

rebus antiquitatum libri plura referunt; s. B. Cardauns, Varro, Ant. r. div., Mainz 1976, I, S. 53. Fr. 76; 77. Abzulehnen ist also die Annahme von R. Krumbiegel, De Varronis scribendi genere quaestiones, Diss. Leipzig 1892, 90, daß hier durch einen Textverlust größeren Umfanges Verwirrung entstanden ist. Diesem Ausweg haben sich angeschlossen Goetz-Schoell im Apparat – post interrogatur nonnulla deesse videntur – und in der adnotatio zur Stelle auf S. 262, auch Kent im Text seiner Ausgabe, London 1951², der sich Krumbiegels Korrektur zu eigen macht und schreibt: ... *dicti ab „agon“*, *eo quod interrogat* (*minister sacrificii „agone“*: nisi si a Graeca lingua, ubi ἄγων princeps, ab eo quod immolatur) *ur a principe civitatis et princeps gregis immolatur*, während Goetz-Schoell der dem Sinne nach gleichen, dem Text nach einfacheren Vermutung von O. Ribbeck (bei Krumbiegel): *dicti ab „agone“*, *quod interrogatur* (*vel quod immolatur*) *a principe c. et pr. gr. im.*, oder ihrer eigenen: *dicti ab „agon“* *eo quod interrogatur* (*a ministro: agone? vel ab ἄγων eo quod*) *a principe c. et pr. gr. im.*, die auf dasselbe hinausläuft, wohl eleganter als die Ribbecks ist, den Vorzug geben. Für Krumbiegels Ergänzung auch A. Traglia in seiner Varroausgabe von 1974, und E. Riganti im Kommentar S. 99, während P. Flobert (S. 78) diese Ergänzungen mit Recht ablehnt.

CICERO'S *PRO ARCHIA* AND THE TOPICS

*In memoriam Prof. Dr. Dr. Luitpold Wallach:
coniugi, magistro, viro humanissimo*

The theory of argumentation, one of the most important concerns of *inventio*, has two divisions, according to Cicero's *Topica*: τοπική, the method of discovering arguments, and διαλεκτική, the art of judging them. In defining τοπική the orator remarks that *cum peruestigare argumentum aliquod volumus, locos nosse debemus; sic enim appellatae ab Aristotele sunt hae quasi sedes, e quibus argumenta promuntur*¹). *Loci*, the equivalent of Aristotle's τόποι and the sources for arguments, may be intrinsic (*in eo ipso de quo agitur haerent*) or extrinsic. Cicero lists four divisions of intrinsic arguments (Top. 2,8) and thirteen subdivisions (10 ff.), for which he supplies explanations and examples.

1) I shall be using Cicero, *Divisions de l'art oratoire, Topiques*, ed. H. Bornecque, Paris 1960, for all references to the *Topica*.

Extrinsic topics receive only a brief mention at Top. 8, but at 24 we learn that they are drawn *maxime ex auctoritate* and are called ἀτεχνοί by the Greeks. The author further describes extrinsic arguments in 72–78, but the greater part of the treatise is devoted to the intrinsic.

In the preface to the *Topica* Cicero explains how he came to write about these topics, fulfilling a promise to his friend Trebatius, who had come upon a certain *Aristotelis Topica* in the orator's library. Cicero claims that he wrote his *Topica* while on a voyage to Greece, without access to books and relying only on his memory. This preface, whether literally true or not, at least shows that its author is claiming Aristotle as an ultimate source, even if at some remove, an assertion that has generated controversy²).

Whatever Cicero's direct source may have been, the concept underlying his system does seem to be derived from Aristotle, who, as Friedrich Solmsen has observed, saw the τόπος as "a 'type' or 'form' of argument of which you need grasp only the basic structural idea to apply it forthwith to discussions about any and every subject"³). In Rhet. B 23, 1397a6–1400b25, Aristotle lists and illustrates twenty-eight τόποι (cf. Solmsen 184). Some of these, such as ἐκ τοῦ μᾶλλον καὶ ἥττον have duplicates on Cicero's list, while other Aristotelian topics, such as ἐκ τῶν εἰρημένων καθ' αὐτοῦ πρὸς τὸν εἰπόντα (number 6) are not included⁴). In spite of the differences, Cicero's *Topica* does reflect the Aristotelian doctrine which views the topics as "axiomatic forms" or "modes of inference"⁵). Further, topics or *loci* of the sort mentioned thus far

2) Jorma Kaimio, Cicero's Topics: the Preface and the Sources, *Annales Universitatis Turkuensis* 141 (1976) 5–27, cites much of the modern literature on the controversy and inclines toward a Peripatetic source from which Cicero got "only the system". See also D. R. Shackleton Bailey, ed., Cicero: Epistulae ad Familiares II, Cambridge 1977, 186; E. Stump, Boethius' De Topicis Differentiis, Ithaca, N.Y. 1978, 21–2.

3) The Aristotelian Tradition in Ancient Rhetoric, in *Kleine Schriften II*, Hildesheim 1968, 183. Cf. Aristotle, Rhet. A 2, 1358a10–17, and W. M. A. Grimaldi, *Studies in the Philosophy of Aristotle's Rhetoric* (Hermes Einzelschriften 25), Wiesbaden 1972, 119 ff.

4) See also B. Ripsati, *Studi sui Topica di Cicerone* (Edizioni dell' Università Cattolica del S. Cuore, Ser. Pub. 22), Milano 1947, 56. 83–4. 141, and P. Theilscher, *Ciceros Topik und Aristoteles*, *Philologus* 67 (1908) 57–66.

5) These terms are Grimaldi's (119). G. Kennedy, *The Art of Persuasion in Greece*, Princeton 1963, 101, calls the topics "lines of argument". The influence of this doctrine also is apparent in *De Or.* 2, 163–173, on which see Solmsen 197–198; M. C. Leff, *The Topics of Argumentative Invention in Latin Rhetorical Theory from Cicero to Boethius*, *Rhetorica I* (1983) 26.

are 'formal' topics and must be distinguished from commonplaces, generally called *loci communes*, in which the emphasis is on the subject matter⁶).

