Quintilian's Theory of Certainty and Its Afterlife in Early Modern Italy

Charles J. McNamara

Submitted in partial fulfillment of the
requirements for the degree of
Doctor of Philosophy
in the Graduate School of Arts and Sciences

COLUMBIA UNIVERSITY

2016

ABSTRACT

Quintilian's Theory of Certainty and Its Afterlife in Early Modern Italy

Charles J. McNamara

This dissertation explores how antiquity and some of its early modern admirers understand the notion of certainty, especially as it is theorized in Quintilian's *Institutio Oratoria*, a first-century educational manual for the aspiring orator that defines certainty in terms of consensus. As part of a larger discussion of argumentative strategies, Quintilian turns to the "nature of all arguments," which he defines as "reasoning which lends credence to what is doubtful by means of what is certain" (*ratio per ea quae certa sunt fidem dubiis adferens: quae natura est omnium argumentorum*, V.10.8). These certainties, he later specifies, include not matters of scientific demonstration or objective fact, but the agreements of various communities: the laws of cities, local customs, and other forms of consensus. As the foundation of persuasive rhetoric, these consensus-based certainties situate argumentation as the practice of crafting agreements rather than demonstrating necessary conclusions.

Taking as its point of departure Quintilian's novel understanding of certainty, this study looks to some of Quintilian's intellectual forebears as well as his later readers to show how his work is both a nexus of earlier intellectual developments as well as an important inspiration for later accounts of certainty, even into the early modern period. After illustrating in the first chapters of this dissertation how Quintilian's manual incorporates elements from Aristotelian notions of dialectic and rhetoric as well as from Ciceronian skeptical approaches to epistemology, I show how Quintilian's curriculum for

the orator shapes the thought of Italian humanists, especially that of Lorenzo Valla (1406–1457), a reformer of scholastic logic and dialectic, and Giambattista Vico (1668–1744), an influential Neapolitan jurist. Adopting Quintilian's rendering of certainty as a matter of agreements and conventions, these later authors elaborate their own novel approaches to various fields—including law, language, and logic—through this ancient understanding of *certum*. Contrary to modern notions of certainty as objective or scientific fact, Quintilian's humanist readers continue to root this concept in consensus, both within the courtroom and without.

Contents

Acknowledgments

My utmost gratitude goes to Kathy Eden, not only for her careful and generously given academic advice while I wrote this dissertation but also for her years of intellectual friendship during my graduate education. I thank also Katja Vogt for her insightful guidance from the earliest stages of my research and through its final revisions. The other members of my committee—Gareth Williams, Elliot Paul, and Matthew McGowan—deserve thanks for their attentive reading of my work and their thoughtful suggestions for improving it. I am grateful to Elizabeth Irwin and Elizabeth Scharffenberger, too, for facilitating my research and teaching while I wrote this dissertation.

Special thanks is due to Joe Sheppard, who read parts of this dissertation and offered helpful suggestions for both style and argument. Molly Allen, Kate Brassel, Claire Catenaccio, and Mathias Hanses all provided crucial moral support as compatriots while teaching in Columbia's Core Curriculum over the past two years. And Caleb Dance, a limitless source of comic fraternity, can never be thanked sufficiently for his companionship during my graduate studies.

Several others among the graduate students at Columbia have been helpful while working on this project: Colin, James, Zoë, Sarah, Sam, and others have provided indispensable levity and intellectual stimulation over these several years.

My parents, Michael and Beverly, have my eternal gratitude not only for supporting my many years of education but also for modeling the joys of learning and reading throughout my life. My brother John, too, has been a much-needed source of laughter, as have my aunt Mary Liz and uncle Rick.

Finally, I thank all my students. From my English students at Central High School in Helena-West Helena, Arkansas, to my sophomore interlocutors in Contemporary Civilization at Columbia, the inquisitive minds in my classroom have always propelled my own studies. To them, I will always be grateful.

For my grandmother Maureen,

who taught me to love words

Introduction

In his 1689 *An Essay Concerning Human Understanding*, the English philosopher John Locke insists that "the highest probability, amounts not to certainty; without which, there can be no true knowledge."[1] At least for Locke and his like-minded contemporaries, the notion of certainty is identified with unassailable knowledge: what is certain is invariable and assured. And as Locke explains later in his essay, his understanding of certainty extends to matters within ethics and politics as well as to other matters, for he insists that "moral knowledge is as capable of real certainty, as mathematics."[2] This notion of certainty in the English language as empirically verified knowledge persists throughout the thinking and writing of later philosophers as well, a tradition that continues within contemporary discussions of science and politics alike. From Benjamin Franklin's maxim that "nothing can be said to be certain, except death and taxes" to Werner Heisenberg's contributions to quantum physics, in which "uncertainty" points to the instability and imprecision of laboratory measurements, the status of certainty in modern English intellectual discourse—whether in matters of taxes or physics—is closely tied to notions of predictability, immutability, and so-called scientific objectivity.

[1] IV.12. Citations of *An Essay Concerning Human Understanding* are taken from Kenneth Winkler, ed. (Indianapolis: Hackett, 1996).

[2] IV.7.

But this notion of certainty—what is *certum*—has not always carried this valence of stable, objective knowledge, especially as it was understood by the Roman rhetorical tradition. While empiricist reformers of the seventeenth century like Locke will claim that "impartiality [should be] expected of judges as much as of scientists," several earlier authors view the rhetorical certainty of the ancient orator and the demonstrative certainty of the modern physicist as essentially separate categories of knowledge.[3] Particularly within one influential thread of rhetorical thinking, the ancient understanding of certainty does not point to unimpeachable fact but instead toward matters of consensus. This more unstable conceptualization of certainty likely motivates Francis Bacon's remarks in his 1605 *Advancement of Learning* that caution, "if a man will begin with certainties, he shall end in doubts."[4] Only a few decades before Locke writes of his utmost confidence in the epistemic value of certainty as "true knowledge," Bacon shows an anxiety about its reliability for grounding scientific discovery.

While Bacon cautions against using certainties as the foundation for proofs, one prominent tradition within ancient rhetorical thought advocates for certainty's indispensable role in argumentation. At the center of this tradition sits Quintilian's *Institutio Oratoria*, a first-century rhetorical manual whose twelve books aim to educate the ideal rhetorician: the "good man skilled in speaking."[5] As part of a larger discussion of the nature of rhetorical proof, a discussion that starkly contrasts with Bacon's warning about

[3]Shapiro (1983, p. 190).

[4]V.8. Citations of Francis Bacon are taken from *The Works of Francis Bacon*, James Spedding, Robert Leslie Ellis, and Douglas Denon Heath, eds. (New York: Garrett Press, 1968).

[5]*Sit ergo nobis orator quem constituimus is qui a M. Catone finitur vir bonus dicendi peritus*, XII.1.1. Translations of Quintilian's *Institutio Oratoria* are adapted from D.A. Russell, ed. and trans. (Cambridge, MA: Harvard University Press, 2001).

certainty's reliability, Quintilian remarks that it is "the nature of all arguments" to begin with certainties, not truths, and that these arguments "lend credence to what is doubtful by means of what is certain (*certum*)."[6] Not leaving the epicenter of his argumentative framework undefined, Quintilian lays out several categories of such *certa*:

> Now we regard as certain things perceived by the senses, for example what we see or hear (Signs come under this head); things about which common opinion is unanimous (*consensum*): the existence of the gods, the duty of respecting parents; provisions of laws; what has been accepted as moral custom, if not the belief of all mankind, at least in that of the city or nation where the case is being pleaded—many matters of right, for example, involve custom rather than laws; whatever is agreed between both parties; whatever has been proved; lastly, whatever is not contradicted by our opponent.[7]

While Quintilian's catalog will be treated in more detail in the third chapter of this dissertation, it is worth highlighting here the predominance of agreements throughout many of its elements: Quintilian understands as *certum* unanimous beliefs of all mankind, the customs of a city, and even the more particular agreements of two parties in a legal dispute. Far from Locke's rendering of certainty as a kind of assurance "without which, there can be no true knowledge," Quintilian's notion of *certum* appeals to the notion of *consensus* from its widest to narrowest examples. Taking Quintilian's catalog of *certa* as its point of departure, this dissertation traces the philosophical and rhetorical traditions surrounding certainty that culminate in the *Institutio*, an ancient work that would inspire later

[6] *ratio per ea quae certa sunt fidem dubiis adferens: quae natura est omnium argumentorum, neque enim certa incertis declarantur*, V.10.8.

[7] *Pro certis autem habemus primum quae sensibus percipiuntur, ut quae videmus audimus, qualia sunt signa, deinde ea in quae communi opinione consensum est: 'deos esse,' 'praestandum pietatem parentibus,' praeterea quae legibus cauta sunt, quae persuasione etiam si non omnium hominum, eius tamen civitatis aut gentis in qua res agitur in mores recepta sunt, ut pleraque in iure non legibus sed moribus constant: si quid inter utramque partem convenit, si quid probatum est, denique cuicumque adversarius non contradicit*, V.10.12-13.

authors to position certainty—understood as consensus or customary agreement—within their own rhetorical and legal frameworks.

Looking both backward to Quintilian's sources and forward to his later readers, this chronology parallels the structure of the study at hand: while the first half of my dissertation shows how Quintilian synthesizes his notion of certainty from the philosophical and rhetorical texts that precede him, the second half highlights the Roman schoolmaster's singular influence on Renaissance and early modern theories of persuasion and argument. My first chapter uncovers the extent to which Quintilian's thought takes inspiration from Aristotle's works on rhetoric and dialectic, for Quintilian's interest in a variety of Aristotelian rhetorical elements positions his understanding of *certa* as a Roman rhetorical refashioning of the concept of *homolegoumena*, or matters of agreement. Looking first to the *Topica*, where Aristotle defines dialectic as a branch of inquiry related to but fundamentally separate from scientific demonstration, my study points to Peripatetic efforts to ground proof and argument in shared premises. In contrast to scientific demonstrations (*apodeixeis*) that reason from "primary and true premises" (*prōta kai alēthē*), Aristotelian dialectical argument takes as its starting point so-called *endoxa*: beliefs that are shared by all, by many, or by the wise.[8] Building on this Aristotelian foundation of *endoxa* and the related concept of rhetorical *homolegoumena*, Quintilian's manual grounds proof not in demonstrated truths but in matters of consensus, matters which Quintilian renders in Latin as *certa*. These *certa*, in turn, form the building blocks of enthymemes, the rhetorical syllogisms aimed at changing the minds of an audience. By grounding forensic rhetoric in Aristotle's interest in shared beliefs and the enthymemes that deploy them, Quintil-

[8] *Topica* 100b21-23, *Rhetoric* 1356b33-35.

ian thus merges two notions that may seem disjunct to modern readers: certainty and persuasion.

After this preliminary discussion of Aristotle, who lays the philosophical groundwork for Quintilian's use of agreement as the basis of rhetorical argument, I turn to the Latin tradition and its earlier understandings of *certum*. My dissertation, however, does not attempt to provide a complete account of this Latin adjective and its various uses. As its nearly twenty-eight columns of text in the *Thesaurus Linguae Latinae* illustrate (not even including the fifteen columns devoted to the adverbial forms *certe* and *certo*), the manifold history of *certum* is an object of study beyond the scope of a single work.[9] Within this long history, so the editors of the *TLL* have found, *certus* in Latin covers four major semantic areas: the word can signify a matter that has been completed or *definitus* (I), a matter that has been settled or *statutus* (II), a matter that is proven or *probatus* (III) if not outright true or *verus* (III.A3), and a matter that is trustworthy or *fidus* (IV.A).[10] Even with these four broad categories at one's disposal, it can be difficult to understand the connotations of certainty in Latin texts. Take, for example, the well-known line of the *pater familias* of Roman literature, Ennius, who advises that "a certain friend (*amicus certus*) is discerned (*cernitur*) in uncertain circumstances (*in re incerta*)."[11] While the *TLL* lists this fragment of Ennius as the first example of *certus* as *fidus*, one might also understand the adjective here as "proven" or "true," and perhaps even "settled." The meaning of certainty

[9]The *TLL* entry for this word includes *certus*, *certa*, and *certum* all under the heading of the masculine singular lemma, but as we shall see in the second chapter in partcular, earlier lexicographical compilations do not place all genders of the adjective stem *cert** within the same lexical grouping.

[10]For comparison, see also the fourteen definitions of *certus* in the *Oxford Latin Dictionary*.

[11]*amicus certus in re incerta cernitur*, 351 (Jocelyn 2008, p. 148).

in even the earliest Latin texts already welcomes various interpretations and a good deal of connotative uncertainty, so to speak.

Not aiming to provide a comprehensive history of this word, this study's turn toward the Latin tradition examines important predecessors to Quintilian's rhetorical manual, especially concerning its theories of forensic argumentation as well as its advocacy for skeptical approaches to epistemology. In my second chapter, I look to Ciceronian antecedents of Quintilian's influential rendering of *certum*, antecedents that emerge in Cicero's studies of Academic skepticism and treatments of rhetorical invention. More specifically, the second chapter of this dissertation argues that Cicero's writings anticipate Quintilian's decoupling of *certum* and *verum*, for Cicero's texts use the former to denote unreliable sensory experience. In his refashioning of Hellenistic debates regarding epistemology—debates that question the "criterion of truth," the irrefutable sign of the accuracy of sensory perception—Cicero maintains that such perceptions are only reliable if they exhibit *notae* that are at once *certae* and *propriae*. Impressions that are merely certain but not also *propria*, he cautions, may exhibit a kind of persuasive clarity, but they nevertheless fall short of indisputable, reliable truthfulness. Drawing a careful distinction between what is merely *certum* and what is undeniably *verum*, then, Cicero paves the way for later discussions in Quintilian's treatise where what is *certum* is understood as a matter of consensus rather than truth.

Cicero's discussion of certainty extends beyond these epistemological debates and into technical discussions of rhetorical invention. As his several oratorical works show, the same pair of adjectives at the center of his philosophical discussions—*certum* and *proprium*—bears on Cicero's rendering of status theory, a Hellenistic framework for struc-

turing forensic arguments, pioneered by Hermagoras of Temnos in the second century. While authors often provide their own versions of Hermagoras' system, it almost always includes three central issues (that is, three *statūs*) that attempt to define the precise point of dispute in a forensic case—whether something happened (*an sit*), what happened (*quid sit*), and what sort of thing happened (*quale sit*). The reappearance of this adjective pair throughout these discussions of status theory compels us to consider what connections might exist between forensic argumentation and discussions of epistemology as well as between certainty and property. Hardly a matter of scientific demonstration or even rhetoric alone, Cicero's capacious rendering of certainty foreshadows the wide application of *certum* to all kinds of arguments in Quintilian's text.

Although my first two chapters incorporate discussions of Quintilian's work, both in its interest in Aristotelian *homolegoumena* and Ciceronian writings on sense perception and rhetoric, the third chapter directs its attention to the *Institutio* itself in order to uncover its development of these two Ciceronian concerns: one regarding skeptical approaches to epistemology and another regarding the theory of status. Rather than limit his discussion of certainty and its epistemic limitations to technical discussions among the Stoic and Academic schools, Quintilian positions his understanding of *certum* at the center of a variety of intellectual disciplines. As part of his claim that it is "the nature of all arguments" to begin with certainties, generally understood as customs and consensus, Quintilian boldly extends the reach of certainty to subjects as wide-ranging as grammar, geometry, and natural philosophy, asserting that they all also take as their foundation and aim an understanding of what is merely *certum* rather than *verum*. Not just interested in philosophical disputes regarding sense perception, Quintilian applies the measured confi-

dence in certainty found in Cicero's texts to the range of topics a student might encounter in his education.

Like Cicero, Quintilian also takes an interest in status theory and the place of certainty in rhetorical invention. Quintilian expands the forensic role of *certum* in his rendering of Hermagoras' framework, for he relies on the vocabulary of certainty to describe a variety of agreements in rhetorical practice, a development that aligns with his more explicit efforts to begin all arguments with *certa.* By more firmly positioning what is *certum* as a central concern of rhetoric as well as by arguing for the place of certainty in a variety of intellectual disciplines, then, Quintilian's manual thus shows an attempt to collapse the distinctions among several types of argumentation and to render them all as discussions of consensus or custom. Traditionally seen as a manual for training young rhetoricians, the *Institutio* thus advocates for a novel approach to all types of argumentation, both inside and outside the courtroom, as investigations of agreement rather than of truth.

The *Institutio*'s discussions of consensus-based certainty as an epistemically modest category of knowledge constitute a robust theorization of the meaning of *certum*, and readers in the following centuries would take an interest in these novel developments. Quintilian's treatment of certainty as both the foundation and aim of argumentation as well as his understanding of status theory in terms of *certum* resurface over a millennium after the publication of the *Institutio*, for it was only then that his complete work was rediscovered and read by an eager audience of Renaissance humanists. In its fourth chapter, my dissertation turns to Lorenzo Valla (1406–1457), one of Quintilian's most admiring readers, who takes on the task of editing the damaged manuscript of the *Institutio*, found by his literary rival Poggio Bracciolini in 1416. While writers before Poggio's dis-

covery still highly regard Quintilian's text, even if their copies are merely fragmentary, Valla's access to the complete *Institutio* catalyzes several of his contributions to Renaissance humanism. Incorporating Quintilian's forensic strategies into a range of original writings, including the *Elegantiae*, a discussion of proper Latin style, and the *Dialecticae Disputationes*, a treatise on logic, Valla both amplifies Quintilian's reliance on certainty as the bedrock of status theory and also makes more explicit the separation of *certum* from *verum*. In his *Disputationes*, Valla uses status theory to replace Aristotle's system of modal logic with a novel brand of syllogism rooted in the difference between truth and certainty. Rejecting the complex logical frameworks of medieval scholasticism, Valla turns to this rhetorical strategy of invention as a tool for reorienting dialectic more broadly around the tools and strategies of the orator. And this rhetorical reorientation, so Valla explains, takes a search for certainty and consensus, not truth, as its aim. Indeed, Valla attributes his own resuscitation of status theory and his interest in the widespread applicability of certainty to the influence of his ancient Roman model: "In each kind of inquiry—rational, moral, natural, and many others—our practice is to ask whether it is, what it is, and what it is like, which is almost explicit in the words of Quintilian."[12]

The influence of Quintilian's theory of certainty, however, does not cease with Valla's interaction with the then-recently rediscovered treatise on rhetorical education. In fact, the importance of Quintilian's theory of certainty may reach its culmination in the years surrounding the early modern scientific revolution, when the meaning and reliability of

[12] *praeterea in singulis—rationali, morali, naturali, et sique sint alia—quaerere solemus an sit, quid sit, quale sit, ut propemodum ex Quintiliani verbis palam est*, II.19.25. Translations of Valla's *Disputationes* are adapted from Copenhaver, B. and L Nauta, eds. and trans. *Dialecticae Disputationes* (Cambridge, MA: Harvard University Press, 2012).

certainty become topics of great interest, as Francis Bacon and John Locke show in this introduction's first paragraphs. Taking the efforts of Descartes to align certainty with scientific truth as its point of departure, my final chapter turns to the early modern legal theorist Giambattista Vico (1668–1744), who maintains the rift between *certum* and *verum* established in the writings of his ancient and early humanist predecessors. While he attributes to Descartes "some rare and exquisite truth which requires the meditation of a great philosopher to invent," a kind of knowledge he calls *scientia*, Vico defends the value of *certitudo*, an "ordinary knowledge available to even a person without any learning."[13] Paralleling the discussions of *certa* in Quintilian's *Institutio*, Vico's defense of *certitudo* similarly roots this concept in matters of broad consensus. Not far from Quintilian's definition of *certum* as something "about which common opinion is unanimous," Vico also points to the accessibility and wide acceptance of *certitudo* by even those without philosophical training as its defining feature.

But Vico's discussions of certainty do not merely parrot Quintilian's text, and in fact, one discussion in his *Scienza Nuova*, a 1725 work on the philosophy of history, seems to contradict Quintilian's rendering of certainty as a kind of "ordinary knowledge." In that text, Vico explains that "in good Latin, *certum* means particularized, or as the schools say, individuated; so that, in overelegant Latin, *certum* and *commune*, the certain and the common, are opposed to each other."[14] While Vico appears to draw his notion of certainty

[13] *Sed certitudinem, quod cogitet, conscientiam contendit esse, non scientiam, et vulgarem cognitionem, quae in indoctum quemvis cadat; ut Sosiam; non rarum verum, et exquisitum, quod tanta maximi Philosophi meditatione egeat ut inveniatur*, *De Antiquissima Italorum Sapientia* I.2. Translations of Vico's *De Antiquissima* are adapted from Jason Taylor, ed. and trans. (New Haven: Yale University Press, 2010).

[14] in buon latino significa "particolarizzato" o, come le scuole cidono, "individuato"; nel qual senso "certo" e "commune", con troppa latina eleganza, son opposti tra loro, §322. Translations of

from the catalog Quintilian proposes in the *Institutio*, where *certum* is tightly coupled with notions of *consensus* and agreement, his definition of *certum* in the *Scienza Nuova* presents a kind of certainty opposed to the "common." To navigate this paradoxical understanding of certainty—*vulgaris* but not *commune*—I turn to Vico's legal and rhetorical works, which show how Vico's understanding of certainty is coupled with his understanding of civil law and the foundations of language, topics he understands through the lens of Quintilian's text. Not merely an epistemological study or an attack on the rise of Cartesianism, Vico's work also elaborates a legal framework built upon certainty in language, a theory discussed in both Quintilian and Valla's commentary on the *Institutio*, two sources that inspire Vico to render certainty as the customs of communities. Vico's texts thus show the enduring complexity of the notion of certainty, a complexity that arises from the rich tradition in which Quintilian serves a most influential role.

By tracing the intellectual genealogy of this forensically oriented brand of consensus-based certainty, a brand I call "humanist certainty," this dissertation undertakes to uncover a long tradition surrounding *certum* that stands at odds with its empiricist renderings which persist even into the twenty-first century. Not aligned with Locke's understanding of certainty as "true knowledge" and at odds with lexica that render *certum* as *verum*, the discussions of certainty in these several texts illustrate the difficulty of understanding this ancient concept. From its earliest appearances in Ennius to its fundamental role in Vico's refutation of Cartesianism, the notion of certainty shows its protean character and ability to capture the interest of several key authors across a variety of disciplines. Through

Vico's *Scienza Nuova* are adapted from Thomas Goddard Bergin and Max Harold Fisch, eds. and trans. (Ithaca: Cornell University Press, 1968).

this dissertation, I show not only that one prominent meaning of ancient certainty, that of consensus, has its roots in the earlier traditions of antiquity but also that it exerts a lasting influence on the thinkers of even the more recent past.

Chapter 1

Aristotle's Enthymeme and the Role of Agreement in Rhetoric

The mere fact that Quintilian looks to agreement as the basis of rhetorical argumentation does not in itself point to an Aristotelian basis for his work. In fact, philosophical interest in consent and widespread agreement is at least as old as Homer, and Socratic dialectic often begins with popular beliefs, even if it looks to them with a critical eye, poking holes in common assumptions to uncover inconsistencies and falsehoods.[1] Plato's most famous student, however, did not see widespread beliefs through such a critical lens: while Plato turns away from shared beliefs as reliable foundations for philosophical inquiry, Aristotle embraces them as points of departure for several disciplines, and he notably incorporates such beliefs into his radically non-Platonic understandings of dialectic. In turning away from Plato's notion of dialectic, defined by one account as "the synoptic…science of reality [that] studies reality as it really is," Aristotle lays the groundwork for a theory of dialectic rooted in "real" beliefs held by "real" audiences.[2] And at the center of this dis-

[1]For a recent discussion of consent and agreement in Homer's *Iliad*, see Elmer (2013). Elmer notes that an Indo-European root **kens-*, at the heart of the Greek word *kosmos* and its derivatives, underlies Homeric notions of "speaking authoritatively" and praising (ibid., p. 55). Elmer argues that the order and harmony of social agreement serves as the basis for authoritative speech. Although Socrates occasionally appeals to consensus in the works of Plato and Xenophon, the *Theaetetus*, highlights problems in allowing communities to create arbitrary legal codes where "what seems just to a state is just to it" Barker (1976, p. 458). For a discussion of Socrates' appeals to consensus, see Obbink (1992, p. 196).

