**Notes on Pseudo- Cicero, *Rhetorica ad Herennium***

**Book 1**

1. (2) The task of the public speaker is to discuss capably those matters which law and custom have fixed for the uses of citizenship, and to secure as far as possible the agreement of his hearers.
2. The kinds of causes are three :
   1. Epideictic,
   2. Deliberative
   3. Judicial.
3. (3) The speaker should be competent: ‘The speaker, then, should possess the faculties of Invention, Arrangement, Style, Memory, and Delivery." Invention is the devising of matter, true or plausible, that would make the case convincing. Arrangement is the ordering and distribution of the matter, making clear the place to which each thing is to be assigned. Style is the adaptation of suitable words and sentences to the matter devised. Memory is the firm retention in the mind of the matter, words, and arrangement. Delivery is the graceful regulation of voice, countenance, and gesture.’[[1]](#footnote-1)
   1. **(a) Invention,**
   2. **(b) Arrangement**
   3. **(c) Style,**
   4. **(d) Memory**
   5. **(e) Delivery**
4. the means of acquiring these kinds of competence are three: ‘All these faculties we can acquire by three means art, imitation, and practice. By art is meant a set of precepts (*praeceptio*) that provide a definite method and system of speaking. Imitation stimulates us to attain, in accordance with a studied method, the effectiveness of certain models in speaking. Practice is assiduous exercise and experience in speaking.’[[2]](#footnote-2)
   * 1. **{a) art,**
     2. **(b) imitation**
     3. **(c) practice**.
5. (4**) Parts of a discourse in a Judicial cause:**
   1. Introduction
   2. Statement of Facts
   3. Division
   4. Proof
   5. Refutation
   6. Conclusion
6. **Kinds of Cause:** To make an appropriate Introduction we must consider whether the cause is
   1. **1. honourable (*honestum*): easily wins the favor of the audience**
   2. **2. difficult (*admirable*): seems outlandish to the audience**
   3. **3. mean (*humile*): seems trivial to the audience**
   4. **4. ambiguous (*anceps*): seems doubtful, or partly honorable, partly discreditable**
   5. **5. obscure (*obscurum*): seems difficult**
7. (6) The nature of the cause thus viewed from a moral standpoint determines whether the Introduction shall take the form of
   1. **direct opening (*exordium*)**, or
   2. **subtle approach** **(*insinuatio*):** ‘
8. (7) Since the aim of the Introduction is to make the hearer
   1. (a) attentive,
   2. (6) receptive, and
   3. (c) well-disposed, the means whereby these states can be brought about is next discussed,
9. (8) **Means of Goodwill:** Four methods of making the hearer well-disposed: by discussing
   1. **our own person**
   2. **our adversaries**
   3. **our hearers**
   4. **the facts themselves.**

**A. exordium**: brings the audience into a state of mind ready to receive the argument by making it benevolent, attentive, receptive. Basic function is to lead the audience into the discourse. Specifically, it serves to inform the audience of end or objective and dispose them to be receptive to what will be said. “An exordium is a passage which brings the mind of the auditor into a proper condition to receive the rest of the speech This will be accomplished if he becomes well-disposed, attentive, and receptive. Therefore one who 'wishes his speech to have a good exordium must make a careful study beforehand of the kind of case which he has to present”

**B**. two types of *exordia*

**1. *principium*:** directly and in plain language makes the audience benevolent, attentive, well-disposed. “An introduction is an address which directly and in plain language makes the auditor well-disposed,receptive, and attentive.”

**2. *insinuatio*:** dissimulation and roundabout, sneaks into the mind

**a. means of *insinuatio*:**

**i.** **substitution:** first, substitute person or thing in order to shift the attention of the audience

**ii.** **concealment:** second, conceal intention of defending the point that will be defended

**iii.** **gradual forging of common ground:** next, once the audience has become more tractable, approach the defense little by little, saying that one is also displeased by the things that displease the audience

**iv.** **denial of charges whilst imperceptibly gaining goodwill:** then, deny the charges, saying you will say nothing about the opponents, all the while working imperceptible, to win the goodwill of the audience away from the opponents

**v.** **appeal to authority and comparison:** also, offer an opinion of some authorities in an imitable case, and show that the present case is like it.

**b. when *insinuatio* is necessary:** necessary if audience is hostile, due to

**i.** scandal

**ii.** opposing opinion

**iii.** weariness of listening

**3.** brief rules for *principium* and *insinuatio:*

**a.** sententious and weighty

**b.** not be too flashy, because this generates suspicion

**C.** **choice of exordium:**

**1.** The type of exordium must be chosen in accordance with the type of case, of which there are five:

**a.** **honorable—>*principium*:** One can skip, or even begin with a string of argument in support of the plan; try to increase already extant goodwill.

**b.** **difficult—>*insinuatio***

**c. mean—> attention:** one must make audience attentive in order to remove boredom

**d. ambiguous**: if there is a doubtful point for the judge’s decision, one must admit this from the very start

**e. obscure—> docility:** the audience must be made receptive

**D. means of securing goodwill:**

**1.** one’s own person

**2.** person of the opponents

**a.** hatred: acts are cruel and malicious or haughty

**b**. unpopularity: influence, wealth, family connections and their abuse of them (rather than justice of their acts)

**c.** contempt: lazy, careless, indolent

**3.** person of judge, case itself

**4.** auditors: give account of their acts which they have performed with courage, wisdom, mercy, yet avoid flattery

**5.** circumstances: appreciate and exalts own case, and depreciate one’s opponent with contemptuous allusions

**E. means of attention:** show that matters are important, novel, incredible, or concern of all humanity or or of general interest of state or just those in audience

1. novelty

2. incredibility

3. universal concern

4. general interest of state

5. general interest of audience

**F. means of docility:** explain the essence of the case briefly and in plain language, that is, the point on which the controversy turns

1. brevity

2. plain language

3. explain the point of controversy

1. (9-10) **Insinuation**
   1. Insinuation is reserved for three occasions
      1. (a) when the cause is discreditable,
      2. (b) when the hearer has been won over by the previous speakers of the opposition,
      3. (c) the hearer has wearied by listening to the previous speakers[[3]](#footnote-3)
   2. If the cause has a discreditable character,' we can make our Introduction with the following points
      1. that the agent, not the action, ought to be considered;
      2. that we ourselves are displeased with the acts which our opponents say have been committed,
      3. and that these are unworthy, yes, heinous.
      4. Next, when we have for a time enlarged upon this idea, we shall show that nothing of the kind has been committed by us.
      5. Or we shall set forth the judgement rendered by others in an analogous cause, whether that cause be of equal, or less, or greater importance;
      6. then we shall gradually approach our own cause and establish theanalogy.
      7. The same result is acheieved if we deny an intention to discuss our opponents or some extraneous matter and yet, by subtly inserting the words, do so.[[4]](#footnote-4)
   3. If the hearers have been convinced, if our opponent's speech has gained their credence—and this will not be hard for us to know, since we are well aware of the means by which belief is ordinarily effected—if, then, we think belief has been effected, we shall make our insinuation to the cause by the following means
      1. the point which our adversaries have regarded as their strongest support we shall promise to discuss first;
      2. we shall begin with a statement made by the opponent, and particularly with that which he has made last;
      3. and we shall use **indecision**, along with an exclamation of astonishment: ‘What had I best say?’ or “To what point shall I first reply.”[[5]](#footnote-5)
   4. If the hearers have been fatigued by listening, we shall open with something that may move to laughter:
      1. a plausible fable (*fabula veri simili*)
      2. a caricature (*imitatione depravata*)
      3. an ironical inversion of the meaning of a word (*inversione*)
      4. an ambiguity (*ambiguo*)
      5. innuendo (*suspicione*)
      6. banter (*inrisione*)
      7. a naivety (*stultitia*)
      8. an exaggeration (*exsuperatione*),
      9. a recapitulation (*collectione*),
      10. a pun (*litterarum mutatione*)
      11. an unexpected turn (praeter expectationem)
      12. a comparison (*similitudine*)
      13. a novelty (*novitate*)
      14. a historical anecdote (historia)
      15. a verse (*versu*),
      16. a challenge or a smile of approbation directed at some one (*licuius interpellatione aut adrisione*).
      17. Or we shall promise to speak otherwise than as we have prepared, and not to talk as others usually do; we shall briefly explain what the other speakers do and what we intend to do.[[6]](#footnote-6)
   5. (11) ‘Between the Subtle Approach and the Direct Opening there is the following difference.
      1. The Direct Opening should be such that by the straight forward methods I have prescribed we immediately make the hearer well-disposed or attentive or receptive
      2. whereas the Subtle Approach should be such that we effect all these results covertly, through dissimulation and so can arrive at the same vantage- point in the task of speaking. But though this three-fold advantage—that the hearers constantly show themselves attentive, receptive, and well- disposed to us—is to be secured throughout the discourse, it must in the main be won by the Intro- duction to the cause.’[[7]](#footnote-7)

**Narratio**

**III. *narratio***

A. **the narratio:** an exposition of events which have occurred, or are supposed to have occurred, of which there are three kinds. Sets forth the essential facts of the case. The basic function is fundamentally expository. The special function is to contribute to the issue of the case.

**B. kinds of *narratio***

**1. simple:** contains just the nature of the case, and the whole reason of the dispute. Should have three qualities:

**a. brevity:** only what needs to be said; no digression; let audience draw inferences

**b. clarity:** present events one after another, as they occurred; important not to omit anything crucial to the case

**c. plausible:** must describe things which can really happen; must fairly portray the characters; give plain reasons for action (*si causae factorum exstabunt*); must confor to beliefs of the audience

**2. adversarial:** digresses beyond the strict limits of the case for the purpose of attacking someone, or drawing a comparison, or amusing the audience in a way suitable to the matter at hand

**3. amusing:** for amusing audiences in rare cases not connected with public issues

**a. exposition of events**

**i. fabula:** events are not true and do not seem true

**ii. historia:** fictitious but plausible narrative

**iii. argumentiva:** focus on life and character of persons, drawing attention to fortune, contrast of characters, severity, gentleness, drawing attention

**C. admonitions regarding narratives**

**1.** a wrongly devised narrative can give great offense \*\*

**2.** A speaker must bend everything to the advantage of his case, passing over what will hurt it; touching lightly on what he must; being clear and concise

**D.** omission of narrative is possible

**1.** if already given by opponent

**2.** if restating will not help the case

**3.** if audience already grasps the facts or is well familiar with the facts

1. (12-13**) Three kinds of Statement of Facts**:
   1. (a) narrative directed towards victory in causes in which a decision is to be rendered;
   2. (b) Incidental Narrative, introduced to gain credit, incriminate the opponent, or the like;
   3. (c) narrative used in practice exercises,
      1. based on {a) the exposition of facts, which presents three forms :
         1. (a) legendary narrative,
         2. (b) historical, and
         3. (c) realistic,
      2. based on (b) persons, which emphasizes diverse traits of character and reversal of fortune. (14)
2. **Qualities of Statement of Facts:** The Statement of Facts in an actual cause should have three qualities :
   1. brevity,
   2. clarity
   3. plausibility;
3. (14-16) how these may be achieved is next explained.
   1. We shall be able to make the Statement of Facts brief if we begin it at the place at which we need to begin; if we do not try to recount from the remotest beginning; if our Statement of Facts is summary and  not detailed;​[**52**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/1*.html#note52) if we carry it forward, not to the furthermost point, but to the point to which we need to go; if we use no digressions and do not wander from the account we have undertaken to set forth; and if we present the outcome in such a way that the facts that have preceded can also be known, although we have not spoken of them. For example, if I should say that I have returned from the province, it would also be understood that I had gone to the province.​[**53**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/1*.html#note53) And in general it is better to pass by not only that which weakens the cause but also that which neither weakens nor helps it. Furthermore, we must guard against repeating immediately what we have said already, as in the following: "Simo came from Athens to Megara in the evening; when he came to Megara, he laid a trap for the maiden: after laying the trap he ravished her then and there."[**54**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/1*.html#note54)
   2. 15 Our Statement of Facts will be clear if we set forth the facts in the precise order in which they occurred, observing their actual or probable sequence and chronology. Here we must see that our language is not confused,​[**56**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/1*.html#note56) involved, or unfamiliar, that we do not shift to another subject, that we do not trace the affair back to its remotest beginning, nor carry it too far forward, and that we do not omit anything pertinent. And our Statement of Facts will be clear if we follow the precepts on brevity that I have laid down,​[**57**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/1*.html#note57) for the shorter the Statement of Facts, the clearer will it be and the easier to follow.
   3. p29 16 Our Statement of Facts will have plausibility if it answers the requirements of the usual, the expected, and the natural; if account is strictly kept of the length of time, the standing of the persons involved, the motives in the planning, and the advantages offered by the scene of action, so as to obviate the argument in refutation that the time was too short, or that there was no motive, or that the place was unsuitable, or that the persons themselves could not have acted or been treated so. If the matter is true, all these precautions must none the less be observed in the Statement of Facts, for often the truth cannot gain credence otherwise. And if the matter is fictitious, these measures will have to be observed all the more scrupulously. Fabrication must be circumspect in those matters in which official documents or some person's unimpeachable guaranty will prove to have played a rôle.

**Division**

1. **Two Parts of the Division**
   1. **Statement of Agreed Points:** The Division of the cause falls into two parts. When The Statement of Facts has been brought to an end, we ought first to make clear what we and our opponents agree upon, if there is agreement on the points useful to us,​[61](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/1*.html#note61) and what remains contested, as follows: "Orestes killed his mother;​[62](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/1*.html#note62) on that I agree with my opponents. But did he have the right to commit the deed, and was he justified in committing it? That is in dispute." Likewise in reply: "They admit that Agamemnon was killed by Clytemnestra; yet despite this they say that I ought not to have avenged my father."
   2. **Distribution:** Then, when we have done this, we should use the Distribution. The Distribution has two parts: the Enumeration​and the Exposition.​
      1. **Enumeration:** We shall be using the Enumeration when we tell by number how many points we are going to discuss. The number ought not to exceed three; for otherwise, besides the danger that we may at some time include in the speech more or fewer points than we enumerated,​[66](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/1*.html#note66) it instils in the hearer the suspicion of premeditation and artifice,​[67](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/1*.html#note67) and this robs the speech of conviction.
      2. **Exposition:** The Exposition consists in setting forth, briefly and completely, the points we intend to discuss.

**IV. *divisio***

**A. The divisio:** gives an overview of the whole discourse and helps to clarify the case by determining the nature of the disagreement.

**B. two kinds of divisio**

**1. common agreement:** shows what is agreed upon with opponents that turns the case to the speaker’s advantage

**2. methodical statement of topics: brief, clear, concise**

***V. peroratio***

A. peroration: the end and conclusion of the discourse

**A. three parts of peroration:** summary, summary (*enumeratio*), indignation (*indignatio*), conquest (*conquestio*)

**1. *enumeratio*:** matters discussed brought together to refresh the audience at a glance. Of several kinds:

**a. plain:** recall types

**b. complex:** recall topics and arguments

**c. metaphorical**

**i. summary through person:** “if the author of the law should appear and ask why you hesitate, what, pray tell, would you say since this has been proved to you?”

ii. **summary through thing:** “what if the laws could speak?”

**2. *indignatio*:** a passage that rouses opposition against some person or action; special topics include:

**a. authority:** those who know but have been consulted

**b. victims:** display of who has been affected

**c. golden rule:** show what would happen if acted this way

**d. voluntary:** emphasize this

**e. indignation:** describe deeds as tyrannical

**3. *conquestio*:** arouses pity/confidence of audience

**Proof and Refutation**

1. 1.18-27 **Types of Issue:** In order to develop these we must know the Types of Issue presented by the cause. These types are three, and can be charted as follows:
   1. **Conjectural**: The Issue is Conjectural​ when the controversy concerns a question of fact, as follows:
   2. **Legal**: The Issue is Legal when some controversy turns upon the letter of a text or arises from an implication therein. A Legal Issue is divided into six subtypes:
      1. **Letter and Spirit:** A controversy from Letter and Spirit arises when the framer's intention appears to be at variance with the letter of the text
      2. **Conflicting Statutes:** Controversy results from Conflicting Laws when one law orders or permits a deed while another forbids it,
      3. **Ambiguity:** A controversy is created by Ambiguity when a text presents two or more meanings,
      4. **Definition:** A cause rests on Definition when the name by which an act should be called is in controversy.
      5. **Transference:** A controversy is based on Transference when the defendant maintains that there must be a postponement of time or a change of plaintiff or judges
      6. **Reasoning From Analogy:** The controversy is based on Analogy when a matter that arises for adjudication lacks a specifically applicable law, but an analogy is sought from other existing laws on the basis of a certain similarity to the matter in question.
   3. **Juridical:** An Issue is Juridical​ when there is agreement on the act, but the right or wrong of the act is in question. Of this Issue there are two subtypes, one called Absolute,​103 the other Assumptive.104
      1. **Absolute:** It is an Absolute Issue when we contend that the act in and of itself, without our drawing on any extraneous considerations, was right.
      2. **Assumptive**: The Issue is Assumptive when the defense, in itself insufficient, is established by drawing on extraneous matter. The Assumptive subtypes are four:
         1. **Acknowledgement of the Charge**
         2. **Rejection of the Responsibility**
         3. **Shifting of the Question of Guilt**
         4. **Comparison with the Alternative Course.**

**Discovery of Justifying Motive (*ratio, fundamentum*), Central Point, etc.**

1. **Justifying Motive**: Immediately upon determining the type of issue, one should seek the justifying motive. This comprises the defense and is the reasoning that dictates the action taken.
2. **Central Point of Accusation**: Upon finding the justifying motive, it's important to seek the central point of the accusation. This is what comprises the accusation and opposes the justifying motive of the defense.
3. **Question for Decision / Point to Adjudicate**: The intersection of the justifying motive of the defense and the central point of the accusation gives rise to the question for decision or point to adjudicate. This crucial point becomes the focus towards which the entire speech should be directed.
4. **Exceptions for Conjectural Cases:** In conjectural cases, the justifying motive for the act and the central point of the accusation are not applicable, as the act itself is denied. Here, the point to adjudicate arises solely from the accusation and the denial.
5. **If there Multiple Points to Adjudicate**: If there are multiple types of issues or subdivisions in one cause, there will be multiple points to adjudicate. These should be determined by the same method.