The system of topics set forth in *Topica* is not the only one that Cicero knew. In his *De inventione* (1,34–43) he presents another scheme which Solmsen (198) has described as containing "loci of a more specific type". This system assumes that proof is effected by arguing *aut ex eo, quod personis, aut ex eo, quod negotiis est adtributum*⁷). Things ascribed to persons include *nomen, natura, victus, fortuna, habitus, affectio, studia, consilia, facta, casus*, and *orationes*. Factors associated with an activity (*negotium*) are component parts of it (*continentia cum ipso negotio*), or are involved in effecting it (*in gestione*), or associated with it (*adiuncta*), or ensue from it (*negotium consequuntur: consecutio: 1,43*). Of all of these topics, only those concerned with the *continentia, adiuncta*, and *consequentia* resemble the formal topics occurring in the *Topica*. The others listed here are general enough to be used in developing arguments for various subjects, but they cannot be considered axiomatic forms providing the framework into which specific material is then inserted. Instead, they are better described as subject headings which act as a check list or source of inspiration and should be considered an intermediate step between the subject matter and the forms of inference used to create arguments.

What, in fact, appears in the *De inventione* is a discussion of topics which includes both the formal and the material without distinction. This mixed system may reflect Hellenistic rhetorical theory, although it may also have Aristotle's distinction between general and particular topics for a distant ancestor⁸). The question of ancestry need not concern us here, for my theme is the practical

6) This is probably the type of *locus* that Cicero has in mind in *Inv.* 2, 48; cf. H. Lausberg, *Handbuch der literarischen Rhetorik I*, München ²1973, 408. For a succinct description of the two kinds of *loci*, see Quintilian 5,10,20. See also Kennedy 52–53 and Solmsen 183.

7) I shall be citing the *De inventione* text ed. E. Stroebel, Leipzig 1915. – A. Michel, *Rhétorique et philosophie chez Cicéron*, Paris 1960, 227, postulates some Aristotelian influence on Cicero here.

8) On the Hellenistic background and sources of the *De inventione* see G. Kennedy, *The Art of Rhetoric in the Roman World 300 B.C.–A.D. 300*, Princeton 1972, 114–38. See also Solmsen 198–201. For the general and particular topics in Aristotle, cf. Grimaldi 123–35 and W. A. De Pater, *La fonction du lieu et de l'instrument dans les Topiques*, in *Aristotle on Dialectic. The Topics* (Proceedings of the Third Symposium Aristotelicum, ed. G. E. L. Owen), Oxford 1968, 177–81.

application of the doctrine of topics. Through an examination of the arguments of Cicero's speech *Pro Archia poeta* I shall try to determine when Cicero has used topics in formulating his arguments and which kinds of topics, the formal or material, he tends to employ.

Let us first consider the *Pro Archia* in terms of the material topics which appear in the *De inventione* but not in the *Topica*. In theory, these properly belong to the *confirmatio* or *refutatio* of a speech and may also occur in the *conclusio* (Inv. 1,100 ff.). The *exordium*, *narratio*, and *partitio* would seem to have their own rules and to be separate from the parts where arguments are needed. In practice, however, the divisions may overlap to the extent that some argumentation is in the *narratio*, or the *exordium* may show traces of topical thinking, in part because some material topics are related to the textbook rules that govern *exordia*⁹.

If we turn now to the *exordium* of the *Pro Archia*, we find that Cicero speaks about himself and the jurors with an eye toward creating goodwill for himself and his client. He notes his debt to the poet Archias, whose influence on Cicero's intellectual development is stressed as a major factor in the orator's success at helping others by his oratory (1)¹⁰. Clearly, modest acknowledgment of a debt (*sine arrogantia*) and references to Cicero's service to his fellow Romans would set well with the jurors. Neither of these points is developed into an argument, although both are amplified at length¹¹. The orator is constructing a typical *exor-*

9) W. Sternkopf, Die Oekonomie der Rede Ciceros für den Dichter Archias, *Hermes* 42 (1907) 366–67, includes the *narratio* and the *confirmatio* (together with the *refutatio*) as parts of the *argumentatio* of the *Pro Archia*. He traces the *narratio* from the *nam* of section 4 through the end of section 7 and says that it is actually a *καταδίγησις* (346). The use of proof in the *narratio* has also been noted by H. C. Gotoff, Cicero's Elegant Style. An Analysis of the *Pro Archia*, Urbana 1979, 127.

10) I shall be using the text of the *Pro Archia poeta* ed. A. C. Clark, Oxford 1911.

11) Both of these points will recur in the *confirmatio*. M. von Albrecht, Das Prooemium von Ciceros Rede pro Archia poeta und das Problem der Zweckmäßigkeit der *argumentatio extra causam*, *Gymnasium* 76 (1969) 420–25, shows how some motifs of the *prooemium* are taken up later in the speech. See also Helmuth and Karl Vretska, eds., Marcus Tullius Cicero, *Pro Archia Poeta*. Ein Zeugnis für den Kampf des Geistes um seine Anerkennung (Texte zur Forschung 31), Darmstadt 1979, 68.

On amplification, see Gotoff 101. R. Preiswerk, *De inventione orationum Ciceronianarum*, Diss. Basel 1905, tries to turn *Pro Arch.* 1 into an argument.

dium, eliciting goodwill. Did he make use of any material topics in planning this section? There is evidence that he could have.

In his first sentence Cicero declares *si quid est in me ingeni, iudices, quod sentio quam sit exiguum, aut si qua exercitatio dicendi, in qua me non infitior mediocriter esse versatum, aut si huiusce rei ratio aliqua ab optimarum artium studiis ac disciplina profecta, a qua ego nullum confiteor aetatis meae tempus abhorruisse, earum rerum omnium vel in primis hic A. Licinius fructum a me repetere prope suo iure debet*. The topics *natura*, *habitus*, and *studium* may underlie this remark. One has *ingenium* by nature, but *ratio* is acquired through study (*studium*), and *exercitatio* is a factor in the development of the condition (*habitus*) of being a successful orator or advocate. Naturally, the contents of this passage could have occurred to Cicero without recourse to any topics, but it is possible that he did have them in mind. Further, when Archias is mentioned next as the person from Cicero's youth who stands out as the *princeps et ad suscipiendam et ad ingrediendam rationem horum studiorum*, we may see traces of the topic *victus*, which includes *cuius arbitrato sit educatus* (Inv. 1,35). The reference to Cicero's assistance to other clients which follows shows a usage of the topic *facta*, which is closely related to the rules for *exordia*. In sum, there are indications of topical thinking in section one, but none of them is conclusive proof for the use of topics at this point. Section 2, on the other hand, seems to follow the usual lines of an introduction with compliments to the jurors and a promise to use an unconventional line of defense.