[2]For a study of the differences between Platonic and Aristotelian notions of dialectic, see Smith (1997, p. 7). Plato claims that all arts other than dialectic "have opinions and desires and men as

tinction between the methods of Plato and Aristotle is the latter's reliance on *endoxa*, beliefs that include—at least in part—those that are held by all or even most people. Since Aristotle uses such beliefs as the foundation for dialectical argument, and since scholars have sometimes even defined rhetorical arguments themselves as endoxic, it is tempting to see Quintilian's *certa* as a mere translation of Aristotle's *endoxa*. This adoption of Aristotelian terminology would be perhaps unsurprising given Quintilian's incorporation of several Aristotelian concepts elsewhere in the *Institutio*, including *loci* as rhetorical commonplaces in addition to *pathos* and *ēthos* as elements of rhetorical appeal.[3]

But Aristotle's understanding of *endoxa* extends beyond matters of consensus and wide agreement, and in fact, *endoxa* can include matters that are unintuitive, technical, and even outright unpopular. This second dimension of Aristotelian *endoxa* shows how such beliefs are not merely what is broadly accepted, for in his *Topica*, Aristotle notes that *endoxa* are not just what all or many believe, but also what the wise believe.[4] And the term *endoxon* appears only rarely in Aristotle's *Rhetoric*. In what ways, then, can one see Quintilian's notion of rhetorical argument as an Aristotelian one at all? What

---

their object, but those who are 'to determine in all cases what each thing really is' are to rely upon nothing else than ἡ τοῦ διαλέγεσθαι δύναμις,' an abstract and universal art of dialectic" (McAdon 2001, pp. 116-117). The kinship of dialectic and rhetoric constitutes a radical departure for Aristotle from his Academic predecessor. Plato's conception of dialectic, moreover, rejects the particularity of Aristotle's *endoxa*: for him, dialectic is "universal in its scope…[and] is distinguished from other forms of intellectual activity in purity and precision and also in having no *particular* subject matter" (Evans 1977, p. 7). For a recent discussion of *doxa* in Platonic epistemology, see Vogt (2012, pp. 51–96).

[3]For a discussion of *loci* in Quintilian's work and their Aristotelian foundations, see Ophuijsen (1994). For a discussion of *pathos* and *ēthos* in Quintilian's text, see Fortenbaugh (1994).

[4]For a survey of various translations of *endoxa* and problems surrounding these translations, see Evans (1977, pp. 77-78). For a discussion of the relationship between *endoxa* and *phainomena* in Aristotle's *Physics*, see Owen (1961). Aristotle's treatment of *endoxa* in the *Nicomachean Ethics*, too, includes beliefs that are not merely unpopular but even inconsistent. For a helpful discussion of contradictory and unintuitive *endoxa* in the *Nicomachean Ethics*, see Frede (2012, pp. 188-189).

continuities exist between the Roman schoolmaster's notion of argumentation, rooted largely in agreement and "certainty," and the Aristotelian tradition from which it seems to borrow so much?

This chapter uncovers the Aristotelian foundations underlying Quintilian's understanding of rhetorical proof, for even if *certa* and *endoxa* are not interchangeable terms, both writers appeal to agreements in their rendering of rhetorical practice. The first task of this chapter is to understand better *endoxa*, a term that rarely appears in Aristotle's *Rhetoric* but one that nevertheless seems at first to approximate the role of *certa* in the *Institutio*. We find, however, that Aristotle's capacious rendering of *endoxa*, which allows him to include not only "popular" beliefs but "reputable" if counterintuitive ideas under this single label, extends beyond the concerns of rhetoric. A closer look at Aristotelian enthymemes constitutes this chapter's second task, whereby Quintilian's interest in agreement finds closer antecedents in Aristotle's rhetorical doctrine. A common interest and similar renderings of the enthymeme underscore an important Aristotelian foundation of Quintilian's own theory of rhetoric and argument, particularly as it relates to *homolegoumena*, beliefs similar to dialectical *endoxa* but particular to the needs of the rhetorician. Finally, this investigation looks at how the Aristotelian interest in audience psychology—theorized in both the *Rhetoric* and the *Poetics*—underlies Quintilian's views on the nature and function of rhetorical arguments. By casting rhetorical argumentation as a science of both drawing out and changing an audience's beliefs, Quintilian reveals how his understanding of certainty is indebted to—but not wholly identifiable with—the doctrines of his Peripatetic predecessor.

After this dissertation's introductory survey of the role of certainty in Quintilian's *In-*

stitutio and its attention to consensus, the first chapters of Aristotle's *Topica* seem familiar on account of their interest in the argumentative place of agreements. The work constitutes Aristotle's most comprehensive discussion of dialectical arguments, and the adversarial element of dialectic allows Aristotle to distinguish this practice from other methods of inquiry, particularly scientific demonstration. At its outset, the *Topica* explicitly defines its brand of competitive dialectic as a close relative to demonstration but fundamentally separate from it.[5] Aristotle establishes two distinct kinds of reasoning—*apodeixis* and the dialectical syllogism—and while the former, so Aristotle explains, begins with "premises which are primary and true" (*dia tinōn prōtōn kai alēthōn*), the latter instead begins with *endoxa*:

> Reasoning (*syllogismos*) is a discussion in which, particular things having been laid down, something other than these things necessarily results through them. Reasoning is demonstration (*apodeixis*) when it proceeds from premises which are true and primary or of such a kind that we have derived our original knowledge of them through premises which are primary and true. Reasoning from *endoxa* is dialectical.[6]

Aristotle's *apodeixis* is the tool of demonstrative science, which is "didactic rather than

[5]See Smith (1997, p. xi) for a discussion of these adversarial dimensions of Aristotelian dialectic. Aristotle's dialectic (διαλεκτική), again, should not be understood as the same dialectic (also διαλεκτική) that we find in the Platonic dialogues. Plato's dialectic looks outward at reality and "is the highest form of intellectual activity and is universal in scope" (Evans 1977, p. 7). It aims at truth and knowledge of the Forms. See Evans (ibid., pp. 94-103) for a discussion of the role of Plato's dialectic in discovering knowledge of the Forms. Aristotelian dialectic, by contrast, has competitive aims: "to show [an opponent] that his expressed opinions lead to an absurdity, or at least to a proposition he rejects, is to show him something important about his views" (Smith 1997, p. xiv).

[6]Ἔστι δὴ συλλογισμὸς λόγος ἐν ᾧ τεθέντων τινῶν ἕτερόν τι τῶν κειμένων ἐξ ἀνάγκης συμβαίνει διὰ τῶν κειμένων. ἀπόδειξις μὲν οὖν ἐστιν, ὅταν ἐξ ἀληθῶν καὶ πρώτων. ὁ συλλογισμὸς ᾖ, ἢ ἐκ τοιούτων ἃ διά τινων πρώτων καὶ ἀληθῶν τῆς περὶ αὐτὰ γνώσεως τὴν ἀρχὴν εἴληφεν, διαλεκτικὸς δὲ συλλογισμὸς ὁ ἐξ ἐνδόξων συλλογιζόμενος, 100a25-30. Translations of Aristotle's *Topica* are adapted from E. S. Forster, ed. and trans. (Cambridge, MA: Harvard University Press, 1960) unless otherwise noted.

interrogatory" and which proceeds from premises which are not merely believed but true.[7] Apodeictic reasoning, then, resembles something like modern mathematical proof, which begins with a set of given axioms and proceeds not only to demonstrate but also to teach the necessary conclusions of those premises.[8]

A dialectical syllogism, by contrast, aims to interrogate, critique, and investigate rather than to teach.[9] Even if apodeictic reasoning is a close cousin of the dialectical syllogism (a kinship that motivates Aristotle's careful distinction of them here), Aristotle sees that this separation of the demonstrative syllogism from the dialectical syllogism is an essential one, stemming from both their different aims and also their different beginnings. Aristotle takes care to separate the "true and primary" premises of demonstration from the *endoxa* of dialectical syllogisms, noting that each type of premise is suited for its own brand of reasoning:

> Things are true and primary which command belief through themselves and not through anything else.…*endoxa* on the other hand, are those which commend themselves to all or to the majority or the wise—that is, to all of the wise or to the majority or to the most well-known people of high repute (*endoxoi*) among them.[10]

An easy or straightforward definition of *endoxa* continues to elude scholars, perhaps because here Aristotle provides not one definition but three, and from these three defini-

[7]For a more detailed discussion of the distinction between these two kinds of premises, see Evans (1977, p. 32).

[8]And in fact, according to (Smith 1997, p. xvi), apodeictic demonstration may have served as a model for the mathematical proofs in works such as Euclid's *Elements*.

[9]Aristotelian dialectic, Evans writes, "can demolish claims to knowledge but positively it is unable itself to produce knowledge" (1977, p. 12).

[10]ἔστι δὲ ἀληθῆ μὲν καὶ πρῶτα τὰ μὴ δι' ἑτέρων ἀλλὰ δι' αὐτῶν ἔχοντα τὴν πίστιν…ἔνδοξα δὲ τὰ δοκοῦντα πᾶσιν ἢ τοῖς πλείστοις ἢ τοῖς σοφοῖς, καὶ τούτοις ἢ πᾶσιν ἢ τοῖς πλείστοις ἢ τοῖς μάλιστα γνωρίμοις καὶ ἐνδόξοις, 100b18-23.

tions, there seem to be two general dimensions of endoxic beliefs.[11] On the one hand, Aristotle notes that *endoxa* are dependent on widespread acceptance: *endoxa* can include materials that are a matter of universal agreement or beliefs to which most, but not all, people assent. These beliefs must seem agreeable (*dokounta*) to all (*pāsin*) or to the many (*tois pleistois*).[12] But on the other hand, *endoxa* include beliefs that are not only unpopular but contradictory and counterintuitive: opinions held by "the most well-known people of high repute (*gnōrimos*)."[13] This second kind of belief, perhaps not accepted by many people but at least accepted by someone of a certain estimation, "seems to have exploited a certain ambiguity of the meaning of *endoxon* in ordinary Greek: it refers to someone or something well known, famous, of repute, but leaves open the justification of such prominence."[14] This notion of reputation as the kernel of *endoxon* appears in texts predating Aristotle, where the term "indicates that the cities, families, individuals or their actions in question enjoy a certain *doxa*, a reputation or fame that is due to their role in history, but also to their wealth, nobility, or power."[15] *Endoxa*, then, can be seen as a "special" or "extraordinary" belief, one worthy of consideration not for its popularity but for its perceived outstanding nature.

[11]For attempts to define *endoxa*, see, for example, Smith (1997, pp. xxiii-xxiv), Evans (1977, pp. 77-85), and Most (1994). See also the etymological account of Chantraine (1968, 1:290-291) which connects *endoxa* to δοκέω and the notion of "good opinion."

[12]For a discussion of the approaches of Hellenistic philosophical schools to finding beliefs that are truly believed by all, see Obbink (1992).

[13]This second adjective, *gnōrimos*, underscores this focus on reputation and not mere popularity: the word can signify both "notable" or "distinguished" in addition to what is "well-known" or "familiar." See *LSJ*, *gnōrimos* 2.I-III.

[14]Frede (2012, p. 199). Frede also notes that "apart from these dialectical contexts, Aristotle rarely uses *endoxon*, and if he does, he does so in the customary meaning of 'famous' or 'well known' as epithets of persons or actions of repute" (ibid., p. 197).

[15]Frede (ibid., p. 193).

A more careful look at the use of the masculine form of the adjective *endoxos* in Aristotle's defintion shows how people themselves can be considered endoxic, suggesting this understanding of the word as "reputable" and not just "agreed upon." In his first two categories of *endoxa*, Aristotle points to beliefs that all people or the majority of people assent to. But in Aristotle's third definition, he defines *endoxa* as those beliefs that are held by people who are themselves *gnōrimos* and *endoxos*; one sees that the term *endoxon* is not strictly limited to its use as a substantive referring to an opinion that is itself believed. By using *endoxos* to refer to people instead of things, Aristotle shows how *endoxoi* who have a reputation of being wise merit the same consideration as opinions that are reputable on account of their popularity.[16] He argues that *endoxa* must be collected from those who are either the majority of people themselves or, if from a more limited class of individuals, at least a class that is *gnōrimos* and *endoxos* to others.[17]

Unlike the "primary and true" premises of the *apodeixis* which "command belief

[16]Smith (1997, 79, n.64) argues that Aristotle uses *endoxos* and *endoxon* as derivatives of the same root much in the same way that he uses *gnōrimos* and *gnōrimon*.

[17]Aristotle's definition, thus, employs a kind of recursion. In the case of beliefs of the wise, Aristotelian *endoxa* are beliefs that are reputable on account of being espoused by reputable individuals (*endoxoi*). See Obbink (1992) for a helpful survey of how different philosophical schools (including Epicureans and Stoics) define the community from which one derives universal consensus. Obbink argues that, like the Stoics, Aristotle "talks less often of universal consensus than of ὑπολήψεις or ἔνδοξα" and believes that "what makes a belief reputable…is taken to be either that it is what most people think or that it has philosophical backing" (ibid., p. 225). See McAdon (2001, pp. 124-126) on the comparative reliability of *endoxa* associated with different groups. Aristotle includes appeals to what all people believe, but it should be noted that truly universal belief—ideas that were held by literally all people—was treated as a problematic concept among Hellenistic philosophical schools. Epicurus appears to consider a belief a matter of universal consensus if these "views are reached after a process of reflection," and thus he "is relieved of the onerous burden of appealing to any kind of actual or empirically verifiable consensus" (Obbink 1992, p. 201). Similarly, Stoic "common notions" (or *koinai ennoiai*) are subject to confirmation by *phantasiai* and are considered "criteria [of truth] only after a process of reflection" (ibid., p. 205). Aristotle avoids these questions surrounding the true universality of endoxic beliefs.

through themselves and not through anything else," therefore, the endoxic premises of the dialectical syllogism are beliefs qualified with a social or personal dimension.[18] They are contingent on the assent of a given community or at least such a community's confidence in such a belief's supporters. The broader public may not agree with Socrates' view that no one knowingly commits a wrongdoing, for example, but on account of Socrates' reputation, the view merits consideration. Aristotle thus defines *endoxa* as beliefs to which a given community subscribes, but the identity of this community—both regarding its size and its type—can vary.[19]

Equipped with this understanding of Aristotelian *endoxa*, one can see how this category of belief underlying dialectical arguments could bear on Aristotle's study of rhetoric and, in turn, some of Quintilian's own notions of rhetorical argument. Both Aristotelian dialectic and rhetoric take an interest in beliefs held by actual people, and both dialectic and rhetoric aim at persuasion, but perhaps with a caveat that dialectic operates through logical argument alone and not with the elements of emotional appeal germane to Aristotelian rhetorical practice.[20] These conceptual similarities between dialectic and rhetoric, however, do not manifest in the words of Aristotle himself: *endoxa* seem to be of only pe-

[18]Frede writes that "endoxic premisses hold, then, a middle position between those [propositions] that are obviously true and those that are obviously false" (2012, p. 194). See McAdon (2001, pp. 120-124) for a helpful discussion of the "true, primitive, prior, and better known" premises that serve as the foundation of the *apodeixis* and of how they differ from the endoxic premises of a dialectical syllogism, specifically regarding their relationship to people and societies.

[19]As Evans (1977, p. 81) cautions, "we should not forget *whose* view is being examined" when dealing with Aristotelian *endoxa*.

[20]Aristotle's particular visions of dialectic and rhetoric "involve other *actual* people, while the concepts of pure logic contain a reference only to an *ideal* cognitive subject" (ibid., p. 75). For a discussion of the relationship between dialectic and rhetoric, see Liebersohn (2010, p. 31). The similarity between rhetoric and dialectic—at least the Aristotelian conception of dialectic—was noticed in antiquity as well. According to Liebersohn (ibid., 32 n.35), Cicero writes that Aristotle was the first to employ dialectic in rhetorical practice.

ripheral interest to the *Rhetoric* since forms of the word appear only seven times throughout its three books.[21] This relative absence of a key Aristotelian term of shared belief in his rhetorical treatise bears on our study of Quintilian, too, for if Aristotelian rhetoric does not concern itself with *endoxa*, one must consider whether Quintilian's notion of certainty stems from some non-Aristotelian concept of shared belief.

Even if *endoxa* are rarely mentioned by name in the *Rhetoric*, one nevertheless finds that they are helpful points of comparison for understanding the role of widespread belief in Aristotelian rhetorical doctrine. As we shall see, the field of rhetoric—similar to dialectic but fundamentally separate from it—relies on what is *homolegoumenon*, that which is agreed upon, and not what is more broadly endoxic. Aristotle's conception of the enthymeme, or rhetorical syllogism, depends in particular on the widely held beliefs of an audience. These syllogisms, therefore, look to a set of materials related to but not identical to the "reputable" content of dialectical *endoxa*, for the enthymeme, a crucial tool for the Aristotelian rhetorician, must attend not only to the logical cogency of an argument but also to the psychological frame of his audience. And as we shall see, Quintilian's interest in the enthymemes and his understanding of their Aristotelian roots orient his understanding of rhetoric as a science built on *homolegoumena*, not on the more capaciously defined collection of *endoxa*.

Even if the term *endoxa* appears infrequently in Aristotle's *Rhetoric*, it is clear that dialectic as a whole is relevant to a discussion of this second genre of argumentation. The first sentence of Aristotle's *Rhetoric* reminds readers that the philosopher conceives

[21]Aristotle mentions *endoxa* in the *Rhetoric* at 1355a17, 1356b34, 1357a10, 1357a13, 1368a21, 1368a24, 1402a34.

of a kinship between rhetoric and dialectic, for there he calls rhetoric the "counterpart" (*antistrophos*) of the latter. And while scholars still debate the exact nature of this correspondence, it is nevertheless clear that Aristotle understands that dialectic and its endoxic materials bear on rhetorical practice to some degree.[22]

While similarly puzzling in its efforts to connect rhetoric and dialectic, the *Topica* suggests that these practices are both concerned with the beliefs of groups rather than one particular individual.[23] Early in the *Topica*, Aristotle alludes to some commonalities of medicine, rhetoric, and dialectic, explaining that "we shall have a complete grasp of our method [of dialectic] when we are in the same condition as in the case of rhetoric, medicine, and other such abilities."[24] This kinship, he continues, is rooted in the possibility of failure in these activities, even by skilled practitioners: "the rhetorician will not convince under all circumstances, nor the physician heal; however, if he leaves out nothing that is possible, then we shall say that he has a sufficient grasp of his craft (*epistēmē*)."[25] Like a medic who fails to cure a mortally wounded soldier or a rhetorician who cannot persuade a stubborn audience, the skilled dialectician, too, will sometimes encounter an

[22]McAdon argues that this opening sentence is a pointed refutation of Plato. For Socrates, McAdon writes, "rhetoric is the counterpart (ἀντίστροφον) of cookery [since] it is detrimental to the soul of the state" (2001, pp. 129-130). Jacques Brunschwig suggests that the features of dialectic—"the absence of determined subject matter, its elaboration on earlier empirical practice, the explication of its aims or ends…and so on—can [all] then easily be transposed to the analysis of rhetoric" and that "the reader is assumed" to understand these commonalities" (Brunschwig 1996, p. 35).

[23]Brunschwig (ibid., p. 36) writes that "whereas the *Rhetoric* often refers to the *Topics*, to dialectic and its typical concepts, the *Topics* contains no reference at all to the *Rhetoric*, and very few references to the art of rhetoric as such."

[24]Ἐξομεν δὲ τελέως τὴν μέθοδον ὅταν ὁμοίως ἔχωμεν ὥσπερ ἐπὶ ῥητορικῆς καὶ ἰατρικῆς καὶ τῶν τοιούτων δυνάμεων, 101b. This translation is adapted from Smith (1997, p. 3).

[25]οὔτε γὰρ ὁ ῥητορικὸς ἐκ παντὸς τρόπου πείσει οὔθ' ὁ ἰατρικὸς ὑγιάσει, ἀλλ' ἐὰν τῶν ἐνδεχομένων μηδὲν παραλίπῃ, ἱκανῶς αὐτὸν ἔχειν τὴν ἐπιστήμην φήσομεν, 101b8-10.

adversary whom he cannot defeat in argument.[26] According to the *Topica*, then, rhetoric and dialectic are connected by the possibility of failure, even by their expert practitioners.[27]

Despite these few allusions to the similarities between rhetoric and dialectic, dialectic's reliance on *endoxa* does not correspond to a similar interest in endoxic materials in Aristotle's explicitly rhetorical writings. As mentioned earlier, forms of *endoxon* in fact

[26]Smith contrasts this allowance for failure with sophistic speech: "the sophist seeks only victory in argument, even if that requires fallacious arguments and deceptive reasoning" (1997, pp. 55-56).

[27]This fallibility stems from the concern of rhetoric and dialectic with generalized knowledge, not knowledge of particulars. In the *Rhetoric*, Aristotle explains that "rhetoric does not consider what is *endoxon* to the individual, such as Socrates of Hippias, but what is so to a sort of people, as does dialectic" (οὐδὲ ἡ ῥητορικὴ τὸ καθ' ἕκαστον ἔνδοξον θεωρήσει, οἷον Σωκράτει ἢ Ἱππίᾳ, ἀλλὰ τὸ τοιοισδί, καθάπερ καὶ ἡ διαλεκτική, 1356b33-5). The phrase *kata to hekaston* demands our careful attention here: *to hekaston*, an Aristotelian catchphrase, refers to what is particular in contrast to what is *to kathalou*, what is general or univeral (Grimaldi 1980, 1:90). The rejection of particularity or pertinence to individuals regarding *endoxa* has two sides. First, Aristotle is not interested in what is *endoxon* "to some one individual," but rather what is *endoxon* to a class or type of person. Aristotle here does not mean what is merely persuasive to an individual person. See Grimaldi (ibid., 1:52) for a discussion of Aristotle's notion of the "suasive" (*to pithanon*) and of how Aristotle is interested in how materials might be *endoxon* to a particular class of individuals (*toioisdi*). As we have seen in the *Topica*, Aristotle also considers *endoxa* to represent beliefs that are already accepted by a group of people, not simply what is likely to be accepted by such a group. J.D.G. Evans understands from this passage that unlike demonstrative sciences, the arts of dialectic, rhetoric, and medicine all collect actual opinions of the multitude in order to extrapolate broader claims about *types* of people. These opinions "may be interesting because they are those of the majority, or they may be interesting because they come from some specially well-qualified individual or group" (1977, p. 77). Aristotle "contrasts his position [on both rhetoric and dialectic] with that of the extreme relativist by maintaining not that the concept should be studied in its absolute and unqualified form, but that it should be studied in its qualified form; qualified by reference not to random individuals but to types of individual which are selected as specially relevant" (ibid., p. 77).

This eye toward knowledge about groups rather than individuals fits into broader concerns of Aristotle's epistemology, where knowledge about individuals is impossible. As Grimaldi sees it, "what is at issue here is Aristotle's theory of what we know and how we know it." He further explains that looking for knowledge about groups is rooted in Aristotle's understanding of matter, which Aristotle considers "unknowable": "Rhetoric can train one to discern such material [that is persuasive to groups], but it cannot determine specifically that which is suasive or probable to *this* individual because it is the *this-ness* which ties the individual into matter and therefore into the unknowable" (1980, 1:52-53).

only appear in the *Rhetoric* seven times, but despite the absence of clear textual evidence linking *endoxa* to rhetorical practice, modern scholars sometimes treat *endoxa* as though their place in Aristotelian rhetoric is uncontroversial and perhaps even obvious.[28] Such accounts seem misaligned with the text itself: while Aristotle provides several categories of materials suited for crafting enthymemes, including *topoi*, *semeia*, *eikota*, *anagkaia*, and *idia*, nowhere does he recommend using *endoxa*.[29]

Scholars are not entirely unjustified, however, in positioning *endoxa* as a concept somewhat related to Aristotelian rhetorical theory. At one point, the *Rhetoric* connects *endoxa* and enthymemes in a discussion of the difficulty of using complex proofs in oratory:

> Now, it is possible to draw conclusions and inferences partly from what has been previously demonstrated syllogistically, partly from what has not, which however needs demonstration, because it is not *endoxon*. The first of these methods is necessarily difficult to follow owing to its length, for the judge is supposed to be a simple person; the second will obtain little credence, because it does not depend on what is either admitted (*ex homolegoumenōn*) or reputable (*ex endoxōn*). The necessary result is that the enthymeme and the example are concerned with things which may, generally speaking, be other than they are, the example being a kind of induction and the enthymeme a kind of syllogism (*syllogismon*); for if any one of these is well known (*gnōrimon*) there is no need to mention it, for the hearer can add it himself.[30]

[28]Glenn Most, for example, writes that *endoxa* are crucial components in constructing Aristotelian enthymemes. While "the ethico-political endoxa often include philosophical belief (the "things said" by the wise) even if they conflict with popular belief (the "things said" by the many), the rhetorical endoxa seem to include philosophical doctrines only where these may be claimed to coincide with popular belief" (1994, p. 178). Aristotle wants to use *endoxa* as premises, "not because he thinks they are true or despite his confidence that they are false, but simply because he recognizes in them protaseis from which rhetorical enthymemes can be constructed" (ibid., p. 181).