**Book II**

1. 2.3-12: **Scheme of Proofs for a Conjectural Cause (Questions of Fact)**
   1. Statement of fact
   2. Probabilty of Guilt
   3. Comparison to Others
   4. Signs of Guilt
   5. Presumptive Proof
   6. Subsequent Behavior
   7. Confirmatory Proof

|  |  |  |
| --- | --- | --- |
| Conjectural Cause | Prosector | Defendent |
| **Statement of fact** | intermingled and interspersed material inciting suspicion of the defendant, so that no act, no word, no coming or going, in short nothing that he has done may be thought to lack a motive. | a simple and clear statement, and should also weaken suspicion. |
| **Probabilty of Guilt** | the crime was profitable to the defendant, and that he has never abstained from this kind of foul practice. The subheads under Probability are Motive and Manner of Life. |  |
|  | **Motive:** what led the defendant to commit the crime, through the hope it gave him of winning advantages or avoiding disadvantages (honor, money, power, passion; avoidance of pain or punishment; | Motive: deny that there was a motive, or will at least vigorously belittle its importance; then he will say that it is unfair to bring under suspicion of wrongdoing every one to whom some profit has come from an act. |
|  | **Manner of life:** Examine defendant's past conduct; investigate similar offenses; tie defendant's lifestyle to crime's motive; uncover character flaws related to motive, or unrelated if necessary; counter good reputation with focus on deeds; | Manner of life: highlight upright life or blame youth, thoughtlessness etc; defense against bad reputation: claim false rumors or stress trial about charges, not morality. |
| Comparison to Others | the act charged by him against his adversary has benefited no one but the defendant; or that no one but his adversary could have committed it; or that the adversary could not have committed it, or at least not so easily, by other means; or that, blinded by passion, his adversary failed to see any easier means. | the crime benefited others as well, or that others as well could have done what is imputed to his client. |
| Signs of Guilt | the accused sought an opportunity favourable to success. Sign​has six divisions: the Place, the Point of Time, the Duration of Time, the Occasion, the Hope of Success, the Hope of Escaping Detection. |  |
| Presumptive Proof | indications that increase certainty and strengthen suspicion. It falls into three periods: preceding the crime, contemporaneous with the crime, following the crime |  |
| Subsequent Behavior | signs which usually attend guilt or innocence | The defendant's counsel, if his client has shown fear, will say that he was moved,​31 not by a guilty conscience, but by the magnitude of his peril; if his client has not shown fear, counsel will say that he was unmoved because he relied on his innocence. |
| Confirmatory Proof | Special topics: wicked men ought not to be pitied, and expatiates upon the atrocity of the crime. These topics are common to both prosecution and defence: to speak for​ or against witnesses, for or against the testimony given under torture, for or against presumptive proof, and for or against rumors | Special topics: The defendant's counsel uses a special topic when he tries to win pity, and charges the prosecutor with slander. |
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1. 2.13-18: **Overview of Proofs for a Legal Cause** (Questions of Textual Interpretation)
   1. **Letter and Spirit:** A controversy from Letter and Spirit arises when the framer's intention appears to be at variance with the letter of the text
   2. **Conflicting Statutes:** Controversy results from Conflicting Laws when one law orders or permits a deed while another forbids it,
   3. **Ambiguity:** A controversy is created by Ambiguity when a text presents two or more meanings,
   4. **Definition:** A cause rests on Definition when the name by which an act should be called is in controversy.
   5. **Transference:** A controversy is based on Transference when the defendant maintains that there must be a postponement of time or a change of plaintiff or judges
   6. **Reasoning From Analogy:** The controversy is based on Analogy when a matter that arises for adjudication lacks a specifically applicable law, but an analogy is sought from other existing laws on the basis of a certain similarity to the matter in question.
2. **Spirit and Letter**
   1. **if in favor of the letter**
      1. first, after the Statement of Facts, a eulogy of the author and then the reading aloud of the text;
      2. next the questioning of our adversaries: are they duly aware that this text was in a law, will, contract, or any other document involved in the cause?
      3. then a comparison of the text with the admitted act of our adversaries: Which should the judge follow — a document carefully draughted, or an interpretation cunningly invented?
      4. After that the interpretation devised and given to the text by our adversaries will be disparaged and weakened.
      5. Then the question will be raised: What risk would the writer have run by adding an entry of that kind had he really intended it, or was it impossible to write it out in full?
      6. Then we shall ascertain the writer's situation and present the reason why he had in mind what he wrote, and show that that text is clear, concise, apt, complete, and planned with precision.
      7. Thereupon we shall cite examples of judgements rendered in favour of the text, although adversaries raised the issue of spirit and intention.
      8. Finally, we shall show the danger of departing from the letter of the text. The commonplace here is that against one who, though confessing  that he has violated the mandates of a statute or the directions of a will, yet seeks to defend his act.
3. **Conflicting Statues:** When two laws conflict,
   1. we must first see whether they have been superseded or restricted, and then whether their disagreement is such that one commands and the other prohibits, or one compels and the other allows.
      1. It will be a weak defence indeed for a person to say that he failed to do what one law ordained, because another law made it optional; for obligation is more binding than mere permission.
      2. So also it is a meagre defence for a person to show that he has observed the obligation of a law which has been superseded or restricted, without heeding the obligation of the later law.
   2. After these considerations we shall at once pass to the exposition, reading, and warm recommendation of the law favourable to us.
   3. Then we shall elucidate the intention of the opposing law and appropriate it for the advantage of our cause.
   4. Finally, we shall take over the theory of law from the Absolute Juridical Issue, and examine with which side the departments of Law hold; this subtype of a Juridical Issue I shall discuss later.
4. **Ambiguity**: If a text is regarded as ambiguous, because it can be interpreted in two or more meanings, the treatment is as follows:
   1. first we must examine whether it is indeed ambiguous;
   2. then we must show how it would have been written if the writer had wished it to have the meaning which our adversaries give to it;
   3. next, that our interpretation is practicable, and practicable in conformity with the Honourable and the Right, with Statute Law, Legal Custom,  the Law of Nature, or Equity;​
      1. **Law of Nature**​ refers the duties observed because of kinship or family loyalty.
      2. **Statute Law** is that kind of Law which is sanctioned by the will of the people
      3. **Legal Custom**​ is that which, in the absence of any statute, is by usage endowed with the force of statute law
      4. **Previous Judgement**​ what on the same question a sentence has been passed or a decree interposed. These are often contradictory, according as one judge, praetor, consul, or tribune of the plebs has determined differently from another; and it often happens that on the very same matter one has decree or decided differently from another.Therefore, because different past judgements can be offered for a like case, we shall, when this comes to pass, compare the judges, the circumstances, and the number of decisions.
      5. **Equity**​: a law rests on equity when it seems to agree with truth and the general welfare;
      6. **Agreement:** Law is founded on Agreement​ if the parties have made some contract between themselves — if there is some covenant between parties.
         1. There are agreements which must be observed according to statutes
         2. There are also agreements which, independently of statutes, are binding by virtue of the covenant itself; these are said to obtain at Law.
      7. These, then, are the divisions of Law by means of which one should demonstrate the injustice or establish the justice of an act — which we see to be the end sought in an Absolute Juridical cause.
   4. we shall say of our adversaries' interpretation, that the opposite is true; and the text is not ambiguous since one well understands which is the true sense.
5. **Definition:** When we deal with the Issue of Definition, we shall
   1. first briefly define the term in question and adapt it to our cause;
   2. then we shall connect our conduct with the explanation of the term;
   3. finally, the principle underlying the contrary definition will be refuted, as being false, inexpedient, disgraceful, or harmful — and here we shall borrow our means from the departments of Law treated under the Absolute Juridical Issue
6. **Transference:** In causes based on Transference
   1. we first examine whether one has the right to institute an action, claim, or prosecution​[**50**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note50) in this matter, or whether it should not rather be instituted at another time, or under another law, or before another examiner. The pertinent means will be provided by Statute Law, Legal Custom, and Equity, which I shall discuss in connection with the Absolute Juridical Issue.
7. **Analogy:** In a cause based on Analogy​, we shall
   1. first seek to know whether there exists any like text or decision on matters of greater, less, or like importance;
   2. next   whether that matter is in fact like or unlike the matter in question;
   3. then whether the absence of a text concerning the matter here involved was intentional, because the framer was unwilling to make any provision, or because he thought that there was provision enough thanks to the similar provisions in the other legal texts.

|  |  |  |
| --- | --- | --- |
|  | **against the author’s intention** | **In favor of the author’s intention** |
| **Letter and Spirit** | Statement of facts; eulogy of author; read text aloud; then question adversaries: Are they duly aware that this text was in a law, will, contract, or any other document involved in the cause? Next, compare the text with the adversary’s interpretation: Which should the judge follow — a document carefully written, or an interpretation cunningly devised? Then the question will be raised: What risk would the writer have run by adding an entry of that kind had he really intended it, or was it impossible to write it out in full? Then we shall ascertain the writer's situation and present the reason why he had in mind what he wrote, and show that that text is clear, concise, apt, complete, and planned with precision. Thereupon we shall cite examples of judgements rendered in favour of the text, although adversaries raised the issue of spirit and intention. Finally, we shall show the danger of departing from the letter of the text. The commonplace here is that against one who, though confessing p83 that he has violated the mandates of a statute or the directions of a will, yet seeks to defend his act. | praise the framer for deft conciseness in having written only what was necessary; he did not think it necessary to write what could be understood without a text. Next we shall say that to follow the words literally and to neglect the intention is the method of a pettifogger.​42 Then, we shall contend, the letter either cannot be carried out, or at least not without violation of Statute Law, Legal Custom, the Law of Nature, or Equity​43 — all these, as no one will deny, the writer wished to be most strictly observed; but on the contrary, what we have done is absolutely just. Further, the interpretation of our adversaries is either no interpretation, or is unreasonable, unjust, impracticable, or inconsistent with past or subsequent interpretations, or is in disagreement with the common law​44 or with other generally binding rules of law or with previous decisions. Next we shall cite instances of decisions rendered in favour of the intention and contrary to the letter, and then p85 read and explain laws or contracts which had been written down in concise form and yet in which the intention of the framer is understood. The commonplace here is that against one who reads a text and does not interpret the writer's intention. |
| **Conflicting Statutes** |  |  |
| Ambiguity |  |  |
| Definition |  |  |
| Transference |  |  |
| Reasoning From Analogy |  |  |

1. 2.19-20: **Proofs for a Juridical Cause** (Question Concerns Justice of the Act Committed):
   1. **Absolute Judicial Issue:** without any recourse to a defence extraneous to the cause, we contend that the act itself which we confess having committed was lawful. Herein it is proper to examine whether the act was in accord with the Law. We can discuss this question, once a cause is given, when we know the departments of which the Law is constituted. The constituent departments, then, are the following: Nature, Statute, Custom, Previous Judgements, Equity, and Agreement.
      1. **Law of Nature**​ refers the duties observed because of kinship or family loyalty.
      2. **Statute Law** is that kind of Law which is sanctioned by the will of the people
      3. **Legal Custom**​ is that which, in the absence of any statute, is by usage endowed with the force of statute law
      4. **Previous Judgement**​ what on the same question a sentence has been passed or a decree interposed. These are often contradictory, according as one judge, praetor, consul, or tribune of the plebs has determined differently from another; and it often happens that on the very same matter one has decree or decided differently from another.Therefore, because different past judgements can be offered for a like case, we shall, when this comes to pass, compare the judges, the circumstances, and the number of decisions.
      5. **Equity**​: a law rests on equity when it seems to agree with truth and the general welfare;
      6. **Agreement:** Law is founded on Agreement​ if the parties have made some contract between themselves — if there is some covenant between parties.
         1. There are agreements which must be observed according to statutes
         2. There are also agreements which, independently of statutes, are binding by virtue of the covenant itself; these are said to obtain at Law.
      7. These, then, are the divisions of Law by means of which one should demonstrate the injustice or establish the justice of an act — which we see to be the end sought in an Absolute Juridical cause.
   2. 2.21-26: **an Assumptive Cause**
      1. Comparison with the Alternative
         1. When Comparison is used to examine whether it was better to do that which the defendant says he did, or that which the prosecutor says should have been done, it will be proper first to ascertain from the conflict which was the more advantageous, that is, more honourable, practicable, and profitable
         2. Next we ought to discover whether the defendant himself should have decided which was the more advantageous, or whether the right to determine this belonged to others.
         3. Then the prosecutor, in accordance with the procedure in a conjectural cause, will interpose a suspicion leading to the belief that the defendant had not by his act intended to prefer the better to the worse, but had carried out the business with wilful fraud on some plausible ground.
         4. Let the defendant's counsel, on his side, refute the conjectural argument referred to above. Then the question will be whether this development could have been prevented from reaching such a pass.
         5. These points thus treated, the prosecutor will use the commonplace against one who has preferred the disadvantageous to the advantageous when he lacked the right of decision.
         6. The defendant's counsel, on his part, will use a commonplace in the form of complaint against those who deem it equitable to prefer the ruinous to the advantageous; and at the same time let him ask the accusers, and the jurors themselves, what they would have done had they been in the defendant's place,  and he will set before their eyes the time, the place, the circumstances, and the defendant's deliberations.
      2. **Shifting of the Question of Guilt:** Shifting the Question of Guilt takes place when the defendant refers the reason for his act to the crime committed by others
         1. First we must examine whether the Law permits the shifting of the issue of guilt to another;
         2. next we must see whether the offence which is being imputed to another is as serious as that with which the defendant is charged;
         3. then whether the defendant ought to have transgressed in the same way as another had previously;
         4. next, whether a judicial decision ought not to have been rendered before he committed his act;
         5. then, in the absence of a judicial decision on the offence which is being imputed to another, whether a decision ought now to be rendered on a matter which has never become to trial.​[**72**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note72)
         6. Here the prosecutor's commonplace is against one who believes that violence ought to prevail over judicial decisions.​[**73**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note73)
         7. Furthermore, he will ask his adversaries what would happen if everyone else should do the same as they, and should inflict punishment upon persons who have not been convicted, contending that the adversaries have set the example. What if the accuser himself had wished to do likewise?
         8. The defendant's counsel will set forth the atrocity of the crime committed by those to whom he is shifting the issue of guilt;
         9. he will present before the eyes of the hearers the circumstances, the place, and the time so that they may think that it was either impossible or inexpedient for the matter to come to trial.[**74**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note74)
      3. **Acknowledgement of the Charge:** Through the Acknowledgement​ we plead for pardon. The Acknowledgement includes the Exculpation and the Plea for Mercy.
         1. **Exculpation:** The Exculpation is our denial that we acted with intent.
            1. **Necessity,**
            2. **Accident**
            3. **Ignorance.**
         2. These are to be explained first, and then, as it seems, it will be best to return to the Plea for Mercy.
            1. One must first consider whether it was the defendant's fault that he was brought to this necessity.​[**76**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note76)
            2. After that we must inquire what means he had to avoid or lighten this superior force.
            3. Next, did he who offers necessity as an excuse try to do, or to contrive, what he could against it?
            4. Then, cannot some grounds for suspicion be drawn from the procedure in a conjectural issue, which would signify that the deed attributed to necessity was premeditated?
            5. Finally, if there was some extreme necessity, is it proper to deem this a sufficient excuse?
            6. If the defendant says that he erred through ignorance,​ the first question will be: Could he or could he not have been uninformed?
            7. Next, did he or did he not make an effort to inform himself?
            8. Then, is his ignorance attributable to accident or to his own fault?
            9. For a person who declares that his reason fled because of wine or love or anger, will appear to have lacked comprehension through fault of character rather than ignorance;​ he will therefore not justify himself on the ground of ignorance, but will taint himself with guilt.
            10. Finally, by means of the procedure in a conjectural issue, we shall seek to discover whether he was or was not informed, and consider whether ignorance should be sufficient justification when it is established that the deed was committed.
            11. When the cause of the crime is attributed to accident,​ and counsel for the defence maintains that his client should be pardoned on that ground, it appears that all the points to be considered are precisely those prescribed above for necessity; for all these three divisions of Exculpation are so closely interrelated that virtually the same rules can be applied to them all.
            12. Commonplaces​[**81**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note81) in these causes are the following: that of the prosecutor against one who confesses a crime, yet holds the jurors up by prolix speech-making; for the defence, on humanity and pity,​[**82**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note82) that it is the intention which should always be considered, and that unintentional acts ought not to be regarded as crimes.
         3. **Plea for Mercy:** We shall use the Plea for Mercy​[**83**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note83) when we confess the crime without attributing it to ignorance, chance, or necessity, and yet beg for pardon. Here the ground for pardoning is sought in the following topics:
            1. if it seems evident that the good deeds of the suppliant have been more numerous or more weighty than the bad;
            2. if he is endowed with some virtue, or with good birth;
            3. if there is any hope that he will be of service in the event that he departs unpunished;
            4. if the suppliant himself is shown to have been gentle and compassionate​[**84**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note84) in power;
            5. if in committing his mistakes he was moved not by hatred or cruelty, but by a sense of duty and right endeavour;
            6. if on a similar ground others also have been pardoned;
            7. if, in the event that we acquit him, no peril from him appears likely to be our lot in  p105 the future;
            8. if as a result of that acquittal no censure will accrue either from our fellow-citizens or from some other state.
            9. Commonplaces: on humanity, fortune, pity, and the mutability of things. All these commonplaces, reversed, will be used by the adversary, what will also amplify and recount the defendant's transgressions
      4. **Rejection of Responsibility****:** When we wish to Reject the Responsibility, we shall throw the blame for our crime either upon some circumstance or upon another person.​
         1. **if person:** If upon a person,
            1. we must first examine whether the person to whom the responsibility is transferred had as much influence as the defendant will represent;
            2. next, whether the defendant could somehow have resisted this influence honourably or safely;​and, even if the conditions are in fullest measure such as the defendant represents them to be, whether it is nevertheless proper to make allowances to him just because he acted on another's persuasion.
            3. Then we shall turn the controversy into one of fact and examine in detail whether there was premeditation. If the responsibility is transferred to some circumstance, virtually these same precepts and all those that I have set forth on Necessity​ are to be observed.