The *narratio* begins with 4 and ends with 7 (cf. Sternkopf, *supra* n. 9). Since this passage gives an account of Archias' life and activities, it might draw heavily on topics concerned with persons¹²). The poet's birthplace (Antioch), family status (*natus est loco nobili*), and *ingenium* (*celeriter antecellere omnibus ingeni gloria coepit*), all parts of the topic *natura* (Inv. 1,34–35), are mentioned (4). Next, the audience hears about Archias' fame,

12) Paul R. Murphy, Cicero's *Pro Archia* and the Periclean Epitaphios, TAPA 89 (1958) 100, notes that "... Cicero's praise of Archias contains the essential features of an ordinary encomium of a person ...", which Murphy then lists. Although the *Pro Archia* is a forensic speech, it "nähert sich der epideiktischen Gattung" (von Albrecht 421). This does not change the fact that nature, deeds, etc., are material topics as well as elements of an *encomium*. Sections of an *encomium* could be developed by using topics.

On the use of *nobilis* to describe Archias' family, see M. Gelzer, *The Roman Nobility* (tr. R. Seager), New York 1969, 37–8, n. 309.

which is based upon his talent and achievements (4) and about the rewards bestowed upon him by cities in southern Italy (5). Both of these subjects belong to *fortuna* (*felix, clarus an contra*: Inv. 1,35) and *casus* (*quid ipsi acciderit*: Inv. 1,36). Continuing along, the narration mentions that while the poet was still *praetextatus*, he was received into the home of the Luculli, where he remained even in old age, facts which illustrate not only his *lumen ingeni ac litterarum*, but also his natural merit (5). All of this is in accord with the topic *natura*.

While in Rome, in Cicero's continuing account, Archias became friendly with such Roman notables as Q. Metellus Numidicus, Lucius Crassus, and the Hortensii, and then travelled with M. Lucullus to Sicily (6). Connections such as these are advantageous for a literary man and reflect favorably upon the poet. They also fall under the topic *victus*, which includes *quibus amicis utatur* (Inv. 1,35).

The final section of the *narratio* (6) mentions Archias' desire to become a citizen of Heraclea. Stress is laid upon the poet's intentions, a point reflecting the topic *consilium* (Inv. 1,36)¹³. Cicero concludes the narration by stating that Archias became a citizen by fulfilling the requirements established by the law of Silvanus and Carbo (the *Lex Plautia Papiria*: 7)¹⁴. As far as his advocate is concerned, the case is as good as closed with this reference to the poet's actions in compliance with the law (and the topic *facta*: Inv. 1,36).

The *argumentatio* (8-30) follows the *narratio* without a break and also contains examples of material topics. I shall consider only a selection of them, beginning with *natura*. A subtle use of the topic is evident in 10, where Cicero poses the question *cum ceteri non modo post civitatem datam sed etiam post legem Papiam aliquo modo in eorum municipiorum tabulas inreperunt, hic qui ne utitur quidem illis in quibus est scriptus, quod semper se Heracliensem esse voluit, reicietur?* As Gotoff has observed (144), "Archias' probity is contrasted to the opportunism of others in an antithesis of *ceteri* :: *hic*."

Good character is but one aspect of *natura*. Cicero emphasizes another, the *commoda* of mind or body, at 17-18. He inquires

13) The question of purpose or intent actually falls under two headings, *consilium* and *modus* (Inv. 1,41). Archias' intention to become a citizen seems to reflect *consilium*, but the fact that he showed his intention openly connects his action with *modus*.

14) On this law, cf. Gotoff 131; Vretska 94-5.

whether, if the actor Roscius won so much affection *corporis motu*, one should disregard the *animorum incredibilis motus celeritatemque ingeniorum*. Archias' talent, quickness of mind, and vivid memory are implied as Cicero alludes to an *ex tempore* performance. Thus, Archias is both *acutus* and *memor*, possessing two qualities subsumed under *natura* and readily understood by the audience.

The topic *facta* also occurs in the *argumentatio*. At 19, for example, we are told that many cities have claimed Homer as a citizen, even though he was a foreigner and even after he was dead, simply because he had been a poet. Then comes the main point of the argument: *nos hunc vivum qui et voluntate et legibus noster est repudiamus, praesertim cum omne olim studium atque omne ingenium contulerit Archias ad populi Romani gloriam laudemque celebrandam?* In other words, Archias deserves citizenship because of his *facta* or their results, his poetry which brings glory to the Romans. In keeping with his own advice in Inv. 2,35, Cicero is presenting Archias' deeds as a poet as worthy services *in rem publicam*, undertaken with great effort. This contention is emphasized in 19–20 through references to the campaigns and leaders immortalized by Archias. Obviously, Cicero has used this topic to work on the patriotic sentiments of the jurors.

Remarks on the poet's contribution to Rome's glory bring into play yet another topic, *fortuna*, with its theme *felix, clarus an contra*. While 21 deals with the fame of the Roman people, 17–18 notes that poetry has also brought fame to Archias. When Archias has written down his oral compositions, his work has received such approval that *ad veterum scriptorum laudem perveniret*. Through these references to the fame of the poet and his subjects, Archias' clever advocate has used the same topic both to enhance the standing of his client and to demonstrate the usefulness of his contribution, thereby appealing to the practical side of the audience, as well as to their pride as Romans.

