoned approach on the part of the orator and his jury. Yet what is perhaps no less significant is the crucial point of identity between Paullus and Quintilian. For just as the general and statesman bears up in public and carries on, so the rhetorician cannot simply leave his work an incomplete fragment broken short by grief. Rather, he resolves to endure and the very preface which so eloquently expresses the pain of bereavement also enacts its necessary burial. If this is at first sight a somewhat disquieting effect, closer examination will offer little more for our comfort.

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<sup>1</sup> Liv. 45.40.6-42.1; Plut., *Aem.* 34.7-37.1; Val. Max. 5.10.2; Vell. 1.10.4-5.

<sup>2</sup> Quint., *inst.* 1 pref. 1.

<sup>3</sup> Quint., *inst.* 4 pref. 2.

This paper therefore addresses three distinct problems in Quintilian's representation of emotional effect in oratory, each of which, however, turns on an issue raised in this introductory comparison. The first, and most substantial, section of the argument considers the role of emotional effect in oratory and examines both the philosophical critique of such behaviour and the defence advanced by Quintilian and by Cicero. The public morality which emerges is one decidedly more nuanced and indeed often more wilfully mystificatory than that represented by its critics. The second and third sections, by contrast, relate more closely to the idea that Quintilian kills off the very emotion he himself generates. For what emerges from close study of the lament for his bereavement, and then again from his claim to reveal a uniquely personal secret gained from experience of himself seeking to move an audience, is the rhetor's coolly impersonal and manipulative control of superficially personal material.

## II. SUMMARY

It will be of value briefly to summarize the content of this section of the *Institutio* and to state how this fits into the overall structure of the work. In the preface, Quintilian delivers an impassioned address to Marcellus Vitorius in which he laments the death first of his wife, then of both his sons, most particularly that of the second. In 6.1 he then moves straight into a description of the peroration, the function of which he divides into the recapitulation of the fundamental points at issue in a case and the appeal to the emotions. 6.1.1–8 tackles the former and 6.1.9–55 the latter. 6.2 proceeds to offer a more global consideration of the role of the appeal to the emotions in oratory, and distinguishes that mode which conveys the moral character (ἠθός) of the orator or his client from that which seeks to arouse passion (πάθος) in the juror. Quintilian closes with the revelation of the great secret taught him by experience: that, in order to move our audience, we must first be moved ourselves.

The fundamental point to note, therefore, is that this section of the *Institutio* is not simply about the emotions, but also about the different parts of an oration and, in particular, the peroration. That this should be the case is due to a basic characteristic of Quintilian's mode of composition, namely the combination within one work of two separate Hellenistic schemata: the five parts of oratory and the four parts of the oration itself.<sup>4</sup> The first of these is proclaimed in the preface to Book 3 and Books 3 to 6 are conventionally assumed to contain Quintilian's handling of the first part of oratory: *inventio* or the discovery of arguments.<sup>5</sup> That Book 6 should therefore move at 6.3 from the discussion of emotional effect to the analysis of jokes gives it a structure similar to that of another work divided according to the five parts of oratory and in which the humorous follows hard on the affective: the *De Oratore*.<sup>6</sup> At the same time, however, the preface to Book 4 of Quintilian has announced a second programme and resolved to analyse the four parts of the oration. The announcement at 6.1.1 that 'the peroration was due to come next' ('peroratio sequebatur') thus marks the opening to Book 6 as the resumption of this second programme suspended at the close of Book 5 with the end of the section on refutation and confirmation of arguments.

The potential confusion inherent in this combination of two schemata is evident from the late antique manuscript headings. These are as follows: the preface is headed PROHOEMIUM IN QUO CONQUESTIO DE FORTUNA SUA; 6.1.1 DE PERORATIONE; 6.1.30 DE AFFECTIBUS; 6.2.1 DE DIVISIONE

<sup>4</sup> For this problem, see K. Barwick, 'Die Gliederung der rhetorischen TEXNH und die Horazische Epistula ad Pisones', *Hermes* 57 (1922), 1–62, esp. 1–13.

<sup>5</sup> Barwick, *op. cit.* (n. 4), 1 points to Quint., *inst.* 3.3.1: 'omnis autem orandi ratio, ut plurimi maxime auctores tradiderunt, quinque partibus constat: inventione, dispositione, elocutione, memoria, pronuntiatione sive actione', and sees Books 3–6

as dealing with *inventio*, Book 7 *dispositio*, Books 8–11.1 *elocutio*, Book 11.2 *memoria*, Book 11.3 *pronuntiatio*. The analysis of the speech by its parts is thus uneasily subsumed into the category of *inventio*.

<sup>6</sup> Barwick, *op. cit.* (n. 4), 1–2, identifies Cic., *de orat.* 2.104–306 as the account of *inventio*. This is muddled somewhat by M. Antonius' reference to *tractatio* as something distinct from *inventio*, but is essentially valid.

AFFECTUUM ET QUOMODO MOVENDI SINT; and 6.3.1 DE RISU.<sup>7</sup> The obvious problem here is that, while the heading at 6.1.30 suggests that what follows is a discussion specifically directed to the emotions and distinct from the foregoing account of the peroration, the author has in fact been closely engaged with the matter of emotional effect at least since 6.1.9,<sup>8</sup> and will continue to refer to the peroration throughout the rest of 6.1 and 6.2.<sup>9</sup> None of this, however, should cause the student of Quintilian more than passing disquiet; for the ancient perception of the peroration as the classic locus of emotional effect means that any discussion of emotional effect is bound to draw on examples from the peroration and that any account of the peroration is bound to say much about emotional effect. Though Greek and Roman rhetorical theory frequently denies that the peroration is the sole locus of emotional appeal, it does so in such a way as to leave no doubt that this remains its place *par excellence*,<sup>10</sup> and Quintilian himself underlines the point when considering the proper extent of emotional appeals at other points in the speech, most notably the proem.<sup>11</sup>

### III. PERORATIONS AND THE PASSIONS

The first problem to be addressed is that of emotional appeal itself and this emerges directly from Quintilian's discussion of the peroration.

6.1.1 opens with some fairly crisp statements of the matter in hand. Quintilian sets out to define the peroration (*peroratio*), equates it with two other Latin terms, *conclusio* and *cumulus*, and states that it has a double function relating first to issues (*res*) and second to emotions (*adfectus*). The former concerns the repetition and gathering together of what is under discussion in the case and is called ἀνακεφαλαίωσις by the Greeks<sup>12</sup> and *enumeratio* by the Romans.<sup>13</sup> As will be seen, the large part of this account is entirely conventional in antiquity. I would, however, highlight two peculiarities. First, while *conclusio* is familiar from Latin as a term for the peroration,<sup>14</sup> *cumulus* is decidedly rare in this context.<sup>15</sup> Second, and more strikingly, Quintilian entirely omits both the standard Greek term for a peroration (ἐπίλογος)<sup>16</sup> and its Latin calque

<sup>7</sup> These titles are not reported consistently in all editions. Winterbottom reports no title for 6.2.1 and Radermacher attributes it only to *P*; Cousin, by contrast, finds it in *A*, *G*, and *H* and declines to report readings in *P* on account of the manuscript's late date.

<sup>8</sup> Quint., *inst.* 6.1.9: 'adfectibus quoque isdem fere utuntur'.

<sup>9</sup> Quint., *inst.* 6.1.37, 6.1.40, 6.1.42, 6.1.46, 6.1.47, 6.1.50, 6.1.51, 6.1.52, 6.1.54, 6.1.55 bis, 6.2.12, 6.2.20 etc.

<sup>10</sup> F. Solmsen, 'Aristotle and Cicero on the orator's playing upon the feelings', *CPh* 33 (1938), 390–404 points to Cic., *de orat.* 2.152 and 160 and their implicit identification of Aristotle's *Rhetoric* as a source. He therefore argues that Aristotle's analysis of the emotions independent of any considerations of the different parts of the oration is reflected in their handling at *de orat.* 2.185–214 and 2.310–12. Yet the confession in the latter passage that proem and peroration remain the classic locations for such effects reveals the limitations to any alternative system Cicero may here wish to establish, and it is significant that the emotional effects employed in the defence of M'. Aquilius described at *de orat.* 2.194–5 have already been identified at 2.124 as stemming from the peroration. For other passages linking the peroration with emotional effect, see *de orat.* 2.278, 2.332, 3.107.

<sup>11</sup> Quint., *inst.* 4.1.28, 6.1.51–2, 6.2.20; *decl.* 338.1–3. For the proem and peroration linked and differentiated, see also Longinus I.2.183.1–7, I.2.186.1–13 Spengel-Hammer; Anon. *Rhet.*

I.2.209.27–210.5, I.2.352.14–17, I.2.394.16–22 Spengel-Hammer; Hermogenes II.149.7–19 Spengel.

<sup>12</sup> For ἀνακεφαλαίωσις as a part of the peroration, see Anon. *Rhet.* I.2.388.15–18 Spengel-Hammer; I.2.390.15–392.13 Spengel-Hammer; Rufus I.2.407.12–15 Spengel-Hammer; Hermogenes II.436.9–26 Spengel.

<sup>13</sup> For *enumeratio* as a part of the peroration, see Cic., *inv.* 1.98; *part.* 52, 59–60, 122; *Rhet. Her.* 2.47.

<sup>14</sup> For *conclusio*, see Cic., *inv.* 1.98; *de orat.* 2.80; *Rhet. Her.* 1.4, 2.47; Q. Fabii Laurentii Victorini, *Explanationes in Rhetoricam M. Tulli Ciceronis* 1.52–5 = pp. 256–7 Halm; Cassiodorus, *De Rhetorica* 20 = p. 503 Halm. For *concludere* in the context of the peroration, see Cic., *de orat.* 2.80, 307, 332; *orat.* 122; *part.* 46, 47.

<sup>15</sup> For *cumulus* as a rhetorical term, see *TLL* iv.1386.84–1387.14. Of the examples cited, only Cassiod., in *psalm.* 68.8 seems properly to parallel Quintilian's use of *cumulus* at this point and Cassiodorus is noted for his dependence on the *Institutio Oratoria*. For the anomalous use of *cumulus*, see also L. Calboli Montefusco, *Exordium Narratio Epilogus. Studi sulla teoria retorica greca e romana delle parti del discorso* (1988), 79 n. 1.

<sup>16</sup> For ἐπίλογος as a rhetorical term, see Arist., *Rhet.* 1419b10; D.H., *Lys.* 19; *Isoc.* 9; *Dem.* 19, 45, 48, 52; Anon. *Rhet.* I.2.356.15, I.2.395.27, I.2.398.1 Spengel-Hammer; Rufus I.2.407.12 Spengel-Hammer; Hermog. II.149.7 Spengel.