**2.27: Artistic Development of an Argument:** ‘To be sure, it is in general not hard to devise matter which should serve to support a cause, but to polish what has been devised and to give it a ready delivery is very hard. Indeed it is this faculty which keeps us from dwelling longer than necessary on the same topics, from returning again and again to the same place, abandoning a chain of argument before it has been completed, and making an inappropriate transition to the next argument. By the following method, therefore, we can ourselves remember what we have said in each place, and the hearer can perceive and remember the distribution of the parts in the whole cause and also in each particular argument.

1. **2.28-30: Five Parts of a Complete Argument**
   1. **Proposition:** Through the  p109 Proposition​[91](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note91) we set forth summarily what we intend to prove.
   2. **Reason:** The Reason, by means of a brief explanation subjoined, sets forth the causal basis for the Proposition, establishing the truth of what we are urging
   3. **Proof of the Reason:** . The Proof of the Reason corroborates, by means of additional arguments, the briefly presented Reason.
   4. **Embellishment:** Embellishment we use in order to adorn and enrich the argument, after the Proof has been established.
   5. **Resume:** The Résumé is a brief conclusion, drawing together the parts of the argument.
2. **Rules for Complete and Incomplete Arguments:** An argument comprised of the five parts is, then, the most complete, but its use is not always necessary.
   1. **omission of resume:** There is a time when the Résumé should be dispensed with — if the matter is brief enough to be readily embraced by the memory.And if the argument is brief and the matter also slight or insignificant, then both the Embellishment and the Résumé should be left out.
   2. **omission of embellishment:** Embellishment should be omitted if the matter proves to be too meagre for amplification and adornment.
   3. **5, 3, or 4 parts:** This rule which I have just set forth is to be observed for the last two parts in every argument.​ The fullest argument, therefore, is fivefold, the briefest threefold, and the mean fourfold, lacking either the Embellishment or theRésumé.

**2.31-46 Defective Arguments:** Defective arguments​[100](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note100) are of two kinds: one can be refuted​[101](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note101) by the adversary, and so belongs to the cause proper; the other, although likewise invalid, does not need to be refuted.

1. **Proposition**
   1. **Overgeneralization:** The Proposition is defective when an assertion based on some one part or on a majority of individuals, but not necessarily applicable to all, is referred to all.
   2. **Dismissal of Rare Occurrences:** The Proposition is defective when a rare occurrence is declared to be absolutely impossible, dismissing the chance of rare but possible events.
   3. **Incomplete Enumeration:** The Proposition is defective when we claim to have made a complete enumeration of the possibilities, but actually miss out on some pertinent ones.
   4. **Excessive Tracing:** The Proposition is defective if it traces things too far back, extending the argument to unnecessary and remote origins.
2. **Reason:** The Reason is defective if it is inappropriate to the Proposition because either weak or groundless.
   1. **weak reasons**
      1. **inconclusive:** It is weak when it does not conclusively demonstrate the correctness of the Proposition, as in Plautus: "To reprove a friend for a fault that deserves reproof is a thankless task, but in season useful and profitable." That is the Proposition. Let us see what Reason is presented: "For​[113](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note113) today I shall severely reprove my friend for a fault that much deserves reproof." His reckoning of what is useful is based on what he himself is about to do, and not on what it is proper to do. A Reason is groundless when it rests on a false supposition, as follows: "One must not flee from love, for it engenders the truest friendship."​[114](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note114) Or as follows: "One must spurn philosophy, for it  p123 produces inactivity and sloth."​[115](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note115) If all these Reasons were not false, we should also be obliged to admit the truth of their Propositions.
      2. **insufficient causal basis:** Again, a Reason is weak if the causal basis which it submits for the Proposition is not a compelling one. For example, Pacuvius: "The goddess Fortune is mad, blind, and stupid, some philosophers maintain. They declare that she stands upon a revolving globe of stone;​[116](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note116) whither Chance impels the stone, thither, they say, does Fortune fall. She is blind, they repeat, for that she fails wholly to perceive whereto she attaches herself. Moreover they declare that she is mad because she is cruel, uncertain, and inconstant; stupid because she knows not how to tell worthy from unworthy. But there are other philosophers who, on the contrary, deny that in our wretched life there any such thing as Fortune; there is, they say, Blind Accident. That this is more like the truth, is proved by the actual experience of life; even as Orestes now was king, and now became a beggar. Surely by the shipwreck of his property was this brought to pass, and did not befall by Chance or Fortune."​[117](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note117) Pacuvius here uses a weak Reason when they say that it is truer to ascribe the guidance of events to Accident rather than to Fortune, for whichever of these philosophical theories  p125 you hold, it could have happened that one who had been a king became a beggar.
      3. **faulty repetition of proposition**: Again, a Reason is weak when it appears to be presented as the Reason, but says precisely the same as was said in the Proposition,​ as follows: "A great evil to mankind is greed, for the reason that men wrestle with great and many ills on account of the boundless passion for money." Here the reason merely repeats in other words what has been said in the Proposition.
      4. **incommensurate to the subject:** Again, a Reason is weak if the causal basis which it submits for the Proposition is inadequate to the demands of the subject,​[119](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note119) as follows: "Wisdom is useful because the wise have been in the habit of cultivating a sense of duty." Or, "It is useful to have true friends, for thus you may have persons with whom you can jest." In Reasons of this kind the Proposition is supported not by a universal or absolute reason, but by a feeble one.
      5. **arbitrariness:** Again, the Reason is weak if it can at choice be applied to another Proposition,​[120](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note120) as in the case of Pacuvius, who presents the same reason for calling Fortune blind as for calling her stupid.[121](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/2*.html#note121)
   2. **Proof of the Reason:** In the Proof of the Reason, there are many faults to be avoided in our discourse and also to be watched for in that of our adversaries. These must be considered the more carefully because an accurate Proof of the Reason supplies the most cogent support of the whole argument.
      1. **Misapplication of Dilemmas**: Students in the rhetorical schools misapply dilemmas in proving the reason, which can be reversed against the user or rebutted in a single term.
      2. **Misinterpretation of Signs**: The Proof of the Reason is faulty when we misapply a sign designating a variety of things in such a way as to indicate specifically a single thing.
      3. **Unspecific Accusations**: There is a fault when that which is directed against the adversary can as well fit someone else or the speaker himself.
      4. **Clichéd Defenses**: That is faulty which presents a banal defence, as this can lead to the greatest crimes escaping unpunished.
      5. **Presumptuous Consensus**: It is a fault to assume as certain, on the ground that "it is universally agreed upon," a thing which is still in dispute.
      6. **Post-Hoc Rationale**: That is faulty which appears to be pronounced too late, after the matter has been concluded.
      7. **Justification of Evident Misdeeds**: There is a fault when that which stands as a manifest transgression is yet cloaked by some defence.
      8. **Ambiguous Language Use**: That is faulty which can be taken in another sense than the speaker intended.
      9. **Inaccurate or Overgeneralized Definitions**: It is a fault to use false or general definitions that can be equally well applied to something else.
      10. **Uncertain Evidence Use**: It is a fault to advance proof of what has been put in question.
      11. **Disputed Counter-Dispute**: It is a fault to refute one disputed point by another disputed point, using a matter not clearly settled or adjudged, but entangled with difficulties and based on a like point of dispute as an example.
      12. **Assuming Controversy as Consensus**: A fault is present when a matter about which there is the sharpest controversy is not clearly settled and is allowed to pass as though it were agreed upon.
      13. **Self-Contradiction**: It is a fault to be inconsistent with oneself in one's own discourse and to contradict what one has said before.
      14. **Audience Disregard**: That is faulty which is said against the convictions of the judge or the audience — if the party to which they are devoted, or men whom they hold dear, should be attacked, or the sentiments of the hearer outraged by some fault of this kind.
      15. **Incomplete Argumentation**: It is a fault not to prove everything which in the Proposition you have promised to prove.
      16. **Subject Drift**: One must beware of talking on a different subject from the one in dispute — and in regard to this kind of fault one must take care not to add anything to, or omit anything from, the subject, and not to change the question at issue and turn to quite another.
      17. **Irrelevant Defense**: Care must be taken that the prosecutor's charge shall not bear on one point, and the Exculpation of the defence on another.
      18. **Misattributing faults of individuals to a group**: It's a mistake to blame an entire art, science, or occupation due to the faults of a few individuals involved in it. Just because some practitioners may be corrupt or incompetent doesn't mean the entire field is fundamentally flawed. This fault often arises from a misunderstanding or overgeneralization and doesn't consider the nuances and diversity within a group.
      19. **Confusing evidence of a crime with evidence of guilt**: It's a fallacy to assert that because a crime has occurred, a specific person must have committed it without appropriate evidence linking that individual to the crime. The fact that a crime has occurred is separate from who committed the crime. It's important to ensure that the evidence supports not just the occurrence of the crime, but the identity of the perpetrator as well.
      20. **Biased comparisons**: It's a fault to compare two options and only fully explain the benefits of one while minimizing or ignoring the drawbacks, or only mentioning the less serious disadvantages. A fair comparison requires equal and comprehensive consideration of both options.
      21. **Unnecessary disparagement in comparisons**: It's a fault to feel the need to disparage one thing when praising another. If you're comparing two things, it's not necessary to degrade one to elevate the other. Both can have their merits and there's no need to resort to partiality in making the comparison.
      22. **Arguing over semantics**: It's a fault to create disputes over names or labels when the issue at hand can be resolved through common usage or understanding. While precise language is important, obsessing over labels to the point of confusion or obfuscation is unproductive and distracts from the substantive issues.
3. **Embellishment**
   * 1. **Faulty similes**: A simile is defective if it lacks a clear basis for comparison, is not accurate in some aspect, or causes harm to the person making the comparison. Similes should be directly relevant, accurate, and beneficial in the context they're used.
     2. **Inappropriate examples**: An example is faulty if it's false, ignoble, or doesn't appropriately match the scale of the matter at hand. Examples should be truthful, respectable, and appropriately representative of the issue.
     3. **Misapplication of previous judgments**: Citing a previous judgment is faulty if the judgment applies to an unrelated matter, is not a part of the dispute, is discreditable, or if the opponents can offer more or better fitting previous decisions. The previous judgment should be relevant, undisputed, creditable, and relatively stronger than counter examples.
     4. **Wasting time on admitted facts**: It's a fault to spend time proving something that the opposing party has already admitted. Rather than attempting to prove the point further, it should be amplified or built upon.
     5. **Amplifying before proving**: It's a mistake to amplify an accusation or assertion before presenting convincing evidence to support it. For instance, if one were to exaggerate the horror of a crime before proving that the crime had been committed, they would be making this error. The priority should be proving the assertion, and then amplifying it as necessary.

**Resume**

1. **Epilogoi**: conclusions, termed as 'epilogoi' in Greek, are essential parts of an argument and they come in three parts:
   1. **the Summing Up**
   2. **Amplification,**
   3. **Appeal to Pity.**
2. **Location of epilogoi**: they are generally used in four key areas of a speech or argument:
   1. **Direct Opening** (to set the stage for what's to come),
   2. **After the Statement of Facts** (to recap the evidence),
   3. **After the strongest argument** (to underline the main point),
   4. **the Conclusion of the speech** (to leave a final impression).
3. **Summing up**: The Summing Up, also known as a summary, serves to refresh the audience's memory of the argument's main points. This should be done briefly to avoid a full repetition of the speech, but in a way that is comprehensive enough to remind the audience of the key points. It's important to follow the order in which points were originally presented, as this can help the audience recall the arguments.
   1. **Avoid extraneous details**: In the Summing Up, it's crucial not to wander back into the Introduction or the Statement of Facts. This can give the impression that the speech has been overly polished or engineered to showcase the speaker's abilities rather than focusing on the topic at hand.
   2. **Starting point for the Summary**: The Summing Up should start from the Division part of the speech, where the main issues or topics were first outlined. Following this, the points made in the Proof and Refutation parts of the speech should be outlined briefly and in order. This helps maintain focus and coherence, while ensuring that all key aspects of the argument are covered.
4. **Amplification**: This is a technique used to intensify the impact of an argument by drawing on commonplaces, or shared ideas and experiences. For amplifying an accusation, you can use ten commonplaces:
   1. **Authority**: Cite the importance of the issue to authoritative figures or bodies like gods, ancestors, kings, states, nations, wise individuals, the Senate, and how laws have been created around the issue.
   2. **Affected parties**: Discuss who the actions in question affect. This could be everyone (which is particularly shocking), superiors (like those from whom the authority commonplace is drawn), peers (those who share similar characteristics and circumstances), or inferiors (whom we surpass in various ways).
   3. **General consequence**: Consider the outcome if everyone behaved as the accused has. Discuss the potential dangers and downsides of ignoring the crime.
   4. **Precedent**: Show how leniency towards the accused may embolden others to commit similar crimes. Highlight how the fear of punishment has so far deterred such actions.
   5. **Irreversibility**: Show that once an unjust judgement is passed, it can't be remedied or corrected. Compare it with other mistakes that can be rectified or faded over time, but emphasize this judgement won't have such possibility.
   6. **Premeditation**: Point out if the act was done intentionally, arguing there's no excuse for a premeditated crime. Accidental acts may warrant mercy, but not intentional ones.
   7. **Severity of crime**: Highlight if the crime is particularly egregious, such as sacrilege, cruelty, tyranny, or something that incites wars or major conflicts.
   8. **Uniqueness of crime**: If the crime is unusual, base, nefarious, or unheard-of, argue that it should be punished more swiftly and severely.
   9. **Comparison of wrongs**: Make comparisons between different crimes to highlight the severity of the one in question.
   10. (10) **Detailed account**: Provide a detailed account of the act and its surrounding circumstances, to make the crime appear vivid and immediate.
5. **Appeal to Pity**: This is a rhetorical strategy that seeks to elicit sympathy from the audience. To stir Pity in your audience, consider the following.
   1. **Misfortune**: Recall changes in fortune, comparing past prosperity with present adversity.
   2. **Consequences**: Discuss potential outcomes if the case is lost.
   3. **Pleas**: Make entreaties to those whose compassion is sought, and submit to their mercy.
   4. **Family**: Describe the impacts on relatives due to the person's disgrace.
   5. **Selflessness**: Show that the concern is not for one's self, but for the distress of others.
   6. **Kindness**: Highlight past acts of kindness and compassion.
   7. **Struggles**: Depict a long history of adversity.
   8. **Misfortune**: Deplore fate or bad luck.
   9. **Resilience**: Show resilience and patience in the face of adversities.
   10. **Brevity**: Note, however, that the Appeal to Pity should be brief, as sympathy can fade quickly.