Cicero does not fail to include himself when he utilizes *fortuna*, connecting it with his *facta* in serving the state. In 14 he observes that, if he had not persuaded himself from his youth through *multorum praeceptis multisque litteris* that nothing except renown and honor must be sought with great effort, then he would not have endured the difficulties and dangers that he suffered on behalf of the state. He again mentions his fame in 28, where he cites his love of glory and states that Archias has begun to write about Cicero's deeds during his consulship. *Fortuna*, and

facta combine here to remind us of Rome's debt to Cicero, an allusion to the orator's standing that will lend weight to his opinion of Archias. Where previously the fame, character, and deeds of the poet have been featured, now the character of his advocate is played up in a section which introduces a commonplace on glory as an incentive for actions (28–29)¹⁵. Cicero's remarks on fame, incidentally, follow a section in which another commonplace on *fortuna* is developed, 'all of us are influenced by eagerness for renown, and each person, according as he is noblest, is especially drawn by glory' (26).

Studium (Inv. 1,36) also lends itself to such development. In discussing the value of literary pursuits (Pro Arch. 12–16) Cicero asks (12) *an tu existimas aut suppetere nobis posse quod cotidie dicamus in tanta varietate rerum, nisi animos nostros doctrina excolamus, aut ferre animos tantam posse contentionem, nisi eos doctrina eadem relaxemus?* Admitting his devotion to these studies, he asserts that he is not ashamed of a pastime from which *haec quoque crescit oratio et facultas quae... numquam amicorum periculis defuit* (13)¹⁶. Examples of great men, worthy of imitation, found in literature and comments on the effects of *doctrina* lead into the finale, which maintains that these studies are for all times and places (15)¹⁷. Once again, Cicero is playing to his audience by stressing the practical and the edifying.

All of the topics cited thus far have been connected with persons. Let us now consider *consecutio*, a topic for arguments based on actions which involves what ensues from an activity (Inv. 1,43). Under this heading falls consideration of the name of the action, its *principes* and *inventores*, and the *auctoritatis eius et inventionis comprobatores atque aemuli*. The reader is told to see whether there is any *lex, consuetudo*, etc. covering the act¹⁸. Fre-

15) Similarly in 23–24 Cicero develops the commonplace of the poet bestowing eternal glory on famous warriors, another side of *fortuna*.

In a section entitled 'Sententiae' Preiswerk cites Pro Arch. 28.30 under the heading *ad gloriam* and the explanation "Orator docet *vitam fragilem brevemque, gloriam aeternam esse*."

16) When Cicero describes his leisure time activities and those of other Romans, the topic *victus* (Inv. 1,35) is an underlying influence. Comments on the enjoyment of literature, further, bring to mind *affectio* (Inv. 1,36), although that topic seems more likely to be involved with stronger emotions.

17) It is perhaps not too fanciful to see the topic *habitus* (Inv. 1,36) at the root of Cicero's comments on the effects of learning.

18) *Lex, consuetudo, pactio, and iudicium* are classed with extrinsic topics in other works of Cicero. Definitions are given in Inv. 2,162. Cf. Leff 39–40.

quency, men's opinion, and whether the results involve the honorable or the expedient may also be noted. Finally, one should take into account other things (*cetera*) which tend to follow the deed.

The influence of *consecutio* is evident in *Pro Arch.* 6–7. Within that passage, Cicero mentions an action of Archias, i.e., his request for citizenship and the resulting formalities. This action was taken *auctoritate et gratia Luculli*. Thus, Lucullus was a *comprobator*. Further, the requirements of the law (*lex*) were fulfilled, as the poet's subsequent action of appearing before the *praetor* attests (an example of *cetera*). At this point, Cicero alleges that he has made his case for Archias' citizenship, but he still expands his argument with references to witnesses to the poet's enrollment. These are M. Lucullus and some Heracleans who are present and ready to testify, and, presumably, are *comprobatores*.

Sections 23–28, part of Cicero's eulogy of literature, also show traces of *consecutio*. The activity considered is the production of literature glorifying military heroes. Among the *principes* and *inventores* is Homer. Other poets who are cited are the *aemuli* whose work, good or mediocre, is composed with a steady frequency, wars being a constant source for material in antiquity. Customarily, the generals lauded have given the poets approval *sua auctoritate*, as is proven by their rewards, and have enjoyed the honor which comes from being immortalized in literature (an example of acquired *honestas*). A second interpretation might class the bestowing of honors on poets as the *negotium*, the generals as the *comprobatores* and *aemuli*, and the citizens of the places involved as those who have given their approval to actions rewarding men bringing honor to the state. Whichever interpretation we follow, it is clear that Cicero is dwelling on the point that a poet such as Archias deserves the honor of Roman citizenship and could have received it through the efforts of one of the generals whom he immortalized or through the influence of one of his prominent friends (24 and 26), had need compelled him to do so¹⁹).

19) The topic *ex similitudine* also is involved here. Its combination with *consecutio* shows what generally happens and so implies what ought to happen in Archias' case.

For an additional example of *consecutio*, see 15–16. There the activity is named as *doctrina*, and its *comprobatores* or *aemuli* are famous Romans who have found something honorable and useful in studies.

Incidentally, Murphy 108–110 shows how 23–24 is a reply to Pericles' remarks in Thucydides 2,41,4.

Thus far, I have discussed only material topics. Of equal importance are the formal topics presented and illustrated in Cicero's *Topica* and *De oratore*. Examples of arguments based on some of these occur in the *Pro Archia*, and I shall now deal with a selection of them. The topic used with the greatest frequency is *a fortiori* or *ex comparatione* in Cicero's terminology (Top. 23). Under this rubric falls reasoning from the greater to the lesser (*a fortiori* proper), from the lesser to the greater, and from equals (cf. *De or.* 2,172)²⁰.

Several arguments in the *Pro Archia* are based on the principle of lesser to greater. At 10, for example, Cicero asks the prosecutor why he has doubts about Archias' citizenship, since the poet has been enrolled as a citizen in other states. The orator then exclaims *etenim cum mediocribus multis et aut nulla aut humili aliqua arte praeditis gratuito civitatem in Graecia homines impertiebant, Reginos credo aut Locrensis aut Neapolitanos aut Tarentinos, quod scaenicis artificibus largiri solebant, id huic summa ingeni praedito gloria noluisse*²¹! The formal topic *ex comparatione* is combined here with the material topic *natura*, since Archias appears worthy of citizenship because of his *ingenium*, as well as because of the fact that lesser men have been honored. The formal topic provides the framework for the development of the material.