(*epilogus*).<sup>17</sup> This is in spite of the fact that he will go on to use *epilogus* thirteen times in 6.1 alone and that it is statistically more frequently employed than *peroratio* or *conclusio* throughout the *Institutio Oratoria*. I have no explanation for this omission. *Cumulus*, meanwhile, is best explained as an architectural metaphor suggesting the crown or pinnacle of a building.<sup>18</sup> It might also be pertinent to refer to Cicero's use of *cumulate* in a closural passage of the *Topica* itself immediately subsequent to the analysis of the peroration.<sup>19</sup>

The division of the peroration into functions is standard in rhetorical theory. Aristotle in the *Rhetoric*, for instance, identifies four functions: to win the sympathy of the listener and alienate him from one's opponent; to emphasize and de-emphasize as necessary; to put the listener in an emotional state; and to remind him of what has been said before.<sup>20</sup> In subsequent writing, it is more normal to boil this down into either a twofold function consisting of recapitulation and emotional appeal,<sup>21</sup> or a threefold function in which two of the categories, pity and indignation, are essentially subsets of the single category of emotional appeal in the twofold function.<sup>22</sup> The category of emphasis or *auxesis* is thus effectively merged with that of emotional appeal and recurs frequently in this context.<sup>23</sup> In Latin it is rendered as *amplificatio*, in which form it appears at *Institutio Oratoria* 6.1.52,<sup>24</sup> and the relationship to the Greek concept is emphasized by frequent employment of the verb *augere* in this context.<sup>25</sup> Cicero, however, suggests a more complex concept of *amplificatio* than that provided by the Greek rhetorical writers: at times it can indeed stand for the exacerbation of emotions generated in the audience,<sup>26</sup> at others it refers to the bid to capitalize on what has been achieved in the previous sections of the speech and can therefore be employed as effectively by the orator who seeks to extinguish the emotions as by the orator who sets out to rouse them.<sup>27</sup>

This then is the standard account of the peroration. There is, however, a significant alternative tradition, and one to which Quintilian refers at 6.1.7:

id unum epilogi genus visum est plerisque Atticorum, et philosophis fere omnibus qui de arte oratoria scriptum aliquid reliquerunt. id sensisse Atticos credo quia Athenis adfectus movere etiam per praeconem prohibebatur orator. philosophos minus miror, apud quos vitii loco est adfici, nec boni moris videtur sic a vero iudicem averti, nec convenire bono viro vitii uti. necessarios tamen adfectus fatebuntur si aliter optineri vera et iusta et in commune profutura non possint.

This single form of peroration was approved of by most of the Athenians and almost all those philosophers who have left some treatise on the art of oratory. I believe that the Athenians were of this opinion because at Athens they went so far as to bar the orator from moving the emotions through action of the herald. I am less surprised at the philosophers, among whom it is held to be a vice to be moved and it is considered ill custom for the judge to be diverted from the truth and ill suiting for a good man to exploit vices. Yet they will

<sup>17</sup> For *epilogus* as a rhetorical term, see Cic., *Brut.* 1.27; *de orat.* 1.86 with Leeman-Pinkster ad loc., 2.278; *orat.* 57; *Tusc.* 1.47; Quint., *inst.* 2.17.6, 4.1.28 bis, 4.2.111, 4.2.114, 6.1.7, 6.1.10, 6.1.37, 6.1.40, 6.1.42, 6.1.46, 6.1.47, 6.1.50, 6.1.51, 6.1.52, 6.1.54, 6.1.55 bis, 6.2.12, 6.2.20 etc.

<sup>18</sup> See OLD pp. 470–1 s.v. *cumulus* 4, cf. B. Brohm in G. Ueding (ed.), *Historisches Wörterbuch der Rhetorik II* (1994), 396–7 s.v. *cumulatio*. I am, however, baffled by Brohm's attempt specifically to link *cumulatio* with Greek ἀνακεφαλαίωσις.

<sup>19</sup> Cic., *top.* 99: 'ad id autem quod te velle senseram, cumulate satis factum esse debet voluntati tuae'.

<sup>20</sup> Arist., *Rhet.* 1.419b19–13: ὁ δ' ἐπίλογος σύγκειται ἐκ τετάρων, ἐκ τε τοῦ πρὸς ἑαυτὸν κατασκευάσαι εὐ τὸν ἀκροατὴν καὶ τὸν ἐναντίον φάυλας, καὶ ἐκ τοῦ αὐξήσαι καὶ ταπεινώσαι, καὶ ἐκ τοῦ εἰς τὰ πάθη τὸν ἀκροατὴν καταστήσαι, καὶ ἐξ ἀναμνήσεως.

<sup>21</sup> Anon. *Rhet.* 1.2.388.15–18 Spengel-Hammer; Rufus 1.2.407.12–15 Spengel-Hammer; Cic., *part.* 52–60.

<sup>22</sup> Apsines 1.2.296.14–16 Spengel-Hammer; *Rhet. Her.* 2.47; Cic., *inv.* 1.98; C. Chirius Fortunatianus p. 119.31–3 Halm; Martianus Capella p. 491.18–20 Halm. For four-, three-, and two-part perorations, see also Calboli Montefusco, op. cit. (n. 15), 88–9.

<sup>23</sup> Longinus 1.2.186.1–13 Spengel-Hammer; Anon. *Rhet.* 1.2.208.10–12 Spengel-Hammer; Apsines 1.2.296.14–16 Spengel-Hammer; Anon. *Rhet.* 1.2.393.7–11, 1.2.398.19 Spengel-Hammer; Rufus 1.2.407.12–15 Spengel-Hammer.

<sup>24</sup> Quint., *inst.* 6.1.52: 'cum sit maxima pars epilogi amplificatio'; cf. Cic., *de orat.* 1.143, 3.104; *orat.* 127; *part.* 52, 128; *top.* 98: 'peroratio autem et alia quaedam habet et maxime amplificationem, cuius effectus hic debet esse, ut aut perturbentur animi aut tranquillentur et, si ita adfecti iam ante sint, ut aut augeat eorum motus aut sedet oratio.'

<sup>25</sup> See especially Cic., *orat.* 125, cf. *de orat.* 1.143, 2.332, 3.104; *part.* 52.

<sup>26</sup> Cic., *de orat.* 3.104.

<sup>27</sup> Cic., *de orat.* 3.104, cf. *top.* 98.

confess that the emotions are essential should truth, justice, and the common good be unattainable by any other means.<sup>28</sup>

The alleged Athenian ban on emotional manipulation of the jury is mentioned repeatedly by Quintilian.<sup>29</sup> Did such exist? Xenophon implies that it did, but his claim, that the emotional appeals which Socrates shuns would in fact have been illegal, is expressed in such a way as to suggest that this law was freely disregarded.<sup>30</sup> Far more compelling is the evidence pointing to a special provision relative to one court of Athens: the Areopagos. Aristotle refers in the very first pages of the *Rhetoric* to a law governing the behaviour of orators on the Areopagos, and states that they were banned from speaking 'of matters extraneous to the case'.<sup>31</sup> Lysias, likewise, composed the speech *Against Simon* for delivery on the Areopagos, and, though he could say more, contents himself with brief closing advice to the jury on the grounds that 'it is not customary in your court to speak of matters extraneous to the case'.<sup>32</sup> Lycurgus, meanwhile, foreshadows any commentary extraneous to the case at the start of his speech *Against Leocrates*, and suggests that the jurors in his case should follow the example of the Areopagos and not allow others to drag in irrelevancies.<sup>33</sup> The basic terms of the statute therefore seem to be clear.<sup>34</sup> Aristotle himself may identify 'matters extraneous to the case' with emotional effect,<sup>35</sup> but the same might just as easily be claimed of warnings of the political consequences of conviction or acquittal, and this is indeed among the abuses which Lycurgus deplors.<sup>36</sup> The same point holds for the claim in various later sources, that an orator on the Areopagos would be prevented by action of the herald from delivering a proem or a peroration: that these are, according to rhetorical theory, the natural parts of the speech in which the orator ingratiates himself with the jury or rouses the emotions makes them the obvious location for speaking 'of matters extraneous to the case', and, by extension, subsets of the category actually banned.<sup>37</sup> Quintilian clearly does much the same: his allusion to the herald is the last trace of the law's specific application to the Areopagos; the claim of a ban on emotional appeal stands in for a much more general provision of which he is unaware or which he does not understand.<sup>38</sup> No such legislation is attested for Rome.

Yet it is with the claim that the philosophers reject emotional arousal as a part of the peroration that Quintilian reaches truly interesting territory. In the proem to Book 5 he has already referred to distinguished authorities (*clari . . . auctores*) who believe that the sole duty of the orator is to instruct (*docere*), who reject emotional arousal on the grounds that all mental perturbation is a vice and that it is improper to employ emotional factors in order to distract the juror from the truth, and who treat all pandering to the pleasure

<sup>28</sup> C. A. Atherton, 'Hand over fist: the failure of Stoic rhetoric', *CQ* 38 (1988), 392–427, at 404–5 translates 'Atticorum' and 'Atticos' as 'Atticisers' on the not unreasonable grounds that the disavowal of emotional appeal is far more generally true of the Roman Atticists (at least as presented by Cicero at e.g. *Brut.* 276, 290–1, *orat.* 20, *opt. gen.* 15–16) than it is of the orators of ancient Athens. However, Quintilian's explanatory reference to Athenian legislation and the intervention of the herald coheres much better with an admittedly inaccurate account of the Athenian orators than it does with the apparent aesthetic criteria of the Atticists. For this reason I translate 'Athenians'.

<sup>29</sup> Quint., *inst.* 2.16.4, 10.1.107, 12.10.26.

<sup>30</sup> Xen., *Mem.* 4.4.4. For the prevalence of emotional appeal to the jury and the brandishing of children, see *Ar.*, *Vesp.* 568–74, cf. 976–8; *Pl.*, *Apol.* 34B–35B; cf. *Isoc.*, *Antid.* 321; *Lys.* 20.34; *And.* 1.148; *Dem.* 21.99, 186–8.

<sup>31</sup> Arist., *Rhet.* 1354a22–3: ἔξω τοῦ πράγματος.

<sup>32</sup> *Lys.* 3.46: ἐπειδὴ παρ' ὑμῖν οὐ νόμιμόν ἐστιν ἔξω τοῦ πράγματος λέγειν.

<sup>33</sup> *Lycurg.*, *In Leocrat.* 11–13. The phrase ἔξω τοῦ πράγματος features in both 11 and 13.

<sup>34</sup> For very similar treatment of the evidence, see D. M. MacDowell, *Athenian Homicide Law in the Age of the Orators* (1963), 43–4.

<sup>35</sup> Arist., *Rhet.* 1354a11–18, cf. 1354a24–6.

<sup>36</sup> *Lycurg.*, *In Leocrat.* 11: ποιήσομαι δὲ καὶ γὰρ τὴν κατηγορίαν δικαίαν, οὔτε ψευδόμενος οὐδέν, οὔτ' ἔξω τοῦ πράγματος λέγων. οἱ μὲν γὰρ πλείστοι τῶν εἰς ὑμᾶς εἰσιόντων πάντων ἀτοπώτατον ποιοῦσιν· ἢ γὰρ συμβουλευοῦσιν ἐνταῦθα περὶ τῶν κοινῶν πραγμάτων ἢ κατηγοροῦσι καὶ διαβάλλουσι πάντα μάλλον ἢ περὶ οὐ μέλλετε τὴν ψήφον φέρειν.

<sup>37</sup> *Luc.*, *Anach.* 19; *Anon. Rhet.* I.359.19–21 Spengel-Hammer. Note especially Lucian's statement that the Areopagos tolerates those who speak περὶ τοῦ πράγματος but that the herald will intervene if one delivers a proem or if one οἰκτον ἢ δεινῶσιν ἐπάγη τὴν πράγματι. See also Quint., *inst.* 10.1.107.