[29]See McAdon (2003) for a helpful survey of terms understood to be the materials used to construct Aristotelian enthymemes. See also McAdon (2006), which postulates that this wide array of materials used to construct enthymemes may have arisen from the editorial work of Andronicus in the first century BC.

[30]ἐνδέχεται δὲ συλλογίζεσθαι καὶ συνάγειν τὰ μὲν ἐκ συλλελογισμένων πρότερον, τὰ δ' ἐξ

The passage here makes two separate but related remarks about the importance of using commonly understood subject matter in rhetorical enthymemes. On the one hand, Aristotle cautions against an over-abundance of demonstration itself. If rhetorical practice is burdened by great length (*mēkos*) of demonstration, owing to the unfamiliarity of material or subtlety of argument, the audience may not understand the rhetorician's line of reasoning.[31] On the other hand, Aristotle also discourages the use of material that is not *endoxon*, or as this passage more precisely specifies here, material that is not derived from beliefs that are already agreed upon (*ex homologoumenōn*). Aristotle's appeal to material that is *gnōrimos* also recalls the definition of *endoxa* from the *Topica*, where Aristotle claims that *endoxa* can be gathered from the *gnōrimoi*, those who are "notable" or "familiar."[32] In this discussion in the *Rhetoric*, then, Aristotle recommends that the rhetorician use what is *gnōrimon*, material that is "notable" and "familiar" to the audience and that can be omitted in the rhetorician's otherwise lengthy enthymemes.[33]

But Aristotle's close coupling of *endoxa* and *homolegouemana* underscores the importance of common beliefs in particular as the foundation for rhetorical practice, and

---

ἀσυλλογίστων μέν, δεομένων δὲ συλλογισμοῦ διὰ τὸ μὴ εἶναι ἔνδοξα, ἀνάγκη δὲ τούτων τὸ μὲν μὴ εἶναι εὐεπακολούθητον διὰ τὸ μῆκος (ὁ γὰρ κριτὴς ὑπόκειται εἶναι ἁπλοῦς), τὰ δὲ μὴ πιθανὰ διὰ τὸ μὴ ἐξ ὁμολογουμένων εἶναι μηδ' ἐνδόξων, ὥστ' ἀναγκαῖον τό τε ἐνθύμημα εἶναι καὶ τὸ παράδειγμα περί τε τῶν ἐνδεχομένων ὡς τὰ πολλὰ ἔχειν ἄλλως, τὸ μὲν παράδειγμα ἐπαγωγὴν τὸ δ' ἐνθύμημα συλλογισμόν, καὶ ἐξ ὀλίγων τε καὶ πολλάκις ἐλαττόνων ἢ ἐξ ὧν ὁ πρῶτος συλλογισμός· ἐὰν γὰρ ᾖ τι τούτων γνώριμον, οὐδὲ δεῖ λέγειν, αὐτὸς γὰρ τοῦτο προστίθησιν ὁ ἀκροατής 1357a7-19. Translations of Aristotle's *Rhetoric* are adapted from J. H. Freese, ed. and trans. (Cambridge, MA: Harvard University Press, 1947).

[31]As Aristotle cautions, the judge may be *haplous*, understood as "unsophisticated" or "simple," a meaning also found at 1356a7 (Grimaldi 1980, 1:56). Grimaldi also notes here that *kritēs*, the "judge," can be understood more generally as an *akroatēs*, a "listener" (ibid., 1:56). See also Aristotle's criticism of the excessive length (*mēkos*) of some plots at *Poetics* §7.

[32]See *Topica* 100b.

[33]*LSJ* explains that *gnōrimon* can mean both what is "distinguished" (3.II) but also what is well-known or familiar (1).

while this passage suggests that *endoxa* and *homolegoumena* are related concepts, they are nonetheless different in important ways. Rather than rely on a category of reputable beliefs that may be unintuitive or even contrary to the opinions of the many, Aristotle here associates rhetorical premises with these *homolegoumena*, materials that are "agreed upon" or "allowed or granted by common consent."[34] By positioning *homolegoumena* and *endoxa* in syntactically parallel positions in his discussion of the proper use of enthymemes, Aristotle suggests that rhetoric should build its arguments not just on beliefs that are reputable for any reason, but more specifically those that derive their argumentative force from their popularity.

Specifying that rhetorical *endoxa* should in fact be *homolegoumena* supports the concern for audience psychology in the second half of Aristotle's discussion here, for avoiding uncommon beliefs aims at reducing confusion or even boredom in an audience. In order to establish the validity of unfamiliar claims, the rhetorician would need to incorporate lengthy and therefore tedious demonstration into his speech. In other words, if material is not *endoxon* or more properly *homolegoumenon*, it must be demonstrated at great length (*deomenon de sullogismou*) to make it credible to an unbelieving audience. Aristotle therefore suggests that the enthymeme should begin with conventional materials and that to do otherwise risks rejection by the audience on account of either confusion or an incred-

[34]See *LSJ* ὁμολογέω C1 for these definitions of *homolegoumena* and other passive forms of this verb. In the Pseudo-Aristotelian *Rhetorica ad Alexandrum*, in fact, a *homologēma* is defined as a "custom which is common to a city," a definition that approximates one of Quintilian's understandings of *certum* as the customs or laws of a city (νόμος ἐστίν ὁ ὁμολόγημα κοινόν, *Rhetorica ad Alexandrum* 1422a2). For Quintilian's inclusion of laws and customs as categories of *certa*, see *Institutio* V.10.13. See *LSJ* ὁμολόγημα for several examples of this word and its relatives conveying "agreement," "compact," or "confession."

ulous attitude.[35] Even if *endoxa* do not receive thorough treatment in the *Rhetoric*, this passage nevertheless points to their importance in constructing enthymemes that convey a "quick, solid, and comprehensive grasp of the argument."[36] On account of the flexibility of the definition of *endoxa* in the *Topica* and its place in Aristotle's discussion of the psychological dimensions of enthymemes here, I suggest that *endoxa* are largely absent in the *Rhetoric* because rhetorical *endoxa* ought to be limited to beliefs of widespread assent and do not include these reputable but unintuitive claims from people who are themselves *endoxoi*. Rhetorical *endoxa* appear here qualified and redefined as *homolegoumena*, for the latter term clarifies that rhetoric should draw its premises from this related but more specific subset of beliefs.

The appearance of *homolegoumena* elsewhere in the *Rhetoric* underscores the important role of this subgroup of endoxic material in Aristotle's rhetorical framework. In a later discussion of the two types of enthymeme—the demonstrative and the refutative—Aristotle specifies that both types should begin with materials that appeal to common assent—that is, from *homolegoumena*.[37] The Aristotelian enthymeme, as a kind of syllogism, shares its inferential character with demonstration: beginning from premises, it

[35]While it is true that Aristotle here also mentions example (*paradeigma*) and is not solely interested in the enthymeme as a unique tool of rhetorical persuasion, the "enthymeme enjoys a dominant role" throughout Aristotle's treatise (Grimaldi 1980, 1:57). On the other hand, "there is no indication in the text here, which is primarily a quest for the source material for argument by enthymeme, that this same material is not also to be used for argument by *paradeigma*" (ibid., 1:57). It should be noted here that the truth of an enthymeme's premises is not required: mere acceptance is sufficient. See a discussion of the tension between what is "probable" (*endoxos*) and what is "necessary" (*anankaios*) in the Aristotelian enthymeme in Burnyeat (1994, pp. 33-34).

[36]Grimaldi (1980, 1:58).

[37]Let us recall a point of contrast from the opening of the *Topica* where Aristotle notes that a reliance on *endoxa* separates dialectic from scientific demonstration. In that text, the *apodeixis*, we are told, is demonstrative, didactic, and based on premises that are "true and primary." Here in the *Rhetoric*, Aristotle addresses the demonstrative enthymeme, not scientific demonstration itself.

reasons toward a conclusion. Aristotle points to this essential character of the enthymeme when he defines two kinds of enthymematic reasoning: the demonstrative (*deiktikon*) and the refutative (*elenchtikon*):[38]

> There are two kinds of enthymemes, the one demonstrative, which proves that a thing is or is not, and the other refutative, the two differing like refutation and syllogism in dialectic. The demonstrative enthymeme draws conclusions from admitted premises (*homolegoumena*), the refutative draws conclusions disputed by the adversary (*anologoumena*).[39]

Aristotle again points to a general kinship between dialectic and rhetoric, but here he avoids the term *endoxa* entirely in discussing the premises of rhetorical arguments. Rather than adopt the terminology of dialectic, here Aristotle explains that the premises of a rhetorical syllogism are "things that are agreed upon" (*homolegoumena*), not *endoxa*. Even when the refutative enthymeme comes to conclusions that contradict the conclusions of an opponent (*anonologoumena*), it too begins from premises that are held in common.[40] Broadly considered, then, all Aristotelian enthymemes reason from *homolegoumena*, be-

[38]Aristotle calls his enthymeme a "rhetorical *apodeixis*" at 1355a6-7. Brad McAdon writes that contemporary scholarship tends to treat the enthymeme as an instrument more dialectical in character than demonstrative, but it shares characteristics more with the demonstrative arguments of the *Prior Anaytics* and *Posterior Analytics* than with the dialectical arguments of the *Topica* (2003). Grimaldi notes that this division of enthymemes into two types parallels syllogism and refutation in Aristotelian dialectic (1980, 2:287).

[39]ἔστιν γὰρ τῶν ἐνθυμημάτων εἴδη δύο· τὰ μὲν γὰρ δεικτικά ἐστιν ὅτι ἔστιν ἢ οὐκ ἔστιν, τὰ δ'ἐλεγκτικά, καὶ διαφέρει ὥσπερ ἐν τοῖς διαλεκτικοῖς ἔλεγχος καὶ συλλογισμός. ἔστι δὲ τὸ μὲν δεικτικὸν ἐνθύμημα τὸ ἐξ ὁμολογουμένων συνάγειν, τὸ δὲ ἐλεγκτικὸν τὸ τὰ ἀνομολογούμενα συνάγειν, 1396b22-27.

[40]I disagree with McAdon's reading which suggests that "the refutative enthymeme draws its conclusions from those [premises] which are not admitted or inconsistent" (2003, p. 228). This interpretation would require *ex anomologoumenōn*, but our text uses the accusative case rather than the genitive. Both Cope (1877, 2:223) and Grimaldi (1980, 2:287-288) correctly interpret this accusative case. In his Loeb translation, Freese similarly explains the distinction: "The demonstrative enthymeme draws its conclusion from facts admitted by the opponent; the refutative draws its conclusion from the same, but the conclusion is one which is disputed by the opponent" (2006, pp. 294-295).

liefs which are shared by the speaker and his adversary, not just beliefs that both parties consider reputable.[41]

The appearance of *homolegoumena* in Book II's explanation of enthymematic materials recalls Aristotle's comments in Book I on the role of endoxic materials in constructing enthymemes discussed earlier in this chapter. There he argues that conclusions lack persuasive power (*mē pithana*) when they are drawn from premises that are not *homolegoumena* or *endoxa*, and the close connection of these two words suggests not two separate categories of materials but rather two nearly synonymous characterizations of enthymematic propositions.[42] When Aristotle defines the materials of both demonstrative and refutative enthymemes as *homolegoumena* in Book II, he again refers to the subgroup of endoxic materials at the heart of enthymemes in the first book of the *Rhetoric*—more specifically, *endoxa* that are believed by the many or by all. It is only the unintuitive *endoxa* of the wise that do not belong in rhetorical practice. Indeed, one can imagine the difficulty of winning over an audience if the speaker were to ground his argument in the Socratic maxim that no one does wrong knowingly: such a statement may be endoxic and perhaps fit for a dialectical argument between two learned specialists, but it is not fit for persuading the many in the jury or the assembly who have not adopted Socrates' belief themselves.

As Aristotle continues his discussion of enthymemes in Book II and the source for their

[41]Freese's translation adds "by the adversary" to his translation of *anolegoumena* and *homolegoumena*, but as seen in Aristotle's aforementioned of *endoxa* and *homolegouemena* at 1357a7-19, it is better to understand a broader audience (such as a judge or a jury) with which one may share beliefs.

[42]For Aristotle's suggestion that premises that are not *endoxon* or *homolegoumenon* are "not persuasive," see *Rhetoric* 1357a12. As stated in note 34, *homolegoumenon* carries the sense of being granted "by common consent." See *LSJ*, ὁμολογέω C1 for examples of this sense from Xenophon and Plato.

materials, he suggests that enthymematic *homolegoumena* are closely related to dialectical *endoxa* by reusing language from his definition of the latter term, and this suggestion can help us understand both the coupling of rhetoric and dialectic that begins his work as well as his occational references to *endoxa* in his treatise. Although there may be several varieties of opinions available to the rhetorician for his argumentative premises, Aristotle concedes that one "must select out of the vast range…[only] those which happen to suit his immediate purpose."[43] And the criterion for selecting such opinions is widespread belief: in rhetorical argument "one must not argue from all possible opinions, but only from those that are definite and admitted, for instance, either by the judges themselves or by those of whose judgment they approve."[44] Aristotle's recommendations to the rhetorician recall the guidelines for using notable authorities (*endoxoi*) as a source for *endoxa* in the *Topica*, for a rhetorician should appeal to his audience's own opinions or the opinions of those it esteems.[45] Indeed, a similar notion underlies Aristotle's recommendation in the *Rhetoric* here: the rhetorician must work with opinions from the audience members themselves or from those the audience approves (*apodechontai*).

In the sentence that follows this recommendation, moreoever, Aristotle emphasizes

[43]In his commentary, Cope (1877, p. II.224) references the similarity between dialectic and rhetoric merely in that they are both "unlimited," but he does not draw attention to the similarity of the concern expressed in this passage of Aristotle's *Rhetoric* and his discussion of selecting *endoxa* in the *Topica*. Grimaldi (1980, 2:278-279) does note, however, that both texts share this concern for commonly held beliefs. Those who judge (κρίνουσιν) in this passage "may be extended to the *decision* of audiences in all three branches of Rhetoric, the assembly, the judges, and the θεαταί or θεωροί" (Cope 1877, 2:224).

[44]οὐκ ἐξ ἁπάντων τῶν δοκούντων ἀλλ' ἐκ τῶν ὡρισμένων λεκτέον, οἷον ἢ τοῖς κρίνουσιν ἢ οὓς ἀποδέχονται, 1395b31-1396a1.

[45]In his *Topica*, let us recall, Aristotle defines *endoxa* as things which are believed by all, by many, or by the wise (ἔνδοξα δὲ τὰ δοκοῦντα πᾶσιν ἢ τοῖς πλείστοις ἢ τοῖς σοφοῖς, καὶ τούτοις ἢ πᾶσιν ἢ τοῖς πλείστοις ἢ τοῖς μάλιστα γνωρίμοις καὶ ἐνδόξοις, 100b25-30).

the particular relevance of widespread beliefs—not merely beliefs of reputable sources—for constructing rhetorical syllogisms: "in fact, it must be clear that the opinion offered is the view held by all or most people."[46] Like Aristotle's definition of *endoxa* in the *Topica*, where he appeals to truths that are apparent (*dokounta*) to an audience, his appeal here to unanimous or majority belief in rhetorical proof similarly gathers materials from what appears to be true (*phainetai*).[47] The enthymeme's reliance on such widespread belief, futhermore, establishes a kinship between the methods of dialectic and rhetoric and separates rhetoric from scientific demonstration.[48] While Aristotle may call the enthymeme a rhetorical *apodeixis*, it differs from a scientific *apodeixis* in its reliance on a brand of endoxic material in place of "true and primary premises."[49] But rather than rely on dialectical

[46]καὶ τοῦτο δὴ ὅτι οὕτως φαίνεται δῆλον εἶναι ἅπασιν ἢ τοῖς πλείστοις. The text varies among editions. In his *OCT*, David Ross writes διότι to replace δὴ ὅτι even though the latter is attested in many manuscripts. Grimaldi (1980, 1:279) surveys the many variations in punctuation across editions but notes that "the variant punctuation does not affect the meaning." He supplies the translation provided here.

[47]This reliance on beliefs that appear to be true for an audience underlies a fundamental distinction between Platonic and Aristotelian conceptions of dialectic: "Plato conceived dialectic as essentially involving a search for definitions, and he regarded it as a scientific activity.…But Aristotle maintains that dialectic does not involve the search for definitions" but instead involves hypotheses and beliefs set out by an audience. (Evans 1977, p. 50).

[48]Burnyeat (1994, p. 21) agrees that both dialectical and rhetorical syllogisms "take their premises from *endoxa*, propositions that enjoy good repute." The partial alignment of dialectical *endoxa* and rhetorical *homolegoumena* recalls Aristotle's opening sentence of the *Rhetoric*, where he calls rhetoric the counterpart (*antistrophos*) of dialectic. Scholars have long debated the nature of this relationship, and the study in this chapter does not aim to settle the interpretive difficulties in Aristotle's cryptic statement. What the relationship between *endoxa* and *homolegoumena* illustrates, however, is that rhetoric and dialectic share at least some kinds of premises. Their materials are not identical—we might even define *homolegoumena* as a type of *endoxa*—and their aims are not identical either. See Frede (2012, p. 195) who calls Aristotelian dialectic "a kind of intellectual game" where the object is "to find a way to argue about any proposed topic on the basis of reputable premisses, and when defending a thesis, not to get trapped in contradictions."

[49]For Aristotle's definition of the enthymeme as a rhetorical *apodeixis*, see *Rhetoric* 1355a6-7. For Aristotle's claim that scientific demonstration uses "true and primary premises," compare the similar distinction between *apodeixis* and dialectical syllogism made at *Topica*, 100a-100b.

endoxa as the source of rhetorical materials, Aristotle specifies further that a subgroup of *endoxa*—those found among all or among the many—is particuarly relevant to rhetorical practice.

As a matter of concluding this discussion of *homolegoumena* and their role in rhetorical argument, it is worth noting how they allow the rhetorician to use enthymemes as persuasive tools appropriate for his audience members and their own participation in his logic. This participation allows the orator to omit materials he knows that his audience grasps well, and in fact, scholars have often pointed to the resulting brevity as *the* defining characteristic of an enthymeme. Such a suggestion is not without merit: Aristotle writes that an enthymeme is "a kind of syllogism, and deduced from few premises, often fewer than the regular syllogism."[50] Aristotle's definition here is the "*locus classicus* for the common interpretation of the enthymeme as a truncated syllogism," since here Aristotle highlights the ability of the enthymeme to leave out premises which are known to that audience (*ean gar ē ti touton gnōrimon, oude dei legein*).[51] But we must construe the negative *oude* in this second clause with great care. Aristotle does not negate the object of

[50]τὸ δ' ἐνθύμημα συλλογισμόν, καὶ ἐξ ὀλίγων τε καὶ πολλάκις ἐλαττόνων ἢ ἐξ ὧν ὁ πρῶτος συλλογισμός· ἐὰν γὰρ ᾖ τι τούτων γνώριμον, οὐδὲ δεῖ λέγειν, *Rhetoric* 1357a16-18.

[51]Grimaldi (1980, 1:57-58). Unfortunately, a rigid, almost quantitative definition of the enthymeme has maintained great influence in scholarship and commentary on Aristotle, in both modern and ancient authors. The precise meaning of the enthymeme has been marked by its "misperception…as both a reductive and a rigidly deductive proceeding" (Green 1995, p. 20), defined strictly by its omission of widely held, endoxic premises. There is such a definition for enthymeme in the *Prior Analytics*, where Aristotle characterizes it as "an incomplete (*ateles*) *sullogismos* from likelihoods or signs" (Burnyeat 1994, p. 6). Burnyeat finds that this definition is repeated three times in the *Rhetoric* (1.2.14, 1357a32-33; 1.3.7, 1359a7-10; 2.25.8, 1402b13-20), but he ultimately rejects this statement as an "essence" rather than a full definition of enthymeme. He concludes that its definition is "a *sullogismos* of a kind and a demonstration of a kind, a deduction from which you cannot expect everything you would normally expect from a valid deductive argument" (ibid., p. 30).

dei; that is, he does not write that "it is necessary not to say something if it is something widely-known." He instead gives the rhetorician the freedom to decide whether propositions that are *gnōrimon* should be stated explicitly: "it is not necessary to say something widely-known."[52] The enthymeme, we must remind ourselves, takes as its aim not an ideal internal structure but the persuasion of an external audience.[53] We should not, therefore, define a successful enthymeme by formulaic or mechanical omission of premises. Concision is not the enthymeme's goal. It is its method. And this concision, as we have shown here, can only occur when rhetorical syllogisms are grounded in *homolegoumena*, not *endoxa* more broadly.

Our final task in our examination of endoxic material in Aristotle's rhetorical doctrine aims to connect the rhetorician's ability to omit widely understood materials and the rhetorician's ultimate goal of persuasion. We find in Aristotle that brevity can be a persuasive strategy in itself: by encouraging an audience to fill in gaps in an argument, the speaker produces a kind of psychological pleasure in his listeners. Allowing listeners to supply their own beliefs promotes their receptiveness, perhaps by preventing boredom or allowing them to construct arguments that make sense on their own terms. And as we shall see, this understanding of the pleasure of enthymematic argument is central to

[52]Here I take *gnōrimon* as a close substitute for *endoxon.* In his definition of dialectical *endoxa*, Aristotle describes the authoritative men from whom one can derive *endoxa* as *gnōrimois kai endoxois* (100b23). Burnyeat (1994, p. 23) writes "Aristotle certainly does not say that an enthymeme *must* have a premise omitted, on pain of not being an enthymeme at all. An enthymeme must be brief, if it is to fulfill its function, but this can be achieved by a suitable choices of premises rather than by their suppression." By contrast, Cope (1877, p. II.221) takes the more rigid approach to the construction of enthymemes. He writes that "the rhetorician *never* expresses all three" propositions in a rhetorical syllogism, for "if he did, his enthymeme would become a regular syllogism."

[53]Burnyeat (1994, p. 23) writes that "a 'good' enthymeme is to be understood, again by reference to the function of rhetoric, as one that is effective with an audience of limited mental capacity."

Quintilian's own understanding of rhetorical practice.

A foundational component of the connection between brevity and persuasion is Aristotle's notion of the intellectual pleasure of inference, a pleasure he alludes to in the *Rhetoric*:

> Since learning and admiring are pleasant, all things connected with them must also be pleasant: for instance, a work of imitation, such as painting, sculpture, poetry, and all that is well imitated, even if the object of imitation is not pleasant. For it is not this that causes pleasure (*charei*) or the reverse, but the inference (*syllogismos*) that the imitation and the object imitated are identical, so that the result is that we learn something.[54]

Aristotle here remarks that learning (*manthanein*) is pleasant, and he cites the appreciation of imitative arts as an occasion for such learning. More specifically, he writes that the experience of an inference (*syllogismos*) is what causes pleasure in the reasoner. The result clause, introduced by *hoste*, shows how through a "flash of insight [the listener] infers new knowledge from something given, and [he feels] the pleasure which comes from the illumination."[55] In his *Poetics*, too, Aristotle similarly notes that "people enjoy (*chairousi*) looking at images, because through contemplating them it comes about that they understand and infer (*syllogizesthai*) what each element means."[56] The mental activity of inference as practiced by audience members, whether the audience of tragedy or

[54]ἐπεὶ δὲ τὸ μανθάνειν τε ἡδὺ καὶ τὸ θαυμάζειν, καὶ τὰ τοιάδε ἀνάγκη ἡδέα εἶναι, οἷον τό τε μιμούμενον, ὥσπερ γραφικὴ καὶ ἀνδριαντοποιία καὶ ποιητική, καὶ πᾶν ὃ ἂν εὖ μεμιμημένον ᾖ, κἂν ᾖ μὴ ἡδὺ αὐτὸ τὸ μεμιμημένον· οὐ γὰρ ἐπὶ τούτῳ χαίρει, ἀλλὰ συλλογισμὸς ἔστιν ὅτι τοῦτο ἐκεῖνο, ὥστε μανθάνειν τι συμβαίνει, 1371b4-10.