**Book III**

1. (1) will deal with Deliberative and Epideictic causes, and, of the departments of rhetoric, with Arrangement, Delivery, and Memory.
2. (2) A Deliberative speech concerns a choice among two or more courses of action ; the question may be examined either on its own account or on account of a motive extraneous to the question itself.
3. (3) The aim in a deliberative speech is Advantage, to be studied in accordance with the following topics:
   1. **Security**
      1. **Might**
         1. Armies
         2. Fleets
         3. Arms
         4. Engines of war
         5. manpower
      2. **Craft (strategy)**
         1. Money
         2. Promises
         3. Dissimulation
         4. Accelerated speed
         5. Deception
   2. **Honor**
      1. **The Right**
         1. Wisdom
         2. Justice
         3. Courage
         4. temperance
      2. **The Praiseworthy, in the opinion of**
         1. Proper authorities
         2. Our allies
         3. All our fellow citizens
         4. Our descendants
4. **[The use of topics 4-6 under the Right and 7 under the Praiseworthy is explained in some detail]**
5. **How to develop the deliberative cause as a whole (7-9)**
6. (10) Epideictic, including praise and censure, detals with
   1. External circumstances
      1. Descent
      2. Education
      3. Wealth
      4. Kinds of power
      5. Titles to fame
      6. Citizenship
      7. friendship
   2. Physical attributes
      1. Agility
      2. Strength
      3. Beauty
      4. health
   3. Qualities of character
      1. Wisdom
      2. Justice
      3. Courage
      4. temperance
7. (11) As for the Development of an epideictic discourse, the Introduction is drawn from (a) our own person, (b) the person we are discussing, (c) the person of our hearers, or (d) the subject-matter itself.
8. (11-13) The topics for the Introduction are indicated, as also for (13) the Statement of facts, the Division,
9. (13-15) the Proof and Refutation, and
10. (15) the Conclusion. Epideictic, though seldom employed by itself independently in actual life, is yet worth our careful attention.

**Book III**

1. 3.1. Deliberative and Epideictic Causes; Arrangement, Delivery, Memory
2. 3.2 Deliberative Oratory: Deliberative​[**7**](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/3*.html#note7) speeches are either of the kind in which the question concerns a choice between two courses of action, or of the kind in which a choice among several is considered.
3. 3.3-7 The Aim of Deliberative Oratory: Advantage (topics)
4. 3.7 Deliberative Oratory: The Introduction, Statement of Facts, Division
5. 3.8-9 Deliberative Oratory: Proof, Refutation, The Conclusion
6. **3.10 Epideictic Oratory** (Praise and Blame): ‘Since epideictic includes Praise and Censure, the topics on which praise is founded will, by their contraries, serve us as the bases for censure. The following, then, can be subject to praise: External  Circumstances, Physical Attributes, and Qualities of Character.
   1. **External Circumstances**
      1. Descent
      2. Education
      3. Wealth
      4. Kinds of Power
      5. Titles to Fame
      6. Citizenship
      7. Friendships
   2. **Physical Attributes**
      1. Agility
      2. Strength
      3. Beauty
      4. Health
   3. **Qualities of Character**
      1. Wisdom
      2. Justice
      3. Courage
      4. Temperance
7. **3.11-13 Epideictic Oratory: The Introduction**
   1. **From our own person:**
      1. **praise:** if we speak in praise, we shall say that we are doing so from a sense of duty, because ties of friendship exist; or from goodwill, because such is the virtue of the person under discussion that every one should wish to call it to mind; or because it is appropriate to show, from the praise accorded him by others, what his character is.​
      2. **censure:** If we speak in censure, we shall say that we are justified in doing so, because of the treatment we have suffered; or that we are doing so from goodwill, because we think it useful that all men should be apprised of a wickedness and a worthlessness without parallel; or because it is pleasing to show by our censure of others what conduct is pleasing to ourselves.
   2. **from the person being discussed:**
      1. **praise:** if we speak in praise, we shall say that we fear our inability to match his deeds with words;​[48](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/3*.html#note48) all men ought to proclaim his virtues; his very deeds transcend the eloquence of all eulogists.
      2. **censure:** If we speak in censure, we shall, as obviously we can by the change of a few words, and as I have demonstrated just above, express sentiments to the contrary effect.
   3. **from the person of the hearers:**
      1. **praise:** if we speak in praise, we shall say that since we are not delivering an encomium amongst people unacquainted with the man, we shall speak but briefly, to refresh their memories; or if they do not know him, we shall try to make them desire to know a man of such excellence; since the hearers of our eulogy have the same zeal for virtue as the subject of the eulogy had or now has, we hope easily to win the approval of his deeds from those whose approval we desire.
      2. **censure:** The opposite, if it is censure: we shall say that since  p179 our hearers know the man, we shall confine ourselves to a few words on the subjects of his worthlessness; but if they do not, we shall try to make them know him, in order that they may avoid his wickedness; since our hearers are unlike the subject of our censure, we express the hope that they will vigorously disapprove his way of life.
   4. **from the subject-matter itself:**
      1. **praise:** we shall say that we do not know what to praise in particular; we fear that in discussing a number of things we shall pass by even more; and add whatever will carry like sentiments.
      2. **censure:**The sentiments opposite to these are drawn upon, if we censure.
8. 3.13 **Epideictic Oratory: Statement of Facts, Division:** If the Introduction has been developed in accordance with any of the methods just mentioned, there will be no need for a Statement of Facts to follow it; but if there is occasion for one, when we must recount with either praise or censure some deed of the person discussed, the instructions for Stating the Facts will be found in Book I.[49](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/3*.html#note49)
9. **Division:** we shall set forth the things we intend to praise or censure; then recount the events, observing their precise sequence and chronology, so that one may understand what the person under discussion did and with what prudence and caution.
10. **3.13-15 Epideictic Oratory: Proof and Refutation**
    1. But it will first be necessary to set forth his virtues or faults of character, and then to explain how, such being his character, he has used the advantages or disadvantages, physical or external circumstances.
    2. The following is the order we must keep when portraying a life:
       * + 1. **External Circumstances**:

**Descent**

**praise:** in praise: the ancestors of whom he is sprung; if he is of illustrious descent, he has been their peer or superior; if of humble descent, he had had his support, not in the virtues of his ancestors, but in his own.

**censure:** if he is of illustrious descent, he has been a disgrace to his forebears; if of low descent, he is none the less a dishonour even to these.

**Education**

**in praise**: that he was well and honourably trained in worthy studies throughout his boyhood.

**censure:** . . .

* + - * 1. **Physical Advantages**:

**praise**:

if by nature he has impressiveness and beauty, these have served him to his credit, and not, as in the case of others, to his detriment and shame;

if he has exceptional strength and agility, we shall point out that these were acquired by worthy and diligent exercise;

if he has continual good health, that was acquired by care and by control over his passions.

**censure:**

if the subject has this physical advantages, we shall declare that he has abused what, like the meanest gladiator, he has had by chance and nature.

If he lacks them, we shall say that to his own fault and want of self-control is his lack of every physical advantage, beauty apart, attributable.

* + - 1. **Return to External Circumstances** and consider his virtues and defects of Character evinced with respect to these:
         1. Has he been rich or poor?
         2. What kinds of power has he wielded?
         3. What have been his titles to fame? What his friendships?
         4. Or what his private feuds, and what act of bravery has he performed in conducting these feuds?
         5. With what motive has he entered into feuds?
         6. With what loyalty, goodwill, and sense of duty has he  p183 conducted his friendships?
         7. What character of man has he been in wealth, or in poverty?
         8. What has been his attitude in the exercise of his prerogatives?
         9. If he is dead, what sort of death did he die,​[50](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/3*.html#note50) and what sort of consequences followed upon it? 8 15
         10. In all circumstances, moreover, in which human character is chiefly studied, those four above-mentioned virtues of character will have to be applied.

**praise:** Thus, if we speak in praise, we shall say that one act was just, another courageous, another temperate, and another wise;

**censurfe:** if we speak in censure, we shall declare that one was unjust, another intemperate, another cowardly, and another stupid.

* + - 1. **Proviso:** We shall therefore need to choose those categories which seem to provide the greatest force.

1. **The Uses of Epideictic:** Nor should this kind of cause​[51](https://penelope.uchicago.edu/Thayer/E/Roman/Texts/Rhetorica_ad_Herennium/3*.html#note51) be the less strongly recommended just because it presents itself only seldom in life. Indeed when a task may present itself, be it only occasionally, the ability to perform it as skilfully as possible must seem desirable. And if epideictic is only seldom employed by itself independently, still in judicial and deliberative causes extensive sections are often devoted to praise or  p185 censure. Therefore let us believe that this kind of cause also must claim some measure of our industry.
2. 3.15 **Epideictic Oratory: The Conclusion:** Our Conclusions will be brief, in the form of a Summary at the end of the discourse; in the discourse itself we shall by means of commonplaces frequently insert brief amplifications

**Arrangement**

1. (16) Having finished with Invention, we turn to Arrangement, which is of two kinds : (a) that arising from the principles of rhetoric: (a) for the whole speech, (j3) for individual arguments ; and (6) that accommodated to particular circumstances (17).
2. (18) An appropriate Arrangement in Proof and Refutation would be to place: (a) the strongest arguments at the beginning and the end of the pleading, (6) arguments of medium force, and weak arguments, in the middle.
3. (19-20) Delivery, a faculty especially useful to the speaker, presents the following scheme
   1. Voice quality
      1. Volume
      2. Stability
      3. Flexibility (23-24)
         1. Conversational tone
            1. Dignified
            2. Explicative
            3. Narrative
            4. facetious
         2. Tone of debate
            1. Sustained
            2. broken
         3. Tone of amplification
            1. Hortatory
            2. pathetic
   2. Physical movement
      1. (24-25) Rules for the use of the voice in situations representing each of these eight subdivisions are offered, and
      2. (26-27) rules for bodily movement appropriate to each.
4. (28-29) The two kinds of Memory, natural and artificial, should supplement each other. The artificial memory includes backgrounds and images.
5. (30-32) To memorize a large number of items, we must have a large number of backgrounds, in a regular series, in a deserted region, clearly distinguishable, of moderate size and brightness, and at internals of about thirty feet. (33) Images should be of both subject-matter and words ;
6. (33-34) the author illustrates both kinds.
7. (35-37) To acquire images strong enough to awaken recollection we must establish striking likenesses; and then in order to revive the images, often and rapidly rehearse the original backgrounds.
8. (38-39) The author objects for a number of reasons to listing images that correspond to a great many words, yet (39-40) regards the memorization of words as helpful in strengthening the ability to memorize subject- matter, which is of practical use.
9. (40) Essential in developing the memory is constant exercise. Instructions for cultivating memory:
   1. Understand the two types of memory: natural (memoria naturalis) and artificial (memoria artificiosa). Natural memory is innate and develops with thought, while artificial memory is strengthened by specific techniques and principles.
   2. Use the artificial memory technique, which consists of locations (locis) and images (maginibus). Locations are well-defined places that can be easily recalled, such as buildings, columns, angles, and arches. Images are representations of the things we want to remember.
   3. To effectively use the technique, choose locations in a deserted rather than busy area, as solitude helps maintain the clarity of images. Make sure the locations are distinct in shape and nature, moderately sized, and neither too dark nor too bright. Aim for a distance of about 30 feet between locations for optimal recall.
   4. Practice recalling the chosen locations frequently, so they remain in your long-term memory. To prevent confusion, mark every fifth location with a distinctive feature, like a golden hand or a known person with a particular name.
   5. Use vivid images to represent the information you want to remember. For example, to remember a crime scene, create an image of the sick person in bed, the accused holding a cup of poison, and a doctor holding a testicle of a ram.
   6. To remember words or phrases, create images that represent the words, making them unique, active, or engaging. Place these images in the chosen locations in the correct order.
   7. Enhance the images by adding notable features, such as extreme beauty or ugliness, adornments like crowns or purple clothing, deformities, or humorous aspects. This will make the images more memorable.
   8. Practice recalling the images in the locations regularly to reinforce the artificial memory. This will help strengthen both the natural and artificial memory.
   9. Apply this memory technique not only to remember words and phrases but also to more complex information, as it will become easier with practice. Remember that training in more difficult tasks can lead to better performance in simpler tasks.