<sup>38</sup> The suggestion of *Ath.* 590E that a ban on emotional manipulation was introduced in response to the tactics adopted by Hyperides in order to secure the acquittal of Phryne is picturesque but implausible and need not detain us.

of their listeners as both irrelevant and unworthy of a man.<sup>39</sup> The opening to Aristotle's *Rhetoric* is an obvious point of reference here and has been cited by many commentators on Quintilian.<sup>40</sup> His position, however, is difficult to square with that here attributed either to the *clari auctores* in Book 5 or to the philosophers in Book 6. For Aristotle is primarily concerned to highlight the hackneyed character of most rhetorical treatises and to establish the unique selling point of his own work, namely its analysis of the forms of argumentation or *enthymemata*.<sup>41</sup> If, he adds, the situation held for all trials which is maintained in certain states, and particularly those which are governed well, the rhetorical writers would have nothing to say. For all either think that the laws should insist, or employ laws such as those regarding the Areopagos which actually do insist, that one should not speak of matters extraneous to the case; the rationale behind such legislation is correct and it is that to sway the emotions of the jury is like bending out of shape a measuring-rod which one means to use.<sup>42</sup> What Aristotle never suggests is that the orator should eschew emotional appeal even in those courts and states not yet subject to such virtuous control. There is therefore no final contradiction in the fact that the next chapter of the first book of the *Rhetoric* will go on to list the emotional manipulation of the juror among the three great forms of persuasion;<sup>43</sup> that the second book will prescribe understanding of the types of people prone to each passion, the things which rouse these passions, and the types of men at which they are directed, as a basic prerequisite for any orator seeking to achieve emotional effect;<sup>44</sup> or that the third book will furnish an account of the peroration which, as we have seen, acknowledges the essential role of emotional appeal.<sup>45</sup>

For a more radical challenge to standard oratorical practice we must therefore turn to another source and one more central to Roman intellectual culture in the first century A.D. Here, crucial evidence is supplied by the Anonymous Rhetor whom Graeven sought to identify with Cornutus, and who is certainly capable of delivering a textbook account of the Stoic passions.<sup>46</sup> The following is his survey of philosophical definitions of the peroration:

ἔργον δὲ ἐπίλογου Πλάτων μὲν ἐν Φαίδρῳ φησίν· 'ἐν κεφαλῶνι καταλέγοντα ὑπομνήσαι ἐπιτελετικούς'<sup>47</sup> τοὺς ἀκούοντας τῶν εἰρημένων'. ἔχεται δὲ τῆς αὐτῆς δόξης καὶ Χρυσίππος· καὶ γὰρ αὐτὸς μονομερῆ φησι τὸν ἐπίλογον. Ἀριστοτέλης δὲ ἐν ταῖς Θεοδεκτικαῖς τέχναις φησίν, ὅτι 'ὁ ἐπίλογος τὸ μὲν κεφάλαιον ἔχει προτρέψασθαι τοὺς ἀκούοντας· προτρέψομεν δὲ τριχῶς, εἰς τὰ πάθη ἀνάγοντες τὰ ἐκάστωι προτρεπτικά. ἐν μὲν οὖν ἔργον ἐπίλογου τὸ τὰ πάθη διεγείρει, δευτερον τὸ ἐπαινεῖν ἢ ψέγειν· τούτων γὰρ ἐν ἐπιλόγοις ἡ χώρα· τρίτον δὲ τὸ ἀναμνησκεῖν τὰ εἰρημένα'. οὕτε δὲ τὰ ἐυμνημόνευτα οὕτε τὰ ἀπαθῆ κινητέον.

Plato in the *Phaedrus* defines the function of the peroration as follows: by summarizing point by point at the close of the oration to remind the listeners of what has been said. Chrysippus holds to the same opinion; for he also speaks of a unipartite peroration. But Aristotle in the *Theoedectean Rhetoric* states that 'The peroration has the final function of winning over the listeners. And we will win them over in three ways, by leading them into the emotions which are best designed to win each man over. One function of the peroration, therefore, is to arouse the passions; the second is to praise or blame (for the place for these things is in the

<sup>39</sup> Quint., *inst.* 5 pref. 1–2: 'fuerunt et clari quidem auctores quibus solum videretur oratoris officium docere (namque et adfectus duplici ratione excludendos putabant, primum quia vitium esset omnis animi perturbatio, deinde quia iudicem a veritate depelli misericordia gratia ira similibusque non oporteret: et voluptatem audientium petere, cum vincendi tantum gratia diceretur, non modo agenti supervacuum, sed vix etiam viro dignum arbitrabantur), plures vero qui nec ab illis sine dubio partibus rationem orandi summovent, hoc tamen proprium atque praecipuum crederent opus, sua confirmare et quae <ex> adverso proponerentur refutare.'

<sup>40</sup> See e.g. the notes ad loc. of J. Cousin in the Budé (1975–80), S. Corsi in the BUR (1997), and D. Russell in the Loeb (2001) editions of Quintilian.

<sup>41</sup> Arist., *Rhet.* 1354a11–18, 1354b16–22, 1356a14–19.

<sup>42</sup> Arist., *Rhet.* 1354a18–26.

<sup>43</sup> Arist., *Rhet.* 1356a1–4, 14–19.

<sup>44</sup> Arist., *Rhet.* 1378a19–1389b30, esp. 1378a22–6.

<sup>45</sup> Arist., *Rhet.* 1419b10–13. For the case against contradiction, see F. Marx, 'Aristoteles' Rhetorik', in R. Stark (ed.), *Rhetorika. Schriften zur aristotelischen und hellenistischen Rhetorik* (1968), 36–123, esp. 52–3; E. Schütrumpf, 'Some observations on the introduction to Aristotle's *Rhetoric*', in D. J. Furley and A. Nehamas (eds), *Aristotle's Rhetoric. Philosophical Essays* (1994), 99–116, esp. 113–15. The objections of C. Rapp, *Aristoteles Rhetorik. Übersetzt und Erläutert* (2002), ii, 46 are not convincing.

<sup>46</sup> Anon. Rhet. I.2.392.14–393.6 Spengel-Hammer.

<sup>47</sup> ἐπὶ τελευτῆς Kayser.

peroration); and the third is to recall what has been said'. But we should not waste energy on those things which are easy to recall or without passionate effect.<sup>48</sup>

To the Anonymous Rhetor, both Plato and Chrysippus argue for recapitulation as the one exclusive function of the peroration. In fact, the *Phaedrus* passage to which he refers follows on directly from discussion of the pathetic strategies invented by Thrasymachus and is itself at best casually descriptive and in no sense the prescription of either Plato, Socrates, or Phaedrus.<sup>49</sup> Chrysippus, however, is surely another matter.<sup>50</sup> What is at issue in his one-part peroration and how can it relate to the rest of his thought?<sup>51</sup>

The Stoic account of the passions represents them either as feelings attendant on a judgement or as inseparable from the judgement itself. The former position is associated with Zeno and the first Stoics, the latter with Chrysippus.<sup>52</sup> In the first case, the judgement is that *x* is good or bad and the passion the feeling generated by that judgement. In the latter, the judgement is that *x* is good or bad and that it is right to react passionately to it. In both cases the crucial factor is that the judgements involved are false.<sup>53</sup> If it is therefore correct to infer that Chrysippus' prescription for the peroration excludes that part which rhetorical writers describe as τὸ παθητικόν, the obvious explanation is that an orator arousing the *pathe* will endeavour to generate false judgements in the jury.<sup>54</sup>

Two sorts of false judgement must, however, here be distinguished. The first is that whereby a jury reaches an incorrect assessment of the true facts of the case. Any rhetorical strategy which sets out to achieve this end will inevitably violate the absolute obligation to promote justice, but there is no immediate connection between this and the arousal of the passions. Lies can be told by the orator and believed by the jury without the former appealing or the latter succumbing to the *pathe*. The second sort of false judgement to which Chrysippus must therefore refer is that whereby the orator promotes emotions such as anger or pity in the jury. According to the standard Stoic sub-division of the four great passions, anger is a subset of desire and is defined as the desire for vengeance.<sup>55</sup> In Chrysippean terms, therefore, the false judgement implicit in anger is the desire to take vengeance on the accused and the assent to the belief that it is right to desire such revenge. Pity, likewise, is defined as a subset of pain felt at the misfortune of another.<sup>56</sup> The false judgement here lies in the feeling of pain and the assent to the rightness of feeling pain. Inherent in both these cases, I feel, is the notion of a personal animosity towards or sympathy with the accused and the desire effectively to avenge or assuage oneself, a notion to which Quintilian alludes when he states that the point of arousing a jury is to make them feel as if their own interests are at stake.<sup>57</sup>

<sup>48</sup> Anon. Rhet. I.2.389.6–18 Spengel-Hammer.

<sup>49</sup> Pl., *Phdr.* 267D. For Thrasymachus and pathos, see Pl., *Phdr.* 267 C–D; cf. Arist., *Rhet.* 1404a14, who refers to his work, the ἔλεοι. Schütrumpf, op. cit. (n. 45), 102–3 points to Pl., *Phdr.* 269 B and D and suggests that what Socrates objects to in Thrasymachus and his peers is the failure to integrate emotional appeal into a broader rhetorical system.

<sup>50</sup> *SVF* II.296.

<sup>51</sup> For Chrysippus and the unipartite peroration, see also Atherton, op. cit. (n. 28), 404–5; G. Moretti, *Acutum dicendi genus. Brevità, oscurità, sottigliezze e paradossi nelle tradizioni retoriche degli stoici* (2nd edn, 1995), 42–3 and n. 19.

<sup>52</sup> For this distinction between Zeno and Chrysippus, see *SVF* III.461 = Galen, *de H. et Plat. decr.* IV.1 = p. 334 M and V.1 = p. 405 M.

<sup>53</sup> See *SVF* III.459 = Plut., *Mor.* 446 F: καὶ γὰρ ἐπιθυμίαν καὶ ὀργὴν καὶ φόβον καὶ τὰ τοιαῦτα πάντα δόξας εἶναι καὶ κρίσεις πονηράς. For other definitions of the passions as false judgements, see *SVF* III.382 = Them., *paraphr. in Arist. de anima* III.5 p. 197 Sp.; *SVF* III.386 = Aspasius in *Arist. NE* p. 44.12 Heylb.; *SVF* III.389 = Stob. 2.89.4; *SVF* 3.391 = Andron., *περὶ παθῶν* I (p. 11 Kreuttner); *SVF* III.394 = Stob. 2.90.7.

<sup>54</sup> Atherton, op. cit. (n. 28), 409–10, 414 points to the statement attributed to Arcesilaus at Sextus *M.* 7.154, that Stoics overlook the fact that assent is granted to propositions and not, as they assume, to impressions. On this basis she argues subtly and impressively that Stoic rhetoric, though it excludes attempts to rouse the passions *per se*, may nevertheless presuppose a very limited range of 'acceptably emotive' modes of speaking. These will be expressions of the three Stoic εὐπαθείαι, evidence for which is collected at *SVF* III.431–42. The famous plainness of Stoic rhetoric will, however, indicate quite how limited these were and, as Atherton herself notes at 405, cf. 414, the distinction is much too subtle for Quintilian to grasp.

<sup>55</sup> *SVF* III.395 = Stob. 2.91.10; *SVF* III.396 = DL 7.113; *SVF* III.397 = Andron., *περὶ παθῶν* 4 (p. 16 Kreuttner); *SVF* III.398 = Cic., *Tusc.* 4.21. See also Anon. Rhet. I.2.392.14–393.6 Spengel-Hammer, esp. ὀργὴ δὲ ἐστὶν ἐπιθυμία τιμωρίας.

<sup>56</sup> *SVF* III.414 = Andron., *περὶ παθῶν* 2 (p. 12 Kreuttner) includes both ἔλεος and οἶκτος as subsets of λύπη. See also Cic., *Tusc.* 3.20; Sen., *clem.* 2.6–7.

<sup>57</sup> Quint., *inst.* 6.2.4–6.

By contrast, an example of a true judgement would be first the dispassionate conclusion that a crime has or has not been committed; second, if it is concluded that it has, the dispassionate consideration of the appropriate point on the scale of penalties prescribed by the absolute principle of justice that that crime requires. These are the judgements which it is the task of the Stoic orator to promote.