[55]See Grimaldi (1980, 1:264).

[56]διὰ γὰρ τοῦτο χαίρουσι τὰς εἰκόνας ὁρῶντες, ὅτι συμβαίνει θεωροῦντας μανθάνειν καὶ συλλογίζεσθαι τί ἕκαστον, 1448b15-17. D. W. Lucas writes that the verb here signifies "the intellectual pleasure of solving a puzzle" and that "it has no relevance to the aesthetic enjoyment of a picture" (1968, p. 72). D. Montmollin writes that this instance of *syllogizesthai* should be understood as "infer by syllogistic reasoning" (1951, pp. 35, 204).

rhetoric, engenders a kind of enjoyment. In both the *Poetics* and the *Rhetoric*, Aristotle relates this experience of pleasure to the syllogism.[57]

Aristotle's association of inference and pleasure bears on his theory of the place of emotions in rhetorical practice, and defining the proper role of emotions in rhetoric, in fact, is a central concern of Aristotle's treatise. Early in the *Rhetoric*, he bemoans the status of the "art" (*technē*) of rhetoric because its practitioners are not concerned with proof itself, which he believes is the speaker's primary and proper tool. Instead, these practitioners focus on mere emotional manipulation:

> Proofs are the only things in [the art of rhetoric] that come within the province of art; everything else is merely an accessory. And yet [current practitioners] say nothing about enthymemes which are the body of proof, but chiefly devote their attention to matters outside the subject; for the arousing of prejudice, compassion, anger, and similar emotions has no connection with the matter in hand, but is directed only to the judge.[58]

Aristotle here appears to connect the enthymeme strictly with logic and to sequester emotional appeal to peripheral status (*prosthēkai*). These emotional aspects of rhetoric are not concerned with "the matter in hand" (*peri tou pragmatos*) but rather directed outwardly toward the audience, or more specifically here, the judge. The following section of the *Rhetoric*, however, contradicts this purely logical rendering of the enthymeme. Even though Aristotle informs his readers that "proofs (*pisteis*) are the only things in [the art of rhetoric] that come within the province of the art" and gives the impression that the

[57]Here Aristotle is concerned with the audience's experience of pleasure. There are, of course, other emotions that could inspire receptiveness in an audience, perhaps the fear and pity so central to the psychological basis of his theory of tragedy. Compare the discussion of pity in *Rhetoric* II.8.

[58]αἱ γὰρ πίστεις ἔντεχνόν εἰσι μόνον, τὰ δ' ἄλλα προσθῆκαι, οἱ δὲ περὶ μὲν ἐνθυμημάτων οὐδὲν λέγουσιν, ὅπερ ἐστὶ σῶμα τῆς πίστεως, περὶ δὲ τῶν ἔξω τοῦ πράγματος τὰ πλεῖστα πραγματεύονται· διαβολὴ γὰρ καὶ ἔλεος καὶ ὀργὴ καὶ τὰ τοιαῦτα πάθη τῆς ψυχῆς οὐ περὶ τοῦ πράγματός ἐστιν, ἀλλὰ πρὸς τὸν δικαστήν, 1354a13-18.

enthymeme is an emotionally disinterested method of proof, he later defines emotional appeal as one of the forms (*eidē*) of proof available to the rhetorician:[59]

> Now the proofs (*pisteis*) furnished by the speech are of three forms. The first depends upon the moral character of the speaker, the second upon putting the hearer into a certain frame of mind, the third upon the speech itself, in so far as it proves or seems to prove.[60]

Aristotle here explicitly couples *pistis* with his tripartite division of proof into logical, ethical, and emotional dimensions. And yet, a few sentences later, Aristotle reaffirms his position that "all orators craft proof (*tas pisteis poiountai*) by employing either examples or enthymemes and nothing else."[61] He therefore seems to present two contradictory accounts of the role of enthymemes: while earlier Aristotle explicitly rejects emotional manipulation in favor of strictly informative or logical enthymematic proof, his explanation of *pistis* here both endorses emotional appeal and yet forbids the use of tools other than the enthymeme.

In light of this apparent contradiction, it is helpful to recall Aristotle's psychology of learning and pleasure. In our earlier discussion of the pleasure of inference, we see how syllogisms themselves can generate emotionally positive experiences. Aristotle revisits the emotional impact of rhetorical reasoning in his discussion of the emotional manipu-

[59]αἱ γὰρ πίστεις ἔντεχνόν εἰσι μόνον, τὰ δ'ἄλλα προσθῆκαι, 1354a13-14. Aristotle's phrase *sōma tēs pisteōs* here emphasizes the self-contained nature of proof. Aristotle contrasts the enthymemes as "body" of proof with other elements that are "outside the subject" (*ex tou pragmatos*), including the arousal of emotions in an audience. See *Rhetoric* 1354a and also *LSJ*, σῶμα, IV for similar usage in Longinus.

[60]τῶν δὲ διὰ τοῦ λόγου ποριζομένων πίστεων τρία εἴδη ἔστιν· αἱ μὲν γάρ εἰσιν ἐν τῷ ἤθει τοῦ λέγοντος, αἱ δὲ ἐν τῷ τὸν ἀκροατὴν διαθεῖναί πως, αἱ δὲ ἐν αὐτῷ τῷ λόγῳ, διὰ τοῦ δεικνύναι ἢ φαίνεσθαι δεικνύναι, 1356a1-4.

[61]πάντες δὲ τὰς πίστεις ποιοῦνται διὰ τοῦ δεικνύναι ἢ παραδείγματα λέγοντες ἢ ἐνθυμήματα, καὶ παρὰ ταῦτα οὐδέν πως, 1356b6-8. For Aristotle's division of proof into logical, ethical and emotional sources, see also *Rhetoric* I.2.7.

lation of judges, where he stresses that the judge in a forensic case should similarly rely on his own reasoning, not on the speaker himself:

> For there is no need to warp the judge's feelings, to arouse him to anger, jealosy, or compassion, which would be like making the rule crooked which one intended to use. Further it is evident that the only business of the litigant is to show that the fact in question is or is not so, that it has or has happened or not; whether it is important or unimportant, just or unjust in all cases in which the legislator has not laid down a ruling, is a matter for the judge himself to decide; it is not the judge's function to learn from those arguing the case.[62]

Aristotle here contrasts the proper function of the rhetorician—"to show that the fact in question is or is not so." Rather than rely on the rhetorician at all for "learning" (*gignōskein*), Aristotle's ideal judge looks only to be acquainted with the facts of the case.

Aristotle's discussion, moreover, provides space for emotional appeal enacted through rhetorical demonstration itself. The final sentence of this passage calls attention to the proper kind of learning that occurs in the courtroom: the judge must "not learn from those arguing the case" (*ou manthanein para tōn amphibētountōn*), but instead learn from the arguments themselves. This critique of faulty rhetoricians exposes the absence of enthymemes in the speeches of the *technologoi* who aim directly at emotional manipulation of the judge and not at an emotional appeal rooted in the pleasure of reasoning. Aristotle's proper rhetorician does not rely on "nondiscursive means, like cries, tears, gesticulations" among other gestures to elicit emotional responses from the audience.[63] Rather, so Aris-

[62]οὐ γὰρ δεῖ τὸν δικαστὴν διαστρέφειν εἰς ὀργὴν προάγοντας ἢ φθόνον ἢ ἔλεον· ὅμοιον γὰρ κἂν εἴ τις ᾧ μέλλει χρῆσθαι κανόνι, τοῦτον ποιήσειε στρεβλόν. ἔτι δὲ φανερὸν ὅτι τοῦ μὲν ἀμφισβητοῦντος οὐδέν ἐστιν ἔξω τοῦ δεῖξαι τὸ πρᾶγμα ὅτι ἔστιν ἢ οὐκ ἔστιν, ἢ γέγονεν ἢ οὐ γέγονεν· εἰ δὲ μέγα ἢ μικρόν, ἢ δίκαιον ἢ ἄδικον, ὅσα μὴ ὁ νομοθέτης διώρικεν, αὐτὸν δή που τὸν δικαστὴν δεῖ γιγνώσκειν καὶ οὐ μανθάνειν παρὰ τῶν ἀμφισβητούντων, 1354a24-30.

[63]Brunschwig (1996, p. 46). Brunschwig concludes that Aristotle juxtaposes seemingly contra-

totle later explains, "the orator persuades by means of his hearers, when they are roused to emotion by his speech (*hupo tou logou*)."[64] The genitive of agent clarifies that emotional effects are not brought about by "those arguing the case" (*para tōn amphibētountōn*) as cautioned against in Aristotle's discussion of the manipulation of the judge. Emotional appeal instead should arise from the speech itself, likely through the pleasure of syllogistic reasoning that Aristotle discusses in his works elsewhere.

Aristotle develops this distinction through his separation of "atechnical" and "entechnical" rhetoric.[65] In contrast with "atechnical" methods of emotional appeal (the "cries, tears, and gesticulations" which Aristotle ascribes to the *technologoi*), "entechnical" methods allow a speech itself to serve as an instrument for emotional arousal.[66] Aristotle reiterates this very distinction in the first chapter of his *Rhetoric*, accusing the *technologoi* of "only…[putting] the judge into a certain frame of mind. They give no account of the entechnical proofs (*entechnōn pisteōn*), which make a man a master of rhetorical argument."[67] In Aristotle's view, then, there is no disagreement about *whether* emotional components

---

dictory statements on the role of emotions in rhetoric "because he wanted to show his reader the theorizing process that had led him from his starting point to a different but not incompatible position" (1996, p. 45).

[64]διὰ δὲ τῶν ἀκροατῶν, ὅταν εἰς πάθος ὑπὸ τοῦ λόγου προαχθῶσιν, 1356a14-15.

[65]For Aristotle's distinction between these two types of rhetoric, see Brunschwig (ibid., pp. 45–47).

[66]Using the speech itself as a source for effects is "the general criterion of 'entechnicality': the atechnical proofs preexist the speech [and] the speaker can only 'make use of them,' whereas entechnical proofs are those that he brings out with his method, in and through his own speech" Brunschwig (ibid., p. 46). Aristotle similarly criticizes flatterers in his discussion of pleasure: "flattery and the flatterer are pleasant, the latter being a sham admirer and friend" (καὶ τὸ κολακεύεσθαι καὶ ὁ κόλαξ ἡδέα· φαινόμενος γὰρ θαυμαστὴς καὶ φαινόμενος φίλος ὁ κόλαξ ἐστίν, 1371a22-24).

[67]οὐδὲν γὰρ ἐν αὐτοῖς ἄλλο πραγματεύονται πλὴν ὅπως τὸν κριτὴν ποιόν τινα ποιήσωσιν, περὶ δὲ τῶν ἐντέχνων πίστεων οὐδὲν δεικνύουσιν, τοῦτο δ' ἐστὶν ὅθεν ἄν τις γένοιτο ἐνθυμηματικός, 1354b19-22.

should be allowed in rhetoric; he takes issue with how and from where these components arise.[68] Emotional appeal, he insists, must emerge from argumentation but not through the addition of peripheral emotional elements.

Aristotle's theory of enthymematic reasoning integrates emotional appeal, *homolegoumena*, and proof into a coherent theory of rhetorical syllogism. The widespread acceptance of *homolegoumena* allows the enthymeme to maintain its cogency when such materials are omitted, and as discussed earlier in this chapter, this opportunity for omission is not merely a matter of formal structure: it is fundamentally intertwined with Aristotle's theory of inferential learning and intellectual pleasure. By allowing an audience to use their own beliefs to complete an abbreviated enthymeme, the rhetorician also catalyzes the pleasure of inference. The audience's participation in syllogism, Aristotle argues, brings with it an emotionally positive experience: the logical-inferential and emotional-pleasurable components of rhetoric are inseparable.

Turning now to Quintilian's rhetorical treatise, we unearth a debt to specifically Aristotelian rhetorical concepts, particularly in Quintilian's understanding of the enthymeme, for the relationship between audience emotion and enthymematic structure constitutes an

[68]Brad McAdon, however, finds that the contradictory accounts of emotion in enthymematic reasoning do not lend themselves to reconciliation, and he argues that the inconsistencies in *Rhetoric* I.1 and I.2 are "deeper and more irreconcilable than has been acknowledged by most commentators" (2004, p. 308). He notes that the enthymeme in the *Rhetoric* is defined both as a rhetorical *syllogismos* and a rhetorical *apodeixis* and that these terms are not actually interchangeable (ibid., p. 315). His discomfort with these discussions in the *Rhetoric* derive from comparisons with a similar set of terminology used in other works of Aristotle, primarily the *Prior* and *Posterior Analytics*. Reading the *Rhetoric*'s understanding of the enthymeme against other Aristotelian texts is problematic, though, since their aims are dialectical and the *Rhetoric*'s is not. In fact, even finding a precise definition of the enthymeme within just the *Rhetoric* may be impossible. McAdon admits that there is "confusion and inconsistency of the text itself" which preclude any exact categorization or definition of the enthymeme in the first place (ibid., p. 323).

important element of Quintilian's theory of rhetorical proof. Quintilian adopts an Aristotelian vision of the enthymeme even if competing definitions of its structure and function exist in his lifetime.[69] Despite the significant influence of Stoic thought, our Roman schoolmaster ultimately places at the center of his work an Aristotelian notion of proof, rooted both in *certa* that approximate *homolegoumena* as well as in Aristotelian theories of audience psychology and the pleasure of inference. While Quintilian's understanding of the enthymeme undoubtedly shows the influence of other schools, particularly the Stoics, we nevertheless see his continued use of an Aristotelian understanding of rhetorical proof, centered around a novel understanding of certainty.

Like Aristotle, Quintilian begins his treatise on rhetorical proof, the fifth book of the *Institutio*, with a discussion of the proper role of the emotions in oratory and the controversies surrounding these emotional components. While Aristotle supports the judicious use of emotional appeal through the enthymeme, other theorists, so Quintilian reports, uncompromisingly reject the emotional dimension of rhetoric:

> There were some famous authors for whom the only apparent duty of an orator is to teach, for they thought that emotions needed to be excluded for two reasons: first, because every disturbance of the mind is a moral fault, and second, because it is not proper for a judge to be kept from the truth by pity, favor, wrath, or similar emotions. And they thought that to seek the delight of the audience members, since speaking is done for the sole purpose of winning, is not only pointless for the one pleading the case, but is also hardly befitting a man.[70]

[69]For evidence of these competing traditions, one need only look at the enthymeme's several definitions that Quintilian himself lists at *Institutio* V.10.1-5.

[70]*Fuerunt et clari quidem auctores quibus solum uideretur oratoris officium docere (namque et adfectus duplici ratione excludendos putabant, primum quia uitium esset omnis animi perturbatio, deinde quia iudicem a ueritate depelli misericordia gratia ira similibusque non oporteret: et uoluptatem audientium petere, cum uincendi tantum gratia diceretur, non modo agenti superuacuum, sed uix etiam uiro dignum arbitrabantur)*, V.pr.1.

Unlike Aristotle, who merely cautions against the use of manipulative emotional appeal without any grounding in *logos*, some "famous authors" present a more radical position regarding the exclusion of emotional appeal in rhetorical practice: for them, "every disturbance of the mind is a moral fault." They advocate a wholesale rejection of emotion in rhetorical practice, and thus stand in opposition even to Aristotle's measured advocacy of emotional appeal strictly through inferential pleasure.

While Quintilian gives no names of these "famous" authors, it is likely that the Stoics constitute this rhetorical camp opposed to emotional appeal. Scholars treat the Stoic rejection of emotional rhetoric as common knowledge, a generalization corroborated in the work of Plutarch, a rough contemporary of Quintilian.[71] Emotional appeal for the Stoics is not even an "accessory" component to proof as was the case in Aristotle's *Rhetoric*, but is incompatible with proof entirely. Such a rejection would preclude the Stoic use of the Aristotelian enthymeme, and accordingly, there exists no discussion of the term among early Stoic authors.[72]

These Aristotelian and Stoic traditions influence Roman rhetorical theorists, even if the two schools of thought contradict each other on important points. In his own *Topica*,

[71]For an example of the widespread belief in Stoic rejection of emotion in rhetorical practice, see Solmsen (1941, p. 178). In his *On Moral Virtue*, Plutarch reports that, for the Stoics, "emotion is a worthless and unbridled form of reasoning [λόγος] derived from simple and misguided judgment which has taken on more vehemence and strength." (καὶ γὰρ τὸ πάθος εἶναι λόγον πονηρὸν καὶ ἀκόλαστον ἐκ φαύλης καὶ διημαρτημένης κρίσεως σφοδρότητα καὶ ῥώμην προσλαβούσης, 441D).

[72]James McBurney records that foundational Stoic figures like Zeno, Cleanthes, and Chrysippus, "either because they lacked ready access to Aristotle's writings or because they sought to develop an original logical and rhetorical system, do not appear to have maintained the enthymematic conception" (1936, pp. 68-9). In fact, Aristotle's understanding of the enthymeme seems to have fallen out of study among the early Stoics, whose "extant fragments reveal no reference to the enthymeme despite the fact that they are known to have written treatises on rhetoric" (ibid., p. 69).

for example, Cicero defines the enthymeme in purely formal terms as an "affirmative disjunctive syllogism," otherwise known as *modus ponendo tollens* or the "third form" of Stoic syllogism.[73] Immediately following this definition, Cicero reports that this kind of reasoning is more appropriate for philosophical inquiry than rhetorical persuasion, and in fact, Cicero writes that when rhetoricians use this logical template in their orations, they merely apply this thoroughly philosophical tool in an oratorical context. The third form, he argues,

> has doubtless a relation to your discussion when you give answers on legal problems, but it more closely concerns the philosophers, who share with orators that method of drawing a conclusion from contradictory statements which the dialecticians call the third form, and the teachers of rhetoric, the *enthymēma*.[74]

Cicero's enthymeme is at once dialectical and rhetorical, a coupling which resonates with Aristotle's understanding of the close relationship between these two intellectual prac-

[73]Such argumentation can be summarized in the following basic form:

1. Not both p and q
2. p
3. Therefore, not q

A classic example of such an argument reads as follows:

1. It is not both day and night.
2. It is day.
3. Therefore, it is not night.

Cicero explains this form of reasoning as follows: "when you deny that certain things are connected and assume the truth of one or more, so that the remaining statement must be excluded, this is called the third form of reasoning" (*cum autem aliqua coniuncta negaris et ex eis unum aut plura sumpseris, ut quod relinquitur tollendum sit, is tertius appellatur conclusionis modus*, *Topica* §54).

[74]*Hoc disserendi genus attingit omnino vestras quoque in respondendo disputationes, sed philosophorum magis, quibus est cum oratoribus illa ex repugnantibus sententiis communis conclusio quae a dialecticis tertius modus, a rhetoribus ἐνθύμημα dicitur*, (*Topica* §56). Translations of Cicero's *Topica* are adapted from Reinhardt, ed. and trans. (Oxford: Oxford University Press, 2006).

tices. But the enthymeme as a so-called "third form" or "conclusion from contradictory statements" has drifted far from Aristotle's original terminology. Absent are the concerns for *homolegoumena* and for an audience's inferential pleasure. Cicero's refashioning of the enthymeme, then, sits firmly in the domain of dialectic and merely cites the Greek term as a rhetorician's label for a logician's tool.[75]

More evidence of this dialectical, un-Aristotelian understanding of the enthymeme comes from Sextus Empiricus, whose discussion of the "conclusion from contradictory statements" does not speak of the rhetorical enthymeme at all but merely presents it in the context of "non-demonstrable arguments so much talked of by the Stoics."[76] Among these non-demonstrable arguments is this *tertius modus* that Cicero cites in his *Topica*, which Sextus Empiricus describes as follows:

> The same reasoning applies also to the third non-demonstrable argument. For either it is pre-evident that it is impossible for the clauses in the coupled premiss mutually to co-exist, or else it is non-evident. And if it is non-evident we shall not grant the negative of the coupled premiss; but if it is pre-evident, at the moment of positing the one clause the other is annulled, and the negative of the coupled premiss is redundant when we propound the argument in the form "It is day, therefore it is not night."[77]

Sextus Empiricus, too, thinks of these methods of argumentation as elements of the Stoic

[75]Cicero presents these formal methods of argumentation in his *Topica* as a "topic for the dialecticians" (*locus dialecticorum*, §53).

[76]οἱ θρυλούμενοι παρὰ τοῖς Στωικοῖς ἀναπόδεικτοι ἀσύνακτοι εὑρεθήσονται, (*Outlines of Pyrrhonism*, 2.156). Translations of Sextus Empiricus are adapted from R. G. Bury, ed. and trans. (Cambridge, MA: Harvard University Press, 2000).

[77]ὁ δὲ αὐτὸς λόγος καὶ ἐπὶ τοῦ τρίτου ἀναποδείκτου. ἤτοι γὰρ πρόδηλόν ἐστιν, ὅτι οὐκ ἐνδέχεται τὰ ἐν τῇ συμπλοκῇ συνυπάρξαι ἀλλήλοις, ἢ ἄδηλον. καὶ εἰ μὲν ἄδηλον, οὐ δώσομεν τὸ ἀποφατικὸν τῆς συμπλοκῆς· εἰ δὲ πρόδηλον, ἅμα τῷ τεθῆναι τὸ ἕτερον ἀναιρεῖται τὸ λοιπόν, καὶ παρέλκει τὸ ἀποφατικὸν τῆς συμπλοκῆς, οὕτως ἡμῶν ἐρωτώντων 'ἡμέρα ἔστιν, οὐκ ἄρα νὺξ ἔστιν' (*Outlines of Pyrrhonism*, 2.161).

dialectical (rather than the rhetorical) tradition.[78] This firmly dialectical grounding in Sextus Empiricus for the third form allows readers to see clearly Cicero's exclusively dialectical understanding of the enthymeme in his *Topica*, an understanding that contradicts Aristotle's tripartite rendering of enthymematic proof into logical, emotional, and ethical components. For the preeminent Roman orator, the enthymeme has morphed from Aristotle's "rhetorical syllogism" into a strictly dialectical method of proof, the *modus ponendo tollens*.[79] Aristotle's term, for Cicero at least, now only serves as a rhetorical footnote concerning an otherwise strictly dialectical topic.[80]

Quintilian navigates between these two competing understandings of the enthymeme—one of Aristotelian rhetoric, the other of Stoic dialectic—particularly regarding the proper place of emotion as a tool for rhetorical persuasion, and this controversy surrounding emotional appeal stands at the center of this chapter's final section. As noted above, the opening of Quintilian's Book V resembles that of Aristotle's

[78]Sextus Empiricus cautions his readers that "if [these non-demonstrable arguments] are demolished [then] the whole of dialectic is overturned" (ὧν ἀναιρουμένων ἡ πᾶσα διαλεκτικὴ ἀνατρέπεται, 2.156).

[79]Lawrence Green argues that Cicero "makes it clear late in his career that—whether he is eclectic, confused, or inspired—he sees no reason for the orator to choose between Aristotelian and Stoic logic; they are more or less interchangeable" (1995, p. 32). This interpretation of Cicero, however, derives not from a definitional equivalence of the Stoic and Peripatetic enthymeme, but rather from Cicero's own practical considerations: "I advise whoever is led on by the praise of eloquence not to be unprepared entirely in these affairs but rather to be educated in either the ancient [Aristotelian] teaching or this teaching of Chrysippus" (*Ego eum censeo qui eloquentiae laude ducatur non esse earum rerum omnino rudem sed vel illa antiqua vel hac Chrysippi disciplina institutum*, *Orator* §32.) The orator, according to Cicero here, if he wishes to receive praise for his speaking abilities, should be well-versed in either the Aristotelian or Stoic rhetoric; both schools reach toward a common end, and it is this end, not the means, that is Cicero's concern).