**Book IV**

1. In a Preface (I-10) the author justifies the method he will follow of using his own examples in illustration of the Principles of Style.
   1. The Greek writers whom he opposes believe in drawing examples from the orators and poets, on the following grounds :
      1. (a) It would be immodest to create one's own examples.
      2. (b) Since examples serve the purpose of testimony, they should, like testimony, be drawn from writers of highest esteem. The prestige of the ancients excites the ambition to imitate their excellence,
      3. (c) It is proof of technical skill to select appropriate examples and to list these under the proper rubrics.
   2. The author refutes these arguments as follows
      1. (a) The argument on modesty is childish—why does not modesty keep these writers from writing anything at all? They are open rather to the charge of impudence, for extracting from the labour of authors praise for themselves,
      2. (b) Examples do not confirm or bear witness, but merely clarify the nature of a statement. Further, testimony must accord with the proposition, but the performance of these rhetoricians does not accord with their proposal. In writing a treatise they propose to teach to others what they have invented, but really show us what others have invented,
      3. (c) The choice from among many examples is not difficult, even for those who lack the highest art ; the facile chooser will not necessarily write with skill himself. Furthermore, these writers are not only at fault in borrowing examples, but make an even greater mistake in borrowing from a great number of sources.
   3. If they must borrow examples at all, the selection should be made from one author alone, for
      1. (a) they might choose whom they would to supply examples for all cases, one on whose authority they could rely
      2. (b) if a student believes that all qualities can exist in one man, he will be encouraged to strive for a masterv of them all.
   4. Finally, the author will show that examples should not be borrowed at all:
      1. (a) an example cited by a writer on an art should be proof of his own skill in that art;
      2. (b) an example of one's own creation, draughted expressly to conform to the principle it is intended to clarify, makes for better understanding on the student's part.
   5. The study of Style will consider
      1. (a) the kinds to which faultless oratorical style will confine itself, and
      2. (b) the qualities style should always have.
2. (11-14) The kinds of Style are three:
   1. (a) Grand,
   2. (6) Middle, and
   3. (c) Simple. Each is described and then illustrated by a passage.
3. (15-16) Adjoining each of these styles is a defective style :
   1. (a) adjoining the Grand is the Swollen;
   2. (b) adjoining the Middle is the Slack or Drifting;
   3. (y) adjoining the Simple is the Meagre. Again each is described and then illustrated by a passage.
4. Qualities of appropriate and finished Style
   1. Taste (17)
      1. (a) correct Latinity, avoiding Solecisms and Barbarisms
      2. (b) Clarity, achieved current terms and proper names
   2. Arististic composition (18), avoiding
      1. Hiatus
      2. Excessive alliteration
      3. Excessive translpacement
      4. Excessive homoeoptoton
      5. Excessive hyperbaton
   3. Distinction (18) residing in the following table of figures
5. **Figures of Diction**
   1. **Epanaphora** is a rhetorical device that involves the repetition of the same word or phrase at the beginning of successive sentences or clauses. This method can impart both charm and vigorous impact to the style, and it's often used for embellishment and amplification. Example: "Scipio razed Numantia, Scipio destroyed Carthage, Scipio brought peace, Scipio saved the state."
   2. **Antistrophe** is another rhetorical device where the last word or phrase of successive sentences or clauses is repeated. Example: "It was by the justice of the Roman people that the Carthaginians were conquered, by its force of arms that they were conquered, by its generosity that they were conquered."
   3. **Interlacement** combines both Epanaphora and Antistrophe, repeating both the first and the last words in a sequence of phrases. Example: "Who are they who have often broken treaties? The Carthaginians. Who are they who have waged war with severest cruelty? The Carthaginians."
   4. **Transplacement**, which includes Antanaklasis, is a rhetorical device that allows for the frequent reintroduction of the same word to enhance the style, even to the point of rendering it more elegant. This is not due to a lack of vocabulary, but a deliberate choice to create an easily identifiable elegance. Example: "You call him a man, who, had he been a man, would never so cruelly have sought another man's life."
   5. **Antithesis** refers to a rhetorical device where contrasting ideas are presented in a balanced manner, often enhancing the style's impressiveness and distinction. Example: "Flattery has pleasant beginnings, but also brings on bitterest endings."
   6. f. **Apostrophe** is a figure of speech that expresses strong feelings or indignation by directly addressing a person, place, or object. This can invoke a high level of emotion in the listener when used appropriately and sparingly. Example: "It is you I now address, Africanus, whose name even in death means splendour and glory to the state!"
   7. **Interrogation** is a rhetorical device where a question is posed, typically to reinforce an argument that has just been made. The effectiveness of this device depends on the context and its usage. Example: "So when you were doing and saying and managing all this, were you, or were you not, alienating and estranging from the republic the sentiments of our allies?"
   8. **Reasoning by Question and Answer (23–24)**: ‘This figure is exceedingly well adapted to a conversational style, and both by its stylistic grace and the anticipation of the reasons, holds the hearer's attention.’[[8]](#footnote-8)
   9. **Maxim (*Sententia*, 24–25),**
      1. **Maxim (*sententia*): ‘**A Maxim is a saying drawn from life, which shows concisely either what happens or ought to happen in life.’[[9]](#footnote-9)
      2. **Kinds of maxims**
         1. **Simple:** ‘A Maxim is a saying drawn from life, which shows concisely either what happens or ought to happen in life, for example, "Every beginning is difficult." … Simple maxims of this sort are not to be rejected, because, if no reason is needed, the brevity of the statement has great charm.’[[10]](#footnote-10)
         2. **Complex (with accompanying reason):** ‘But we must also favour that kind of maxim which is supported by an accompanying reason, as follows: “All the rules for noble living should be based on virtue, because virtue alone is within her own control, whereas all else is subject to the sway of fortune.”’[[11]](#footnote-11)
         3. **Double form (with or without a reason):** ‘There are also maxims which are presented in double form. Without a reason,as follows : " They who in prosperity think to have escaped all the on- slaughts of fortune are mistaken; they who in favourable times fear a reversal are wise in their fore- thought."With a reason, as follows "They who think that the sins of youth deserve indulgence are deceived, because that time of life does not constitute a hindrance to sound studious activities. But they act wisely who chastise the young with especial severity in order to inculcate at the age most opportune for it the desire to attain those virtues by which they can order their whole lives."’[[12]](#footnote-12)
      3. **Rules for maxims: ‘**We should insert maxims only rarely, that we may be looked upon as pleading the case, not preaching morals. When so interspersed, they will add much distinction. Furthermore, the hearer, when he perceives that an indisputable principle drawn from practical life is being applied to a cause, must give it his tacit approval.’[[13]](#footnote-13)
6. **a. Reasoning by Contraries:** This rhetorical device involves making two opposite statements, where one is used to directly prove the other. It is often brief, completed in a period, and its effect is both pleasing to the ear and persuasive as it draws on indisputable facts to make a claim that is hard to refute. Example: "Now how should you expect one who has ever been hostile to his own interests to be friendly to another's?"
7. **b. Colon or Clause:** This is a brief and complete sentence member that does not express the entire thought and is supplemented by another colon. It often consists of two or three parts, and is used to balance different aspects of a statement. Example: "On the one hand you were helping your enemy. And on the other you were hurting your friend."
8. **c. Comma or Phrase:** This involves single words being set apart by pauses in speech, creating an effect of rapid, repeated impact on the listener. Example: "By your vigour, voice, looks you have terrified your adversaries."
9. **d. Period:** This is a close-packed and uninterrupted group of words embracing a complete thought. It is best used in a Maxim, in a Contrast, and in Conclusion, providing force to the thought being conveyed. Example: "Fortune cannot much harm him who has built his support more firmly upon virtue than upon chance." (Maxim)
10. **e. Isocolon:** This figure comprises of nearly equal-length cola (sentence members). Its use is not about counting syllables but having a feel for producing balanced lengths. Example: "The father was meeting death in battle; the son was planning marriage at his home."
11. **f. Homoeoptoton:** This figure occurs when in the same period, two or more words appear in the same case, and with like termination. Example: "Hominem laudem egentem virtutis, abundantem felicitatis?"
12. **g. Homoeoteleuton:** This occurs when word endings are similar, although the words are indeclinable. The effect of this figure is based on the similarity of sound at the ends of the words. Example: "You dare to act dishonourably, you strive to talk despicably; you live hatefully, you sin zealously, you speak offensively."
13. **h. Paronomasia:** This figure involves modification in sound, or change of letters, to produce a close resemblance to a given verb or noun so that similar words express dissimilar things. This can be achieved by multiple methods like thinning, contracting, lengthening, shortening, adding, omitting, transposing, or changing letters. Example: (by thinning or contracting) "Hic qui se magnifice iactat atque ostentat, venīt antequam Romam venĭt."
    1. **Hypophora (*Subiectio*, 33–34):**
       1. ‘**Hypophora** occurs when we enquire of our adveraries, or ask ourselves, what the adversaries can say in their favour, or what can be said against us ; then we subjoin what ought or ought not to be said—that which will be favourable to us or, by the same token, be prejudicial to the opposition, as follows: " I ask, therefore, from what source has the defendant become so wealthy ? Has an ample patrimony been left to him ? But his father's goods were sold. Has some bequest come to him ? That cannot be urged ; on the contrary he has even been disinherited by all his kin. Has he received some award from a civil action, whether in the older or the more recent form of procedure ? \* Not only is that not the case, but recently he himself lost a huge sum on a wager at law. Therefore, if, as you all see, he has not gro\\Ti rich by these means, either he has a gold mine in his home, or he has acquired monies from an illicit source."
       2. **Hypophora** **suam personam:** ‘In another form of the same figure we refer the hypophora to our own personm as follows: “Now what should I have done when I was surrounded by so great a force of Gauls ? Fight ? But then ouradvance would have been with a small band. Furthermore, we held a most unfavourable position. Remain in camp? But we neither had reinforcements to look for, nor the where\Wthal to keep alive. Abandon the camp? But we were blocked. Sacrifice the lives of the soldiers? But I thought I had accepted them on the stipulation that so far as possible I should preserve them unharmed for their fatherland and their parents. Reject the enemy's terms? But the safety of the soldiers has priority over that of the baggage."’
       3. **Effects: ‘**The result of an accumulation of this kind of hypophora is to make it seem obvious that of all the possibilities nothing preferable to the thing done could have been done.’
    2. **Climax (*Gradatio*, 34–35):** Climax \* is the figure in which the speaker passes to the fo]\ov,ing word only after advancing by steps to the preceding one, as follows : " Now what remnant of the hope of liberty survives, if those men may do what they please,''' if they can do what they may, if they dare do what they cari, if they do what they dare, and if you approve what they do ? " Again : I did not conceive this without counselling it I did not counsel it without myself at once undertaking it ; I did not undertake it without completing it ; nor did I complete it without winning approval of it." s
       1. **Effect:** “The constant repetition of the pre- ceding word, characteristic of this figure, carries a certain charm.”
    3. **Definition (35**): ‘Definition in brief and clear-cut fashion grasps the characteristic qualities of a thing, as follows- The sovereign majesty of the republic is that which comprises the dignity and grandeur of the state."\* Again: " By an injury is meant doing violence to some one, to his person by assault, or to his sensi- bilities by insulting language, or to his reputation by

some scandal." c Again : " That is not economy on your part, but greed, because economy is careful conservation of one's own goods, and greed is wrong- ful covetousness of the goods of others." Again: " That act of yours is not bravery, but recklessness, because to be brave is to disdain toil and peril, for a useful purpose and after weighing the advantacres, while to be reckless is to undertake perils like a gladiator, suffering pain without taking thought."' Definition is accounted useful for this reason : it sets forth the full meaning and character of a thing so lucidly and briefly that to express it in more words seems superfluous, and to express it in fewer is considered impossible.’[[14]](#footnote-14)

* 1. **Transition (35):** ‘Transition is the name given to the figure which briefly recalls what has been said, and likewise " You know how he has just been conduct! n£r himself towards his fatherland ; now consider what kind of son he has been to his parents." « Again : " My benefactions to this defendant you know ; now learn how he has requited me." This fijure is not without value for two ends : it reminds the hearer of what the speaker has said, and also prepares him for what is to come.”
  2. **Correction (36):** ‘Correction retracts what has been said and replaces it with what seems more suitable, as follows " But if the defendant had asked his hosts, or rather had only hinted, this could easily have been accom- plished." Again: " After the men in question had conquered, or rather had been conquered—for how shall I call that a conquest which has brought more disaster than benefit to the conquerors ? " Again " O Mrtue's companion, Envy, who art wont to pursue good men, yes, even to persecute them."\*' This figure makes an impression upon the hearer, for the idea when expressed by an ordinary word seems rather feebly stated, but after the speaker's own amendment it is made more striking by means of the more appropriate expression. " Then would it not be preferable," some one will say, " especially in WTiting, to resort to the best and choicest word at the beginning? " Sometimes this is not preferable, when, as the change of word will serve to show, the thought is such that in rendering it by an ordinary word you seem to have expressed it rather feebly, hut having come to a choicer word you make the thouglit more strikino;. But if you had at once arrived at this word, the grace neither of the thought nor of the word woukl have been noticed.

1. a. **Paralipsis**: This is when we say we are not mentioning something, while in fact, we are precisely mentioning it, typically as a way to bring attention to it indirectly. This can be advantageous when a direct reference would be undignified, unclear, easily refutable, or tedious. It's more beneficial to create suspicion than to insist directly on a refutable statement. An example from the passage is: "Your boyhood, indeed, which you dedicated to intemperance of all kinds, I would discuss, if I thought this the right time. But at present I advisedly leave that aside."
2. b. **Disjunction**: This figure of speech is used when each of two or more clauses ends with a unique verb. Disjunction is suited to elegant display, so it should be used moderately to avoid being overbearing. An example from the text is: "By the Roman people Numantia was destroyed, Carthage razed, Corinth demolished, Fregellae overthrown."
3. c. **Conjunction**: This occurs when both the preceding and succeeding phrases are connected by the verb between them. Conjunction is suited to brevity and should be used more frequently. An example given is: "Either with disease physical beauty fades, or with age."
4. d. **Adjunction**: This figure of speech is used when the verb holding the sentence together is placed not at the center, but at the beginning or end. An example of this is: "Fades physical beauty with disease or age."
5. e. **Reduplication**: This involves the repetition of one or more words for the sake of Amplification or Appeal to Pity. The repeated word makes a deep impression on the listener, likened to a weapon repeatedly piercing the same part of the body. An example given is: "You are promoting riots, Gaius Gracchus, yes, civil and internal riots."
6. f. **Reciprocal Change**: This figure of speech occurs when two contradictory thoughts are expressed in a transposed way such that the latter follows from the former. The juxtaposing contrast of ideas is neat and makes a strong impression. An example is: "You must eat to live, not live to eat."
7. g. **Surrender**: This is used when we indicate that we are yielding the entire matter to another's will, often to provoke pity. An example is: "Since only soul and body remain to me, now that I am deprived of everything else, even these, which alone of many goods are left me, I deliver up to you and to your power."
   1. **Synonymy or Interpretation (Interpretatio,** **38):** ‘Synonymy or Interpretation < is the figure which does not duplicate the same word by repeating it, but replaces the word that has been used by another of the same meaning, as follows : " You have over- turned the republic from its roots you have; demolished the state from its foundations.Again: “You have impiously beaten your father; you have criminally laid hands upon your parent." The hearer cannot but be impressed when the force of the first expression is renewed by the explanatory synonym.’
   2. **Reciprocal Change (39)**
   3. **Surrender (39)**
   4. **Indecision (*dubitatio*, 40)[[15]](#footnote-15):** ‘Indecision occurs when the speaker seems to ask which of two or more words he had better use, as follows : "At that time the republic suffered exceedingly from—ought I to say—the folly of the consuls, or their wickedness, or both." ' Again: " You have dared to say that, you of all men the by what name worthy of your character shall I call you? "
   5. **Elimination (*expeditio*, 40–41):** ‘Elimination <= occurs when we have enumerated the several ways by which something could have been brought about, and all are then discarded except the one on which we are insisting, as follows : " Since it is established that the estate you claim as yours was mine, you must show that you took possession of it as vacant land, or made it your property bv right of prescription, or bought it, or that it came to you by inheritance. Since 1 was on the premises, you could nothavetakenpossessionofitasvacantland. Even by now you cannot have made it vour property by right of prescription. No sale is disclosed. Since 1 am alive, my property could not have come to you by inheritance. It remains, then, that you have ex- pelled me by force from my estate." This figure will furnish the strongest support to conjectural argu- ments, but unlike most other figures, it is not one
   6. **Asyndeton (41)**
   7. **Aposiopesis (41):** ‘Aposiopesis occurs when something is said and then the rest of what the speaker had begun to say is left unfinished, as follows : " The contest between you and me is unequal ' because, so far as concerns me. the Roman people—I am unwilling to say it, lest by chance some one think me proud. But you the Roman people has often considered worthy of dis- grace." Again: "You dare to say that, who recently at another's home—I shouldn't dare tell, lest in saying things becoming to you, I should seem to say something unbecoming to me." Here a suspicion, unexpressed, becomes more telling than a detailed explanation would have been.’
   8. **Conclusion (41)**
8. **Tropes**[[16]](#footnote-16):
   1. **Onomatopoeia (42)**
   2. **Antonomasia (42)**
   3. **Metonymy (43), substituting**
      1. **Greater for lesser**
      2. **[Lesser for greater]**
      3. **Invention for inventor**
      4. **[Inventor for invention]**
      5. **Instrument for possessor**
      6. **Cause for effect**
      7. **Effect for cause**
      8. **Container for content**
      9. **Content for container**
   4. **Periphrasis (43):** ‘Periphrasis is a manner of speech used to express a simple idea by means of a circumlocution, as follows : " The foresight of Scipio crushed the power of Carthage." For here, if the speaker had not designed to embellish the style, he might simply have said " Scipio " and" Carthage."’
   5. **Hyperbaton (44)**
      1. By Anastrophe
      2. By Transposition
   6. **Hyperbole (44),** used
      1. Independently
      2. With comparison
         1. (α) From equivalence
         2. (β) From superiority
   7. **Synechdoche**
      1. Whole understood from part
      2. Part from whole
      3. Plural from singular
      4. Singular from plural
   8. **Catachresis (45):** ‘Catachresis \*» is the inexact use of a like and kindred word in place of the precise and proper one, as follows : " The power of man is short," or " small height," or " the long wisdom in the man," or " a mighty speech," or " to engage in a slight con- versation." Here it is easy to understand that words of kindred, but not identical, meaning have been transferred on the principle of inexact use.’
   9. **Metaphor (*translatio*, 45):** ‘Metaphor occurs when a word applying to one thing is transferred to another, because the similarity seems to justify this transference.
      1. **For vividness: ‘**Metaphor is used for the sake of creating a vivid mental picture, as follows: "This insurrection awoke Italy with sudden terror " ;
      2. **For brevity:** for the sake of brevityj\* as follows: " The recent arrival of an army suddenly blotted out the state";
      3. **To avoid obscenity:** for the sake of avoiding obscenity, as follows: "Whose mother delights in daily marriages " ;
      4. **For magnifying:** for the sake of magnifying, as follows: " No one's grief or disaster could have ap- peased this creature's enmities and glutted his horrible cruelty";
      5. **For minifying:** for the sake of minifving, as follows: " He boasts that he was of great help because, when we were in difficulties, he lightly breathed a favouring breath"
      6. **For embellishing:** ‘for the sake of embellishment, as follows: " Some day the prosperity of the republic, which by the malice of wicked men has withered away, will bloom again by the virtue of the Con- servatives."
      7. **Rules for metaphor**: They say that a metaphor ought to be restrained, so as to be a transition with good reason to a kindred thing, and not seem an indiscriminate, reckless, and precipitate leap to an unlike thing.’[[17]](#footnote-17)
      8. **Allegory (46):** ‘Allegory " is a manner of speech denoting one thing by the letter of the words, but another by their meaning. It assumes three aspects: comparison, argument, and contrast. It operates through a com- parison when a number of metaphors originating in a similarity in the mode of expression are set together, as follows: "For when dogs act the part of wolves, to what guardian, pray, are we going to entrust our herds of cattle? " An Allegory is presented in the form of argument when a similitude is drawn from a person or place or object in order to magnify or minify, as if one should call Drusus a "faded reflection of the Gracchi." An Allegory is drawn from a contrast if, for example, one should mockingly call a spendthrift and voluptuary frugal and thrifty. Both in this last type, based on a contrast, and in the first above, drawn from a comparison, we can through the metaphor make use of argument. In an Allegor\'- operating through a comparison, as follows : " What says this king—our Agamemnon, or rather, such is his cruelty, our Atreus ? " In an Allegory drawn from a contrast : for example, if we should call some undutiful man who has beaten his father " Aeneas," ° or an intemperate and adulterous man " Hippolytus."[[18]](#footnote-18)
         1. Comparison
         2. Argument
         3. Contrast
9. **Figures of Thought**
   1. 1. Distribution (47)
   2. 2. Frankness of Speech (48–50), handled with
      1. (a) Pungency, mitigated by praise, or
      2. (b) Pretence
   3. 3. Understatement (50)
   4. 4. Vivid Description (51)
   5. 5. Division (52)
   6. 6. Accumulation (52–53)
      1. (a) Aiming at impressiveness, sharpness, or incrimination
      2. (b) Aiming at proof
   7. **Refining (*expolitio,* 54–58):** ‘Refining ' consists in dwelling on the same topic and yet seeming to say something ever new. It is accomplished in two ways : by merely repeating the same idea, or by descanting upon it. We shall not repeat the same thing precisely—for that, to be sure, would weary the hearer and not refine the idea but with changes. Our changes will be of three kinds : in the words, in the delivery, and in the treatment.’[[19]](#footnote-19)
      1. (i) **By repetition, with changes in**
         1. (a) Words
         2. (b) Delivery
         3. (c) Treatment
            1. (α) Form of Dialogue
            2. (ß) Form of Arousal
      2. (ii) **By descanting on theme, treatment being in seven parts:**
         1. **(a) Simple Pronouncement**
         2. **(b) Reason**
         3. **(c) Second Expression in new form**
         4. **(d) Contrary**
         5. **(e) Comparison**
         6. **(f) Example**
         7. **(g) Conclusion**
      3. **The benefits of refining:** ‘It is of these types, then, that Refining consists. I have been led to discuss it at rather great length because it not only gives force and distinction to the speech when we plead a cause, but it is by far our most important means of training for skill in style. It will be advantageous therefore to practise the principles of Refining in exercises divorced from a real cause, and in actual pleading to put them to use in the Embellishment of an argument, which I discussed in Book II.’
   8. 8. Dwelling on the Point (58)
   9. 9. Antithesis (58)
10. **comparison (*similitudo* 59–61):** 
    1. **definition:** ‘Comparison is a manner of speech that carries over an element of likeness from one thing to a different thing.
    2. **four aims of comparison:** ‘This is used to embellish or prove or clarify or vivify.’
       1. embellish
       2. prove
       3. clarify
       4. vivify
    3. **four aims of comparison**: ‘Furthermore, corresponding to these four aims, it has four forms of presentation: contrast, negation. detailed parallel, abridged comparison.’
       1. contrast (purpose: embellishment)
       2. negation (purpose: proof)
       3. detailed parallel (purpose: vividness)
       4. abridged comparison (purpose: clarity)
    4. **illustrations:** To each single aim in the use of comparison we shall adapt the corresponding form of presentation.’[[20]](#footnote-20)
       1. **clarity and abridgemed comparison:** **‘**A comparison will be used also for greater clarity—the presentation being in abridged form—as follows: "In maintaining a friendship, as in a footrace, you must train yourself not only so that you succeed in running as far as is required, but so that, extending yourself by will and sinew, you easily run beyond that point." Indeed this Comparison serves to make more obvious the poor reasoning evinced by the detractors of those who, for example, are protectors of a friend's children after his death; for a runner ought to have enough speed to carry him beyond the goal, and a friend so much goodwill that in the devotion of friendship he may reach even beyond what his friend is capable of perceiving. The Comparison is moreover presented in abridged form, for one term is not detached from the other as in the other forms, but the two are conjoined and intermingled in the presentation.
       2. **vividness and detailed parallel:** A comparison will be used for vividness, and be set forth in the form of a detailed parallel," as follows " Let us imagine a player on the lyre who has presented himself on the stage, magnificently garbed, clothed in a gold-embroidered robe, with purple mantle interlaced in various colours, wearing a golden crown illumined with large gleaming jewels, and holding a lyre covered with golden ornaments and set off with ivory. Further, he has a personal beauty, presence, and stature that impose dignity. If, when by these means he has roused a great expectation in the public, he should in the silence he has created suddenly give utterance to a rasping voice, and this should be accompanied by a repulsive gesture, he is the more forcibly thrust off in derision and scorn, the richer his adornment and the higher the hopes he has raised. In the same way, a man of high station, endowed with great and opulent resources, and abounding in all the gifts of fortune and the emoluments of nature, if he yet lacks virtue and the arts that teach virtue, will so much the more forcibly in derision and scorn be cast from all association with good men, the richer he is in the other advantages, the greater his distinction, and the higher the hopes he has raised." This Comparison, by embellishing both terms, bringing into relation by a method of parallel description the one man's ineptitude and the other's lack of cultivation, has set the subject vividly before the eyes of all. Moreover the Comparison is pre- sented in the form of a detailed parallel because, once the similitude has been set up, all like elements are related.’[[21]](#footnote-21)
    5. **rules for comparison**: In Comparisons we must carefully see to it that when we present the corresponding idea for the sake of which we have introduced the figure we use words suited to the likeness. The following is an example “just as the swallows are with us in summer time, and when driven by the frost retire, ..." Keeping the same comparison, and using metaphor, we now say : "so false friends are with us in a peaceful season of our life, and as soon as they have seen the winter of our fortune, they fly awav, one and all." But the invention of comparisons will be easy if one can frequently set before one's eyes everything animate and inanimate, mute and articulate, wild and tame, of the earth, sky, and sea, wrought by art, chance, or nature, ordinary or unusual, and can amongst these hunt out some likeness which is capable of embellishing or proving or clarifying or vivifying. The resemblance between the two things need not apply throughout, but must hold on the precise point of comparison.’[[22]](#footnote-22)
    6. **Example (*exemplum*)[[23]](#footnote-23):** ‘An example is a statement of something done or said in the past with a specific author's name. It is used for the **same purposes as the comparison**. It renders a thing more beautiful when it is taken for the sake of nothing but dignity; more clear, when it makes that which is dark more clear; more probable, when it makes it more likely to be true; it puts before the eyes, when it expresses everything clearly, so that the matter can be tried with the close hand. We would have included individual examples of each kind, had we not already demonstrated the nature of example under comparison and, under refinement, clarified the reasons for its use. [[24]](#footnote-24)
       1. **the division of examples is similar to the division of comparisons.**
          1. **embellish**
          2. **prove**
          3. **clarify**
          4. **vivify**
    7. **Simile (*imago,* 62)[[25]](#footnote-25):** ‘Simile is the comparison of one figure with another, implying a certain resemblance between them. This is used either for praise or censure. For praise, as follows "He entered the combat in body like the strongest bull, in impetuosity like the fiercest lion." or censure, so as to excite hatred, as follows: " That wretch who daily glides through the middle of the loriim like a crested serpent, with curved fangs, j)oisonoiis glance," and fierce panting, looking about him on this side and that for some one to blast with venom from his throat—to smear it with his lips, to drive it in with his teeth, to spatter it with his tongue." To excite envy, as follows: " That creature who flaunts his riches, loaded and weighed down with gold, shouts and raves like a Phrygian eunuch-priest of Cybele \* or like a sooth- sayer." To excite contempt, as follows: "That creature, who like a snail silently hides and keeps himself in his shell, is carried off', he and his house, to be swallowed whole."’[[26]](#footnote-26)
       1. **(i) For praise**
       2. **(ii) For censure, to excite**
       3. **(a) Hatred**
       4. **(b) Envy**
       5. **(c) Contempt**
    8. 13. Portrayal (63)
    9. 14. Character Delineation (63–65)
    10. 15. Dialogue (65), including the Hypothetical
    11. 16. Personification (66)
    12. 17. Emphasis (67), through
        1. (a) Hyperbole
        2. (b) Ambiguity
        3. (c) Logical Consequence
        4. (d) Aposiopesis
        5. (e) Analogy
    13. 18. Conciseness (68)
    14. 19. Ocular Demonstration (68–69).