What distinguishes the Chrysippean account of the peroration, therefore, is that it is not so much a description as a prescription and one founded on a theoretical understanding of the passions.<sup>58</sup> The potential role which it adopts in a broader system of Stoic rhetoric may further be inferred on the basis of a crucial statement furnished by the anonymous author of the preface to the *status* of Hermogenes. According to this source, the Stoic definition of rhetoric is 'the science of speaking well', while speaking well is in turn defined as 'speaking the truth'.<sup>59</sup> That this uncompromising doctrine could have serious practical implications is, in turn, illustrated by Cicero. For both the *Brutus* and the *De Oratore* recall the censure of Ser. Sulpicius Galba by Cato the Elder and P. Rutilius Rufus for the emotion he roused by the display of the child of a relative when on trial for slaying the Lusitanians in violation of a treaty.<sup>60</sup> Cicero adds that when Rutilius himself, a pupil of Panaetius and near-perfect Stoic,<sup>61</sup> was later put on trial, he contented himself with a plain account of the truth ('simplex ratio veritatis'):<sup>62</sup> nobody speaking in his defence groaned, nobody called out, nobody showed pain, nobody lamented, nobody implored the state, nobody engaged in supplication, nobody even stamped his foot for fear that the Stoics might find out.<sup>63</sup> The consequence of such perfect orthodoxy was, of course, conviction.<sup>64</sup>

The Stoic theory of rhetoric is further represented in the *De Oratore* through the occasional interventions of Q. Mucius Scaevola and the views attributed to Mnesarchus. Both are identified as disciples of Panaetius.<sup>65</sup> The impact of Stoicism on Scaevola is perhaps best represented by his response to the claim of L. Crassus that the true orator must acquire a mastery of all the liberal arts. For Scaevola regards all these as matters of personal culture and defines oratory *per se* in a most unflattering light: in judicial contexts it is to make one's case, whatever it may be, seem better and more plausible

<sup>58</sup> B. Riposati, *Studi sui topica di Cicerone* (1947), 282 and Calboli Montefusco, op. cit. (n. 15), 84–5 are unsatisfactory on this point. Even if a tradition can be traced back to Corax which attributes to the peroration nothing more than the recapitulation of points already made, it surely is not grounded in the same broader theory as the position which Chrysippus represents.

<sup>59</sup> Anon. proleg. in Hermog. *status*, *Rh. Gr.* vol. VII. I, p. 8.20 Walz: οἱ μὲν γὰρ αὐτὴν ἐκάλεσαν ἐπιστήμην ἀπὸ τοῦ μείζονος, ὀρίζονται ἐπιστήμην τοῦ εὖ λέγειν, οἱ Στωικοὶ τὸ δὲ εὖ λέγειν ἔλεγον τὸ ἀληθῆ λέγειν. *SVF* II.293 cites the first half of this definition but not the crucial identification of speaking well with speaking the truth. M. Pohlenz, *Die Stoa* (1949), ii, 31 puts this right. For the first half of the definition, see also Quint., *inst.* 2.15.34 = *SVF* II.292; Sextus, *adv. math.* II.6 = *SVF* II.294. For both parts, cf. Mnesarchus at Cic., *de orat.* 1.83. It is perhaps indicative of the scant difference between Stoic rhetoric and Stoic dialectic that Alexander, *in top.* p. 1.8–14 Wallie should open his survey of definitions of the latter category as follows: ἡμᾶς δὲ καλῶς ἔχει προεἰδέναι ὅτι τὸ τῆς διαλεκτικῆς ὄνομα οὐκ ἐπὶ τὸ αὐτὸ σημαίνονμενον πάντες οἱ φιλόσοφοι φέρουσιν,

ἀλλ' οἱ μὲν ἀπὸ τῆς Στοᾶς ὀρίζονται τὴν διαλεκτικὴν ἐπιστήμην τοῦ εὖ λέγειν, τὸ δὲ εὖ λέγειν ἐν τῷ τὰ ἀληθῆ καὶ τὰ προσήκοντα λέγειν εἶναι τιθέμενοι, τοῦτο δὲ ἴδιον ἡγούμενοι τοῦ φιλοσόφου κατὰ τῆς τελειοτάτης φιλοσοφίας φέρουσιν αὐτό· καὶ διὰ τοῦτο μόνος ὁ σοφὸς κατ' αὐτοὺς διαλεκτικός.

<sup>60</sup> Cic., *de orat.* 1.227–8. For Galba as the first Roman to study emotional effect, see Cic., *Brut.* 82.

<sup>61</sup> For the Stoicism of Rufus and his relationship with Panaetius, see Cic., *Brut.* 114, 116; *off.* 3.10 with Dyck ad loc.; Atherton, op. cit. (n. 28), 409, 426–7; Moretti, op. cit. (n. 51), 92–6; C. Lévy, 'Cicéron critique de l'éloquence stoïcienne', in L. Calboli Montefusco (ed.), *Papers on Rhetoric III* (2000), 127–44, esp. 131–4.

<sup>62</sup> Cic., *de orat.* 1.229.

<sup>63</sup> Cic., *de orat.* 1.230: 'nemo ingemuit, nemo inlavit patronorum, nihil cuiquam doluit, nemo est questus, nemo rem publicam imploravit, nemo supplicavit; quid multa? pedem nemo in illo iudicio supposit, credo, ne Stoicis renuntiaretur.'

<sup>64</sup> Cic., *Brut.* 113–16, cf. *de orat.* 1.227–30. For Rufus' disavowal of pathetic pleas, see Val. Max. 6.4.4, cf. D.C. 28 fr. 97.2.

<sup>65</sup> Cic., *de orat.* 1.45, 75.



(‘melior et probabilior’);<sup>66</sup> in deliberative situations, to achieve the maximum force of persuasion; in all instances, to give the wise the impression of speaking fluently and the foolish that of speaking the truth (‘ut prudentibus diserte, stultis etiam vere videre dicere’).<sup>67</sup> To Mnesarchus, those conventionally dubbed orators are mere tongue-labourers, practised and swift; the only true orator, however, is the wise man, and eloquence itself, which consists of the art of speaking well, is indistinguishable from virtue.<sup>68</sup>

The account of the tactics of P. Rutilius Rufus is put into the mouth of M. Antonius Orator, and the frustration which he expresses at this purist Stoic’s attempt to reconcile oratorical practice with the demands of doctrine is clear. No great orator, he argues, was ever deterred from an emotional appeal by the censorious verdicts of the Stoics or even the Peripatetics;<sup>69</sup> nobody wishes to seem so clever amidst the foolish that they think him inept and a Greekling or resent the fact he makes them feel stupid.<sup>70</sup> Yet the interest of the position advanced by M. Antonius depends on more than just his bruising mockery of the saintly and defeated. What is perhaps most striking, rather, is the degree to which Antonius is happy to accept a definition of the orator’s task very similar to that first advanced by Scaevola, to embrace the Stoic critique and make it a source of pride. Where, for instance, the Stoic claims that conventional orators seek only to make their case seem better and more plausible (‘melior et probabilior’), Antonius himself states that the first task of counsel is to win the jurors’ assent to the truth of the position which we defend (‘ut probemus vera esse, quae defendimus’).<sup>71</sup> Antonius himself, needless to say, has given serious thought to the means by which that assent is to be gained,<sup>72</sup> and delivers an extended account not only of how to handle wills, witness-statements, legal statutes, and other such matters brought to the orator but also how to analyse the case in order to devise quasi-Aristotelian *enthymemata* with which to argue one’s position.<sup>73</sup> Yet there is also a palpable sense of relief when Antonius emerges from this more technical

<sup>66</sup> J. Glucker, ‘*Probabile, veri simile* and related terms’, in J. G. Powell (ed.), *Cicero the Philosopher* (1995), 115–43, examines the overlap between these terms in Ciceronian Academic scepticism and rhetorical writing. See esp. 124–5 for Tisias ap. Pl. *Phdr.* 273B–C and Corax ap. Arist. *Rhet.* 1402a17–24 for rhetoricians using arguments from εἰκός in order to evade the truth and 130–1 citing Cic., *Tusc.* 1.17, 4.7, *off.* 2.7–8, 3.20, 3.33, *Luc.* 121, 124, 126, 134, 135, 138, 139, 146 for *probabilis* as a technical term in Academic scepticism. Glucker concludes at 136 that the ‘rhetorical provenance’ of such terms has little bearing on philosophical understanding because the types of issues and problems in which philosophers and rhetoricians appeal to the ‘probable’ are so different. A more idealistic account of rhetorical practice might, however, be derived from Cic., *de orat.* 1. 239–40. Here, the juriconsult P. Crassus is consulted by a client and gives a discouraging response; his companion, the orator Ser. Galba, offers an alternative answer in which he says much ‘pro aequitate’. Crassus is sufficiently discomfited by this line of argument that he must check his books in order to confirm that it is wrong, but confesses all the same that ‘Galbae disputationem sibi probabilem et prope veram videri’. What matters here is that the appeal to *aequitas* against dogmatic adherence to the terms of the law itself involves an implicit enthymeme. For Cic., *top.* 9 states that ‘ius civile est aequitas constituta eis qui eiusdem civitatis sunt ad res suas obtinendas’; to state that the juriconsult’s response violates *aequitas* is to argue ‘If x, then y; if not x, then not y’. The process of exchange between rhetoric and philosophy may be more fluid than Glucker implies.

<sup>67</sup> Cic., *de orat.* 1.44. Leeman-Pinkster ad loc. point to Panaetius fr. 95 van Straaten = Cic., *off.* 2. 51: ‘atque etiam hoc praeceptum officii diligenter tenendum est, ne quem umquam innocentem iudicio capitis accessaris; id enim sine scelere fieri nullo pacto potest.

nam quid est tam inhumanum quam eloquentiam a natura ad salutem hominum et ad conservationem datam ad bonorum pestem perniciosamque convertere? nec tamen, ut hoc fugiendum est, item est habendum religioni nocentem aliquando, modo ne nefarium impiumque, defendere. vult hoc multitudo, patitur consuetudo, fert etiam humanitas. *iudicis est semper in causis verum sequi, patroni nonnumquam veri simile, etiam si minus sit verum, defendere*; quod scribere, praesertim cum de philosophia scriberem, non auderem nisi idem placeret gravissimo Stoicorum Panaetio.’ This, however, must be a grotesque misrepresentation of the Stoic, taking his unflattering description of what orators actually do and representing it as a prescription for what they should do. The interpretation offered by B. N. Tatakis, *Panaetius de Rhodes* (1931), 50 gets the matter precisely the wrong way round.

<sup>68</sup> Cic., *de orat.* 1.83. See also Crassus at Cic., *de orat.* 3.65.

<sup>69</sup> Cic., *de orat.* 1.220.

<sup>70</sup> Cic., *de orat.* 1.221.

<sup>71</sup> Cic., *de orat.* 1.44, cf. 2.115. The translations of 2.115 offered in the Budé of E. Courbaud (1927), ‘prouver la vérité de ce qu’on affirme’; the Loeb of E. W. Sutton and H. Rackham (1959), ‘the proof of our allegations’; and the BUR of M. Martina, M. Ogrin, I. Torzi, and G. Cettuzzi (1994), ‘dimostrare la veridicità della propria tesi’ all misrepresent the force of ‘probemus’ here. Piderit-Harnecker ad loc. astutely point to Arist., *Rhet.* 1356a4: διὰ τοῦ δεικνῶναι ἢ φαίνεσθαι δεικνῶναι. See also *Rhet. Her.* 1.3: ‘inventio est excogitatio rerum verarum aut veri similium, quae causam probabilem reddant.’