20) For a discussion of the nature of this topic see Riposati 137–43. Riposati's interest is in theory and sources, and he does not deal with the topics and the *Pro Archia*. These sections in his work will provide further information on the theoretical side of the topics that I shall discuss: 99–106 (*ex similitudine*), 80–84 (*partium enumeratio*), 53–79 (*definitio*), 85–88 (*notatio*), 114–116 (*ex adiunctis*), 129–135 (*ex causis* or *ab efficientibus rebus*), 144–59 (*extrinsecus*).

After I had completed the present study, two investigations which deserve mention became available to me. The first is Christopher P. Craig, *The Role of Rational Argumentation in Selected Judicial Speeches of Cicero*, Diss. University of North Carolina, Chapel Hill 1979. Craig does not deal with the *Pro Archia*, but he does list examples of topics in five other speeches. The second work is Franz Rohde, *Cicero, quae de inventione praecepit, quatenus secutus sit in orationibus generis iudicialis*, Diss. Koenigsberg 1903 (cf. Craig 7). The following is a list of passages from the *Pro Archia* cited by Rohde – with little discussion – as examples of topics in the speech (the numbers in parentheses refer to his pages): 8 (41); 9 (46); 10 (108); 11 (90–91); 17 and 19 (107–108: his *ex minore*, my *ex similitudine*); 19 (56 and 88: his *ex factis* and *ex minore*, my *ex similitudine*); 16 (79: his *ex exemplis*, my *consecutio*); 22 (108); 23 (118: his *quid eventurum sit*, my *consecutio*); 30 (108).

21) Gotoff (141) refers to 10 as an "argument of probability *a minore ad maiorem*". The idea of probability is important here and runs true to form. For a connection between the probable and comparisons, see Inv. 1, 46–49. On the distinction between arguments *ex comparatione* and *ex similitudine*, cf. Lausberg I 395; Inv. 1, 42; Riposati 99–106 and 137–43.

A similar combination of formal and material topics occurs at 17–18, the passage in which Cicero mentions the actor Roscius. The opinion that mental talent is superior to physical is implicit in the orator's remarks and harks back to 10, where actors were seen as less worthy of honors than the poet Archias²²). Since the audience is expected to draw an inference from lesser to greater (cf. Gotoff 170–171), *ex comparatione* is being used to express the material topic *natura* (Archias' *ingenium*).

Section 30 has yet another example of *ex comparatione*. There Cicero inquires *an statuas et imagines, non animorum simulacra, sed corporum, studiose multi summi homines reliquerunt; consiliorum relinquere ac virtutum nostrarum effigiem nonne multo malle debemus summis ingeniis expressam et politam?* From the tone of this question one can deduce that the orator is placing literary monuments above mere stone and bronze, and that the argument thus draws its inference from the lesser to the greater²³).

Not all of Cicero's uses of *ex comparatione* are as clear-cut as the three just delineated. *Pro Arch.* 19, for instance, seems to be another example. In point of fact, while there is a sense of comparison and perhaps *a fortiori* imbedded in this passage, a different topic forms its basis. This is *ex similitudine* which is discussed in *Top.* 41–45, where Cicero gives examples of three related usages. *Pro Arch.* 19 resembles two of them. About the first of these the author writes (*Top.* 42) that there are *similitudines, quae ex pluribus conlationibus perveniunt quo volunt*. His illustration reads as follows: *si tutor fidem praestare debet, si socius, si cui mandaris, si qui fiduciam acceperit, debet etiam procurator*. Cicero calls this form of arguing *inductio* or ἐπαγωγή. Showing the pattern of *inductio* *Pro Arch.* 18–19 cites instances of peoples who have claimed Homer as a citizen and uses them to prove the contention

22) Cicero praises Roscius in *Pro Quinto Roscio Comoedo* (cf. 17–18. 20. 29–30 of that speech for Roscius' abilities and reputation). The orator's attitude toward actors is summed up by L. Winniczuk, *Cicero on Actors and the Stage*, *Atti del I Congresso internazionale di Studi Ciceroniani I* [Roma 1959], Roma 1961, 213–222, who cites *Q. Rosc.* 29.31 and notes references in *De or.* 1,129 and 132. Cf. W. A. Laidlaw, *Cicero and the Arts*, in *Studies in Cicero* (Collana di Studi Ciceroniani diretta da Ettore Paratore II), Roma 1962, 139–141.

In 5,11,9 Quintilian cites the following example of an argument from lesser to greater: *tibicines, cum ab urbe discessissent, publice revocati sunt: quanto magis principes civitatis viri et bene de re publica meriti, cum invidiae cesserint, ab exilio reducendi!* The affinities between this and Cicero's argument are noteworthy.

23) On the tone, cf. Gotoff 205. For other examples of the commonplace see *Murphy* 103–104 and *Vretska* 181.

that Rome should not reject Archias, or, by implication, that Rome should be pleased to honor Archias with citizenship (which he allegedly already possesses)²⁴). Each of these instances is a precedent or an example of what has been done for one poet and so ought to be done for another. Thus, the passage also reflects a second form of *ex similitudine*, i.e., the use of *exempla* drawn from similar cases. Cicero illustrates this type (Top. 44) by referring to Crassus, who, in the *Curiana causa*, proved his case by adducing examples from previous cases²⁵).

Two other arguments *ex similitudine* in the *Pro Archia* are worth citing. In 19, prior to Cicero's remarks about those who have claimed Homer as a citizen, the audience is asked *saxa atque solitudines voci respondent, bestiae saepe immanes cantu flectuntur atque consistunt; nos instituti rebus optimis non poetarum voce moveamur?* This could be seen as an argument based on lesser to greater, but the citing of examples, even though they are drawn from stones and lower animals, points to *ex similitudine*. Further in De or. 2,168 there is the following illustration of *ex similitudine*: *si ferae partus suos diligunt, qua nos in liberos nostros indulgentia esse debemus?* The generic resemblance of this example to the argument under discussion is clear enough to need no further comment²⁶).