**Epilogue:** An epilogue (69) enjoins Herennius to exercise diligently, and summarizes the contents of the treatise.

“**Comparison** is a manner of speech that carries over an element of likeness from one thing to a different thing. This is used to embellish or prove or clarify or vivify. Furthermore, corresponding to these four aims, it has four forms of presentation: Contrast, Negation, Detailed Parallel, Abridged Comparison. To each single aim in the use of Comparison we shall adapt the corresponding form of presentation.” *Rhet. ad Her.* IV, xlv, 59 (p. 376-77): “Similitudo est oratio traducens ad rem quampiam aliquid ex re dispari simile. Ea sumitur aut ornandi causa aut probandi aut apertius dicendi aut ante oculos ponendi. Et quomodo quattuor de causis sumitur, item quattuor modis dicitur: per contrarium, per negationem, per conlationem, per brevitatem. Ad unam quamque sumendae causam similitudinis adcommodabimus singulos modos pronuntiandi.”

“Exemple is the citing of something done or said in the past, along with the definite naming of the doer or author. It is used with the same motives as a Comparison. It renders a thought more brilliant when used for no other purpose than beauty; clearer, when throwing more light upon what was somewhat obscure; more plausible, when giving the thought greater verisimilitude; more vivid, when expressing everything so lucidly that the matter can, I may almost say, be touched by the hand.” *Rhet. ad Her.* IV, xlix, 62 (pp. 383-385): “Exemplum est alicuius facti aut dicti praeteriti cum certi auctoris nomine propositio. Id sumitur isdem de causis quibus similitudo. Rem ornatiorem facit cum nullius rei nisi dignitatis causa sumitur; apertiorem, cum id quod sit obscurius magis dilucidum reddit; probabiliorem, cum magis veri similem facit; ante oculos ponit, cum exprimit omnia perspicue ut res prope dicam manu temptari possit.

παράδειγμα. Examples are drawn from history. Aristotle, Rhet. 2. 20 (1393 a ff.), divides Examples into this type and also that which is invented (but drawn from real life), and the latter again into the Comparison (see 4. xlv. 59 above) and the Fable. Cf. Rhet. ad Alex., ch. 8 (1429 a–1430 a), and Quintilian, 5. 11. 1 ff. and 8. 3. 72 ff. Examples are recommended especially in deliberative speaking, 3. v. 9 above; cf. Isocrates, Ad Demonicum 34, Aristotle, Rhet. 1. 9 (1368 a) and 3. 17 (1418 a). Both embellishment (cf. 2. xxix. 46 above) and proof (cf. 3. iii. 4 above) are here that the speaker know and ponder the noblest things “said and done” in the past, and the title of Valerius Maximus’ work, Factorum et Dictorum Memorabilium Libri IX; also Thucydides’ division of his material into λόγοι and ἔργα. See Karl Alewell, Über das rhetorische παράδειγμα, Kiel diss., Leipzig, 1913, especially pp. 18 ff. Marius Plotius (Keil, Gramm. Lat. 6. 469) and Apsines, Ars Rhet. 8 (Spengel-Hammer 1 [2]. 281. 10 ff.) treat four methods of drawing examples: from the like, the contrary, the greater, the less; cf. 4. xlv. 59 above. included among the functions of Example by our author. In 4. iii. 5 above the function is declared to be demonstratio, not confirmatio or testificatio; see note. For facti et dicti in the definition cf. Quintilian’s recommendation in 12. 2. 29

“Simile is the comparison of one figure with another, implying a certain resemblance between them. This is used either for praise or censure. For praise, as follows: “He entered the combat in body like the strongest bull, in impetuosity like the fiercest lion.”d For censure, so as to excite hatred, as follows: “That wretch who daily glides through the middle of the Forum like a crested serpent …” *Rhet. ad Her.* IV, xlix, 62: “Imago est formae cum forma cum quadam similitudine conlatio. Haec sumitur aut laudis aut vituperationis causa. Laudis causa, sic: “Inibat in proelium corpore tauri validissimi, impetu leonis acerrimi simili.” Vituperationis, ut in odium adducat, hoc modo: “Iste qui cotidie per forum medium tamquam iubatus draco serpit dentibus aduncis.”

“Embellishment consists of similes, examples, amplifications, previous judgements, and the other means which serve to expand and enrich the argument.” *Rhet. ad Her.* II, xxix, 46 (p. 140-141): “exornatio constat ex similibus et exemplis et amplificationibus et rebus iudicatis et ceteris rebus quae pertinent ad exaugendam et conlocupletandam argumentationem.”

“An Example is defective if it is either false, and hence refutable, or base, and hence not to be imitated, or if it implies more or less than the matter demands.” II, xxix, 46 (pp. 142-143). See also Aristotle, Rhet. 2. 25 (1403 a), Quintilian, 5. 13. 24, Anon. Seg. 187 (Spengel-Hammer 1 [2]. 385), and Apsines, Ars Rhet. 9 (Spengel-Hammer 1 [2]. 283–5) treat the invalidation of examples (λύσεις παραδειγμάτων).

**use of, in rhetorical texts, 223, 229–253,**

“On several grounds they think that, after they have given their own precepts on how to embellish style, they must for each kind of embellishment offer an example drawn from a reputable orator or poet. And their first ground in doing so is that they are prompted by modesty, because it seems a kind of ostentation not to be content to teach the art, but to appear desirous themselves of creating examples artificially.” *Rhet. ad Her.* IV, i, 1: “Compluribus de causis putant oportere, cum ipsi praeceperint quo pacto oporteat ornare elocutionem, unius cuiusque generis ab oratore aut poeta probato sumptum ponere exemplum. Et primum se id modestia commotos facere dicunt, propterea quod videatur esse ostentatio quaedam non satis habere praecipere de artificio, sed etiam ipsos videri velle artificiose gignere exempla.”

“In the second place, examples, they say, serve the purpose of testimony; for, like the testimony of a witness, the example enforces what the precept has suggested and only to a slight degree effected. … For an example is used just like testimony to prove a point; it should properly therefore be taken only from a writer of highest reputation, lest what ought to serve as proof of something else should itself require proof.” *Rhet. ad Her.* IV, i, 2: “Praeterea, exempla testimoniorum locum obtinent. Id enim quod admonuerit et leviter fecerit praeceptio exemplo, sicut testimonio, conprobatur. … Ut enim testimonium, sic exemplum rei confirmandae causa sumitur. Non ergo oportet hoc nisi a probatissimo sumi, ne quod aliud confirmare debeat egeat id ipsum confirmationis.”

“And furthermore, does not the very prestige of the ancients not only lend greater authority to their doctrine but also sharpen in men the desire to imitate them? Yes, it excites the ambitions and whets the zeal of all men when the hope is implanted in them of being able by imitationa to attain to the skill of a Gracchus or a Crassus.” *Rhet. ad Her.* IV, ii, 2: “Quid? ipsa auctoritas antiquorum non cum res probabiliores tum hominum studia ad imitandum alacriora reddit? Immo erigit omnium cupiditates et acuit industriam cum spes iniecta est posse imitando Gracci aut Crassi consequi facultatem.”

“Finally, they say, the highest art resides in this: in your selecting a great diversity of passages widely scattered and interspersed among so many poems and speeches, and doing this with such painstaking care that you can list examples, each according to its kind, under the respective topics of the art. If this could be accomplished by industry alone, we should yet deserve praise for not having avoided such a task; but actually, without the highest art it cannot be done. For who, unless he has a consummate grasp of the art of rhetoric, could in so vast and diffuse a literature mark and distinguish the demands of the art? Laymen, reading good orations and poems, approve the orators and poets, but without comprehending what has called forth their approval, because they cannot know where that which especially delights them resides,b or what it is, or how it was produced. But he who understands all this, and selects examples that are most appropriate, and reduces to individual principles of instruction everything that especially merits inclusion in his treatise, must needs be a master artistc in this field. This, then, is the height of” *Rhet. ad Her.* IV, ii, 3: “Postremo, hoc ipsum summum est artificium—res varias et dispares in tot poëmatis et orationibus sparsas et vage disiectas ita diligenter eligere ut unum quodque genus exemplorum sub singulos artis locos subicere possis. Hoc si industria solum fieri posset, tamen essemus laudandi cum talem laborem non fugissemus; nunc sine summo artificio non potest fieri. Quis est enim qui, non summe cum tenet artem, possit ea quae iubeat ars de tanta et tam diffusa scriptura notare et separare? Ceteri, cum legunt orationes bonas aut poemata, probant oratores et poëtas, neque intellegunt qua re commoti probent, quod scire non possunt ubi sit nec quid sit nec quo modo factum sit id quod eos maxime delectet; at is qui et haec omnia intellegit et idonea maxime eligit et omnia in arte maxime scribenda redigit in singulas rationes praeceptionis, necesse est eius rei summus artifex sit. Hoc igitur ipsum maximum artificium est—in arte sua posse et alienis exemplis uti.”

“First and foremost, examples are set forth, not to confirmd or to bear witness, but to clarify.” *Rhet. ad Her.* IV, iii, 5: “Primum omnium, exempla ponuntur nec confirmandi neque testificandi causa, sed demonstrandi.”

“The difference between testimony and example is this: by example we clarify the nature of our statement, 6while by testimony we establish its truth.” *Rhet. ad Her.* IV, iii, 6: “Hoc interest igitur inter testimonium et exemplum: exemplo demonstratur id quod dicimus cuiusmodi sit; testimonio esse illud 6ita ut nos dicimus confirmatur.”