<sup>72</sup> Note especially Cic., *de orat.* 2.116: ‘ad *probandum* autem duplex est oratori subiecta materies.’

<sup>73</sup> For witnesses, wills, and statutes, see Cic., *de orat.* 2.118–19; for the logical analysis of the case and the invention of *argumenta*, see 2.120–76.

discussion to the greater issue which is how these arguments are actually to be handled.<sup>74</sup> And what is perhaps most noteworthy is the immediate emphasis which he places on emotional effect. Where the preceding section has advocated the excogitation of arguments as a means to win the juror's assent to the truth of one's claim, now it is stated that that assent will best be gained if the juror is governed by some impulse and disturbance of the mind rather than by judgement and counsel ('ut impetu quodam animi et perturbatione magis quam iudicio aut consilio regatur'), and that passion is a far more powerful influence on the judgements which men form than the actual facts of the case (*veritate*) or the terms of the law.<sup>75</sup> M. Antonius would, no doubt, be quite happy could he actually prove the truth of his claim; as a working principle, however, all that he seeks to do is to be deemed to advance a true case, and there will be many better ways to achieve this end than simply to deliver a bald statement of the truth.

Cicero praises Stoicism in the *De Oratore* for its endeavour to found eloquence on virtue and wisdom.<sup>76</sup> In *De Finibus*, he mockingly suggests that anyone read the rhetorical works of Chrysippus and Cleanthes should he wish to remain silent.<sup>77</sup> The tension in Cicero between the serious Hellenistic philosopher and the practical orator is finally irreconcilable and is only escaped by a process of mystification. In the largely Stoic *4th Tusculan*, for instance, Cicero disavows the passions of pity and anger but defends virtuous action undertaken vehemently, spiritedly, keenly.<sup>78</sup> In Stoicism, likewise, vehement action taken on the basis of a correct judgement (e.g. the belief that justice must be upheld) cannot be a passion because passions are always false judgements. Yet Cicero knows all too well that the practical orator will both deceive the jury as to the facts of a case and seek to arouse in them the passionate sense that their own interests are at stake either in securing or avoiding the punishment of the accused. To do this well, paradoxically, the orator may well have studied the philosophical account of the passions;<sup>79</sup> he may more specifically have studied the Stoic account of the passions;<sup>80</sup> but the buzz which he derives from emotional effect, the glorious sense that this more than anything else is what oratory is all about, will finally be incompatible with the anxious calculation as to whether this is vehemence or flat-out passion.<sup>81</sup> The mystification lies in the refusal to confront of this reality.

Quintilian is the true Ciceronian even in his evasions. At 6.1.7 he has explained that the philosophers argue for an exclusively recapitulatory peroration because 'it is held to be a vice to be moved and it is considered ill custom for the judge to be diverted from the truth and ill suiting for a good man to exploit vices'. To this, however, he adds that the same philosophers will nevertheless confess that 'the emotions are essential should truth, justice, and the common good be unattainable by any other means'. What is here argued corresponds to his practice at other points in the *Institutio Oratoria* where he finds himself obliged to defend the moral propriety of emotional appeal, and these passages must also be considered. At 2.17.26–9, for instance, Quintilian refers to the criticism of rhetoric on the grounds that it speaks falsely and moves emotions ('quia et falsum dicat et adfectus moveat'). His reply here is that neither is wrong if motivated by a good cause, that even a wise man is allowed to tell a lie, and that the orator will perforce arouse emotion if the juror cannot be brought to deal justly by other means. For jurors are stupid and there would be no need to do so were every one of them a *sapiens*, every *contio* and *consilium* entirely populated by the same. As it is, their minds are fickle and

<sup>74</sup> Cic., *de orat.* 2.177–8, esp. 178: 'ut aliquando ad illa maiora veniamus.'

<sup>75</sup> Cic., *de orat.* 2.178. For the sense of *veritate* in this passage, see Leeman-Pinkster ad loc.

<sup>76</sup> Cic., *de orat.* 3.65.

<sup>77</sup> *SVF* II.288 = Cic., *fin.* 4.7. See also Cic., *de orat.* 1.50 for the claim that Chrysippus is no stylist, hence no orator.

<sup>78</sup> Cic., *Tusc.* 4.51–2. Note that Cic., *Tusc.* 4.11–14 = *SVF* III.438 has defined the four Stoic *πάθη* and contrasted them with the three *εὐπαθείαι*. Under these terms, vehement action is a part of *βούλησις*, which in turn is the virtuous opposite of *ἐπιθυμία*.

<sup>79</sup> For the need to study philosophy in order to appreciate the emotions and their arousal, see Pl., *Phdr.* 269E–272C; Cic., *de orat.* 1.53–4, 60, 87; cf. 1.219 for the scepticism of M. Antonius; *orat.* 14–15. See also Leeman-Pinkster i.62.

<sup>80</sup> Cic., *part.* 9.

<sup>81</sup> For emotional effect as the essence of oratory, see Cic., *de orat.* 1.30, 1.53–4, 1.60: 'quod unum in oratore dominatur'; 2.214–15: 'in quo sunt omnia'; 3.104–5: 'eaeque una laus oratoris est [et] propria maxime'; *Brut.* 322: 'quod unum est oratoris maxime proprium'; *orat.* 69: 'in quo uno vis omnis oratoris est'; 128 'in quo uno regnat oratio'.

truth exposed to so many ills ('audientium mobiles animi et tot malis obnoxia veritas'), and it is sometimes only by a trick that a man driven off the straight course can be led back. At 12.1.36–9 it is again asserted that a deed which may look evil in abstract can be justified by its cause and that is true even of throwing sand in the eyes of the jury ('auferre aliquando iudici veritatem') if it is right that an acquittal should occur.

That the philosophers cited at 6.1.7 are Stoics and that Quintilian appeals to the Stoic concept of the necessary deceit of the foolish if that will promote a virtuous social project has been convincingly argued by Atherton.<sup>82</sup> This, however, is very different from claiming that the text of Quintilian as it stands is in itself any orthodox representation of the Stoic position. Where, for instance, Quintilian states that the philosophers will confess the necessity of emotional appeal in order to promote truth, justice, and the social good, he omits the fundamental stipulation that this is forbidden to all but those who enjoy the 'perfectly virtuous disposition' of the sage.<sup>83</sup> Where 2.17.27 states that *even* the sage is periodically allowed to tell a lie, the orthodox Stoic will argue that it is in fact *only* the sage for whom it is proper so to do.

It has often been argued that the Catonian definition of the orator as a good man skilled in speaking ('vir bonus dicendi peritus') is of Stoic provenance.<sup>84</sup> What is perhaps more important to observe is the degree to which Roman rhetorical writers substitute the concept of the *vir bonus* for the fundamentally impossibilist notion of the Stoic sage.<sup>85</sup> Where the Stoic frequently admits that there is little prospect of seeing a sage in one's own lifetime, the rhetorical writer operates in a community replete with good men and has every prospect of rising to this status.<sup>86</sup> It is in this way that Cicero's M. Antonius can refer to speaking before a jury of good men,<sup>87</sup> and emphasize the importance of presenting oneself and one's client precisely as a good man.<sup>88</sup> Most important of all, however, M. Antonius has every hope of finding this quality in the aspiring orator and, should he do so, he will not just exhort but will positively beg him to hone his skills.<sup>89</sup> Quintilian makes the concept even more central to his work,<sup>90</sup> at once confessing that the orator must be a good man because to hand over the weapons of oratory to the bad would be a profound disservice to the state,<sup>91</sup> and reassuring himself that, in truth, the status of orator is something which only a good man can attain.<sup>92</sup>

There is an important tension implicit in a project which aspires to render practical the impossibilist character of Stoic ethics while at the same time expressing itself in that most impossibilist of modes, the Stoic paradox.<sup>93</sup> To learn that only the good man can

<sup>82</sup> Atherton, *op. cit.* (n. 28), 405, 423–4; *SVF* II.994 = Plut., *Mor.* 1055F–1056A; *SVF* III.177 = Plut., *Mor.* 1057A–B.

<sup>83</sup> Atherton, *op. cit.* (n. 28), 424.

<sup>84</sup> Cato, *ad fil.* fr. 14 J = Sen., *contr.* 1 pref. 9; Quint., *inst.* 1 pref. 9, 2.15.1 and 34, 4.1.7, 12.1.1 and 24. See G. Calboli, *Marci Porci Catonis Oratio Pro Rhodiensibus. Introduzione, edizione critica dei frammenti, traduzione e commento* (1978), 14–22, for a survey of opinions; Moretti, *op. cit.* (n. 51), 82–6 and n. 26.

<sup>85</sup> The orthodox Stoic view as represented at Cic., *Tusc.* 5.28, cf. Sen., *const.* 7.2, is that only the *sapiens* is the *bonus vir*, but the latter term has a considerably looser sense in the vast majority of Latin writers. Cato's contemporary Terence uses *bonus vir* in an ethically loaded sense throughout his work — see e.g. Ter., *Ad.* 463–4, 476, 961; *Eun.* 660, 918 — but primarily in order to express the behaviour which can be expected of a 'gentleman'.

<sup>86</sup> For the Stoic sage, see esp. Sen., *const.* 7.1; *ira* 2.10.6; *tranq.* 7.4. For good men in the society evoked in Cic., *de orat.*, see 2.25, 144, 208, 260.

<sup>87</sup> Cic., *de orat.* 2.198.

<sup>88</sup> Cic., *de orat.* 2.184, 2.206, 2.211, 2.321, 2.349.

<sup>89</sup> Cic., *de orat.* 2.85: 'si intellegam posse ad summos pervenire, non solum hortabor, ut elaboraret, sed etiam, si vir quoque bonus mihi videbitur esse, obsecrabo; tantum ego in excellenti oratore et eodem bono viro pono esse ornamenta universae civitati.'

<sup>90</sup> Quint., *inst.* 12 pref. 4: 'at nostra temeritas etiam mores ei conabitur dare et adsignabit officia', represents the concern for the moral excellence of the orator as a novelty with respect to previous rhetorical works; but the basic category of the *bonus vir* is scarcely his invention.

<sup>91</sup> Quint., *inst.* 12.1.1. M. Winterbottom, 'Quintilian and the *vir bonus*', *JRS* 54 (1964), 90–7, is a devastating catalogue of bad men and *delatores* among the orators of Quintilian's age.

<sup>92</sup> Quint., *inst.* 1 pref. 9, 2.15.34, 12.1.4. In both these passages the good man stands in for the sage of *SVF* III.594 = Alexander in Arist. *top.* II p. 134.13 Wallie: ὡς οἱ λέγοντες μόνον τὸν σοφὸν πλούσιον ἢ μόνον καλὸν ἢ μόνον εὐγενῆ ἢ μόνον ῥήτορα; *SVF* III.612 = DL 7.122: ὁμοίως δὲ καὶ ἀρχικοῦς δικαστικούς τε καὶ ῥητορικοῦς μόνους εἶναι, τῶν δὲ φαύλων οὐδένα; *SVF* III.654 = Stob. 2.67.13: μόνον δὲ φασι τὸν σοφὸν καὶ μάντιν ἀγαθὸν εἶναι καὶ ποιητὴν καὶ ῥήτορα καὶ διαλεκτικὸν καὶ κριτικόν; *SVF* III.655 = Plut., *Mor.* 472A: ἀλλ' ἐνιοὶ τοὺς μὲν Στωϊκοὺς οἴονται παίζειν, ὅταν ἀκούσῃσι τὸν σοφὸν παρ' αὐτοῖς μὴ μόνον φρόνιμον καὶ δίκαιον καὶ ἀνδρείον, ἀλλὰ καὶ ῥήτορα καὶ ποιητὴν καὶ στρατηγὸν καὶ πλούσιον καὶ βασιλεῖα προσαγορευόμενον. See also Leeman-Pinkster at Cic., *de orat.* 2.85: 'Quint. verbindet die Definition mit der stoischen Auffassung der Redekunst'.