[80]This conflation was perhaps not Cicero's own innovation. James McBurney has noted that the "most renowned rhetorician in the Stoic school," Hermagoras, had an influence on Cicero whereby Cicero had a "tendency to confuse the enthymeme and the logical syllogism" (1936, p. 69). We return to Hermagoras' influence on Cicero in the following chapter, particularly as it bears on Cicero's understanding of status theory.

Rhetoric: Quintilian acknowledges the controversies surrounding emotional appeal and swiftly moves from a discussion of emotion to one of proof. Although Quintilian initially seems to adhere to an anti-emotional, Stoic-influenced view of the primacy of the logical enthymeme as laid out in Cicero, we shall see that he later focuses on the emotional, Aristotelian elements of proof. His view of the rhetorical syllogism, in other words, on the one hand recognizes Stoic developments but rehabilitates a fundamentally Aristotelian notion of proof and argumentation. And on account of these pronounced Aristotelian elements, one more easily understands how the *Rhetoric*'s notion of *homolegoumena* underlies Quintilian's own understanding of *certa*.

When Quintilian introduces the enthymeme, he ascribes to it five possible meanings. These definitions include the following:[81]

1. A thought
2. A maxim backed by a reason
3. A *certa* conclusion of an argument either (a) from consequents or (b) from contraries
4. A rhetorical *syllogismus*
5. An incomplete *syllogismus*, with not as many of its constituent parts ditinguished as a non-rhetorical context would require[82]

[81]Burnyeat (1994, p. 39) helpfully provides this five-part outline of Quintilian's definition.

[82]*Nam enthymema (quod nos commentum sane aut commentationem interpretemur, quia aliter non possumus, Graeco melius usuri) unum intellectum habet quo omnia mente concepta significat (sed nunc non de eo loquimur), alterum quo sententiam cum ratione, tertium quo certam quandam argumenti conclusionem uel ex consequentibus uel ex repugnantibus: quamquam de hoc parum conuenit. Sunt enim qui illud prius epichirema dicant, pluresque inuenias in ea opinione ut id demum quod pugna constat enthymema accipi uelint, et ideo illud Cornificius contrarium appellat. Hunc alii rhetoricum syllogismum, alii inperfectum syllogismum uocauerunt, quia <nec> distinctis nec totidem partibus concluderetur: quod sane non utique ab oratore desideratur.* V.10.1-3. Demetrius first presents definition 3 as the meaning of *enthymema* in *On Style* (§30): τὸ δ' ἐνθύμημα διάνοιά τις

The Aristotelian roots of the fourth definition are evident, whereas the third defintion is rooted in the Stoic tradition.[83] Some scholars argue that Quintilian is concerned here only with logical indemonstrables and mentions the enthymeme's rhetorical roots only as a historical gloss.[84] This suggestion is not without merit: Quintilian himself places all the aforementioned definitions of the enthymeme under the umbrella of the *argumentum* (*nunc de argumentis*), a term which he later defines as *ratio probationem praestans*, a "rational process which furnishes proof."[85] At the conclusion of Quintilian's discussion of the enthymeme here, he emphasizes its role as a rational method of proof with practically no discussion of its history as a term related to Aristotelian emotional appeal, and he turns

---

ἤτοι ἐκ μάχης λεγομένη <ἢ> ἐν ἀκολουθίας σχήματι. In *On Style*, however, Demetrius also invokes definition 4 (καὶ καθόλου δὲ τὸ μὲν ἐνθύμημα συλλογισμός τίς ἐστι ῥητορικός, §32), but the qualifying phrase "in general" (καὶ καθόλου) suggests that Demetrius considers definition 3 to be a specific type of "rhetorical syllogism." Cicero writes in his *Topica* §55 that a "thought" could be considered an enthymeme, but a more accurate and meaningful definition is an inference from contraries. The appearance of *certam…conclusionem* supports Quintilian's statement at V.10.12 that all arguments take premises that are *certa* to make certain an *incertum* conclusion.

[83]See *Rhetoric* 1356a34-1356b11 for Aristotle's definition of the enthymeme as a "rhetorical syllogism." The Stoic third form is "from contraries" as Cicero and Sextus Empiricus illustrate above. Burnyeat notes that "enthymemes in [the sense of definition 3 above] exemplify the Stoic indemonstrable, which is the form 'Not *p* and *q*; *p*; therefore, not *q*' [and that] they exploit a contrariety" (1994, p. 42). Such enthymemes are "a far cry from Aristotelian syllogistic" (ibid., p. 42). So Burnyeat argues: "Although Cicero uses the word *conclusio* rather than *syllogismus*, it is Stoic *syllogismi* that both he and Quintilian are talking about. So when Quintilian gives *imperfectus syllogismus* as the fifth meaning of 'enthymeme,' it is the Stoic, not the Aristotelian, notion of *syllogismus* he has in view" (ibid., p. 42). Other scholars have noted the various sources for Quintilian's definitions of the *enthymema*. See, for example, Seaton (1914).

[84]He writes "some people called the enthymeme a rhetorical syllogism, and others called it an imperfect syllogism because it is constructed with parts that are neither distinct nor equal in number" (*hunc alii rhetoricum syllogismum, alii inperfectum syllogismum vocacerunt, quia nec distinctis nec totidem particus concluderetur* (V.10.3). Walton and Reed (2005, pp. 339-340) take Burnyeat's suggestion that Quintilian sees the enthymeme primarily in logical terms.

[85]Quintilian begins his discussion of the enthymeme, epicheireme, and *apodeixis* all under the heading of *argumenta* at V.10.1. For Quintilian's discussion of *argumentum* as a *ratio probationem praestans*, see V.10.11. Quintilian also specifies that an *argumentum* more generally is the means through which steps of deductive argument are "connected" (*colligitur*, V.10.11), verb that refers specifically to Stoic inference in Cicero's *Tusculan Disputations* 4.54. See *OLD*, *colligo* 11a.

away from his discussion of the enthymeme in order to discuss the example (*paradeigma*), the second, subordinate concern in Aristotle's treatment of rhetorical proof.

This first discussion of the enthymeme, however, is not Quintilian's last. In the final chapter of Book V, Quintilian revisits the enthymeme and expands its definition to accommodate a stylistic component, not just a particular logical structure:

> They, therefore, call an enthymeme both the argument itself, that is the thing (*res*) which is applied to the proof of another thing, and also the expression (*elocutio*) of the argument, and this expression, as I said, has two forms: from consequents…[and] from contrary terms.[86]

Quintilian adjusts his initial definition of the enthymeme as a type of *argumentum* to include the *elocutio* of those arguments, a stylistic orientation of the enthymeme not unprecedented in earlier rhetorical manuals.[87] It is worth emphasizing, however, that Quintilian does not use *elocutio* to signify the florid rhetoric of a theatrical orator. His understanding of the term still verges on the dialectical: he refers to "expression" as an arrangement of propositions (*ex consequentibus…ex pugnantibus*) and not as pleasurable or even artful prose.

This first suggestion of the importance of rhetorical style in enthymematic reasoning, however, expands into a full recommendation for attention to the psychological dispo-

[86] *Igitur enthymema et argumentum ipsum, id est rem quae probationi alterius adhibetur, appellant et argumenti elocutionem, eam vero, ut dixi, duplicem: ex consequentibus…ex pugnantibus*, V.14.1-2. The argument from contrary terms has its roots in the Stoic third form whereas the argument from consequents may be a general term for syllogistic reasoning.

[87] The *Rhetorica ad Herennium* places *argumentum* within its discussion of *inventio* in Book II (II.V); its discussion of *elocutio*, however, begins in Book IV, where one finds a discussion of "an argument from contraries" (IV.XVIII). For a discussion of elocution within the broader structure of the *Rhetorica ad Herennium*, see Caplan (1954, xlviii and liv). Thomas Conley, too, notes that the enthymeme is "unashamedly stylistic" in the *Rhetorica ad Herennium* (1984, p. 179), and Francesca Piazza finds stylistic attributes of the enthymeme in the *Rhetorica ad Alexandrum* (2011, p. 316).

sition of an audience when using enthymemes. Quintilian draws attention to the importance of the audience's emotional state in his distinction between the enthymeme and the epicheireme, where he clarifies that the enthymeme stands in opposition to the *epichirema*, which for Quintilian is "in no way different from the syllogism, except that syllogisms have more species and infer truth from truth, whereas the *epichirema* is most often used with propositions which are merely probable."[88] His enthymeme, by contrast, "is only intent on being understood": it looks not just inward to its own logical structure but also outward to its audience.[89]

Quintilian's turn away from formal rigidity toward a more pragmatic, audience-focused definition of the enthymeme recalls the Aristotelian conception of the rhetorical syllogism. And Quintilian's concluding remarks emphasize this second dimension of rhetorical persuasion, tempering the Stoic notion of a strictly logical enthymeme with a concern for emotional effect:

> I do not want at all that the whole oration consist of or be completely stuffed with epicheiremes and enthymemes. It will be more similar to dialogues or even dialectical debates than the pleadings of our art. These are indeed very different things. For in those dialectical discussions, learned men among other learned men investigate everything, asking rather detail-oriented and scrupulous questions, and they arrive at a clear and agreed-upon conclusion.…We have to create a speech for the judgment of others, and often we must speak among people who are completely inexperienced and certainly ignorant of those dialectical studies. Unless we delight our listeners with pleasure and lead them along with our powers and once in a while disturb them with our feelings, we cannot be victorious even in those cases which are just and true. Eloquence wishes to be rich, attractive, and powerful. None of these qualities will come about if it is divided by certain facts, compact, and

[88] *nullo differt a syllogismis nisi quod illi et plures habent species et vera colligunt veris, epichirematis frequentior circa credibilia est usus*, V.14.14. Notice again the appearance of *colligunt* as a verb of syllogistic reasoning.

[89] *enthymema tantum intellegi contentum est*, V.14.24.

> monotonously-patterned arguments; it will bring about scorn from its lowliness, hatred from its certain slavishness, bloat from its sheer volume, and boredom from its monotony.[90]

The beginning of this passage suggests that Quintilian conceives of enthymemes as purely formal structures. Speeches that contain only enthymemes and epichiremes are "more similar to dialogues and even dialectical debates" (*dialogis enim et dialecticis disputationibus erit similior*) than rhetorical arguments of "our art." Such dialectical speech is ineffective for rhetoricians, Quintilian warns, because its methods are unfit for the audience, which will not understand these difficult arguments: even when the rhetorician says what is "just and true" (*iusta et vera*), he will lose his case.

To avoid defeat, Quintilian recommends that the rhetorician aim to "delight our listeners with pleasure" (*delectatione adlicimus*). This attention to "delighting the listeners" stands in clear contrast with the purely logical understandings of the Stoic enthymeme seen in Cicero and Sextus Empiricus. It should be noted, however, that Quintilian does not recommend that the rhetorician use manipulative techniques that take as their sole aim the emotional state of the audience. In the vein of Aristotle's connection between inference and pleasure, Quintilian here connects complex formal logic with negative emotional states. A speech filled with complex enthymemes, Quintilian warns, will only engender

[90] *...constare totam aut certe confertam esse adgressionum et enthymematum stipatione minime velim. Dialogis enim et dialecticis disputationibus erit similior quam nostri operis actionibus, quae quidem inter se plurimum differunt. Namque in illis homines docti et inter doctos verum quaerentes minutius et scrupulosius scrutantur omnia et ad liquidum confessumque perducunt....Nobis ad aliorum iudicia componenda est oratio, et saepius apud omnino imperitos atque illarum certe ignaros litterarum loquendum est, quos nisi et delectatione adlicimus et viribus trahimus et nonnumquam turbamus adfectibus ipsa quae iusta ac vera sunt tenere non possumus. Locuples et speciosa <et imperiosa> vult esse eloquentia: quorum nihil consequetur si conclusionibus certis et crebris et in unam prope formam cadentibus concisa et contemptum ex humilitate et odium ex quadam servitute et ex copia satietatem et ex similitudine fastidium tulerit.*

"hatred" (*odium*) and "boredom" (*fastidium*). With its dearth of rhetorical *variatio* and other stylistic figures, it will be "monotonously-patterned" (*in unam prope formam*).

Later, Quintilian alludes to the enthymeme's role in inspiring inferential pleasure, the hallmark of Aristotelian emotional appeal. Echoing Aristotle's connection between audience inference and pleasure, Quintilian recommends that enthymematic arguments should invite listeners to participate in the reasoning process through the artful use of elision. Arguments that are too long are liable to produce negative emotional reactions, and speeches that are "completely stuffed" (*confertam…stipatione*) with arguments and that carefully walk through every detail (*scrupulosius scrutantur*) are more appropriate for dialectical argument than rhetorical persuasion. Quintilian understands that rhetorical audiences are particularly put off by these lengthy and voluminous arguments: audiences experience "bloat" (*satietatem*) on account of the volume (*copia*) of the speech.[91] In other words, a reduction in length of one's enthymemes—accomplished through the omission of well-known material—would likely effect positive emotional responses in the audience. Implicit in Quintilian's remarks here is a recommendation to excise material that is too meticulous or simply too long, for the unwieldy logical structure of the long-winded syllogism itself inspires the audience's distaste. Concision, by contrast, inspires delight.

Following his advice on how to avoid unpleasant methods of argumentation, moreover, Quintilian revisits the canonical Aristotelian rhetorical elements of *pathos* and *ethos*. He suggests that argumentation itself and not the orator's gesticulations or other atechnical elements must aim at the orator's Aristotelian concerns for both pathetic and ethical

[91]See also *Rhetorica ad Herennium* which recommends *varietas* to combat *satietas* (IV.4.16).

components of persuasion:

> Now I make the further point that I disagree also with those who believe that arguments should always be expressed in language which is pure, lucid, and distinct, but not elevated or ornate. Of course I admit that the arguments must be distinct and clear, and indeed that in the less important cases the language and the vocabulary should also be as literal and normal as possible. But if the subject is a grander one, I do not think that any ornament (so long as it does not lead to obscurity) should be denied it. . . . And argumentation is less suspect when well disguised, and the hearer's enjoyment (*voluptas*) greatly helps the credibility (*fides*) of the speaker.[92]

Quintilian here claims that unnamed theorists—likely the Stoics who are suggested in the book's proem—believe "arguments should always be expressed in language which is pure, lucid, and distinct."[93] But again, his objection to this pure language is not a matter of internal form; rather, it is a matter of practical advantage. He reminds readers that "argumentation is less suspect when well disguised, and the hearer's enjoyment (*voluptas*) does a lot for the credibility (*fides*) of the speaker," a recollection of the emotional and ethical components theorized by his Peripatetic predecessor.[94] As Quintilian's closing remarks here demonstrate, he does not maintain a Stoic vision of the enthymeme throughout his discussion of rhetorical proof. He may first ground his understanding of *argumentum* in mere *ratio* and show more concern with the logical formalism of arguing from contraries—that is, the third Stoic indemonstrable—but Quintilian's enthymeme

[92]*Nunc illud adiiciendum, ne iis quidem consentire me, qui semper argumenta sermone puro et dilucido et distincto ceterum minime elato ornatoque putant esse dicenda. namque ea distincta quidem ac perspicua debere esse confiteor, in rebus vero minoribus etiam sermone ac verbis quam maxime propriis et ex usu; at si maior erit materia, nullum iis ornatum, qui modo non obscuret, subtrahendum puto....et minus suspecta argumentatio dissimulatione, et multum ad fidem adiuvat audientis voluptas*, (V.14.33-35).

[93]Recall Quintilian's earlier claim at V.14.1 that the enthymeme is not merely *argumentum ipsum* but also the *elocutio argumenti*.

[94]For *voluptas* as a delight or agreeable experience, see *OLD*, 1a. For *fides* as the "quality of being worthy of belief," see *OLD*, 9a and 9b.

ultimately concerns a listener, credibility, and pleasing style. It is rhetorical to its core, taking into consideration all three Aristotelian elements: *logos*, *ethos*, and *pathos*.

These passages, cautioning against the boredom of the audience and recognizing the possibility of speaking to "inexperienced and ignorant" people, recall the concerns of Aristotle's *Rhetoric*. In that text, Aristotle writes that arguments where many syllogisms are necessary run the risk of being "difficult to follow owing to their length, for the judge is supposed to be a simple person."[95] Aristotle, too, recommends that when some premise is widely understood, "there is no need to mention it, for the hearer can add it himself," and in order to facilitate such elision, Aristotle suggests that enthymemes rely on materials shared by one's listeners.[96] His concern is one that Quintilian shares: they both aim at the comprehensibility of a rhetorical speech. Perhaps with this very passage of the *Rhetoric* in mind, then, Quintilian understands that even the Stoic syllogism, defined as a dry, logical, and perhaps tediously drawn-out logical form, is insufficient for attending to the practical needs of speaking to a real audience. Although Quintilian never clarifies the mechanism of psychological pleasure—he does not say, for example, that inference is itself a pleasurable activity—he nevertheless explains that concision and omission are safeguards against boredom.

After uncovering these Aristotelian elements in Quintilian's theory of argumentation, one can more easily understand his *certa* as Aristotelian *homolegoumena*. Quintilian tells us that *certa*, like *homolegoumena*, are defined by shared opinion (*communis opinio*), and

[95]τὸ μὲν μὴ εἶναι εὐεπακολούθητον διὰ τὸ μῆκος (ὁ γὰρ κριτὴς ὑπόκειται εἶναι ἁπλοῦς), 1357a10-12.

[96]ἐὰν γὰρ ᾖ τι τούτων γνώριμον, οὐδὲ δεῖ λέγειν, 1357a17-18.

also include laws which, if not considered reasonable by all people, are at least considered right by a city or nation or other relevant social group.[97] And these matters of broad agreement—these *homolegoumena*—ground the enthymemes of Quintilian's rhetoric. Finally, his manual does not consider enthymemes as mere Stoic indemonstrables; instead, it highlights their pleasure-producing concision. Through this constellation of Aristotelian elements, one can sense how Quintilian's notion of certainty is, at least in part, inspired by Aristotelian *homolegoumena* and the Peripatetic enthymemes they support.

Quintilian's rendering of certainty, however, is not entirely drawn from the rhetorical thinking of his Peripatetic forebear. The first of Quintilian's categories of *certa* is "things perceived by the senses, like the things we see and hear."[98] While Aristotle, unlike many Greek philosophical figures, maintained confidence in the human senses as reliable instruments for perceiving and understanding the world, neither his *Topica* nor his *Rhetorica* addresses these epistemological questions at great length.[99] We now turn to Cicero, whose philosophical writings (which precede Quintilian by about a century), understand certainty through this sense-based lens. The Roman orator's conception of *certum* is rooted in the debates of Academics and Stoics, for whom *certum* was an important word in determining the validity of perceptual experiences. As we shall see, Cicero

[97] *quae persuasione etiam si non omnium hominum, eius tamen ciuitatis aut gentis in qua res agitur in mores recepta sunt*, V.10.13. For the definition of *homologēma* as *nomos* in the *Rhetorica ad Alexandrum*, see note 34 of this chapter.

[98] *quae sensibus percipiuntur, ut quae uidemus audimus*, V.10.13.

[99] "Aristotle was confident in the ability of human senses to perfectly grasp all the relevant aspects of the phenomenal world" (Haskins 2004, p. 3). Aristotle also believed that sense perception allowed more than just knowledge of particulars. It was instrumental in grounding language: "for Aristotle, systematic understanding, when expressed in language, would take the form of generalized propositions about essences and attributes of classes of objects, not about particular features of an immediate object of perception" (ibid., p. 5). For more on Aristotle's connection between language and perception, see Nussbaum (1986, pp. 242-243).

also positions certainty as a concept central to matters of rhetorical proof, not merely as a technical matter of sensory epistemology: he views certainty as a part of several intellectual endeavors, a flexibility and complexity which in turn inspires Quintilian's manifold rendering of *certum*.

Chapter 2

Skepticism and Property in Ciceronian Certainty

In his *De Rerum Natura*, Lucretius famously laments that Greek philosophical concepts are too abstract and complex for the unrefined, impoverished Latin tongue.[1] Latin, indeed, lacks certain Greek grammatical constructions like present passive participles, and the absence of a philosophical vocabulary confounds Lucretius when he tries, for example, to explain *homoeomeria*.[2] Cicero, too, has his own difficulties with Latin philosophical vocabulary, but he nevertheless manages to render important philosophical debates of Hellenistic philosophical schools into Latin.[3] As part of a larger effort near the end of his life to translate Greek philosophy into his own language, Cicero composes the *Lucullus* and the *Academica*, works that consider Hellenistic disputes surrounding sense perception and their understanding of the criterion of truth, the marker of reliable sensory experience. And by placing what is *certum* at the center of these discussions, Cicero shows how certainty in the Latin tradition is concerned with discernment, a rendering that anticipates by over a century Quintilian's first definition of *certum* as that which is perceived by the senses. Indeed, we cannot arrive at the schoolroom of Quintilian without first

[1] I.136-145.

[2] I.830.

[3] For a more general discussion of Cicero's struggle to render Greek concepts in the Latin language, see **Powell1996**.

passing through the study of Cicero.

But Cicero's interest in certainty is not limited to these technical philosophical discussions, and his several rhetorical works—both speeches and theoretical treatises—consider the role of certainty in the courts with the same terminology that appears in his later epistemological debates. In one sense, these related rhetorical and philosophical discussions of Cicero are an ideal backdrop for studying the understanding of certainty that later appears in Quintilian's writings, for just as Aristotle and Quintilian conceive of a kinship between rhetoric and dialectic, Cicero too understands that rhetorical and philosophical matters are closely connected.[4] The debates Cicero stages among Hellenistic interlocutors, including Academics and Stoics, thus show a concern with certainty not unrelated to its role in his rhetorical corpus. As these rhetorical works illustrate, this sense-based notion of certainty, a central concept in the *Lucullus* in particular, has links to notions of property and culpability at the center of several of his forensically oriented writings. In short, the notion of certainty in Cicero's corpus anticipates the succinct catalog of *certa* in Quintilian's manual on account of their shared breadth.

Accordingly, this discussion looks both to Cicero's explicitly philosophical work as well as to his rhetorical theory to explore his manifold treatment of ancient certainty. First, Cicero's arguments for a kind of Academic skepticism hinge on competing understandings of perception and the *certa et propria nota*, the so-called criterion of proof, that can guarantee the validity of sensory experience. After looking at Cicero's philosophical

[4]In his *Orator*, written near the end of his life, Cicero argues that his own oratorical abilities arise "not from the workshops of the rhetoricians, but from the spacious grounds of the Academy" (*non ex rhetorum officinis, sed ex Academiae spatiis*, §12). Translations of Cicero's *Orator* are adapted from H. M. Hubbell, ed. and trans. (Cambridge, MA: Harvard University Press, 1988).

texts where these issues are addressed—particularly his *Lucullus*—this discussion turns to Cicero's more explicitly rhetorical texts to see how his notions of certainty bear on the needs of forensic argumentation.[5] These oratorical treatises, like his discussions of epistemology, illustrate Cicero's understanding of certainty as a deficient category of knowledge as well as a quality of evidence with limited probative force. Cicero's discussion of *certum*, like that of Quintilian's text, reveals an ancient modesty about the value of certainty while positioning it as a nexus of both philosophical and rhetorical interests, epistemology and oratory, Greek thought and Roman speech.

With the help of post-classical glossaries, one can see that the close association of "truth" and "certainty" as understood in modern English is (at least among some ancients) an old pairing. In the case of the seventh-century Harleianus glossary, which lists Greek words and provides at least one Latin equivalent for each entry, the Greek stem *alēth**—which denotes truth, broadly speaking—exhibits a strong correspondence to both *verum* and *certum*:[6]

[5]I use *Academica* throughout to refer only to the first book of the collection of these two works, sometimes called the *Academica Posteriora.* I refer to the second book by the title *Lucullus*, sometimes called the *Academica Priora.* For a study of the textual history of these works and their revisions, see Reid (1885, pp. 28–51).