**epideictic, 173–185, 309 n.**

2. **Cf. Cicero, De Inv. 2. lix. 177–8**. The epideictic kind, like the deliberative (3. ii. 2-v. 9 above), receives only a sketchy treatment from our author—evidence of the dominant position which the judicial kind, with its status system, held in Hellenistic rhetoric. Despite the Epicurean notion that only epideictic was amenable to rules, the judicial kind was in fact the easiest to systematize, even as it was by far the most often employed in Hellenistic times.
3. The Greek term “epideictic” did not primarily emphasize the speaker’s virtuosity, nor was the Latin equivalent *demonstrativum* intended to imply logical demonstration. Whereas in both deliberative and judicial causes the speaker seeks to persuade his hearers to a course of action, in epideictic his primary purpose is by means of his art to impress his ideas upon them, without action as a goal.
4. On the scope and purpose of epideictic, and on the discrepancies between our author’s treatment and that of Aristotle **(*Rhet*. 1. 3, 1358 b),** see D. A. G. Hinks, Class. Quart. 30 (1936). 170–6; cf. also **Quintilian, 3. 4. 1 ff**., and Volkmann, pp. 19 ff.
5. In the Stoic scheme “encomiastic” was used instead of “epideictic”; see Diogenes Laertius 7. 42. This term, for which *laudativum* (see Cicero, Part. Orat. 3. 10, and Quintilian, 3. 3. 14, 3. 4. 12) would be the Latin equivalent, actually corresponds more closely to our author’s definition of the genus than does demonstrativum. Doxapatres (Rabe, Proleg. Syll., pp. 149 ff.) argues for the primacy of the deliberative kind, setting the judicial in the second place, and the epideictic (panegyric) last; cf. Isocrates, Paneg. 4, Antid. 46 ff., Panath. 271. See also Stanley Wilcox, Harvard Studies in Class. Philol. 53 (1942). 121–155.
6. Let us now turn to the Epideictic kind of cause. Since epideictic includes Praise and Censure, the topics on which praise is founded will, by their contraries, serve us as the bases for censure. The following, then, can be subject to praise: exterior things, things of the body, and things of the soul. *Rhet. ad Her.,* III, iv, 10: “Nunc ad demonstrativum genus causae transeamus. Quoniam haec causa dividitur in laudem et vituperationem, quibus ex rebus laudem constituerimus, ex contrariis rebus erit vituperatio conparata. Laus igitur potest esse rerum externarum, corporis, animi.”
7. “The Introduction is drawn from our own person, or the person we are discussing, or the person of our hearers, or from the subject-matter itself.” *Rhet. ad Her.* III, vi, 10: “Principium sumitur aut ab nostra, aut ab eius de quo loquemur, aut ab eorum qui audient persona, aut ab re.”
8. To External Circumstancesb belong such as can happen by chance, or by fortune, favourable or adverse: descent,c education,d wealth,e kinds of power,f titles to fame,g citizenship,h friendships,i and the like, and their contraries. Physical Attributesj are merits or defects bestowed upon the body by nature: agilityk strength,l beauty,m health,n and their contraries. Qualities of Charactero rest upon our judgement and thought: wisdom, justice, 11courage, temperance, and their contraries. Such, then, in a cause of this kind, will be our Proof and Refutation.” *Rhet. ad Her.,* III, iv, 11: “Rerum externarum sunt ea quae casu aut fortuna secunda aut adversa accidere possunt: genus, educatio, divitiae, potestates, gloriae, civitas, amicitiae, et quae huiusmodi sunt et quae his contraria. Corporis sunt ea quae natura corpori adtribuit commoda aut incommoda: velocitas, vires, dignitas, valetudo, et quae contraria sunt. Animi sunt ea quae consilio et cogitatione nostra constant: prudentia, iustitia, fortitudo, modestia, et quae contraria sunt. 11Erit igitur haec confirmatio et confutatio nobis in huiusmodi causa.
9. The Introductionp is drawn from our own person, or the person we are discussing, or the person of our hearers, or from the subject-matter itself. *Rhet. ad Her.,* III, iv, 11: “Principium sumitur aut ab nostra, aut ab eius de quo loquemur, aut ab eorum qui audient persona, aut ab re.”
10. From our own person: if we speak in praise, we shall say that we are doing so from a sense of duty, because ties of friendship exist; or from goodwill, because such is the virtue of the person under discussion that every one should wish to call it to mind; or because it is appropriate to show, from the praise accorded him by others, what his character is.a If we speak in censure, we shall say that we are justified in doing so, because of the treatment we have suffered; or that we are doing so from goodwill, because we think it useful that all men should be apprised of a wickedness and a worthlessness without parallel; or because it is pleasing to show by our censure of others what conduct is pleasing to ourselves. *Rhet. ad Her.,* III, vi, 11: “Ab nostra, si laudabimus: aut officio facere, quod causa necessitudinis intercedat; aut studio, quod eiusmodi virtute sit ut omnes commemorare debeant velle; aut quod rectum sit1 ex aliorum laude ostendere qualis ipsius animus sit. Si vituperabimus: aut merito facere, quod ita tractati simus;2 aut studio, quod utile putemus esse ab omnibus unicam malitiam atque nequitiam cognosci; aut quod placeat ostendi quod nobis placeat ex aliorum vituperatione.”
11. When we draw our Introduction from the person being discussed: if we speak in praise, we shall say that we fear our inability to match his deeds with words;b all men ought to proclaim his virtues; his very deeds transcend the eloquence of all eulogists. If we speak in censure, we shall, as obviously we can by the change of a few words, and as I have demonstrated just above, express sentiments to the contrary effect.” *Rhet. ad Her.,* III, vi, 11: “Ab eius persona de quo loquemur, si laudabimus: vereri nos ut illius facta verbis consequi possimus; omnes homines illius virtutes praedicare oportere; ipsa facta omnium laudatorum eloquentiam anteire. Si vituperabimus, ea quae videmus contrarie paucis verbis commutatis dici posse dicemus, ut paulo supra exempli causa demonstratum est.”
12. “When the Introduction is drawn from the person of the hearers: if we speak in praise, we shall say that since we are not delivering an encomium amongst people unacquainted with the man, we shall speak but briefly, to refresh their memories; or if they do not know him, we shall try to make them desire to know a man of such excellence; since the hearers of our eulogy have the same zeal for virtue as the subject of the eulogy had or now has, we hope easily to win the approval of his deeds from those whose approval we desire. The opposite, if it is censure: we shall say that since our hearers know the man, we shall confine ourselves to a few words on the subject of his worthlessness; but if they do not. we shall try to make them know him, in order that they may avoid his wickedness; since our hearers are unlike the subject of our censure, we express the hope that they will vigorously disapprove his way of life.*Rhet. ad Her.,* III, vi, 12: “Ab auditorum persona, si laudabimus: quoniam non apud ignotos laudemus, nos monendi causa pauca dicturos; aut si erunt ignoti, ut talem virum velint cognoscere petemus; quoniam in eodem virtutis studio sint apud quos laudemus atque ille qui laudatur fuerit aut sit, sperare nos facile iis quibus velimus huius facta probaturos. Contraria vituperatio: quoniam norint, pauca de nequitia eius dicturos; quod si ignorent, petemus uti gnoscant, uti malitiam vitare possint; quoniam dissimiles sint qui audiant atque ille qui vituperatur, sperare eos illius vitam vehementer inprobaturos.”
13. “If the Introduction has been developed in accordance with any of the methods just mentioned, there will be no need for a Statement of Facts to follow it; but if there is occasion for one, when we must recount with either praise or censure some deed of the person discussed, the instructions for Stating the Facts will be found in Book I.” *Rhet. ad Her.,* III, vii, 13: “Principio tractato aliqua harum quas ante commemoravimus ratione, narratio non erit ulla quae necessario consequatur; sed si qua inciderit, cum aliquod factum eius de quo loquemur nobis narrandum sit cum laude aut vituperatione, praeceptio narrandi de primo libro repetetur.”
14. “The Division we shall make is the following: we shall set forth the things we intend to praise or censure; then recount the events, observing their precise sequence and chronology, so that one may understand what the person under discussion did and with what prudence and caution. But it will first be necessary to set forth his virtues or faults of character, and then to explain how, such being his character, he has used the advantages or disadvantages, physical or of external circumstances. The following is the order we must keep when portraying a life:

*Rhet. ad Her.* III, vii, 13: “Divisione hac utemur: exponemus quas res laudaturi sumus aut vituperaturi; deinde ut quaeque quove tempore res erit gesta ordine dicemus, ut quid quamque tute cauteque egerit intellegatur. Sed exponere oportebit animi virtutes aut vitia; deinde commoda aut incommoda corporis aut rerum externarum quomodo ab animo tractata sint1 demonstrare. Ordinem hunc adhibere in demonstranda vita debemus:

(1) External Circumstances: Descent—in praise: the ancestors of whom he is sprung; if he is of illustrious descent, he has been their peer or superior; if of humble descent, he has had his support, not in the virtues of his ancestors, but in his own. In censure: if he is of illustrious descent, he has been a disgrace to his forebears; if of low descent, he is none the less a dishonour even to these. Education—in praise: that he was well and honourably trained in worthy studies throughout his boyhood. In censure: . . . *Rhet. ad Her.,* III, vii, 13: “Ab externis rebus: genus—in laude: quibus maioribus natus sit; si bono genere, parem aut excelsiorem fuisse; si humili genere, ipsum in suis, non in maiorum virtutibus habuisse praesidium. In vituperatione: si bono genere, dedecori maioribus fuisse; si malo, tamen his ipsis detrimento fuisse. Educatio—in laude: bene et1 honeste in bonis disciplinis per omnem pueritiam educatum.2 In vituperatione: . . .”

(2) Next we must pass to the Physical Advantages: if by nature he has impressiveness and beauty, these have served him to his credit, and not, as in the case of others, to his detriment and shame; if he has exceptional strength and agility, we shall point out that these were acquired by worthy and diligent exercise; if he has continual good health, that was acquired by care and by control over his passions. In censure, if the subject has these physical advantages, we shall declare that he has abused what, like the meanest gladiator, he has had by chance and nature. If he lacks them, we shall say that to his own fault and want of self-control is his lack of every physical advantage, beauty apart, attributable.”

*Rhet. ad Her.,* III, vii, 14: “Deinde transire oportet ad corporis commoda: natura si sit dignitas atque forma, laudi fuisse eam, non quemadmodum ceteris detrimento atque dedecori; si vires atque velocitas egregia, honestis haec exercitationibus et industriis dicemus conparata; si valetudo perpetua, diligentia et temperantia cupiditatum. In vituperatione, si erunt haec corporis commoda, male3 his usum dicemus quae casu et natura tamquam quilibet gladiator habuerit; si non erunt, praeter formam omnia ipsius culpa et intemperantia afuisse dicemus.”

“(3) Then we shall return to External Circumstances and consider his virtues and defects of Character evinced with respect to these: Has he been rich or poor? What kinds of power has he wielded? What have been his titles to fame? What his friendships? Or what his private feuds, and what act of bravery has he performed in conducting these feuds? With what motive has he entered into feuds? With what loyalty, goodwill, and sense of duty has he conducted his friendships? What character of man has he been in wealth, or in poverty? What has been his attitude in the exercise of his prerogatives? If he is dead, what sort of death did he die,a and what 15sort of consequences followed upon it?” *Rhet. ad Her.,* III, vii, 14: “Deinde revertemur ad extraneas res, et in his animi virtutes aut vitia quae fuerint considerabimus; divitiae an paupertas fuerit, et quae potestates, quae gloriae, quae amicitiae, quae inimicitiae, et quid fortiter inimicitiis gerundis fecerit; cuius causa susceperit inimicitias; qua fide, benivolentia, officio gesserit amicitias; in divitiis qualis aut paupertate cuiusmodi fuerit; quemadmodum habuerit in potestatibus gerundis animum. Si interierit, cuiusmodi mors eius fuerit, cuiusmodi res mortem eius sit 15consecuta.

VIII. In all circumstances, moreover, in which human character is chiefly studied, those four above-mentioned virtues of character will have to be applied. Thus, if we speak in praise, we shall say that one act was just, another courageous, another temperate, and another wise; if we speak in censure, we shall declare that one was unjust, another intemperate, another cowardly, and another stupid. *Rhet. ad Her.,* III, viii, 15: “Perspicuum est iam nimirum ex hac dispositione quemadmodum sit tractanda tripertita divisio laudis et vituperationis, si illud etiam adsumpserimus, non necesse esse nos omnes has partes in laudem aut in vituperationem transferre, propterea quod saepe ne incidunt quidem, saepe ita tenuiter incidunt ut non sint necessariae2 dictu. Quapropter eas partes quae firmissimae videbuntur legere oportebit.”

From this arrangement it is now no doubt clear how we are to treat the three categories of praise and censure—with the added proviso that we need not use all three for praise or for censure, because often not all of them even apply, and often, too, when they do, the application is so slight that it is unnecessary to refer to them. We shall therefore need to choose those categories which seem to provide the greatest force. *Rhet. ad Her.,* III, viii, 15: “Ad omnes autem res in quibus animus hominis maxime consideratur illae quattuor animi virtutes erunt adcommodandae; ut, si laudemus, aliud iuste, aliud fortiter, aliud modeste, aliud1 prudenter factum esse dicamus; si vituperabimus, aliud iniuste, aliud immodeste, aliud ignave, aliud stulte factum praedicemus.”

Our Conclusions will be brief, in the form of a Summary at the end of the discourse; in the discourse itself we shall by means of commonplaces frequently insert brief amplifications. *Rhet. ad Her.,* III, viii, 15: “Conclusionibus brevibus utemur, enumeratione ad exitum causae; in ipsa causa crebras et breves amplificationes interponemus per locos communes.”

Nor should this kind of causeb be the less strongly recommended just because it presents itself only seldom in life. Indeed when a task may present itself, be it only occasionally, the ability to perform it as skilfully as possible must seem desirable. And if epideictic is only seldom employed by itself independently, still in judicial and deliberative causes extensive sections are often devoted to praise or censure. Therefore let us believe that this kind of cause also must claim some measure of our industry. *Rhet. ad Her.,* III, viii, 15: “Nec hoc genus causae eo quod raro accidit in vita neglegentius commendandum est; neque enim id quod potest accidere ut faciendum sit aliquando, non oportet velle quam adcommodatissime posse facere; et si separatim haec causa minus saepe tractatur, at in iudicialibus et in deliberativis causis saepe magnae partes versantur laudis aut vituperationis. Quare in hoc quoque causae genere nonnihil industriae consumendum putemus.”