<sup>93</sup> See above n. 92.

become the true orator is no immediate comfort to those who see around them numerous bad men whose impact on society is all the greater for their ability to speak. This is, moreover, a particular problem for the composer of a rhetorical treatise. Both the *De Oratore* and the *Brutus*, for instance, emphasize the fact that the two principal personages of the former work were extremely sparing in their publication of speeches,<sup>94</sup> and it is a persistent source of embarrassment for M. Antonius that he should actually have published even one small book on oratory.<sup>95</sup> To the historical M. Antonius, therefore, it may be imagined that it was possible to take great care over the pupil to whom the secrets of oratory were to be divulged;<sup>96</sup> the same figure as a character in the *De Oratore*, however, is brought back to life precisely so that he may be made to communicate that learning to a wider audience and make good the failure to publish more extensively while alive.<sup>97</sup> The problem is that he now loses any ability to control access to his mysteries; bad men as much as good can acquire a copy of the *De Oratore* and derive from it what benefit they may; the common reader invades the smugly elitist world which the text so artfully brings to life. Quintilian the schoolmaster in turn will surely have encountered pupils whose ability to acquire the technical underpinnings of rhetoric surpassed their aptitude for moral instruction. Quintilian the author of the *Institutio Oratoria* has even less control over whom he is to teach.

Perhaps the sheer aridity of Stoic rhetoric was enough to deter Quintilian from any serious attempt to ground the teachings of the *Institutio Oratoria* in a coherent ethical system. Who wants to speak in a manner consistent with the dictates of ethics if it means stopping at every turn to calculate whether one's words have not had some vicious impact on the listener? On the contrary, Quintilian acknowledges in thoroughly Ciceronian terms that the moment when you sweep the audience away on a tide of sheer emotion is the time when you achieve what no dialectician, no jurisconsult, but truly only an orator can provide:

atqui hoc est quod dominetur<sup>98</sup> in iudiciis: hic eloquentia regnat. namque argumenta plerumque nascuntur ex causa, et pro meliore parte plura sunt semper, ut qui per haec vicit tantum non defuisse sibi advocatum sciat: *ubi vero animis iudicum vis adferenda est et ab ipsa veri contemplatione abducenda mens, ibi proprium oratoris opus est.* hoc non docet litigator, hoc causarum libellis non continetur. probationes enim efficiant sane ut causam nostram meliorem esse iudices putent, affectus praestant ut etiam velint; *sed id quod volunt credunt quoque.* nam cum irasci favere odisse misereri coeperunt, agi iam rem suam existimant, et, sicut amantes de forma iudicare non possunt quia sensum oculorum praecipit animus, ita *omnem veritatis inquirendae rationem iudex omittit occupatus adfectibus:* aestu fertur et velut rapido flumini obsequitur.

Yet this is the thing which can really dominate in the courts: here eloquence reigns. For arguments generally derive from the case and there are always more of them on the stronger side, so that the man who has won through these may only know that he did not lack an advocate. But when you really have to attack the minds of the jurors and draw the intellect away from the simple contemplation of the truth, then the true task of the orator is at hand. A litigator cannot teach you this, this is not contained in the court reports. For arguments based on rational assent may indeed induce the jurors to regard our case as superior, but emotions actually make them wish this to be so; and that which they wish, they also believe to be the case. For when they have begun to grow angry, to take sides, to hate, to feel pity, then they believe that their own interests are at stake, and just as lovers are unable to make a rational assessment of beauty because their mind steals away the perceptive force of the eyes, so the juror, once seized by the emotions, loses all capacity to assess the truth: he is borne off by the tide and, so to speak, goes where the raging river leads.<sup>99</sup>

This frank celebration of the delight in emotional effect and of the thrill of subverting any pedantic contemplation of the truth is as cheerfully free from Stoic shibboleths as

<sup>94</sup> Cic., *de orat.* 2.8; *Brut.* 163.

<sup>95</sup> Cic., *de orat.* 1.94, 1.206, 3.189.

<sup>96</sup> The account of M. Caelius Rufus at Cic., *Brut.* 273 is, however, ample evidence of how easy it is to get these judgements wrong.

<sup>97</sup> Cic., *de orat.* 2.8.

<sup>98</sup> *dominetur* A, Winterbottom; *dominatur* Campanus, Russell.

<sup>99</sup> Quint., *inst.* 6.2.4–6.

anything said by the M. Antonius of the *De Oratore*. It may well be that such effects are presupposed to be permissible only in the circumstances envisaged at 2.17.26–9 or 6.1.7, but Quintilian is scarcely inclined to repeat the point. No, this is the moment where the *Institutio Oratoria* will identify precisely what an *orator* is and all moral quibbling and anxiety are pushed to one side.<sup>100</sup> The breach between rhetoric and philosophy will not be so easily bridged.<sup>101</sup>

#### IV. QUINTILIAN'S LAMENT

The second major issue which I wish to address in this paper is the relationship between the lament for Quintilian's son in the proem to Book 6 and the ensuing didaxis in 6.1–2. Let me begin, therefore, with a brief summary of the content of this passage.

Quintilian addresses his friend Marcellus Vitorius and represents himself as a victim of fortune.<sup>102</sup> He begins with the death of his young wife who, though snatched by the most bitter fate, could at least seem fortunate at the time of her death in that she had produced two young sons. The assertion that his wife had at least some part of felicity is significant, for it furnishes a comparandum for the fate of the two sons and becomes the lowest point in a gradually ascending scale of pathos. The next step, therefore, is the evocation of the delight which Quintilian took in, and the hopes he cherished for, the younger of his sons, who died just past five. Stress is put on the grace of his expression, the charm of his speech, the small sparks of genius which he displayed, and the calm and profound mind he already possessed. This emphasis on the qualities proper to a young orator is significant. For it is not simply because the death of the older son in his tenth year leaves the orator entirely alone that this is the highest step in pathos. Rather, the greater age of the boy means that he is also able to display ever more signs of the very qualities which his father must prize most: quickness to take in lessons, probity, humanity, generosity, charm and clarity of voice, sweetness of expression, equal facility in Greek and Latin.<sup>103</sup> He is a *figlio d'arte*, adored for his reproduction of the qualities and the enthusiasms of the father. Hence surely the death-bed consolation of son to father, the zeal for school, for letters displayed even in the final incoherent rambling ('ut me in supremis consolatus est! quam etiam deficiens iamque non noster ipsum illum alienatae mentis errorem circa scholas, litteras habuit!').<sup>104</sup> In this scene, surely, we do not just imagine the son seeking words, any words, to soothe his father. Rather, even as he dies, he rehearses the consolatory exercises learned at his father's knee, the tired and unconvincing themes made moving by the father's zeal to share them with his son and the son's corresponding zeal to learn.<sup>105</sup> To a Romantic sensibility the perfectly formed rhetorical tropes with which Quintilian evokes his own suffering may seem a barrier between us and the immediacy of the experience he seeks to evoke.<sup>106</sup> Yet this final image of shared rhetorical performance infuses that same rhetorical language with an unexpected intimacy which I, at least, find oddly beautiful. Edmund Gosse evokes something very similar in the desperation of his widowed father to turn him into

<sup>100</sup> See also Quint., *inst.* 4.5.6, especially 'non enim solum oratoris est docere, sed plus eloquentia circa movendum valet. cui rei contraria est maxime tenuis illa et scrupulose in partis secta divisionis diligentia eo tempore quo cognoscenti iudicium conamur auferre'.

<sup>101</sup> For a sympathetic discussion of this problem in Quintilian, see M. Winterbottom, 'Quintilian the moralist', in T. Albaladejo, E. del Rio, and J. A. Caballero (eds), *Quintiliano: historia y actualidad* (1998), I, 317–34, esp. 323–6.

<sup>102</sup> Quint., *inst.* 6 pref. 2: 'at me fortuna id agentem diebus ac noctibus festinantemque metu meae mortalitatis ita subito prostravit ut laboris mei fructus ad neminem minus quam ad me pertinere'; cf. 6 pref. 15 'imperitanti fortunae'.

<sup>103</sup> For intriguing parallels in declamatory practice,

see T. Zinsmaier, 'Quintilian als Deklamator. Die Topik des *parens superstes* im Proömium zu Buch VI der *Institutio Oratoria*', in B.-J. and J.-P. Schröder (eds), *Studium Declamatorium* (2003), 153–68, esp. 162 n. 47.

<sup>104</sup> Quint., *inst.* 6 pref. 11.

<sup>105</sup> For the rhetorical *consolatio*, see Cic., *de orat.* 2.50, 2.64, 3.118, 3.211; Sen., *ep.* 94.21, 94.39, 94.49, 95.34, 95.65; *dial.* 6, 11, 12; Quint., *inst.* 10.1.47, 11.3.153; Mar. Victorin. *rhet.* p. 174.30 Halm; Plut., *Mor.* 101E–122A; Menander Rhetor III.413.5–414.30 Spengel with Russell and Wilson ad loc.

<sup>106</sup> Zinsmaier, *op. cit.* (n. 103), 165, is however right to resist any implication that language is necessarily the less heartfelt for being formalized or overtly rhetorical.

an infant prodigy of piety, learning at an unusually young age the words which will assert his community with the father's lonely commitment to the Plymouth Brethren creed.

Scholars are not slow to confess the power of this passage to move.<sup>107</sup> Yet its location at this specific point in the *Institutio Oratoria* also gives it a disconcerting quality which perhaps deserves more consideration than it has hitherto received.<sup>108</sup> In assessing this second factor, it may be pertinent first to return to the section headings noted above and in particular to the description of the preface as PROHOEMIUM IN QUO CONQUESTIO DE FORTUNA SUA. For what makes this so striking a title is the fact that earlier Roman rhetorical writing regards the *conquestio* or lament as a standard part of the peroration and one which corresponds to the category of *adfectus* which Quintilian handles after the *enumeratio* at 6.1.9–2.36.<sup>109</sup> Cicero, for instance, at *De Inventione* 1.98 offers the following description of the parts of a *conclusio*, one of the terms which Quintilian uses in order to describe the peroration:

conclusio est exitus et determinatio totius orationis. haec habet partes tres: enumerationem, indignationem, conquestionem.

The conclusion is the finale and final goal of the whole *oratio*. It has three parts: enumeration, indignation, lament.<sup>110</sup>

This division of the parts of a peroration is essentially the same as that in Quintilian, except that two of the three parts identified by Cicero are treated by Quintilian as subsets of the single category of the appeal to the emotions. *De Inventione* 1.100–5 goes on to illustrate ways in which the peroration will arouse *indignatio* while 1.106–9 outlines sixteen separate forms of *conquestio*, all meeting the following global definition at 1.106:

conquestio est oratio auditorum misericordiam captans. in hac primum animum auditoris mitem et misericordem conficere oportet, quo facilius conquestione commoveri possit. id locis communibus efficere oportebit, per quos fortunae vis in omnes et hominum infirmitas ostenditur; qua oratione habita graviter et sententiose maxime demittitur animus hominum et ad misericordiam comparatur, cum in alieno malo suam infirmitatem considerabit.