Ex similitudine appears also in Pro Arch. 22. After mentioning that Ennius praised famous Romans and added luster to the name of the Roman people, Cicero asks *ergo illum qui haec fecerat, Rudinum hominem, maiores nostri in civitatem receperunt; nos hunc Heracliensem multis civitatibus expetitur, in hac autem legibus constitutum de nostra civitate eiciamus?* Although this is an

24) Cicero discusses the process of *inductio* in Inv. 1,51–57. See also Victorinus in *Rhetores Latini Minores*, ed. C. Halm, Leipzig 1863 (rep. 1964), 240,20–242,43; Riposati 102–106 (with reference to Aristotle). Aristotle's tenth rhetorical τόπος is ἐπαγωγή (Rhet. B 23, 1398a33–98b20). One of his illustrations cites examples to prove that all men honor the wise. Among those examples is the remark that the Chians honor Homer even though he was not a citizen. The coincidence between this illustration and Cicero's mention of Homer not only supports my contention that the orator is using *ex similitudine* but also raises the possibility that a commonplace on the value of poets, based on honors accorded to Homer and perhaps others, is Cicero's material source.

25) Arguments formed from *exempla* plus conclusions are illustrated by Preiswerk 118–119. He cites Pro Arch. 17–22.

26) In his discussion of *similitudo* Quintilian quotes from Cicero, Clu. 146 and then adds (5,11,25) *sed ut hac corporis humani pro Cluentio, ita pro Cornelio equorum, pro Archia saxorum quoque usus est similitudine*, an obvious reference to 19 and a further indication that this argument is *ex similitudine*.

example of antithesis (cf. Gotoff 187), the antithetical form is based on *ex similitudine*. Cicero's question includes a precedent (Ennius' treatment) and implies the absurdity of failing to observe that precedent. The similarity resides in the comparative merits of the two poets which makes their cases correspond. The uncertain outcome of Archias' case, implied in *eiciamus*, provides the difference necessary for the antithesis.

In addition, as was the case in the argument involving Homer and Archias, there is some sense of *a fortiori*. In fact, Victorinus, commenting on Inv. 1,41, gives the following example of an argument from lesser to greater in Cicero In Cat. 1,3: *an vero P. Scipio, pontifex maximus, Tiberium Gracchum mediocriter labefactantem statum rei publicae privatus interfecit: Catilinam orbem terrae caede adque incendiis vastare cupientem nos consules perferemus?*²⁷) This rhetorical question with its expectation of a negative answer formally resembles the question in Pro Arch. 22. Further, the inference from the lesser to the greater danger has some likeness to the inference involved in drawing a conclusion from Ennius to Archias, although there the inference would be from greater to lesser or perhaps from equal to equal. In both instances, however, there is an idea of precedent, a factor which illustrates the close relationship of *ex comparatione* and *ex similitudine*.

Let us now turn our attention to other topics in the speech. *Partitio* or the *partium enumeratio*, first of all, governs the opening argument at 8. Cicero has just stated that Archias has fulfilled the provisions of the law of Silvanus and Carbo. To comply with the law, the poet had to have been enrolled at Heraclea, to have had a home in Italy at the time that the law was passed, and to have declared himself before the *praetor* within sixty days. Cicero treats each of these parts separately and in order²⁸). After asking *Heraclaeae esse tum ascriptum negabis?*, he lists witnesses who will testify to Archias' enrollment. He dismisses the lack of written records with a commonplace on witnesses vs. written evidence. A

27) In the Loeb ed. of the *De inventione*, Cambridge 1949 (rep. 1968), H. M. Hubbell cites this example from Victorinus (Halm 227,26–30) in a note to his translation of Inv. 1,42, but he connects it with the topic *simile* (the equivalent of *ex similitudine* in the *Topica*).

28) While serving as proof for Cicero's argument, this passage also functions as the refutation of Gratius' objections. Cf. Gotoff 131; Sternkopf 366. Regarding the law involved and the steps for compliance, see R. W. Husband, The Prosecution of Archias, CJ 9 (1914) 165–71; Vretska 3–9; von Albrecht 427–28.

rhetorical question makes his point that Archias had his home in Italy at the proper time. That the poet declared himself before the *praetor*, finally, is stressed with embellishments. For a model of the form of argument used here, one need turn only to Top. 10, where the following example of *partium enumeratio* is given: *si neque censu nec vindicta nec testamento liber factus est, non est liber. Neque nulla est earum; non est igitur liber*. Although this is a negative example, the principle behind its inferential mode is identical with that underlying the proof in Pro Arch. 8.

At 11 the influence of two other topics is evident. In explaining why Archias is not on the census list, Cicero argues *sed, quoniam census non ius civitatis confirmat ac tantum modo indicat eum qui sit census ita se iam tum gessisse, pro cive, eis temporibus is quem tu criminaris ne ipsius quidem iudicio in civium Romanorum iure esse versatum et testamentum saepe fecit nostris legibus, et adiit hereditates civium Romanorum, et in beneficiis ad aerarium delatus est a L. Lucullo pro consule*. In the first part of this sentence emphasis is placed on the force of *census*. The term is not precisely defined, but its meaning is delineated through reference to its function, i.e., to show that the person enrolled was living as a citizen at the time of the *census*. Such a definition is incomplete but sufficient for use in a rhetorical argument. Thus, Cicero may be employing *definitio* (Top. 9). De or. 2,164 provides the following simple illustration of the topic: *si maiestas est amplitudo ac dignitas civitatis, is eam minuit, qui exercitum hostibus populi Romani tradidit, non qui eum, qui id fecisset, populi Romani potestati tradidit*²⁹). Pro Arch. 11 has the same format as this example in that a brief definition is followed by conclusions based on the fulfillment of conditions implied by that definition.