[6]The Greek stem here conveys "truth" as opposed to "mere appearance," to which ἀλήθεια does not refer (*LSJ* I). The Harleianus glossary is part of the manuscript Harleianus 5792 (Goetz and Gundermann 1965, 2:xx). For a study of Cicero's epistemological vocabulary and his effort to translate terms from Greek debates surrounding probability, see Glucker (1995). These efforts, it seems, do not always result in tidy correspondences between the Greek and the Latin. John Glucker reports, for example, that "it is usually assumed that *probabile* and *veri simile* are alternative Latin terms employed by Cicero to translate the Carneadean πιθανόν" (ibid., p. 115). Carneades, so Glucker explains, advocated the "persuasive" as a "guide to the choice, in practical life, between various perceptions, without lending them the Stoic *adsensio* or *adprobatio* (συγκατάθεσις)" (ibid., p. 116). But Glucker shows that while generally Cicero uses *probabile* to render πιθανόν and *veri simile* to render εἰκός, there are exceptions to these correspondences. He points to a bilingual glossary of Philoxenus from late antiquity where "evidence is hardly clear-cut" about *probabile* and

- ἀληθές – *verum*, *certum*
- ἀληθέστερον – *verius*, *certius*
- ἀληθέστατα – *verissime*
- ἀλήθεια – *veritas*
- ἀληθής θηλυκόν – *vera*
- ἀληθής ἀρένικον – *verax*, *certus*, *verus*
- ἀληθινός – *manifestus*, *verax*
- ἀληθινός λόγος – *veriloquax*, *veridicus*
- ἀληθεύω – *verum dico*
- ἀληθῶς – *vero*, *certe*
- ἀληθῶσταρ – *enimvero*

The coincidence of these two Latin roots throughout suggests that in this author's mind "truth" and "certainty" roughly occupy the same semantic space among the ancient sources from which he draws his own pairings.[7]

While this seventh-century glossary positions *verum* and *certum* as approximate synonyms, however, Cicero's philosophical writing separates these two Latin terms as a part of his Roman reworkings of epistemological debates between the Stoic and Academic schools. As "an Academic, at least of sorts," Cicero was still an "active [participant] in

veri simile and some of Cicero's philosophical translations more generally. We turn to Philoxenus' glossary later in this chapter.

[7]And this alignment is well-documented by modern lexicographers, as well. The *Oxford Latin Dictionary* provides fourteen definition groups for *certus*, the eighth of which reads, "Absolutely dependable, certain, true." See also *certus* 6a, "certain to happen or be realized, inevitable, sure." The *Thesaurus Linguae Latinae* defines *certus* as *probatus, quod putes verum esse vel re vera* (III). The *TLL* similarly lists ἀληθής as a Greek equivalent for this definition.

the continuing disputes between the schools" of the Hellenistic philosophers, and accordingly, he positioned many of his own philosophical writings in the tradition of and in dialogue with the philosophers who came before him.[8] And in Cicero's *Lucullus* in particular, he uses *certum* in his discussions of the "criterion of truth," a sign of the reliability of sense perception and a concept at the center of debates among these Hellenistic schools.[9] According to Stoic epistemological doctrine, "the criterion of truth is what [Stoics] called a cognitive impression," and such an impression fulfilled three conditions: it "[1] comes from what is, [2] is imprinted and impressed in accordance with what is, and [3] is such that an impression of this kind could not come about from what is not."[10] This tripartite definition of the Stoic cognitive impression inspires controversy, and as Cicero makes clear in his dialogues, the possibility of conclusively fulfilling the third condition in particular—that a cognitive impression "could not come about from what is not"—is hard to swallow for Academic skeptics.[11]

Lucullus, who serves as interlocutor in the work that shares his name and who as

[8]Everson (1990, p. 8).

[9]H. Rackham notes that "in Cicero's encyclopedia of philosophy, *Academica* [and *Lucullus* are] the article on Epistemology" (2000, p. 400). The concept of the criterion of truth "seems to have been relatively new to the philosophical language around 300 B.C.," and "we do not know who introduced it as a technical term, which it is not in its rare occurrences in Plato and Aristotle" (Striker 1990, p. 144).

[10]Striker (ibid., p. 151). J. Hankinson (1997, p. 169) and J. Allen (1997, p. 232) report that the third condition was added in response to Arcesilaus' criticism of the original, two-part definition of the cognitive impression. For a recent discussion of the conditions of the Stoic cognitive impression as they relate to contemporary epistemological debates concerning internalism and externalism, see Nawar (2014).

[11]The most hardline Academics, in fact, "marshall arguments to show that there is no possible criterion of truth," even if more moderate skeptics like "Arcesilaus and Carneades also offered surrogate principles of conduct in place of the criterion, one of which, the 'convincing,' was to win much favour with Carneades' doctrinaire successors in the Academy" (Long and Sedley 1987, p. 465).

"Cicero acknowledged in his letters to Atticus…was no philosopher," adopts the Stoic position and argues against the alleged excesses of Academic skepticism.[12] Lucullus' remedy for an impractically extreme rejection of claims to knowledge is to assent to information provided by the senses, on the condition that such information can be shown to be reliable according to specific qualifications set by the Stoics, the three aforementioned criteria.[13] As part of his defense of the reliability of sense perception, Lucullus connects *veritas* with the *certa iudicia* of the senses: "Let us begin therefore from the senses, whose *iudicia* are so clear and *certa*, [for] the senses contain the highest truth."[14] Despite Cicero's aforementioned charge that Lucullus is no true philosopher, his statement here employs technical vocabulary that situates his argument within broader debates concerning the criterion

[12]Reid (1885, p. 46). Reid notes that Cicero "felt a thorough contempt" for the private endeavors of Lucullus, and often refers to him in letters as a connoisseur of fish ponds: *Letters to Att* I.18.6, I.19.6, I.20.3, II.9.1 (ibid., pp. 47-48).

[13]Lucullus' measured confidence in sense perceptions, as Cicero reports, is derived from his frequent interactions with the philosopher Antiochus of Ascalon (*Lucullus* 4). Antiochus is sometimes taken as a cookie-cutter Stoic regarding his theory of epistemology. Gisela Striker, however, notes that although Antiochus' own doctrine was inspired by Stoic epistemology, he is ultimately "wrong…in describing the Stoic criterion as a 'sign,' since this suggests, contrary to what the Stoics intended, that one might be aware of a cognitive impression but not of the external object revealed by it" (Striker 1990, p. 158). This interest in the sign—that is, the *nota*—of the external object persists throughout Cicero's dialogue.

[14]*ordiamur igitur a sensibus, quorum ita clara iudicia et certa sunt…est maxima in sensibus veritas*, II.19. Although *certum* is an important epistemological term in the *Lucullus*, the word appears only twice in the *Academica*. I count the two appearances of the adjectival/substantive forms. The related adverb *certe* appears only once at I.13. On one occasion, Cicero writes that both Academic and Peripatetic schools "drew plentiful supplies from Plato's abundance, and both framed a particular well-defined (*certam*) rule of doctrine" (*utrique Platonis ubertate completi certam quandam disciplinae formulam composuerunt*, I.17). Here, *certam* merely denotes that the two schools—Peripatetic and Academic—that arose from Plato's original teaching each had their own robust ideas. On another occasion, Cicero remarks that it is Plato's Old Academy where "all things are inquired into and no certain statement is made" (*de omnibus quaeritur, nihil certi dicitur*, I.46). This use of *nihil certi* refers to Socrates' elenchus, which "is an adversarial procedure [whose] object is always the discovery of the truth," as opposed to "eristic" which merely seeks to win arguments (Nehamas 1990, p. 7). The word appears seventeen times, however, in the *Lucullus*. Translations of Cicero's *Lucullus* are adapted from H. Rackham, ed. and trans. (Cambridge, MA: Harvard University Press, 2000).

of truth. These *iudicia* are not mere "judgments"; rather, a *iudicium* is a technical term in both the *Academica* and *Lucullus* for *kritērion*, the Greek word for the "mark" that is associated with accurate and reliable sensory experience.[15]

More often, however, Lucullus uses *nota*, not *iudicium*, when referring to the criterion, although in either case he couples his Latin noun with the adjective *certum*. In a later passage, for example, Lucullus points to the *certa et propria nota* as the criterion that sets claims of sensory knowledge above claims of mere probability, an assurance at the foundation of his Stoic-influenced epistemology:

> [The Academics'] effort is not aimed at proving that it cannot ever happen that a man may make a positive assertion about a thing without there being some *certa et propria nota* attached to the thing that he in particular professes to accept. What then is the probability that your school talks about?[16]

Lucullus' discussion of the criterion of proof—the *certa et propria nota*—treats the two adjectives of this formulation separately, and it will be helpful to look at the concept of "belonging" before turning our attention to certainty. First, the concern that the criterion should be the "property" of something true—that is, be exclusively associated with what is

[15]For a discussion of the technical meaning of *iudicium*, see Reid (1885, pp. 135-136, 195). See another example of such a use at *Academica* I.30 (ibid., p. 135). Glucker also gives *iudicium* as the standard Ciceronian translation for κριτήριον, noting that "where a fairly literal translation seems satisfactory, Cicero keeps to it" (1995, p. 118).

[16]*Ita neque color neque corpus nec veritas nec argumentum nec sensus neque perspicuum ullum relinquitur. Ex hoc illud iis usu venire solet ut quicquid dixerint a quibusdam interrogentur: 'Ergo istuc quidem percipis?' Sed qui ita interrogant, ab iis irridentur; non enim urguent ut coarguant neminem ulla de re posse contendere nec adseverare sine aliqua eius rei quam sibi quisque placere dicit certa et propria nota. Quid est igitur istuc vestrum probabile*, II.34–35. While Lucullus earlier uses *iudicium* as his Latin translation for the κριτήριον, here he uses *nota* as his Latin equivalent for the Greek word σημεῖον, "a term used by all the late Schools for the sign or rule by which truth might be known," but in either case the criterion must exhibit certainty (Reid 1885, p. 278). Although different authors may sometimes prefer one term over another, "there is often little to distinguish σημεῖον from κριτήριον" (ibid., p. 278).

true or *proprium* to it—is a central point of contention among earlier Hellenistic philosophers.[17] Confident in the viewers' ability to separate the true from the false, Lucullus associates the adjective *proprium* with the sign of a true cognitive impression, insofar as the *nota* belongs particularly and unambiguously to the true thing that is perceived:[18]

> If there is a commonality with a false presentation, it will contain no standard of judgment, because a special property (*proprium*) cannot be indicated by a common mark (*commune signum*). But if on the contrary there is nothing in common between them, I have got what I want, for I am looking for a thing that may appear to me so true that it could not appear to me in the same way if it were false.[19]

Lucullus' argument here touches on the uniqueness and discernibility of true impressions from false ones, an important later development in the Stoic theory of the cognitive impression.[20] The third condition of such an impression—the requirement that a cognitive

[17]Antiochus, a teacher of Cicero who came to adopt a Stoic position after a period of skepticism, "complained that the alleged criterion of [Academic skeptics] was common to truth and falsehood, since they admitted that even an unimpeded and tested plausible impression might be false " (Striker 1990, p. 158).

[18]Gisela Striker notes that Lucullus' account of the *nota* here implies that "the 'sign' can be observed independently of the thing signified, and this is a point that no Stoic worth his salt should have admitted" (1997, p. 264). Lucullus' understanding posits that "what the observer receives is the impression, which may or may not correctly represent its object" (ibid., p. 265). Striker hypothesizes that Lucullus' unorthodox understanding of the Stoic criterion is a consequence of Antiochus' blending of Stoic and Carneadean epistemologies (ibid., 265f.).

[19]*In eo autem, si erit communitas cum falso, nullum erit iudicium, quia proprium communi signo notari non potest; sin autem commune nihil erit, habeo quod volo, id enim quaero quod ita mihi videatur verum ut non possit item falsum videri*, II.34.

[20]Debate between the Stoics and the Academics "was indeed centered around the third clause of the Stoic definition" (Striker 1997, pp. 255-256). Striker compiles three qualities from Diogenes Laertius (VII.50) and Sextus Empiricus (*Adversus Mathematicos* VII.248), in addition to Cicero's *Lucullus* (77). The original definition of the cognitive impression, however, only included the first two of these three conditions. J. Hankinson writes that this third condition was added by Zeno "in response to Arcesilaus' objection that the original Stoic characterization [where cognitive impressions are defined merely by arising from what is true and through an impression in exact accordance with what is true] was inadequate, since if there were false impressions indistinguishable from true ones, we could never as a matter of fact know" that these original two conditions had been fulfilled (Hankinson 1997, p. 169).

impression arise from what is and not what is not, labelled [3] in the preceding definition—is precisely the quality denoted by *proprium*. A second appearance of *propria nota* makes this association between the third condition and the adjective *proprium* clear:

> For just as the objects of sight are recognized only by means of the eyes, so everything else is recognized by means of sense-presentations; but they are recognized by a mark that belongs exclusively to what is true (*propria veri…nota*), and is not common to the true and the false (*non communi veri et falsi*).[21]

The appearance of *proprium* here without its common partner *certum* helpfully isolates the issue at stake for Lucullus: if a *nota* were not *propria*, it would be *communis* to both the true and the false, and therefore it would not meet the third condition of the cognitive impression. That impression, so he explains, must be property of the *verum* alone and not *communis* with the *falsum*.

Just as Cicero's text shows how *proprium* carries a technical meaning of "ownership" in the context of Stoic cognitive impressions, his dialogue similarly uses *certum* to denote another technical consideration in these epistemological debates. Lucullus' association of *proprium* and the third condition of the Stoic cognitive impression—where the *nota* must be *propria* to the true and not *communis* with the false—parallels his coupling of certainty with the second condition, which requires that a cognitive impression be "imprinted and impressed in accordance with what is." Immediately after his discussion of *proprium*, Cicero's dialogue similarly treats the controversy relating to the second condition of the cognitive impression by appealing to another set of novel Latin term. As the text renders this conflict, Stoics and Academics disagree about whether impressions are

[21] *Ut enim illa oculis modo agnoscuntur, sic reliqua visis, sed propria veri, non communi veri et falsi nota*, II.33.

both *percepta* and *perspicua*: while the Stoics believe that a sensory perception can convey the exact qualities of an object to the viewer, the Academics suspect that an impression might distort or otherwise falsely represent the qualities of the thing perceived.[22] In terms of these two adjectives, a Stoic maintains that what is perspicuous (*perspicuum*, or clearly sensed) is necessarily perceived (*perceptum*), the adjective that denotes the viewer's truthful, accurate grasp of an impression.[23] Academic skeptics, by contrast, argue that what is *perspicuum* is not necessarily *perceptum*, on account of the fact that the putative clarity of an impression is no guarantee of its accuracy. And this debate, as Lucullus shows here, culminates in a claim regarding the certainty of sensory experience:

> Skeptics try to prove that there is such a thing as something perspicuous (*aliquid perspicui*), but that thing, even when it has been impressed (*impressum*) in the mind and intellect, it nevertheless is not capable of being perceived and comprehended. Indeed, how can you say that something is perspicuously white when it can happen that a thing that is black may appear to be white? Or how shall we say that things are either perspicuous or exactly impressed upon the mind when it is *incertum* whether the mind is stirred truly or deceptively?[24]

At first, it might seem like Lucullus is merely reinforcing the arguments in support of the *propria nota*, a reasonable understanding since "the third clause [of the Stoic defintion of cognitive impressions] makes explicit what is already implied by the second."[25] But the appearance of *impressum*—and Lucullus' move to a separate but *similis error*—shows that

[22]For a discussion of Academic doubts concerning this mechanism of percpetion, see Allen (1997, pp. 218-219) and Reid (1885, p. 219).

[23]For the association of *perspicuitas* with "vividness" or *enargeia*, see Reid (ibid., p. 219).

[24]*conantur ostendere esse aliqud perspicui, verum illud quidem impressum in animo atque mente, neque tamen id percipi atque comprendi posse. Quo enim modo perspicue dixeris album esse aliquid, cum possit accidere ut id, quod nigrum sit, album esse videatur, aut quo modo ista aut perspicua dicemus aut impressa subtiliter, cum sit incertum vere inaniterne moveatur*, II.34.

[25]Striker (1997, p. 266).

Lucullus is in fact concentrating on this second clause, namely that what is sensed must be "impressed in exact accordance" with the object under examination.[26] The argument in this passage, then, centers on the mechanism of impressing and whether such impressing is done reliably: by pointing to the mechanism of impression—"whether the mind is stirred truly or deceptively"—as the central issue surrounding the second condition, Lucullus draws attention to the impressing and its effects on the viewer rather than the truth of the object from which the impression arises. The skeptical position, according to which accuracy in this mechanism cannot be guaranteed, leads one to uncertainty: when skeptics cast doubt on this mechanism, the viewer is left with what is *incertum*.

A second discussion of the clarity of perceptions underscores how certainty is the quality associated with such clarity rather than with the status of the perceived objects themselves. In this later passage, Lucullus rebuts the skeptical argument that ordinary sensory experiences could be inaccurate in exactly the way that dreams and hallucinations are: "Do they not even see that they make everything *incerta*—a position they deny (I use *incerta* to translate the Greek *adēla*)?"[27] The objects of ordinary perceptual experience (*omnia*) which are *adēla* in this passage are "unclear" not in relation to what they are

[26] After addressing the need for a *nota* to be *propria*, Lucullus explains that Academics similarly err (*simili in errore versantur*) when they separate the "perspicuous" and the "perceived" (*cum convicio veritatis coacti perspicua a perceptis volunt distinguere*, II.34. The origin of this dispute is unclear. James Reid argees with C. F. Hermann that "this distinction was insisted on by Philo" of Larissa (Reid 1885, p. 219), but Harold Tarrant and John Glucker trace it back to Metrodorus of Stratonicea (Tarrant 1981, p. 73) where there is an agreement that *percepta* refers to what is "self-evident" (ἐναργῆ) and that *perspicua* refers to what is "grasped" (καταληπτά). Reid notes that *subtiliter* is a translation of *akribōs*, an adverb related to the precision of cognitive impressions Reid (1885, p. 221).

[27] *Ne hoc quidem cernunt, omnia se reddere incerta, quod nolunt (ea dico incerta quae adēla Graeci)?*, II.54. Lucullus makes a similar point earlier without supplying a Greek translation at II.32 (*si ea quae disputentur vera sint, tum omnia fore incerta*).

but rather in relation to how they appear, and Lucullus expounds upon this difference in the sentence that immediately follows: "For if objects are so constituted (*ita habeant*) that it makes no difference whether they appear (*videantur*) to anybody as they do to a madman or as they do to a sane person, who can be satisfied with his own sanity?"[28] Lucullus here is not interested in external objects themselves and their existential status; rather, he worries about how they are perceived (*videantur*). The skeptical attack on certainty, then, is an attack on clarity. As a matter of ordinary sensory experience, one's mind may be impressed and objects may thus appear in ways that are inseparable from these canonical cases of distortion, and thus the alleged clarity of an impression—its "certainty"—is similarly subject to the Academic's doubt.

Lucullus continues to rely on the vocabulary of certainty as he bemoans the inconsistency and impracticality of skeptical approaches to sense impressions. He criticizes the skeptics as "persons who are confident that the doctrines they are defending are true and established and *certum*," an alignment of the true and the certain that encapsulates his disagreement with his intellectual rivals.[29] This attack on skeptical arguments more generally highlights the importance of accurate impressions in Stoic epistemological doctrine, where what is *certum*—that is, what is *perspicuum* and therefore *perceptum*—motivates both sensory knowledge and abstract intellectual activity. Not only does Lucullus argue

[28] *Si enim res ita habeant ut nihil intersit utrum ita cui videantur ut insano an sano, cui possit exploratum esse de sua sanitate*, II.54.

[29] *illa vera et firma et certa esse quae tutentur*, II.43. And in an earlier passage, Lucullus shows that their ignorance stems from an absence of sensory knowledge: "Why, I ask, has the skeptic saddled himself with such burdensome rules as this when he had no grasp or perception or knowledge or agreement of any fact that furnished a reason why it was his duty to do so?" (*cur has sibi tam graves leges imposuerit cum quam ob rem ita oporteret nihil haberet comprehensi, percepti, cogniti, constituti*, II.23.)

that sensory impressions are a source of "wisdom herself," but he also suggests that such impressions serve as the justification for all action:[30]

> As for wisdom herself, if she does not know whether she is wisdom or not, how in the first place will she make good her claim to the name of wisdom? Next, how will she venture with confidence to plan or execute any undertaking when there will be nothing certain (*certi nihil*) for her to act upon?…There must be a first principle established for wisdom to follow when she embarks on any action, and this first principle must be consistent with nature; for otherwise, appetition (our chosen equivalent for the term *hormēn*), by which we are impelled to action and seek to get an object presented to our vision, cannot be set in motion. But the thing that sets it in motion must first of all be seen, and must be believed in, which cannot take place if an object seen will be indistinguishable from a false one.[31]

Lucullus here sets up a chain of causality that begins with sensory perception and ends with deliberate action. There must be "a beginning" (*initium*) which wisdom can follow whenever she wishes to embark on a course of action (*quod sapientia cum quid agere incipiat sequatur*), which manifests itself as an *adpetitio*.[32] But this *initium* first arises from

[30]Lucullus' bundling of sensory impressions with non-sensory forms of knowledge is characteristic of "all Hellenistic theories…[which focus] on how we acquire information through the senses, assuming optimistically that with this start from the senses the mind can eventually grasp everything that we recognise to be knowledge" (Annas 1990, p. 185).

[31]*Ipsa vero sapientia si se ignorabit sapientia sit necne, quo modo suscipere aliquam rem aut agere fidenter audebit cum certi nihil erit quod sequatur?…constitui necesse esse initium quod sapientia cum quid agere incipiat sequatur, idque initium esse naturae accommodatum. Nam aliter adpetitio (eam enim volumus esse ὁρμήν), qua ad agendum impellimur et id adpetimus quod est visum, moveri non potest; illud autem quod movet prius oportet videri, eique credi, quod fieri non potest si id quod visum erit discerni non poterit a falso*, II.24–25.

[32]*adpetitio* is "Cicero's regular rendering of the Stoic expression ὁρμή, impulse. This, according to the Stoics, is aroused whenever the mind becomes cognisant of any object which is in harmony with nature" (Reid 1885, p. 211). Lucullus' argument here was a popular one which affirmed that "if the sceptics were consistent they would be reduced to inaction in every description," or as Reid thinks David Hume might understand the problem, "[the skeptic] must acknowledge, if he will acknowledge anything, that all human life must perish, were his principles universally and steadily to prevail. All discourse, all action would immediately cease, and men remain in total lethargy, till the necessities of nature, unsatisfied, put an end to their miserable existence" (ibid., p. 56).

sensory experience: whatever one believes must also be seen (*quod est visum, oportet videri*).[33] Like Lucullus' earlier discussion, this passage underscores the mechanism of impression: without a certainty (*certum*) to begin from, the appetition "cannot be set in motion" (*moveri non potest*).[34] And as a coda to this discussion, Lucullus turns to the third clause of the cognitive impression: not only must the object be perceived (that is, *certum*), but also it must be "believed in" (*credi*), for assent cannot take place if that which is seen (*quod visum erit*) cannot be distinguished from what is false (*a falso*). The criterion, therefore, must be both *certum* and *proprium*—it must meet the second and third conditions of the Stoic cognitive impression, respectively.

Lucullus' confidence in the Stoic cognitive impression serves as grounds for his coupling of certainty and truth, the coupling we see in the Harleianus glossary. And his association of certainty with the mechanism of impression in particular approximates and foreshadows the first notion of certainty in Quintilian's catalog, where *certum* is defined as what is perceived by the senses.[35] But in the remainder of his enumeration of the several types of *certa*, Quintilian does not argue that sense perceptions are reliable truths, and in fact, his more general understanding of *certa* as forms of consensus suggests that Quintilian sees these certainties as mere probabilities or even possibilities, not

[33]The double appearance of passive forms of *video* should not merely be read in the regular sense of "seem" or "appear," but instead in the more literal sense of "be seen." Reid notes that *videri* here is 'to be seen' and that the word at the end of the passage (*Quod si aliquid aliquando acturus est, necesse est id ei verum, quod occurit, videri*) uses the more idiomatic sense of 'to seem' (1885, p. 205). The importance of sense perception to Lucullus makes the more literal, more sense-based definition "to be seen" appealing if only as a secondary connotation.

[34]A similar verb, *moveatur*, is used to denote mental action when Lucullus defines the *certa et propria nota* at 34-35.