Lament is oratory which aims to generate pity in the listeners. In this one must first render the mind of the listener gentle and inclined to pity that it may the more easily be moved by lament. This is to be achieved by the use of commonplaces through which the power of fortune against all of us and the fragility of mortals is displayed. When this has been spoken of in a grave and sententious manner, the mind of men is most readily humbled and made apt to feel pity, for this is the time when it will contemplate its own frailty by pondering the sorrows of others.

Three of the sixteen categories which Cicero then proposes connect the lament for the death of a beloved child,<sup>111</sup> the commendation of children to the jurors,<sup>112</sup> and sorrow at

<sup>107</sup> G. A. Kennedy, *Quintilian* (1969), 29–30; G. O. Hutchinson, *Latin Literature from Seneca to Juvenal* (1992), 271–3; Zinsmaier, op. cit. (n. 103), 153 n. 1 with refs.

<sup>108</sup> For previous treatments of this issue, see H. Rahn, *Quintilianus. Ausbildung des Redners* (1972–5), I, 672 n. 3; M. Winterbottom, 'Quintilian and rhetoric', in T. A. Dorey (ed.), *Empire and Aftermath. Silver Latin II* (1975), 75–97, esp. 90–1; F. Ahlheid, *Quintilian. The Preface to Book VIII and Comparable Passages in the Institutio Oratoria* (1983), 55; Zinsmaier, op. cit. (n. 103), 154 and nn. 3–4.

<sup>109</sup> On this point cf. M. S. Celentano, 'Il sesto libro dell'*Institutio Oratoria* di Quintiliano: la trasmissione del sapere, l'attualità storica, l'esperienza autobiografica', in L. Calboli Montefusco (ed.), *Papers in Rhetoric III* (2000), 69.

<sup>110</sup> cf. *Rhet. Her.* 3. 24: 'amplificatio dividitur in

cohortationem et conquestionem.' See also C. Chirius Fortunatianus, *Ars Rhetorica* II.31 = pp. 119–20, esp. p. 120.10 Halm: 'conquestio, id est miseratio'; C. Julius Victor, *Ars Rhetorica* 18 = pp. 429–30 Halm, where the peroration is divided into *enumeratio*, *indignatio*, and *conquestio*. See also Martianus Capella p. 491.18–28 Halm, esp. 21–2: 'conquestio, id est miseratio'. For *miseratio* and *commiseratio* as parts of the peroration, see also Cic., *de orat.* 2.125; *orat.* 130; *part.* 56–7, 122.

<sup>111</sup> Cic., *inv.* 1.107: 'tertius, per quem unum quodque deploratur incommodum, ut in morte filii pueritiae delectatio, amor, spes, solatium, educatio et, si qua simili in genere quolibet de incommodo per conquestionem dici poterunt.'

<sup>112</sup> Cic., *inv.* 1.109: 'undecimus, per quem liberorum aut parentum aut sui corporis sepeliendi aut alicuius eiusmodi rei commendatio fit.'

the separation of parent and child.<sup>113</sup> *Rhetorica ad Herennium* 2.50 offers a very similar list of approaches to the evocation of *miser cordia* in a peroration, and here too both concern for children and lament at the blows of fortune are prominent.<sup>114</sup>

It has already been noted that Quintilian's preface generates pity from the representation of the author as a victim of fortune. So far so conquerulous. What follows, moreover, may now be identified as a textbook example of the third category of *conquestio* prescribed by Cicero in the *De Inventione*. The example of the dying son's endeavours to console the father is, as has been noted, a necessary reminder of the surprising intimacy which formalized modes of expression can acquire. Here, however, the relationship between private lament and public didaxis has a strongly defamiliarizing effect. In particular, to the extent that Quintilian is about to instruct his readers in that part of a speech of which the *conquestio* is one of the most significant elements, the more perfect his own lament for his son becomes, the more likely it is to be turned into a standard exercise, learned and recited, mangled and resented by boys in every schoolroom in Rome. Read in separation from its context, it is a father's heartfelt tribute to his son. Placed where it is in the *Institutio*, it is also part of the system. When, only a few pages later, Quintilian comes to teach the art of generating *miser cordia*, he, like Cicero, will put great stress on reference to the children of the defendant, even their display before the jury.<sup>115</sup> If I may speak of the problem of rhetoric, it must lie in the breach between the father who loves and grieves in the particular and the orator who must take another's child and learn to cry over him. By locating the *conquestio* for his son where he does in the *Institutio*, Quintilian detaches him from the visceral emotions of the former category and makes him serve the artifice of the latter.

If the overall relationship between the proem to 6.1 and the ensuing didaxis tends to defamiliarize Quintilian the father, the immediate discontinuity between the close of the proem and the opening of the ensuing section has a second more particular effect. Crucial here is the abrupt shift in the style of Quintilian's prose. From the high-flown and emotive tone of the *conquestio*, we move suddenly to the clipped survey of terms for the final section of a speech and the analysis of its different functions. The introduction of the new title heading DE PERORATIONE therefore responds to the compartmentalization of his roles as father and teacher, the one buried in grief, the other pressing on in his profession, which Quintilian represents as a necessity in the proem and which this shift in tone enacts.<sup>116</sup>

Nor is this shift in tone just about a return to business. The *enumeratio* or ἀνακεφαλαίωσις which Quintilian identifies as one of the two great functions of the peroration is a weapon as open to the counsel for the defence as to the prosecutor;<sup>117</sup> but the examples typically attested are drawn from the concluding statements of the prosecution,<sup>118</sup> whether, as here, Cicero against Verres,<sup>119</sup> or, in the Greek rhetors, the prosecutor of Phryne.<sup>120</sup> Although Quintilian states that the sheer mass of indictments briefly stated is itself moving,<sup>121</sup> the basic purpose of the *enumeratio* seems to be to bring the mind of the juror back to the substantive matters in hand and to frustrate the diversionary tactics of emotional appeal. This is therefore to be reflected in the style of the orator. Here, Quintilian urges the orator to recapitulate his claims as briefly as possible,<sup>122</sup> and later in Book 11 he will contrast the concise periods proper to *enumeratio* with the bending of the voice and the lachrymose sweetness to be employed when

<sup>113</sup> Cic., *inv.* 1.109: 'duodecimus, per quem disunctio deploratur ab aliquo, cum diducaris ab eo quicum libentissime vixeris, ut a parente filio, a fratre familiari.'

<sup>114</sup> *Rhet. Her.* 2.50: 'si quid nostris parentibus, liberis, ceteris necessariis casurum sit propter nostras calamitates aperiemus'; cf. 'si nostrum fatum aut fortunam conqueremur.'

<sup>115</sup> Quint., *inst.* 6.1.24, 6.1.30, 6.1.33, cf. 6.1.46-7.

<sup>116</sup> Quint., *inst.* 6 pref. 13-16.

<sup>117</sup> Quint., *inst.* 6.1.3: 'licet et dubitare num quid nos

fugerit, et quid responsurus sit adversarius his et his, aut quam spem accusator habeat omnibus ita defensis.'

<sup>118</sup> cf. Cic., *part.* 60: 'reo rarius utendum.'

<sup>119</sup> Quint., *inst.* 6.1.3.

<sup>120</sup> Anon. *Rhet.* 1.2.390.15-23 Spengel-Hammer.

<sup>121</sup> Quint., *inst.* 6.1.1.

<sup>122</sup> Quint., *inst.* 6.1.2: 'in hac quae repetemus quam brevissime dicenda sunt, et quod Graeco verbo patet, decurrendum per capita.'

arousing pity.<sup>123</sup> At 6.1.1, therefore, he shifts palpably into the manner characteristic of that part of the peroration which he means first to address. Yet when he does so it is as if it is his aim to bury the emotions generated by his own foregoing *conquestio* for his son. Once again, this part of the *Institutio* confronts the reader with a painful tension between the personal and the professional.

#### V. THE RHETORIC OF RHETORICAL EDUCATION

The concluding part of my analysis owes something to both of those which have gone before: to the former, its emphasis on the vital importance of the works of Cicero, and particularly the *De Oratore*, for the understanding of the *Institutio Oratoria*; to the latter, its stress on the defamiliarization attendant on Quintilian's integration of narratives of intimate personal experience into a system of rhetorical instruction.

The following passage comes from 6.2.25–6 and introduces a new stage in Quintilian's account of emotional effect:

quod si tradita mihi sequi praecepta sufficeret, satisfeceram huic parti nihil eorum quae legi vel didici, quod modo probabile fuit, omittendo: sed promere in animo est quae latent et penitus ipsa huius loci aperire penetralia, quae quidem non aliquo tradente sed experimento meo ac natura ipsa duce accepi. summa enim, quantum ego quidem sentio, circa movendos adfectus in hoc posita est, ut moveamur ipsi.

But had it been enough for me to follow the precepts handed down to me, I would have given a satisfactory account of this issue by omitting none of what I had read or learned so long as it was merely plausible. But I mean to open up the things which lie hidden and to reveal the deep mysteries of this issue, knowledge which I have indeed acquired not from some teacher but by my own experiments and with nature itself as my guide. For, to summarize my personal belief, the key issue in stirring the emotions is this one thing: that we should ourselves be stirred.

What has come so far, therefore, is just what Quintilian himself was taught. That which is to follow, by contrast, will constitute the revelation of his own special secret, a secret acquired not by the aid of a teacher but through the author's own personal experiment. The reader is enticed with the prospect of a moment of unusual intimacy with the teacher, with the hope that Quintilian will truly lay himself open. In particular, the statement, that the secret of emotional arousal resides in the ability of the orator himself to take on the feelings which he wishes to generate in his audience, suggests that the author will disclose occasions on which he himself has reached this state. Nor does Quintilian disappoint. For 6.2.34–6 furnishes the following striking coda to his whole account:

ubi vero miseratione opus erit, nobis ea de quibus queremur accidisse credamus, atque id animo nostro persuadeamus. nos illi simus quos gravia indigna tristia passos queremur, nec agamus rem quasi alienam, sed adsumamus parumper illum dolorem: ita dicemus quae in nostro simili casu dicturi essemus. vidi ego saepe histriones atque comoedos, cum ex aliquo graviore actu personam deposuissent, flentes adhuc egredi. quod si in alienis scriptis sola pronuntiatio ita falsis accendit adfectibus, quid nos faciemus, qui illa cogitare debemus ut moveri periclitantium vice possimus? sed in schola quoque rebus ipsis adfici convenit, easque veras sibi fingere, hoc magis quod illic <ut> litigatores loquimur frequentius quam ut advocati: orbum agimus et naufragum et periclitantem, quorum induere personas quid attinet nisi adfectus adsumimus? haec dissimulanda mihi non fuerunt, quibus ipse, quantuscumque sum aut fui, pervenisse me ad aliquod nomen ingeni credo: frequenter motus sum ut me non lacrimae solum deprenderent, sed pallor et veri similis dolor.

<sup>123</sup> Quint., *inst.* 11.3.170, cf. Anon. Rhet. I.2.390.15–23 Spengel-Hammer, especially κατά μὲν οὖν ὑπόθεσιν ἀνακεφαλαίωσις γίνεται, ὅταν αὐτὰ τὰ τὴν ὑπόθεσιν πεποιηκότα ψιλῶς ἐκτιθώμεθα; Anon.

Rhet. I.2.398.19–20 Spengel-Hammer, αὖξοντι δὲ καὶ παθαινομένοι σεμνὴ καὶ ἀληθινή. ἀνακεφαλαίουμένοι δὲ διαλελυμένη καὶ σύντομος.