**De inventione**

Praise and censure will be derived from the topics that are employed with respect to the attributes of persons; these have been discussed above.c If one wishes to treat the subject more methodically, these may be divided into mind, body and external circumstances. The virtue of the mind is that whose parts we discussed only recently.a The virtues of the body are health, beauty, strength, speed. Extraneous virtues are public office, money, connexions by marriage, high birth, friends, country, power, and all other things that are understood to belong to this class. And the principle ought to apply to these which applies everywhere; the opposites of these qualities and their nature will be apparent. [[27]](#footnote-27)

Moreover, in praise and censure it will be necessary to observe not so much what the subject of the speech possessed in bodily endowment or in extraneous goods as what use he made of them. For it is foolish to praise one’s good fortune and arrogant to censure it, but praise of a man’s mind is honourable and censure of it very effective. [[28]](#footnote-28)

1. I, ii, 3: ‘Oportet igitur esse in oratore inventionem, dis- positionem, elocutionem, memoriam, pronuntia- tionem. Inventio est excogitatio rerum verarum aut veri similium quae causam probabilem reddant. Dispositio est ordo et distributio rerum, quae demonstrat quid quibus locis sit conlocandum. Elocutio est idoneorum verborum et sententiarum adinventionem ad commodatio. Memoria est firma animi rerum et verborum et dispositionis perceptio. Pronuntiatio est vocis, vultus, gestus moderatio cum venustate.‘ [↑](#footnote-ref-1)
2. I, ii, 3: Haec omnia tribus rebus adsequi poterimus: arte, imitatione, exercitatione. Ars est praeceptio, quae dat certain viam rationemque dicendi. Imitatio est qua impellimur, cum diligente ratione, ut aliquorum similes in dicendo valeamus esse. Exercitatio est adsiduus usus consuetudoque dicendi.’ [↑](#footnote-ref-2)
3. I, vi, 9 Deinceps de insinuatione aperiendum est. Tria sunt tempora quibus principio uti non possumus, quae diligenter sunt consideranda : aut cum turpem causam habemus, hoc est, cum ipsa res animum auditoris a nobis alienat ; aut cum animus auditoris persuasus esse videtur ab iis qui ante contra dixerunt aut cum defessus est eos audiendo qui ante dixerunt. [↑](#footnote-ref-3)
4. I, vi, 9: ‘Si causa turpitudinem habebit, exordiri poterimus his rationibus: hominem, non rem, spectari oportere ; non placere nobis ipsis quae facta dicantur ab adver sariis, et esse indigna aut nefaria. Deinde cum diu rem auxerimus, nihil simile a nobis factum ostendemus ; aut aliquorum iudicium de simili causa aut de eadem aut de minore aut de maiore proferemus, deinde ad nostram causam pedetemptim accedemus et similitudinem conferemus. Item si negabimus nos de adversariis aut de aliqua re dicturos, et tamen occulte dicemus interiectione verborum. [↑](#footnote-ref-4)
5. I, vi, 10: ‘Si persuasus auditor, si oratio adversariorum fecerit fidem auditoribus—neque enim non facile scire poterimus, quoniam non sumus nescii quibus rebus fides fieri soleat—ergo si fidem factam putabimus, his nos rebus insinuabimus ad causam : de eo quod adversarii firmissimum sibi adiumentum putarint primum nos dicturos pollicebimur; ab adversarii dicto exordiemur, et ab eo maxime quod ille nuperrime dixerit; dubitatione utemur quid potissimum dicamus aut cui loco primum respon- deamus, cum admiratione.’ [↑](#footnote-ref-5)
6. I, vi, 10: ‘Si defessi erunt audiendo, ab aliqua re quae risum movere possit, ab apologo, fabula veri simili, imitatione depravata, inversione, ambiguo, suspicione, inrisione, stultitia, exsuperatione, collectione, litterarum mutatione, praeter expectationem, similitudine, novitate, historia, versu, ab alicuius interpellatione aut adrisione; si promiserimus aliter ac parati fuerhnus nos esse dicturos ; nos non eodem modo ut ceteri soleant verba facturos ; quid alii soleant, quid nos facturi simus breviter exponemus.’ [↑](#footnote-ref-6)
7. VII. Inter insinuationem et principium hoc interest. Principium eiusmodi debet esse ut statim apertis rationibus quibus praescripsimus aut benivolum aut adtentum aut docilem faciamus auditorem at insinuatio eiusmodi debet esse ut occulte, per dis- simulationem, eadem ilia omnia conficiamus, ut ad eandem commoditatem in dicendi opera venire possimus. Verum hae tres utilitates tametsi in tota oratione sunt conparandae, hoc est, ut auditores sese perpetuo nobis adtentos, dociles, benivolos praebeant, tamen id per exordium causae maxime conparandum est. [↑](#footnote-ref-7)
8. IV, xvi, 24: ‘Haec exornatio ad sermonem vehementer adcommodata est, et animum auditoris retinet adtentum cum venustate sermonis tum rationum expectatione.’ [↑](#footnote-ref-8)
9. IV, xvii, 24: Sententia est oratio sumpta de vita quae aut quid sit aut quid esse oporteat in vita breviter ostendit, [↑](#footnote-ref-9)
10. IV, xvii, 24: Sententia est oratio sumpta de vita quae aut quid sit aut quid esse oporteat in vita breviter ostendit, hoc pacto: "Difficile est primum quidque. … Huiusmodi sententiae simplices non sunt inprobandae, propterea quod habet brevis expositio, si rationis nullius indiget, magnam delectationem.’ [↑](#footnote-ref-10)
11. IV, xvii, 24: Sed illud quoque probandum est genus sententiae quod confirmatur subiectione rationis, hoc pacto "Omnes bene vivendi rationes in virtute sunt conlocandae, propterea quod sola virtus in sua potestate est, omnia praeterea subiecta sunt sub fortunae dominationem."’ [↑](#footnote-ref-11)
12. IV, xvii, 24: ‘Sunt item sententiae quae dupliciter efferuntur. Hoc modo sine ratione : [↑](#footnote-ref-12)
13. IV, xvii, 25: Sententias interponi raro convenit, ut rei actores, non vivendi praeceptores vide- amur esse. Cum ita interponentur, multum adferent ornamenti. Et necesse est animi conprobet eam tacitus auditor cum ad causam videat adcommodari rem certam ex vita et moribus sumptam. [↑](#footnote-ref-13)
14. IV, xxv, 35: ‘Definitio est quae rei alicuius proprias amplectitur potestates breviter et absolute, hoc modo : " Maiestas rei publicae est in qua continetur dignitas et ampli- tudo civitatis." Item " Iniuriae sunt quae aut pulsatione corpus aut convicio auris aut aliqua turpi- tudine vitam cuiuspiam violant." Item: " Non est ista diligentia, sed avaritia, ideo quod diligentia est adcurata conservatio suorum, avaritia iniuriosa appe- titio alienorum." Item: "Non est ista fortitudo, sed temeritas, propterea quod fortitudo est con- temptio laboris et periculi cum ratione utilitatis et conpensatione commodorum, temeritas est cum in- considerata dolorum perpessione gladiatoria peri- culorum susceptio." Haec ideo commoda putatur exornatio quod omnem rei cuiuspiam vim et pote- statem ita dilucide proponit et breviter, ut neque pluribus verbis oportuisse dici videatur neque brevius potuisse dici putetur.’ [↑](#footnote-ref-14)
15. NowcalledtheMethodofResidueswhenusedinRefuta- tion. Quintilian, 5. 10. 66 if. and 7. 1. 31 fF., considers this nrgumeniorum genus ex remoiione under Proof and Refutation, not under the Figures; see also Cicero, De Inv. 1. xxix. 45 {enmneratio), and Quintilian, 9. 3. 99, in note on 4. xviii. 25 above. Cf. in Aristotle, Rhet. 2. 23 (1398 a), the topos from logical division. [↑](#footnote-ref-15)
16. These ten figures of diction are tropi *(tropes*), a term our author does not use; cf. Quintilian, 8. 6. 1 : "A trope is an artistic change of a word or phrase from its proper signification to another." Tropes were at first, as here, not separated from figures of thought and diction (axTjuara). Cicero, Brutus 18. 69, t«lls us that the division was of Greek origin. Even in the time of Quintilian (see 9. 1. 1-9) the line of demarcation was not always clear. [↑](#footnote-ref-16)
17. IV, xxxiv, 45: ‘Translatio est cum verbum in quandam rem transferetur ex alia re, quod propter simili- tudinem recte videbitur posse transferri. Ea sumitur rei ante oculos ponendae causa, sic: " Hie Italiam tumultus expergefecit terrore subito." Brevitatis causa, sic: " Recens adventus exercitus extinxit subitocivitatem." ObsCenitatisvitandaecausa,sic: " Cuius mater cotidianis nuptiis delectetur." Augendi causa, sic: " Nullius maeror et calamitas istius ex- plere inimicitias et nefariam crudelitatem saturare potuit." Minuendi causa, sic : " Magno se praedicat auxilio fuisse quia paululum in rebus difficillimis aspiravit." Ornandi causa, sic: " Aliquando rei publicae rationes, quae malitia nocentium exaru- erunt, virtute optimatium revirescent." Translationem pudentem dicunt esse oportere, ut cum ratione in consimilem rem transeat, ne sine dilectu temere et cupide videatur in dissimilem transcurrisse. [↑](#footnote-ref-17)
18. IV, xxxiv, 46: ‘Permutatio est oratio aliud verbis aliud sententia demonstrans. Ea dividitur in tres partes: simili- tudinem, argumentum, eontrarium. Per simili- tudinem sumitur cum translationes plures frequenter ponuntur a simili oratione ductae, sic: " Nam cum canes funguntur officiis luporum, cuinam praesidio pecuaria credemus ? " Per argumentum tractatur cum a persona aut loco aut re aliqua similitude augendi aut minuendi causa ducitur, ut si quis Drusum Graccum nitorem obsoletum dicat. Ex contrario ducitur sic, ut si quis hominem prodigum et luxuriosum inludens parcum et diligentem appel- let. Et in hoc postremo quod ex contrario sumitur, et in illo primo quod a similitudine ducitur, per translationem argumento poterimus uti. Per simili- tudinem, sic : " Quid ait hie rex atque Agamemnon noster, sive, ut crudelitas est, potius Atreus? Ex contrario, ut si quem impium qui patrem verberarit Aeneam vocemus, intemperantem et adulterum Hippolytum nominemus. Haec sunt fere quae dicenda videbantur de verborum exornationibus. Nunc res ipsa monet ut deinceps ad sententiarum exornationes transeamus. [↑](#footnote-ref-18)
19. IV, xlii, 54 [↑](#footnote-ref-19)
20. IV, xlv, 59: ‘Similitudo est oratio traducens ad rem quampiam aliquid ex re dispari simile. Ea sumitur aut ornandi causa aut probandi aut apertius dicendi aut ante oculos ponendi. Et quomodo quattuor de causis sumitur, item quattuor modis dicitur : per contrarium, per negationem, per conlationem, per brevitatem. Ad unam quamque sumendae causam similitudinis adcommodabimus singulos modos pronuntiandi.’ [↑](#footnote-ref-20)
21. IV, xlvii ii: ‘Sumetur et apertius dicendi causa simile dicitur per brevitatem—hoc modo: " In amicitia gerenda, sicut in certamine currendi, non ita convenit exerceri ut quoad necesse sit venire possis, sed ut productus studio et viribus ultra facile procurras." Nam hoc simile est ut apertius intellegatur mala ratione facere qui reprehendant eos qui, verbi causa, post mortem amici liberos eius custodiant ; propterea quod in cursore tantum velocitatis esse oporteat ut efferatur ultra finem, in amico tantum benivolentiae ut ultra quam quod amicus sentire possit procurrat amicitiae studio. Dictum autem simile est per brevi- tatem, non enim ita ut in ceteris rebus res ab re separata est, sed utraeque res coniuncte et confuse pronuntiatae. Ante oculos ponendi negotii causa sumetur simili- tudo—dicetur per conlationem—sic: " Uti citha- roedus cum prodierit optime vestitus, palla inaurata indutus/ cum chlamyde purpurea variis coloribus intexta, et cum corona aurea magnis fulgentibus gemmis inluminata, citharam tenens exornatissimam auro et ebore distinctam, ipse praeterea forma et specie sit et statura adposita ad dignitatem, si, cum magnam populo commorit iis rebus expectationem, repente, silentio facto, vocem mittat acerbissimam cum turpissimo corporis motu, quo melius ornatus et magis fuerit expectatus, eo magis derisus et con- temptus eicitur ; item si quis in excelso loco et in magnis ac locupletibus copiis conlocatus fortunae muneribus et naturae commodis omnibus abundabit, si virtutis et artium quae virtutis magistrae sunt egebit, quo magis ceteris rebus erit copiosus et in- lustris et expectatus, eo vehementius derisus et contemptus ex omni conventu bonorum eicietur." Hoc simile exornatione utriusque rei, alterius inertiae alterius stultitiae simili ratione conlata, sub aspectus omnium rem subiecit. Dictum autem est per conla- tionem, propterea quod proposita similitudine paria sunt omnia relata. [↑](#footnote-ref-21)
22. IV, xlviii, 61: ‘In similibus observare oportet diligenter ut, cum rem adferamus similem cuius rei causa similitudinem adtulerimus, verba ad similitudinem habeamus adcommodata. Id est huiusmodi : " Ita ut hirundines aestivo tempore praesto sunt, frigore pulsaerecedunt,..." Exeademsimilitudinenunc per translationem verba sumimus : " item falsi amici sereno vitae tempore praesto sunt; simul atque hiemem fortunae viderunt, devolant omnes." Sed inventio similium facilis erit si quis sibi omnes res, animantes et inanimas, mutas et eloquentes, feras et mansuetas, terrestres, caelestes, maritimas, artificio, casu, natura conparatas, usitatas atque inusitatas, frequenter ponere ante oculos poterit, et ex his aliquam venari similitudinem quae aut ornare aut docere aut apertiorem rem facere aut ponere ante oculos possit. Non enim res tota totae rei necesse est similis sit, sed id ipsum quod conferetur similitudinem habeat oportet. [↑](#footnote-ref-22)
23. *paradeigma*. Examples are drawn from history. Aristotle, Ehet. 2. 20 (1393 a flf.), divides Examples into this type and also that which is invented (but drawn from real life), and the latter again into the Comparison (see 4. xlv. 59above)and the Fable. Cf. *Rhet ad Alex.*. ch. 8 (1429a- 1430 a), and Quintilian, 5. 11. 1 ff. and 8. 3. 72 S. Examples are recommended especially in deliberative speaking, 3. v. 9 above; cf. Isocrates, *Ad Demonicum* 34, Aristotle, Bhet. 1. 9 (1368 a) and 3. 17 (1418 a). Both embellishment {cf. 2. xxix. 46 above) and proof [cf. 3. iii. 4 above) are here included among the functions of Example by our author. In 4. iii. 5 above the function is declared to be demonstratio, not confirmatio or testificatio ; see note. For facti et dicti in the definition c/. Quintilian's recommendation in 12. 2. 29 that the speaker know and ponder the noblest things " said and done " in the past, and the title of Valerius Maximus' work, Factoruni et Dictorum Memorabiliuvi Libri IX ; also Thucydides' division of his material into Aoyoi and ipya. See Karl Alewell, tjber das rhetorische irapaBeiya, Kiel diss,, Leipzig, 1913, especially pp. 18 ff. Marivis Plotins (Keil, Gramm. Lat. 6. 469) and Apsines, Ars Rhet. 8 (Spengel- Hammer 1 [2]. 281. 10 fi".) treat four methods of drawing examples : from the like, the contrary, the greater, the less c/. 4. xlv. 59 above. [↑](#footnote-ref-23)
24. IV, xlix, 62: ‘Exemplum est alicuius facti aut dicti praeteriti cum certi auctoris nomine propositio. Id sumitur isdem de causis quibus similitude. Rem ornatiorem facit cum nullius rei nisi dignitatis causa sumitur ; apertiorem, cum id quod sit obscurius magis delucidum reddit; probabiliorem, cum magis veri similem facit ; ante oculos ponit, cum exprimit omnia perspicue ut res prope dicam manu temptari possit. Unius cuiusque generis singula subiecissemus exempla, nisi et exemplum quod genus esset in expolitione demonstrassemus et causas sumendi in similitudine aperuissemus.’ [↑](#footnote-ref-24)
25. *eikwn.* Puttenham's " Resemblance by Iraagene or Pourtrait." C/. Aristotle, RhfJ. 3. 4 (1406 b ff.). In post- Aristotelian rhetoric this appears as a special figure, separate from similitudo (Comparison), 4. xlv. 59 above, to which it is yet closely akin; Miniicianus, iJe Epich. 2 (Spengel-Hammer 1 [2]. 342) attributes greater vividness to (Ikwv. Quintilian, 5. 11. 24, advises that this kind of comparison sliouid be used less often than the kind which helps to prove our point. Cf. Cicero, De Jnv. 1. xxx. 49. Poh'bius Sard. (Spengel 3. 108) gives nine figures related to (Ikwv. [↑](#footnote-ref-25)
26. IV, xlix, 62: ‘Imago est formae cum forma cum quadam similitudine conlatio. Haec sumitur aut laudis aut vitupera- tionis causa. Laudis causa, sic : " Inibat in proelium corpore tauri validissimi, impetu leonis acerrimi simili." Vituperationis, ut in odium adducat, hoc modo: " Iste qui cotidie per forum medium tamquam iubatus draco serpit dentibus adiincis, aspectu venenato, spiritu rabido, circum inspectans hue et illuc si quern reperiat eui aliquid mali faueibus adfiare, ore adtingere, dentibus insecare, lingua aspergere possit." Ut in invidiam adducat, hoc modo: " Iste qui divitias suas iactat sicut Gallus e Phrygia aut hariolus quispiam, depressus et oneratus iauro, clamat et delirat." In contemptionem, sic: Iste qui tamquam coclea abscondens retentat sese tacitus, cum domo totus ut comedatur aufertur.’ [↑](#footnote-ref-26)
27. *De invent.* II, lix, 177: Laudes autem et vituperationes ex eis locis sumentur qui loci personis sunt attributi, de quibus ante dictum est. Sin distributius tractare qui volet, partiatur in animum et corpus et extraneas res licebit. Animi est virtus cuius de partibus paulo ante dictum est; corporis valetudo, dignitas, vires, velocitas; extraneae honos, pecunia, affinitas, genus, amici, patria, potentia, cetera quae simili esse in genere intellegentur. Atque in his id quod in omnia valere oportebit; contraria quoque, quae et qualia sint, intellegentur.” [↑](#footnote-ref-27)
28. *De invent.* II, lix, 178: “Videre autem in laudando et in vituperando oportebit non tam, quae in corpore aut in extraneis rebus habuerit is de quo agetur, quam quo pacto his rebus usus sit. Nam fortunam quidem et laudare stultitia et vituperare superbia est, animi autem et laus honesta et vituperatio vehemens est.” [↑](#footnote-ref-28)