[35]For a brief discussion of Quintilian's catalog of different types of *certa* at *Institutio* V.10.12-14, see the introduction of this dissertation.

infallible cognitive impressions. While Lucullus' discussion of certainty provides a helpful antecedent to Quintilian's first definition of *certum*, his confidence in certainty is largely at odds with Quintilian's more modest—or even skeptical—approach to the epistemic value of what is *certum*.

By viewing Cicero's responses to Lucullus later in his dialogue, however, we see how Cicero's understanding of certainty foreshadows this epistemic modesty regarding sense perception in Quintilian's forensic manual. The latter half of the *Lucullus* revisits the technical meanings of *certum* and *proprium*, particularly as understood from Cicero's skeptical position: he explains that Academics "never said that color, taste, or sound was nonexistent, but their contention was that these presentations do not contain a *veri et certi nota* that is peculiar (*propria*) to themselves and found nowhere else."[36] Like Lucullus' discussion earlier in the text, Cicero here concentrates on the second and third conditions of the Stoic cognitive impression: adopting the skeptical position concerning the third condition, Cicero drives apart the association of *certum* and *proprium* on which Lucullus' confidence hinges. In other words, Cicero will carve out space for impressions that are certain but not necessarily or reliably true.

Toward the end of the dialogue, Cicero revisits the several technical terms raised in Lucullus' defense of Stoic cognitive impressions. In one passage in particular, Cicero points to the insufficiency of certainty for guaranteeing the accuracy and truthfulness of such sensory experiences:

[36] *a quibus numquam dictum sit aut colorem aut saporem aut sonum nullum esse, illud sit disputatum, non inesse in iis propriam quae nusquam alibi esset veri et certi notam*, II.103. Cicero also uses *certa illa nota* in his mocking description of the philosophical conversion of Dionysius of Heraclea, who "was a good subject for the sceptics, since he had belonged to two different dogmatic schools" (Reid 1885, p. 259).

> The only difference is that whereas you [Lucullus], when you have been deeply affected, acquiesce, assent, approve, and hold that a *certum*, comprehended, perceived, ratified, firm, and fixed thing is a true thing, and cannot be driven or moved away from it by any reason, I on the contrary am of the opinion that there is nothing of such a kind that if I assent to it I shall not often be assenting to a falsehood, since truths are not separated from falsehoods by any particular distinction.[37]

Here Cicero rejects Lucullus' understanding that "a *certum*, comprehended, perceived, ratified, firm, and fixed thing" is necessarily a "true thing" (*verum*). If we recall Lucullus' understanding of what it means to be *certum* (namely, that such a thing is clearly and accurately impressed), Cicero more specifically claims that even if the second clause of the cognitive impression is fulfilled, the third clause remains unfulfilled and thus provides enough justification for suspending belief: although an impression may be *certum* and even *perceptum*, Cicero worries that assenting to it would entail often "assenting to a falsehood, since truths are not separated from falsehoods by any particular distinction."[38] The quality of certainty, standing at the beginning of this asyndetic list of adjectives related to Stoic cognitive impressions, shows Cicero's worry that even what is clearly and accurately impressed is not necessarily true.

---

[37] *Tantum interest quod tu cum es commotus adquiescis, adsentiris, adprobas, verum illud certum comprehensum perceptum ratum firmum fixum vis esse, deque eo nulla ratione neque pelli neque moveri potes, ego nihil eius modi esse arbitror cui si adsensus sim non adsentiar saepe falso, quoniam vera a falsis nulla discrimine separantur*, II.141. It is worth noting that here *verum* is not adversative even though *verum illud* is regularly used with this sense (See, for example, *Lucullus* II.34 above and *Epistulae ad Familiares.* 7.18.4). I thank Keimpe Algra for his help in clarifying the sense of this passage both in correspondence and in print (1997, p. 137).

[38] Cicero's insistence on this point is unsurprising given the importance of this particular disagreement in much of extant debates between Stoics and Academics (Allen 1997, pp. 232-241). Cicero's word choice here reflects Stoic technical terminology: *adsentiris* recalls the Stoic concept of συγκατάθεσις, the assent that the mind gives to an impression that it has received. See Reid (1885, p. 225) for a fuller account of this term. The adjectives *comprehendum* and *perceptum*, derived from the verbs *percipere* and *comprehendere*, are "so closely allied" and "of identical meaning" (ibid., p. 219), and they denote the technical concept of "cognition in the sense of κατάληψις" (Algra 1997, p. 132).

Cicero underscores the deficiency of certainty by his ironic use of comparative and superlative forms of *certum* elsewhere in the *Lucullus*. These two appearances—one of the comparative and one of the superlative—make light of the double valence of *certum*: on the one hand, it has strong associations with what is *verum*, but on the other, it is separated from the true as a matter of his own Academic skepticism.[39] In his use of the comparative, he explains his suspicions regarding the third condition of the cognitive impression:[40]

> But all these things are brought forward in order to prove what is the most certain fact possible (*quo certius nihil potest esse*), that in respect of the mind's assent there is no difference between true presentations and false ones.[41]

Cicero offers this defense of skepticism in his final rebuttal of Lucullus' arguments: the only doctrine that deserves our assent is the constant doubt of the validity of our sense perception.[42] The "most certain fact possible"—that is, what is most true in the first, stronger sense of certainty above—is that what is *certum* is not necessarily *verum*, for the third condition of the cognitive impression may remain unfulfilled: "there is no difference between true presentations and false ones."

Cicero's one use of the superlative form, *certissimum*, similarly casts doubt on the epistemic value of certainty:

---

[39]For the association of *certum* and *verum* elsewhere in Latin literature, see TLL and OLD.

[40]There is an instance of *certius*, which could be either an adjective or an adverb: "Also you said that Socrates and Plato must not be classed with them. Why? Can I speak more certainly about any others?" (*Et ab eis aiebas removendum Socraten et Platonem. Cur? an de ullis certius possum dicere?*, I.74.) (Reid 1885, p. 263) understands *certius* as an adverb.

[41]*Omnia autem haec proferuntur ut illud efficiatur quo certius nihil potest esse, inter visa vera et falsa ad animi adsensum nihil interesse*, II.90.

[42]Reid (ibid., p. 286) writes that *adsensum* here conveys συγκατάθεσιν.

> Seeing that Panaetius, who in my judgment at all events is almost the chief of the Stoics, says that he is in doubt as to the matter which all the Stoics beside him think most certain (*certissimam*), the truth of the pronouncements of diviners, of auspices and oracles, of dreams and soothsaying, and that he restrains himself from assent, which he can do even about things that his own teachers held to be certain, why should not the wise man be able to do so about everything else?[43]

Panaetius, whose reputation for diverging from Stoic orthodoxy was wide-spread, rejects the belief which "his own teachers felt to be certain," namely the truth of oracles and prophets.[44] Cicero criticizes this confidence in divination in *De Divinatione*, and by ironically referring to this Stoic belief as *certissimum* here, he draws attention to how certainty does not, at least for him, carry along with it the quality of truthfulness.[45] His use of the superlative adjective here reflects a belief that even what is the "most certain" is nevertheless an epistemically deficient category of knowledge, if not outright superstition.

Cicero's separation of *certum* from *verum* underscores a lexical point in one of the important philosophical disputes between the Stoics and the Academics of his time, and his discussions in his *Lucullus* illustrate that the tidy coupling of *verum* and *certum* in the Harleianus glossary is not shared among all ancients, especially in the context of technical philosophical debates. Another glossary, in fact, corroborates this division of the two terms. The so-called Philoxenus glossary, found in a ninth-century manuscript, lists Latin terms and provides Greek equivalents for each, and its entries regarding certainty highlight the complexity surrounding the Latin root *cert**. For even if the earlier Harleianus

[43] *Cum Panaetius, princeps prope meo quidem iudicio Stoicorum, ea de re dubitare se dicat quam omnes praeter eum Stoici certissimam putant, vera esse haruspicum responsa, auspicia, oracula, somnia, vaticationes, seque ab adsensu sustineat, quod is potest facere etiam de iis rebus quas illi a quibus ipse didicit certas habuerunt, cur id sapiens de reliquis rebus facere non possit?*, II.107.

[44] See Reid (1885, p. 303).

[45] Cicero recounts Panaetius' unique position among Stoics at *De Divinatione* I.6.

glossary illustrates a tight correspondence between *verum* and *certum*, this later compilation suggests a messier relationship between the certain and the true:[46]

- *certum* – ἀληθές
- *certus* – ἀκριβῆς, ἀληθῆς, βέβαιος

On the one hand, the neuter substantive in the Philoxenus glossary preserves the sense shown in the seventh-century Harleianus glossary: that which is *certum* is identical with what is "true" in Greek texts. On the other hand, the entry for *certus* here includes alongside *alēthēs* the adjectives *akribēs* and *bebaios*, neither of which is consistently associated with the Greek root *alēth**, a fact attested in the entries of the Harleianus glossary.[47] In that earlier compilation, *akribēs* lists as its equivalents *certus*, *cautus*, *scrupulosus*, and *subtilis*; and *bebaios* lists *certus*, *ratus*, *firmus*, and *stabilis*. Neither *akribēs* nor *bebaios* in the Harleianus glossary includes *verus* as an equivalent, but both list *certus*. While this study makes no effort to provide for *certus* a clean Greek antecedent or to explain the separation of *certum* and *certus* in the Philoxenus glossary, the manifold rendering of *certus* in the ninth-century manuscript suggests that some post-classical authors observe a misalignment of truth and certainty among their Roman prececessors. And Cicero's *Lucullus*, where this misalignment sits at the root of a crucial epistemological disagreement, serves

[46]For a brief history of the Philoxenus glossary and the manuscript that contains it, Parisinus lat. 7651, see Goetz and Gundermann (1965, 2:vii–xx). Glucker notes that arguments against the "ascription of this glossary in its present form to the grammarian Philoxenus, contemporary of Varro and Cicero, have been reaffirmed by its latest editor; but some of its glosses may well have been derived from an early source" (1995, p. 121). Glucker defends the general chronological position of the author, arguing that the text has "glosses related to Cicero and to two major Augustan poets…[and] a Greek grammarian living in Rome at the time of those authors and showing an interest in Latin in any case would naturally be attracted to these three writers."

[47]The *TLL* similarly provides βέβαιος as a Greek equivalent for *certus* (IV).

as a potent example of this fundamental separation.

Before turning to Quintilian's rhetorical discussion of certainty in the following chapter, it is important to view Cicero's other works—particularly those concerning oratory—for a fuller picture of his capacious understanding of certainty. On the one hand, as we have seen already, the concept sits at the center of a philosophical debate he composed near the end of his life; but an effort to define *certum* as a technical term characterizes some of Cicero's forensic writings, too.[48] In turning to these works, both speeches and theoretical treatises, readers again find an understanding of *certum* that is related to but not synonymous with *verum*, and Cicero's discussions of certainty in considerations of verbal style, lexical specificity, and legal culpability often bear on notions of property and

[48]As discussed at the beginning of this chapter, it is perhaps unwise to draw distinctions between these two rough categories of Cicero's works. Even if in Book I of Cicero's *De Oratore*, Antonius argues that an orator has no need for immersing himself in philosophical debate and in order to avoid appearing to be a "silly Greekling" recommends that the orator should avoid topics like the supreme good and the roles of virtue and pleasure in seeking it, Cicero shows an eagerness to combine philosophical discussions in his explicitly oratorical works. For Antonius' recommendation, see *De Oratore* I.221-222. Among these recommendations against studying perennial philosophical questions, Antonius also argues that the orator has no business investigating "whether (as it has appeared to particular philosophers) nothing can be known to be *certum*, and nothing can be grasped and perceived plainly" (*an vero, ut quibusdam visum, nihil certum sciri, nihil plane cognosci et percipi possit*, I.222). Wilkins remarks that "*certum* follows *sciri* and does not depend on *nihil*" (1962, p. 196). Leeman, Pinkster, et al. (1981, 2:145) recommends that *certum* be understood as a predicate, noting that this epistemological question "is a matter of the Academy." The reappearance here not only of *certum* but also verbs important to debates about cognitive impressions (*cognosci*, *percipi*) show how the epistemological concerns surrounding certainty may already be present in Cicero's earlier rhetorical works. And another instance of *certum* in *De Oratore* reinforces that the term was particularly important to Academics in their rejection of cognitive impressions: Arcesilaus, Crassus recounts, "selected for adoption from the various writings of Plato and the Socratic dialogues the dogma that there is *nihil certi* which can be apprehended either by the senses or the mind" (*ex variis Platonis libris sermonibusque Socraticis hoc maxime arripuit, nihil esse certi quod aut sensibus aut animo percipi possit*, III.67). Leeman, Pinkster, et al. (ibid., 4:254) notes the connection between this set of vocabulary and the debates between Academics and Skeptics. Mankin (2011) does not comment on this instance of *certum*, but Wilkins (1962, p. 445) notes that counter to the suggestion by editors Bake and Kayser to take *nihil esse certi* as a predicate ("that what can be grasped either by the senses or the intellect is no certainty") is incorrect since "this possibility of 'grasping' was just what the New Academy denied."

ownership through a close pairing of *certum* and *proprium*, a pairing that resurfaces in his later philosophical writings. These appearances all suggest that the technical meaning of certainty found in Cicero's late epistemological discussions arises from long-developing considerations of certainty as a matter of the courts and forensic oratory, not merely as a matter of Cicero's Academic interests.

Etymologically, *certus* comes from the past participle of *cerno*, and *cerno* itself is related to the Greek verb *krinō*, "to separate," "to pick out," or "to judge," and use of *certum* throughout the Ciceronian corpus points to this earlier notion of separation and selection.[49] In *De Oratore*, Crassus discusses the verbal styles of various orators, and he contrasts his own oratorical style with Antonius', ultimately recognizing the unique qualities of each.[50] Not adopting broad categories such as the grand and plain styles, he concludes that each orator has a style that is particular to him:

> And if such wide differences exist between us who are present and things of each man are so *certa* and *propria*, and if in this variety the superior is distinguished from the inferior almost more by capacity than by style, and everything is applauded that is perfect in its own style, what do you not suppose the result will be if we choose to take into consideration all the orators past and present of all countries? Do you not expect that we shall find almost as many styles of oratory as orators?[51]

[49]See *OLD cerno*. The *OLD* also reports that the verb is related to the Welsh word *go-grynu* ("to sift") and the Anglo-Saxon word *hrēni* ("to clean").

[50]See III.32-33. For a fuller discussion of Cicero's terminology relating to oratorical styles, see Fantham (1979).

[51]*Quod si in nobis, qui adsumus, tantae dissimilitudines sunt, tam certae res cuiusque propriae et in ea varietate fere melius a deteriore facultate magis quam genere distinguitur atque omne laudatur, quod in suo genere perfectum est, quid censetis, si omnis, qui ubique sunt aut fuerunt oratores, amplecti voluerimus, nonne fore ut, quot oratores, totidem paene reperiantur genera dicendi?*, III.34. Mankin (2011, p. 126) suggests rendering *tam…propriae* as "so particular [are] the attributes characteristic of each," citing *OLD certus* 3a, *proprius* 3a. A similar suggestion appears in Leeman, Pinkster, et al. (1981, 4:171): "so deutliche Besonderheiten." Translations of *De Oratore* Book III are adapted from H. Rackham, ed. and trans. (Cambridge, MA: Harvard University Press, 1942).

It is safe to say that Crassus' use of *certum et proprium* here does not point to some feature of the Stoic cognitive impression as it bears on oratorical style; instead, he positions this terminology within a discussion of the "ownership" of one's oratory.[52] He argues that each and every orator (*quisque*) is somehow dissimilar from all others, and that each has a unique and particular style which in some way belongs to him (*propriae*).[53] But if Cicero merely means to establish a notion of stylistic ownership or property, why does he not just call these styles *propria* and omit *certa* all together? In what sense are these two adjectives—not synonyms in their own right—useful for denoting Crassus' vision of stylistic particularity?

The kind of ownership that Cicero describes here is a strict one, where each orator has his one and only style, and while it is perhaps possible for one orator to command several styles, Crassus intends a near one-to-one correspondence: "we shall find almost as many styles of oratory as orators." The adjective *proprium*, as ancient authors themselves admit, is insufficient in pointing to this stronger, more exclusive brand of ownership. In his *Institutio*, Quintilian points to the ambiguity surrounding *proprium* when he writes that the adjective denotes both when something belongs to someone alone and when

[52]For a discussion of ownership as a notion of personal style in antiquity, see Eden (2012, pp. 11-48).

[53]Crassus emphasizes the point by mentioning the variety of oratorical styles (*in ea varietate*) and by defining each orator according to his own class (*in suo genere*, III.34). In the sentences following this passage, in fact, he understands that the number of styles is so great and the variety so wide that some might argue the impossibility of studying them with any unifying system at all (*non posse ea quae inter se discrepant eisdem praeceptis atque in una institutione formari*, ibid.). Crassus' argument for ownership of oratorical style thus rests on a system of untangled, one-to-one correspondence, unlike an Aristotelian tripartite division of forensic, deliberative, and epideictic genres or grand, middle, and plain registers. A similar point about the insufficiency of these tripartite systems is made at *Orator* §53, as discussed in Fantham (1979, pp. 455-456).

something belongs to someone but not exclusively.[54] The use of *proprium* by itself does not, therefore, necessarily denote the kind of exclusive and unique ownership that Crassus discusses here.

The addition of *certum*, one might hypothesize, somehow specifies the first, more restrictive sense of ownership in Quintilian's discussion. The owned object, here the stylistic *dissimilitudo* of each and every orator, has to be "separated" or "sifted" to such a degree that each speaker possesses one and only one style. Other texts in the Ciceronian corpus support this hypothesized usage of *certum et proprium* as an adjective pair for denoting this stricter version of ownership. These adjectives appear together, for example, in the forensic setting of Cicero's *Verrine Orations*, where in the course of a lengthy *praeteritio*, Cicero declines to prosecute Verres for his crimes that occurred during the time of Sulla's proscriptions, since in those cases the culpability could be attributed to Sulla instead of or even in addition to Verres. Cicero claims he will concentrate only on those actions whose agency is unambiguously and uniquely attributable to the defendant—that is, the *crimina* that are *certa et propria* to Verres alone:

> That part of his criminal background which belongs to the time of the Sullan proscriptions, with its acts of pillage, I shall omit; I will not allow arguments in his support; I will prosecute him only for his (*sua*) crimes that are *certa propriaque*. I would therefore rule out all charges against him that would belong to this period of Sulla's power; let us now examine his splendid record as assistant governor.[55]

[54] See V.10.58. Quintilian's own example of the weaker understanding of *proprium* is a good one: the production of heat, which belongs to fire, also belongs to the sun. The production of heat, therefore, is *proprium* to fire in the second, non-exclusive sense.

[55] *in quibus illud tempus Sullanarum proscriptionum ac rapinarum praetermittam; neque ego istum sibi ex communi calamitate defensionem ullam sinam sumere; suis eum certis propriisque criminibus accusabo. quam ob rem hoc omni tempore Sullano ex accusatione circumscripto legationem eius praeclaram cognoscite*, II.1.43. This passage contains the only pairing of *proprium* and *certum*

The inclusion of *suum* in a syntactically parallel position cements the understanding of *certum propriumque* as a concept associated with ownership, and Cicero's omission of "all charges against [Verres] that would belong to this period of Sulla's power" strongly suggests that the kind of ownership Cicero conveys here is the more exclusive type in Quintilian's aforementioned distinction.[56] As with Crassus' definition of oratorical style, Cicero's *certa propriaque crimina* are specifically associated with one person and one person only: the crimes are the "property" of Verres and moreover have been sorted, separated, and sifted to his unique domain.

In the cases of Verres' culpability and Crassus' oratorical style, the adjective pair *certum et proprium* denotes a kind of individual association and ownership; however, as further examples of this pair will show, its use extends beyond the forensic setting of the courtroom. Elsewhere in *De Oratore* Book III, Cicero applies this terminology to lexical specificity, where *certum et proprium* refers not to ownership of personal style but the association of a word with its single proper referent:

> The words we employ then are either the *propria et certa* designations of things as if they were born at the same time as the things themselves; or terms used metaphorically and transferred in a place not belonging to them; or new coinages invented by us.[57]

Crassus here contrasts *certa et propria* words with metaphorical language, where the for-

in the *Verrine Orations*.

[56]See Eden (2012, p. 26) for a brief discussion of the legal role of *suus* and *proprius* in Cicero's *De Officiis*.

[57]*Ergo utimur verbis aut eis quae propria sunt et certa quasi vocabula rerum paene una nata cum rebus ipsis; aut eis quae transferuntur et quasi alieno in loco collocantur; aut eis quae novamus et facimus ipsi*, III.149. Mankin (2011, p. 235) translates *propria et certa* as "proper and specific" and suggests that *proprius* here is a Latin translation of the Greek κύριος or οἰκεῖος. He does not provide a Greek equivalent for *certus*.

mer are strictly literal, each word denoting the object with which it shares an almost hereditary link.[58] The language of ownership and property, extending beyond the purely legal realm, here distinguishes proper and metaphorical vocabulary.[59] But as with crimes and their perpetrators as well as styles and their practitioners, *certa et propria verba* enjoy an exclusive relationship with the things they signify.[60]

[58]Mankin (2011, p. 235) suggests that Crassus "alludes to without endorsing (*paene*) an ancient theory, first elaborated in Plato's *Cratylus* and later adopted and modified by the Epicureans, that words and language in general were in origin a product of 'nature' (*physis*) and not, as in competing theories, of 'convention/culture' (*nomos*)."

[59]Kathy Eden explains that "in psychological as well as in legal matters, moreover, whatever is not *suum* and *proprium* is *alienum*" (2012, p. 27). Mankin (2011, p. 235) suggests that the metaphor of place in *alieno in loco* "may be derived, directly or indirectly, from Aristotle's use of *xenos*/*xenikos* ('foreign') in connection with metaphor." See a related use of *certa* to denote the accent or dialect proper to a place in the discussion of *certa vox Romani generis urbisque propria* at *De Oratore* III.44. Wilkins merely notes in his commentary that "*certa* = 'definite,' " (1962, p. 82). Leeman, Pinkster, et al. (1981, 5:189) rightly suggests that "*certa* emphasizes that [the words] are specific and unique to the *res*." This same commentary also notes the ambiguity surrounding *proprius* in lexical discussions since the adjective can point to the "regular, common, familiar term for a thing [which] excludes old-fashioned and other unusual words as well as coinages" or alternatively "the 'literal' term [which] excludes metaphors and coinages, but includes old-fashioned and other unusual words in their literal sense" (ibid., V:188). Innes (1988, p. 308) points to the two mismatched divisions of words in *De Oratore*: at III.149 Crassus recommends *propria et certa*, metaphors, and neologisms, but at III.152, he recommends unusual words (*prisca*, or archaisms), metaphors, and neologisms. Archaic and "proper" do not seem to be interchangeable terms, but Crassus hints that *propria et certa vocabula* have meanings that are as old as their referents themselves (*quasi vocabula rerum paena una nata cum rebus ipsis*, III.149). We see another example of *proprium et certum* to denote lexical specificity in the *Rhetorica ad Herennium*, where the author explains *abusio* (*catechresis*): "*Abusio* is the inexact use of a similar and kindred word in place of the *certo* and *proprio* word, as follows: 'The power of the man is short,' or 'small height,' or 'the long wisdom in the man,' or 'a mighty speech,' or 'to engage in a slight conversation.' Here it is easy to understand that words of kindred, but not identical, meaning have been transferred on the principle of inexact use" (*Abusio est, quae verbo simili et propinquo pro certo et proprio abutitur, hoc modo: 'Vires hominis breves sunt;' aut: 'parva statura;' aut: 'longum in homine consilium;' aut: 'oratio magna;' aut: 'uti pauco sermone.' Nam hic facile est intellectu finitima verba rerum dissimilium ratione abusionis esse traducta*, IV.45).

[60]Cicero is not making a normative claim in favor of the use of language that is *certum et proprium* over that which is metaphorical. Quite to the contrary, his forensic argument in *Pro Caecina*, combining the lexical and judicial domains covered in the previous examples, claims that *certa et propria vocabula* are insufficient for legal discourse. A major point of the case hinges on the legal interpretation of *deiectio*, the ejection of Caecina from the land that he allegedly possessed. Hodge explains that in this case "the facts were mostly admitted by both sides: the

Throughout these varied examples from Cicero's rhetorical works, we unearth an understanding of *certum et proprium* that seems quite different from the philosophical discussions in the *Lucullus*. We have shifted away from the debates of philosophical schools to applications of linguistic style, judicial culpability, and even lexicography.[61] The question thus arises of whether these seemingly unrelated applications share some common foundation. It is unintuitive that Cicero's understanding of sense perception would be rooted in a notion of clear culpability, or that his understanding of lexical specificity is somehow rooted in sense-based understandings of words.