When indeed a passage stirring pity is required, let us believe that those things which we shall lament have happened to us and let us persuade our minds of this. Let us be the ones of whom we shall complain that they have suffered what is grave, unworthy, sad, and let us not treat the matter as if it relates to another but let us temporarily take on that pain. In this way we will say what we would be likely to say had something similar happened to us. I have often seen actors and comedians, when they have removed the mask after some particularly demanding performance, make their exit still in tears. But if in performing another's composition the delivery of their lines so fires them with inauthentic emotions, what shall we do who must work out how we may be stirred in the defence of those at risk? But in school also it is useful to be moved by the issue itself and to imagine that this is real, and this the more so because there we speak like litigators more frequently than we do like advocates: we pretend to be bereaved, shipwrecked, at risk, and what is the point of adopting these roles unless we take on their emotions? These truths I did not mean to dissimulate, by which I myself, as distinguished as I now am or have been, believe that I have achieved some reputation for talent: I have often been so stirred that not only tears caught hold of me, but also pallor and a pain like to the real.

Is this then the great moment of truth? Or is a more complex rhetorical process to be observed?

The aim of oratorical training as presented in this passage is to bridge the gap which estranges the speaker from the suffering of his client. Or nearly so. The speaker generating pity for his client must briefly imagine that the sufferings which he laments are indeed his own and must speak as he would were that indeed the case. If actors can be overcome by passion when performing scenarios which are indeed wholly false, why should the orator fail to engage empathetically with pain which is entirely real to someone else? And Quintilian himself has achieved just this and owes whatever reputation he has to it: he has been moved, has cried, has gone pale and has been gripped by a pain *like to something real*.

These lines resume a claim expressed at 6.2.26–7: when the experience of true pain can make even the untrained eloquent as long as they possess vigour of mind and a true character ('vis mentis et veritas ipsa morum'), the emotional effects which the orator wishes to be like the real or true ('veri similia') require him to assimilate himself to the emotions of those who themselves truly suffer ('simus ipsi similes eorum qui vere patiuntur adfectibus'). And what is true of the relationship between the client and the orator is no less true of that between the orator and his public. For the account of the *miseratio* at 6.1.27–8 has already distinguished the true pain ('veros dolores'), which one experiences in moments of personal suffering, from that evoked in one's hearer by the pathetic image which a speech creates, and has repeated the famous dictum of Apollonius that nothing dries faster than a tear.<sup>124</sup> Now we may ask whether this is not the more true if the pain expressed by the speaker is not that true pain which he himself endures, but rather the pain like to the real which he must briefly adopt if he is to achieve any impact at all.<sup>125</sup>

This complex discourse of the true and nearly true may now be related to the promise of self-revelation which the author has held forth. In what exactly does Quintilian's secret consist? Where is the crucial revelation we will never find in books? Or is the self which Quintilian presents a rhetorically effective *persona*, an artfully fashioned self which owes more to the nearly true than it does to the true itself? The obvious place to look for Quintilian's secret, therefore, is surely in the basic notion that to move others we must first be moved ourselves. The cynic, however, will object that this is straight out of the *De Oratore*, the *Orator* and the *Ars Poetica*.<sup>126</sup> Perhaps it lies in the requirement that the orator visualize the scene which he is to evoke in order to create a truly vivid and moving picture for the listener?<sup>127</sup> Yet Quintilian himself identifies this

<sup>124</sup> Quint., *inst.* 6.1.27: 'nec sine causa dictum est nihil facilius quam lacrimas inarescere.' For this dictum cf. *Rhet. Her.* 2.50 with Calboli ad loc.; Cic., *inv.* 1.109; *part.* 57; Quint., *decl.* 338.3; Jul. Sever., *praec. art. rhet.* 24 = p. 370.4 Halm, cf. Curt. Ruf. 5.5.11.

<sup>125</sup> This sets a further unsettling context for the

preface. Quintilian acknowledges that the public lament for the son is no way out of loneliness: he can never fully communicate his distress; the tears of the reading public will dry and they will walk away.

<sup>126</sup> Cic., *de orat.* 2.189–96; *orat.* 132; Hor., *AP* 101–3 with Brink ad loc.

<sup>127</sup> Quint., *inst.* 6.2.29–32.

with the Greek concepts of *phantasia* and *enargeia* and suggests that Cicero has discussed these under the Latin terms *inlustratio* and *evidentia*.<sup>128</sup> In the end, even the strikingly personal, almost confessional tone of the coda at 6.2.34–6 must be admitted to be a confection. For when Quintilian at 6.2.35 tells us that he has often seen actors and comics cry as they leave the stage ('vidi ego saepe histriones atque comoedos, cum ex aliquo graviore actu personam deposuissent, flentes adhuc egredi'), it is hard not to think of one of those very book sources he claims to transcend and the words of M. Antonius Orator on the same topic at *De Oratore* 2.193 ('tamen in hoc genere saepe ipse vidi, ut ex persona mihi ardere oculi hominis histrionis viderentur'). The closer therefore that Quintilian comes to the revelation of his inner self, the further he recedes into the carapace of his books. The invitation to share in the personal secret of the teacher, to get beyond the universally available wisdom of the textbook and enjoy the intimacy of a personal revelation, is just a beguiling protreptic, readying the reader for that imaginative leap which will lead him into the mind of another.

It is a characteristic sales strategy in ancient rhetorical writing to identify one unusual contribution of the work in hand and contrast this with the vulgar discipline contained in rival tomes.<sup>129</sup> The obvious response to the evidence presented above would therefore be to convict Quintilian of engaging in much the same conceit. There is, however, a case for the defence to be made and it is here that the *De Oratore* must return to prominence.

The striking similarity between the claims of Quintilian and M. Antonius Orator with regard to actors and the emotions which they betray, most particularly the reference to the tears which Quintilian has seen when the mask is removed and the fiery gaze which Antonius has seen blaze through it, might invite reflection on the rhetorical strategies adopted by both men. For just as Quintilian claims that his account of emotional effect is the product of experience and not to be found in books, so M. Antonius is at pains to assert that each of his greatest coups derived from the passion of the moment and was not the product of formal training in his art.<sup>130</sup> This in turn is consistent with the orator's self-presentation at various points in this dialogue: his is the voice of practical experience, not theoretical training;<sup>131</sup> he engaged with Greek literature late and then only superficially;<sup>132</sup> he would sooner study the minds of the Roman people than read a philosophical account of the passions;<sup>133</sup> he has been known to read the Greek orators and historians, but only when on holiday and has no interest in anything harder than that.<sup>134</sup> The crucial point is that this is all a bluff. Cicero may attribute to his brother the view that the orator has little need of art or doctrine, but he himself is scarcely inclined to agree.<sup>135</sup> He is interested in the reasons why Crassus might wish to be seen to despise Greek culture and Antonius never to have studied it at all,<sup>136</sup> but he will do little to sustain the pretence.<sup>137</sup> The same M. Antonius who feigns ignorance of Greek literature will thus be revealed to have read Aristotle and Carneades and listened to Critolaus;<sup>138</sup> to understand Greek theories of memory;<sup>139</sup> and to be a connoisseur of Greek epideictic oratory.<sup>140</sup> He is, in short, a hellenist to the core.<sup>141</sup>

Quintilian's claim to any unique personal secret will not stand up to scrutiny. Yet it makes some difference that the sentence which so clearly exposes how bogus is his claim should itself stem from the speech of one whose self-construction as the untutored man

<sup>128</sup> Quint., *inst.* 6.2.29, 32. For these concepts in ancient rhetorical theory, see Long., *Subl.* 15.1–2 with Russell ad loc.; R. Webb, 'Imagination and the arousal of the emotions in Greco-Roman rhetoric', in S. Morton-Braund and C. Gill (eds), *The Passions in Roman Literature and Thought* (1997), 112–27. Cicero discusses what he dubs 'inlustris . . . oratio' at *part.* 20. See also *orat.* 139: 'saepe etiam rem dicendo subiciet oculis'.

<sup>129</sup> Arist., *Rhet.* 1354a11–18 on the joys of the *enthymeme*; Cic., *de orat.* 3.188, cf. 209 on prosametrics.

<sup>130</sup> Cic., *de orat.* 2.195, 198, 201, cf. 204.

<sup>131</sup> Cic., *de orat.* 2.72, 75–84.

<sup>132</sup> Cic., *de orat.* 1.82, 2.364.

<sup>133</sup> Cic., *de orat.* 1.219–20.

<sup>134</sup> Cic., *de orat.* 2.55–61.

<sup>135</sup> Cic., *de orat.* 1.5.

<sup>136</sup> Cic., *de orat.* 2.1–7, esp. 4.

<sup>137</sup> For Crassus pretending to have studied Greek philosophy only late in life, see Cic., *de orat.* 3.74–7. For his knowledge of Greek literary and artistic culture exposed, see Cic., *de orat.* 3.21, 26–8, 36, 56, 82, 132, 137–9, 228.

<sup>138</sup> Cic., *de orat.* 2.151–3, 160–1.

<sup>139</sup> Cic., *de orat.* 2.299–300, 351–4, 357, 360.

<sup>140</sup> Cic., *de orat.* 2.341.

<sup>141</sup> For the pleasure which this revelation gives his peers, see Cic., *de orat.* 2.350, 362–3, 365.

of practical experience is one of the principal casualties of the dialogue in which he appears.<sup>142</sup> It will not be suggested that the *Institutio Oratoria* plays off the *De Oratore* as persistently or as exquisitely as the Ciceronian dialogue in turn plays off its primary model in the *Phaedrus*. Yet what we find here might just be taken as evidence of Quintilian's readiness to try.

## VI. CONCLUSION

The determination of L. Aemilius Paullus not to break down in public at the loss of his sons performs a set of beliefs regarding the appropriate conduct of the Roman male. Such behaviour may be sustained by an adherence to Stoic doctrine and the conviction that personal bereavement is an indifferent, but what is crucial is precisely the fact that it is performed behaviour. What Paullus felt or said or did in the privacy of his own domain leaves no mark in history, for it is only the public response to disaster which it is permitted to others to record. The distinction is informative for the different claims which have been raised with regard to Quintilian's account of the emotions. For the refusal of the emotions which typifies Stoic rhetoric implies a fissure within the élite social code. The majority can admire the dignified restraint of Paullus when reacting to the death of his sons and yet also weep uncontrolledly at the baby-brandishing of a Sulpicius Galba. For emotion is the essence of forensic oratory and, if it results in the acquittal of a fellow-member of their class, so much the better. The Stoic minority, by contrast, adhere to an inflexible code of behaviour grounded in a philosophical doctrine which here reveals its resistance to naturalization at Rome. That is why a Rutilius Rufus will end his days in exile and lamented by his peers.

The response to bereavement offered by Quintilian is another, and perhaps even more disquieting, form of performance. Where the public restraint of Paullus leaves room to imagine a corresponding private surrender to despair, the very public grief of the rhetorician courts defamiliarization and hints at an ability to set aside private loss too well developed for comfort. The further exploitation of the autobiographical mode in 6.2 and its strikingly inauthentic claim to reveal the author's great personal secret suggests that Quintilian is indeed an artful manipulator of his own persona. What lies beneath, what Quintilian actually felt or experienced, is necessarily and impenetrably opaque.

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<sup>142</sup> That Quintilian himself is alert to this is evident from *inst.* 2.17.5–6: 'quidam naturalem esse rhetoricen volunt et tamen adiuvari exercitatione non diffitentur, ut in libris Ciceronis de oratore dicit

Antonius observationem quandam esse, non artem. quod non ideo ut pro vero accipiamus est positum, sed ut Antoni persona servetur, qui dissimulator artis fuit.'