Closely related to *definitio* is *notatio* by which one educes an argument *ex verbi vi* (Top. 10). In De or. 2,165, Cicero refers to this topic as *ex vocabulo* and illustrates it with the question *si consul est, qui consulit patriae, quid aliud fecit Opimius?* This example includes what can pass for a brief definition (*qui consulit patriae*) and bases that definition on an 'etymological' connection between *consul* and *consulit*. A similar process takes place in Pro Arch. 11, when *census* and *qui sit census* appear together. The etymological connection is less significant than in the De or. example, where the whole force of the argument rests on *consul* and

29) I am following the *De oratore* text ed. with commentary by A. S. Wilkins, Oxford 1892 (rep. Hildesheim 1965).

consulit. Thus, I assume that the main topic in this section is *definitio*, but that Cicero also had *notatio* in mind³⁰).

The second part of this long sentence in 11 relies on another topic. Cicero claims that Archias has done things normally done by Roman citizens and has been recommended to the treasury for a reward. None of the actions necessarily follows the awarding of Roman citizenship, but they all are “*de facto* indications of Archias’ legal status” (Gotoff 147). Their inclusion here exemplifies the topic *ab adiunctis*, which requires consideration of *quid ante rem, quid cum re, quid post rem evenerit* (Top. 51). Archias’ citizen-like actions and reward are circumstances *post rem* (i.e., after citizenship)³¹).

One other intrinsic topic in the *Pro Archia* deserves mention. In 12–14 Cicero acknowledges a fondness for literature and speaks of the benefits that literary studies convey. All through this section the influence of *ab efficientibus rebus* is visible and especially so in 14, where literary studies are credited with developing Cicero’s fortitude. They are the cause which produced the effect of his ability to endure much for the state³²). A second illustration of this topic can be drawn from 28, where a rhetorical question presents the idea that the desire for praise and glory is a spur to excellence. This desire produces the proper effect, the *virtus* leading on to glory and its benefits. Undoubtedly, Cicero wants us to think also of the cause of the desire for glory, i.e., the examples of great deeds in the works of poets.

The formal topics illustrated thus far have all been intrinsic. Cicero also recognizes extrinsic topics, and he spells out the distinctions between the intrinsic and the extrinsic in De or. 2, 116–117 and Top. 72–78. According to the De or., the material available for proof takes two forms. The first kind involves *tabulae, testimonia, pacta conventa, quaestiones, leges, senatus consulta, res iudicatae, decreta, responsa*, and anything else not created by the orator but taken from the case and the participants. The second type is that which *tota in disputatione et in argumentatione oratoris conlocata est*. Enough illustrations of intrinsic

30) On the relationship between *definitio* and *notatio* cf. Quintilian 5, 10, 54; Lausberg I 392. The topic *ex coniugatione* (Top. 12 and 38; Riposati 91–94) has much in common with these.

31) Cf. De or. 2, 170 (and Wilkins commentary, p. 311) and the form of the illustration given for *ex consentaneis* (the equivalent of *ab adiunctis*).

32) The material topics also underlying this passage are discussed supra, p. 319.

topics have been given above, but let us turn to *De or.* 2,173 for basic models of arguments founded on extrinsic material. Cicero provides the following three schemes: '*hoc verum est; dixit enim Q. Lutatius.*' '*Hoc falsum est; habita enim quaestio est.*' '*Hoc sequi necesse est; recito enim tabulas*'.

In his discussion of this material in the *Topica* Cicero explains (73) that an extrinsic argument rests on testimony (*testimonium*) which, in turn, relies on authority (*auctoritas*) conferred by either *natura* or *tempus*. The authority of *natura* stems from *virtus*, while *ingenium*, *opes*, *aetas*, *fortuna*, *forma*, *ars*, *usus*, *necessitas*, and the *concurtio etiam nonnumquam rerum fortuitarum* are all elements *in tempore* which produce authority. After describing the sources of authority subsumed under *tempus* (73–76), the author divides testimony based on *virtus* into two categories (*natura* and *industria*) and asserts that the *deorum enim virtus natura excellit, hominum autem industria*. Forms of divine testimony (oracles, natural wonders, portents, etc.) are listed, and then the reader is told (78) that, for human witnesses, the primary consideration is the *virtutis opinio*³³). Typical examples of men earning this *opinionem* are statesman, but *auctoritas* belongs also to orators, philosophers, poets, and historians whose remarks and writings may provide the authority needed for persuasion.

This account from the *Topica*, while containing much of the standard material in a somewhat less obvious formulation, seems to broaden the range of the extrinsic argument beyond the scope indicated in the *De oratore*. To some extent, this is due to the introduction of theoretical explanations, such as that connected with necessity (74–75). In addition, there are whole classes of topics which do not occur in *De oratore* but seem to be developments of the topic *testimonia* found there. Divine testimony (Top. 77) is one example, for observation of the heavens, etc. are not listed in the earlier work. If the results of any of these activities were reported in court by priests or other witnesses or through depositions, however, the account would be classified as testi-

33) Cicero stresses testimony as the main element in extrinsic arguments and makes the divine-human division also in Part. or. 6 (cf. Ripsati 146). There he lists *oracula*, *auspicia*, and *vaticinationes et responsa sacerdotum, haruspicum, coniectorum* as examples of divine testimony. Of human testimony he writes that it is *quod spectatur ex auctoritate, ex voluntate, ex oratione aut libera aut expressa; in quo insunt scripta, pacta, promissa, iurata, quaesita*. Cicero probably has the *quaestio* in mind when he refers to speech that is *expressa*; there also is some implication of the mental forms of necessity of Top. 74.

mony, even as the oracles of the gods could be so classified if placed into direct evidence. Statements of orators, philosophers, poets, and historians are additions to Cicero's usual extrinsic topics but can come under the heading of testimony provided that the material is cited so as to fulfill the role of a witness or precedent, and not put forth only as an example illustrating some point³⁴).

The question that we now must address is: did Cicero use any extrinsic topics in the *Pro Archia*? It seems that he did in 8. At the conclusion of the *narratio* in 7, Cicero quotes the law upon which Archias' claim to Roman citizenship is founded. The *argumentatio* section then begins at 8 with an argument formed on the intrinsic topic *partium enumeratio* and the material topic *consecutio* (as I have shown above). Within this argument the advocate mentions witnesses and the records of the praetor before whom Archias had declared himself. In short, two extrinsic arguments, *testimonia* and *tabulae*, are being employed in an argument which is intrinsic in form. If the law that is quoted back in 7 is counted, since the proof in 8 refers to it, then a third extrinsic topic, *lex*, may be added.

The combination of an intrinsic line of argument with extrinsic topics may seem problematical. Any difficulty could be avoided by assuming that 8 does not belong to the *argumentatio* and, instead of being a *partium enumeratio* argument, is the *partitio* division of the speech. This solution is not valid, however, since Cicero does begin to argue the case at this point. There is an easier solution at hand, if an important difference between intrinsic and extrinsic arguments is observed. As should be apparent now, the *De inventione* is not the only source for material topics, for the extrinsic topics of the *Topica* are material rather than strictly formal. A review of the subdivisions of *tempus* from Top. 73, which I have listed above, shows numerous correspondences with the material topics of Inv. 1,34 ff. For instance, an 'equivalent' of *opes* (*pecuniosus*) occurs under the heading *fortuna* (Inv. 1,35), while *ars* coincides with part of *habitus* (Inv. 1,36) and *usus* can be subsumed under *victus* (Inv. 1,35). *Necessitas*, through its involve-

34) Examples of the forms that such testimony could take are to be found in J. Krekelberg and E. Remy, *Les formes typiques de liaison et d'argumentation dans l'éloquence latine* (revised by A. Maniet), Namur 1967, 96-98.

Aristotle also mentions poets and other famous persons in his discussion of witnesses; cf. *Rhet. A* 15, 1375b28 ff.; Ripsati 157.

ment with mental states (Top. 74), has a connection with *affectio* (Inv. 1,36; cf. 2,176). To this list of equivalencies can be added an obvious one, the material *natura* of Inv. 1,34–35 and the extrinsic *natura* which is the second division of *auctoritas* in Top. 73 and 76–78. The extrinsic topic encompasses *virtus* and *ingenium* (part of *virtus*: 78), which fit the description of *natura* in Inv., but it also absorbs *studium* and *doctrina*, which belong to *studium* of Inv. 1,36, and emphasizes *industria* (cf. *habitus*: Inv. 1,35 and 36) and reputation (*opinio*: cf. *fortuna* at Inv. 1,35). Only the *concur-sio* topic of Top. 76 has no obvious counterpart among the material topics of the *De inventione*, although it might fit among the topics in *gestione negotii* (Inv. 1,38 ff.), where *tempus* also occurs³⁵.

These examples illustrate the material nature of the extrinsic topics and allow us to say that the combination of an intrinsic topic with extrinsic ones at Pro Arch. is merely another example of the combination of material and formal topics in an argument. In addition, just as the intrinsic/extrinsic division of the *Topica* and *De oratore* has replaced the persons/actions division of the *De inventione*, so have the material extrinsic topics taken the place of the material topics of the *De inventione* in Cicero's theoretical works³⁶. In oratorical practice, however, as my investigation has shown, the material topics of the *De inventione* have not been entirely supplanted by the later system but rather work along with it. Cicero did not write about two abstract systems that he never used. The *Pro Archia* gives ample evidence for their practical appli-

35) On *tempus* in *De inventione* and *Topica* see Ripsoti 149–150.

36) If the extrinsic topics are material, does the discussion of intrinsic and extrinsic arguments in *Topica* and *De oratore* reveal any inconsistency in the theory? Has Cicero or his source or general rhetorical theory tried to combine a system of formal topics with a system of material topics and failed to notice any difference in the two? Does the *De inventione* reflect an earlier form of this same confusion? Leff (supra n.5) has argued (30–31) that the theory of invention in Cicero's "mature works" (i.e., *Topica* and *De oratore*) "was not divisible on either material or inferential criteria, and it emerged as a single, unified method." At least we can say that the division into intrinsic and extrinsic is more systematized than the mixture in *De inventione*. Perhaps also the two systems may be considered somewhat reconciled by the fact that extrinsic arguments (in *Topica*) are grounded in *auctoritas* as represented by *testimonium*. *Auctoritas* corresponds in part to Aristotle's eleventh topic, ἐκ κτίσεως (Rhet. B 23, 1398b21), and is sufficiently abstract to count as a formal topic. *Testimonium* as a general term might also be so counted. Thus, the overall heading and its major subdivision are formal topics, even though all of the other subdivisions, with possible exceptions, are material.

cation, as both material and formal topics must have been used by the orator in the process of invention and composition³⁷).

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37) M. von Albrecht, *Cicéron. Théorie rhétorique et pratique oratoire*, EtCl 52 (1984) 19–24, has shown that the *exordium* of Cicero's *Pro rege Deiotaro*, a product of Cicero's maturity, follows rules set forth in the *De inventione*.

INGENII CUMBA?

Literary *aporia* and the rhetoric of Horace's *O navis referent* (C.1.14)

Per correr miglior acqua alza le vele
omai la navicella del mio ingegno,
che lascia retro a se mar sì crudele.

Dante: *Purg.* 1.1–3

Horace's cryptic ode *O navis referent* (C.1.14) has launched an impressive array of competing interpretations. The most widely credited, as well as pristine, of these is sanctioned by Quintilian's dogma that goes under the conventional label of "the ship of state". Its many modern adherents find powerful ancient support in a Hellenistic critical tradition that practised an allegorical method of interpreting certain texts of Horace's model, Alcaeus – including, of course, the very poem that C.1.14 is presumed to echo¹). A rival allegorical account (magisterially advanced by W.

1) Alcaeus 326 L–P; P.Oxy. 2306, 2307; Page SLG, S 267, 271; Heraclitus: *Alleg. Hom.* 5.1–9; Quintilian: *Inst. Orat.* 8.6.44; D. Page: *Sappho and Alcaeus* (Oxford 1955) 179–197; E. Fraenkel: *Horace* (Oxford 1957) 154–8; G. Pasquali: *Orazio lirico* (Florence 1920; repr. 1964) 16–38; R. Nisbet and M. Hubbard: *A Commentary on Horace Odes Bk.1* (Oxford 1970) 179–180 (hereafter abbreviated Nisbet-Hubbard). The anti-allegorical position is represented by Muretus, Dacier and Bentley (the latter with dismissive curtness).