There is, however, a strong candidate for such a shared foundation in Cicero's discussions of status theory, the framework of rhetorical invention pioneered by Hermagoras in the second century. This framework, which "continued to dominate the later Greek and

real issue was a legal one" (1990, p. 88). Cicero explains the need to follow the intent of the law rather than its letter, and he argues that to understand *deiectus*—that is, "thrown downward from above"—in the most literal sense of the word would be to misconstrue the law in question (III.149). His argument against slavish literalism, as we see here, evinces an understanding of *certa et propria vocabula* rooted in unambiguous correspondence between words and their single, proper meanings. Cicero's argument rests upon his understanding of an inherent inability of language, considered as a finite collection of words, to describe the infinite variety of experience. See *varietas* in the discussion of personal style at *De Oratore* III.34. The appearance of *certa et propria vocabula* here mirrors that in Crassus' theory of verbal ornamentation and metaphor at *De Oratore* III.149, and as Cicero illustrates through these texts, literal language is too limited in both its stylistic and judicial dimensions. Cicero's understanding of "literal" use of language is more radical than we might originally gather. On the weaker interpretation, Cicero's understanding of language—and that of the author of the *Ad Herennium*, for that matter—merely includes the provision that words have literal meanings, and that we use them metaphorically to describe (sometimes artfully) our range of experiences and ideas. The stronger interpretation of "literal" meaning, however, argues that each word has one and only one literal meaning and accordingly that each meaning corresponds with one and only one word.

[61]See also its application to the visual arts in Valerius Maximus, who in the first century AD also uses this pairing of adjectives to describe a sculpture of Vulcan crafted by Alcamenes. Valerius' description concentrates on the "gentle hint of lameness disguised under the drapery," which serves as the god's *certa propriaque nota*, a characteristic that conclusively identifies him (*dissimulatae claudicationis sub veste leviter vestigium repraesentans, ut non exprobatum tamquam vitium ita tamquam certam propriamque dei notam decore significans*, VIII.11.ext 3).

Roman doctrines of *inventio* and hence the entire rhetorical system," is rendered variously among different Roman authors, and although the notion of status is discussed briefly in the introduction of this dissertation, it will be helpful to point to some of Cicero's own developments in the terminology and structure of Hermagoras' original theory.[62] As he explains in his *Topica*, status theory sits around the three issues of "conjecture" (*coniectura*), "definition" (*definitio*), and "quality" (*qualitas*), three labels that correspond to the questions *an sit*, *quid sit*, and *quale sit*.[63] These questions can be used to determine the precise point of disagreement in a forensic case. For example, if two parties agree that theft has occurred and thus agree in their answers to the first and second questions of whether something happened and what happened, they may nevertheless disagree in their answers to the third question: the prosecutor might call a theft malicious and unfounded, whereas a defendant may claim he stole in order to afford food, thus mitigating his culpability.

Cicero also relies on status theory in his *De Partitione Oratoria*, the "most purely scientific of all Cicero's writings on rhetoric."[64] Under the heading of *coniectura*, the first question of the three primary status questions, Cicero considers the question *an sit*, whether something happened.[65] As part of his discussion here, Cicero introduces two

[62](Braet 1987, p. 80). Cicero's familiarity and engagement with *status* theory is apparent in his several discussions concerning it. See, for example, *De Partitione* 33f.

[63]Cicero does not use the word *qualitas* to introduce his discussion of the third question at §84, but he instead refers to this question directly as *quale quid sit*. For a more thorough treatment of Cicero's understanding of status theory within the context of the *Topica*'s discussion of the "general question," see Reinhardt (2003, pp. 346–350). The terms *coniectura* and *definitio* reappear in Cicero's discussion of status theory in *De Oratore*, but that text renders the third issue of quality as *consecutio* rather than *qualitas* (III.13).

[64]Rackham (1942, p. 306). For a discussion of the dating and structure of the *De Paritione*, likely finished in 46, see Rackham (ibid., pp. 306–309).

[65]The first question of status theory is sometimes rendered *sitne*, as is the case at *Orator* 45. Traditionally, *an sit* is the first question in expositions on *status* theory. See, for example, Quintilian

terms: *verisimila* and the *propriae notae argumenta*:

> Inference is based entirely on probabilities (*verisimilia*) and on the essential characteristics of things (*propria rerum nota*). But let us for the sake of conveying our meaning define the term "probable" as "that which usually occurs in such and such a way"—for example that youth is more prone to self-indulgence; while an essential characteristic that is never otherwise and that supplies an indication that is certain (*propriae autem notae argumentum quod numquam aliter fit certumque declarat*), as smoke is an indication of fire.[66]

Cicero contrasts these *verisimilia*—mere probabilities—with the "testament of a *propria nota* which never comes about otherwise and which declares a certainty" (*propriae notae argumentum quod numquam aliter fit certumque declarat*). But immediately after introducing these contrasting terms, Cicero moves to a discussion of natural and acquired characteristics, leaving little clarity in the brief discussion of *verisimilia* and the *propriae notae argumentum*.

Even if Cicero's original text offers little help in clarifying the significance of *certum* and *proprium* within his understanding of status theory, a commentary by Johannes Sturm, a prominent sixteenth-century German educator, can help to define these technical terms. Sturm explains first that *verisimilia* are like *eikota*, the Greek term for events "which usually [come] about in some way."[67] In an attempt to provide a robust distinction between these two Latin categories of evidence, Sturm's commentary draws from the Aristotelian distinction between *eikota* and *tekmēria*. The *propriae notae argumenta*, Sturm explains,

---

IO III.6.45, III.6.51, V.10.54.

[66] *in verisimilibus et in propriis rerum notis posita est tota. sed appellemus docendi gratia verisimile quod plerumque ita fiat, ut adolescentiam procliviorem esse ad libidinem; propriae autem notae argumentum quod numque aliter fit certumque declarat, ut fumus ignem*, §34.

[67] *quod plerunque ita fiunt* (1565, p. 77).

> are things which never happen otherwise, and which declare a *certum*. The number of these things among orators is not great, as both Aristotle wishes to be the case and also as is the idea itself. They are called *tekmēria* because when these things are brought forth, it is the end of the controversy, and all doubt is carried off.[68]

Sturm argues that *propriae notae argumenta* are rare in oratorical practice because like Aristotelian *tekmēria*, they eliminate the need for any argumentation at all.[69] In this discussion, there are resonances of Cicero's rhetorical use of *proprium et certum* insofar as an *argumentum* points unambiguously to a particular conclusion "and all doubt is carried off." A *propriae notae argumentum*, then, carries the specificity and exclusive correspondence we have seen elsewhere into matters of logic and causation. Instead of words which are sorted to their referents, styles to their practitioners, and offenses to their criminals, here Cicero explains that consequents are sorted clearly and uniquely to their causes.

Sturm's explanation of Cicero's sole example of such an *argumentum*—"as smoke declares a fire"—makes the point clearer:

> Whatever is truly *proprium* is also a *necessarium argumentum*: and this *argumentum* falls into any one of three kinds. For *propriae notae* are of this kind, where they either happen with the events themselves, as smoke and fire. Or the events come afterwards, as ash follows fire. Or they come beforehand, as milk comes before birth.[70]

---

[68] *Quae nunquam aliter fiunt, certumque declarat. Horum non magnus numerus est apud oratores, ut et vult Aristoteles, et ut res ipsa est. τεκμήρια vocantur, propterea quod, cum haec adferuntur, finis sit controversiae, tolliturque omnis dubitatio*, (Sturm 1565, p. 77).

[69] The Aristotelian τεκμήριον shows "an inevitable and necessary relationship between sign and signate" (Grimaldi 1980, p. 390). Grimaldi notes that the τεκμήριον "will give one a knowledge of the necessity of the conclusion, will demonstrate *the fact* of the conclusion, but [it] will not give a demonstration of *the reasoned fact* of the conclusion, which is to say a knowledge of *why* it is a necessary conclusion" (ibid., p. 388). See also McAdon (2004). Sturm's use of this terminology is Aristotelian, not Isocratean, as explained in Noël (2011).

[70] *Quodcunque vero proprium est, et necessarium argumentum: id in unum aliquod horum trium generum cadit. Nam propriae huiusmodi notae, vel simul sunt cum ipsis rebus, ut fumus, atque ignis. vel res consequuntur, ut cinis ignem: vel praecedunt, ut lac partum antecedit* (Sturm 1565, p. 77).

In each of these cases, the outcome of an event or condition is required by that event or condition, and uniquely so: lactation is an outcome caused by pregnancy and its appearance unambiguously arises from this single cause. The defining characteristic of these *argumenta*, then, is the reliability of working backwards through a chain of causality. The appearance of smoke reliably indicates a fire, as leftover ashes show that a fire must have existed earlier.

This property of the *propriae notae argumentum* contrasts with the *verisimilia* of Cicero's discussion, for unlike such *argumenta*, *verisimilia* do not incorporate unambiguous relationships between cause and effect. Sturm's commentary includes an instructive dialogue between a teacher and student to underscore the variability of these probabilities:

> Michael: Therefore how many types of *verisimilia* are there?
> Sturmius: There are two kinds: either it is mostly useful for proving, namely that which is *verisimile*, or it is weak.
> M: Which are strong?
> S: Those which are like *certa* signs of things: how the defendant, whose hand was splattered with blood, appeared in the same place where the murder happened.
> M: Which are weak?
> S: Those which are not *certa* signs, but which nevertheless are helpful: how, even if he is hostile, it is not yet unbelievable: it is nevertheless not necessary that he killed the victim.
> M: Why, then, did he put this first type among the *verisimilia*?
> S: Because things could have happened otherwise: it does not pronounce something entirely *certum*. If he had bloodied hands, he still did not commit the murder: perhaps he wished to save and assist the wounded man and to bring him home while he was still breathing. And so even if these signs are not *propria*, they are nevertheless considered like *certa* and *propria* when they are handled correctly.[71]

[71] *M: Quot sunt ergo verisimilium genera?*
S: Duo, aut enim plurimum, id quod est verisimlile, ad probandum valet, aut est infirmum.
M: Quae firma sunt?
S: Quae quasi certa sunt rerum nota. ut respersa sanguine manus et in eodem loco ubi cades facta est, visus reus.

The similarity between *verisimilia* and *propriae notae argumenta* stems from their ability to show causal connections: a man's hand had to be bloodied somehow, probably through committing the murder at whose location he was found. On account of this likelihood, *verisimilia* are "like *certa* signs" (*quasi certa…nota*), but they also allow that "things could have happened otherwise" (*potest evenire aliter*). The *quasi* is crucially important: a bloody hand may appear to be "sorted" and "particular" to a murderer, but a bloody hand is not uniquely the property of a killer. (Indeed, it may belong to a medic or another victim.) The "unsortedness" of *verisimilia* makes them less convincing as evidence, so an orator must use them expertly to achieve the probative force normally reserved for *tekmēria*, a point Sturm underscores in the concluding lines of the above passage. Only when *verisimilia* are used appropriately (*cum sunt recte tractata*) can such pieces of evidence take the place of stronger evidence (*pro certis propriisque*) where, like Aristotleian *tekmēria*, causal relationships can appear unambiguous and necessary, an appearance that depends upon an expert orator's efforts.

Sturm's commentary here is limited to Cicero's discussion of *coniectura*, the status of *whether* something happened, not *what* happened. Or as these considerations are rendered in status theory, this discussion is concerned with *an sit*, not *quid sit*. In a later discussion of *quid sit* (or *definitio*), Cicero suggests that the concern for what is *proprium*

M: Quae infirma?
S: Quae non sunt certa signa, sed tamen adiuvant. ut, inimicus etiamsi est, tametsi non sit incredibile: non tamen est necessarium, occidisse.
M: Cur ergo primum genus, inter verisimilia posuit?
S: Quia potest evenire aliter: neque certum omnino declarat. Non enim, si cruentas manus habuit, caedem fecit: servare fortasse voluit vulneratum, et adiuvare, et adhuc spirantem, domum ducere. Itaque etsi propria nota non sunt, tamen cum sunt recte tractata, pro certis, propriisque habentur., (Sturm 1565, pp. 82-83).

is the object of investigation in this second question of definition, not the first question of conjecture:

> It is at all events clear that a definition is an explanation in the form of a statement of the class to which a thing belongs and of some special property that distinguishes it (*proprietate quadam*), or else a collection of common properties among which what its special property (*proprium*) is comes into view.[72]

That *proprium* and *proprietas* are determined in the second question in status theory, and not the first, is confirmed in Cicero's other works: a related discussion in the *Topica* turns its attention to *proprietas* only later in a discussion of the second status question (*quid sit*), which attempts to determine "the distinctive feature of definitions (that they must be coextensive with their *definienda*)."[73]

Even if the *De Partitione* treats the *propriae notae argumentum* under the heading of *coniectura*, this second discussion about *definitio* suggests that matters of *proprietas* may specifically relate to the question of *quid sit*, leaving matters of certainty to the first question of *an sit*. In his *Pro Caelio*, Cicero's use of *certum* without *proprium* in matters of legal culpability supports such a reading. Cicero claims that he can identify the agent of criminal activity and does so without providing identifying information: "As for the two charges I have mentioned, I can see that there is someone in the background, I can see that they have a source, I can see a *certum* individual as their fountain-head."[74] This sentence attempts to establish "not the identity of the *auctor*, but the fact that there is an *auctor*," or as understood within the framework of status theory, that the first question

[72] *Non dubium est id quidem quin definitio genere declaretur et proprietate quadam aut etiam communium frequentia ex quibus proprium quid sit eluceat*, §41.

[73] Reinhardt (2003, p. 353).

[74] *horum duorum criminum video auctorem, video fontem, video certum nomen et caput*, §31.

can be answered affirmatively while withholding all information regarding the second.[75] According to Cicero's rendering of *certum* as the aim of investigation under *an sit*, then, the existence of a *certa* (but not *propria*) *nota* would be particular and discernible, but not well-defined in terms of its properties.

As this last example from the *Pro Caelio* shows, Cicero's forensic works similarly adopt these adjectives to qualify the specificity of courtroom accusations and evidence. When a criminal is merely *certum* but not *proprium* regarding the misdeeds at hand, the evidence is perhaps not strong enough for a conviction: one cannot be sure of the criminal's identity, even if one is sure that such a criminal—whoever he is—must exist. A *propriae notae argumentum*, by contrast, defines the precise agent at work: the name of the criminal, or the smoke corresponding to a fire. In an epistemological context, a *nota* that is merely *certa* also points to the existence of a sensory impression, but what exactly that impression consists of and whether it is in fact a true impression is left undetermined. Only when knowledge is both *certum* and *proprium* does one have assurance of exactly who or what is responsible for a crime or impression, respectively. And this common terminology, first used in Cicero's discussions of status and only at the end of his life fully theorized as an epistemological framework, should perhaps not surprise his readers. For in the *De Oratore*, Cicero himself asserts that status theory extends far beyond the forensic concerns of the *Verrine Orations* or the *Pro Caelio*: "every matter that can be the subject of inquiry and discussion involves the same kind of issue, whether the discussion falls

[75] Austin (1960, p. 87). Cicero employs *definitio* in *De Oratore* to ascertain *quid…proprium sit* (III.115), "an aspect of *definitio*, which Cicero later calls *proprietas*, [and which] is not part of traditional *status* doctrine, and seems to derive from the Peripatetic concept of *to idion* ('unique property')" (Mankin 2011, p. 204).

in the class of abstract deliberations or of things within the range of political and legal debate."[76] Whether in the courtroom or in the Academic study, Cicero's efforts of proof revolve around these questions of how much one knows: whether knowledge is entirely grasped and well-defined or merely certain.

In the following chapter, we turn to Quintilian's text, where epistemological discussions similarly revolve around the notion of the certainty and the limits of knowledge that is merely *certum*. Extending the broad applicability of this language in Cicero's Republican antecedents, Quintilian applies this skeptical approach toward certainty to several branches of knowledge, not just to standards of evidence in the courtroom or to the technical debates of Hellenistic philosophical schools. While an important predecessor of Quintilian's first rendering of certainty as "things perceived by the senses, for example what we see or hear," Cicero's texts more crucially anticipate the skeptical position adopted in Quintilian's educational program. Even if Cicero suggests that the *certum* and the *verum* may be sometimes misaligned, Quintilian underscores the epistemic deficiency of certainty and the corresponding centrality of persuasion to all kinds of argumentation.

[76] *Omnis igitur res eamdem habet naturam ambigendi de qua quaeri et disceptari potest, sive in infinitis consultationibus disceptatur sive in eis causis quae in civitate et in forensi disceptatione versantur*, III.111.

Chapter 3

The Status of Skepticism in Quintilian's Theory of Certainty

In his *Orator*, Cicero calls for philosophical instruction in the education of the rhetorician, for without this training, the orator will not be able to "separate truth from falsehood."[1] And as he explains in the first book of his *Institutio Oratoria*, Quintilian agrees that the perfect orator should be "not only perfect in morals…but also in knowledge."[2] Like Cicero, he aims "to unite in one person the knowledge of moral philosophy and the commitment to morality, currently cloistered in the philosopher's study, with the eloquence of the orator, who is active in the courts and the assemblies."[3] Quintilian tries to bridge the reclusive and the social, philosophy and rhetoric, knowledge and action.[4]

This educational goal of achieving perfect knowledge through rhetorical training, however, is a matter of idealism for both theorists, for just as Cicero remarks in his *Orator* that the perfect rhetorician has never lived, Quintilian too writes that his educational program strives toward a potentially impossible aim: "such a person [who possesses perfect knowledge] has perhaps never yet existed, but that is no reason for relaxing our efforts to

[1] *nec iudicare quae vera quae falsa sint*, §16.

[2] *nec moribus modo perfectus…sed etiam scientia*, I.pr.18.

[3] Walzer (2003, p. 38).

[4] For a more general discussion of the influence of Cicero's philosophy on Quintilian, see Pardo (1998).

attain the ideal."[5] This admission of the difficulty of attaining perfect knowledge adumbrates Quintilian's skeptical attitude toward rhetorical practice throughout the *Institutio* more broadly: even if Quintilian sets out as his educational aim an idealized orator, his discussion of the inaccessibility of knowledge in Book II illustrates how his idealized orator will have imperfect and unfixed beliefs. And his skeptical attitude toward the rhetorician's access to knowledge, not unprecedented in ancient discussions of oratory, extends well beyond the walls of the courtroom and its concerns for rhetorical persuasion. By arguing that knowledge is similarly inaccessible in the fields of natural philosophy, geometry, and a range of apodeictic intellectual endeavors, Quintilian's rhetorical treatise blurs the Aristotelian distinction between scientific demonstration on the one hand and the endoxic arguments of rhetoric and dialectic on the other, most markedly through the claim that both brands of argument take as their basis not unassailable truths but rather *certa* or "certainties."

This skeptical thread runs through Quintilian's discussions of the nature of argumentation and rhetoric, primarily in the second and fifth books of his rhetorical manual, the latter of which also incorporates a range of Aristotelian rhetorical elements, including enthymemes, an interest in audience psychology, and particularly a reliance on *homolegoumena*. While these concepts show Quintilan's debt to his Peripatetic predecessors even in light of competing Stoic understandings of similar terms, a debt demonstrated in the first chapter of this dissertation, the present discussion shows that Quintilian's understanding of certainty also adopts skeptical elements, likely related to those seen in Ci-

[5] *qualis fortasse nemo adhuc fuerit, sed non ideo minus nobis ad summa tendendum est*, I.pr.19. For Cicero's doubt of the perfect orator's existence, see *Orator* §7.

ceronian discussions in the second chapter. And Quintilian's discussions of *certa*—largely defined as matters of customary agreement or consensus—illustrate how Quintilian's notion of argumentation, rhetorical and otherwise, also takes inspiration not just from a broadly skeptical approach to several kinds of knowledge but also from the theory of *status*, the post-Aristotelian framework used to structure a speech around the agreements and disagreements of forensic adversaries. The *Institutio*, then, like the Ciceronian treatises that precede it, admits of the difficulties of grasping firm knowledge, and in light of these epistemological limitations, it proposes a novel recasting of argumentation in the language of certainty—a concept rooted in the crafting of consensus rather than the demonstration of truth.

Before turning to the topic of certainty, it will be helpful first to see how Quintilian's skeptical understanding of rhetoric and other intellectual endeavors motivates his unwillingness to conceive of these practices as a search for truth. During Quintilian's defense of rhetoric's position as an art in the second book of the *Institutio*, a hypothetical interlocutor objects that rhetoric lends credence to falsehoods: "no art assents to false propositions because it cannot exist without a cognitive presentation which is invariably true, whereas rhetoric does assent to falsehoods and therefore is not an art."[6] Rather than argue that rhetoric does not assent to falsehoods, Quintilian admits its deceitfulness but adds the provision that rhetoric itself is not "in false opinion" and that "there is a great

[6] *Altera est calumnia nullam artem falsis adsentiri opinionibus, quia constitui sine perceptione non possit, quae semper vera sit: rhetoricen adsentiri falsis: non esse igitur artem*, II.17.18. Although *perceptio* here may recall the Stoic doctrine of cataleptic impressions, Reinhardt and Winterbottom write that "the argument which [Quintilian] seeks to refute is clearly meant as a general attack on rhetoric as opposed to one on a specifically Stoic position" (2006, p. 327).

difference between holding an opinion oneself and making someone else adopt it."[7] He adds that "an orator, when he substitutes a falsehood for the truth, knows it is false and that he is substituting it for the truth; he does not therefore have a false opinion himself, but he deceives the other person."[8] While Quintilian accommodates deceitfulness in rhetorical practice, he here shows that the rhetorician himself does not assent to outright falsehoods and that rhetoric still qualifies as an art according to the criteria set forth by his objector.

As a later discussion in Book XII illustrates, participating in this deception in no way undermines the perfection of the "Wise Man" (*ipse sapiens*), the speaker who embodies the idealistic aim of the *Institutio*'s educational program. Indeed, even if an allowance for rhetorical deceitfulness is not unprecedented among earlier theorists, Quintilian sets out an even "cruder utilitarianism [in deception] than the Stoic would probably sanction" since he allows the ideal orator to lie for "trivial reasons" (*leviores causae*):[9]

> First of all, everyone must grant me what even the sternest of the Stoics ad-

[7] *Ego rhetoricen nonnumquam dicere falsa pro veris confitebor, sed non ideo in falsa quoque esse opinione concedam, quia longe diversum est ipsi quid videri et ut alii videatur efficere*, II.17.19. Here Quintilian "uses the noun *opinio*…[because] he needs a term for 'item of knowledge' which (unlike a *perceptio*) does not have built into it the notion of truth" (Reinhardt and Winterbottom 2006, p. 328). One can contrast this willingness to use falsehoods with Socrates who "was never willing to use arguments which he knew to be fallacious…[and] to refute anything that is said regardless of whether it is true or false" (Nehamas 1990, p. 8). For the charge that rhetoricians use both true and false arguments, see also Plato's *Euthydemus* 272B.

[8] *Item orator, cum falso utitur pro vero, scit esse falsum eoque se pro vero uti: non ergo falsam habet ipse opinionem, sed fallit alium* II.17.20.

[9] For the claim that Quintilian accommodates a "cruder utilitarianism" than that allowed in Stoicism, see Walzer (2003, p. 33). That the orator may tell outright lies under particular circumstances is not Quintilian's invention: it is debated in texts as early as Plato's *Hippias Minor* and also in early Stoic texts. See Reinhardt and Winterbottom (2006, p. 339) for a brief survey of these discussions. That the Stoic Wise Man was allowed to lie as long as he recognized the falsehood of his statement finds attestation in early Stoic works (Walzer 2003, pp. 32–33).

> mit, namely that the good man will go so far as to tell a lie on occasion, and sometimes even for quite trivial reasons: with sick children, for example, we pretend many things for their good and promise to do many things which we are not going to do; even more justifiably, we lie to stop an assassin from killing a man, and deceive an enemy to save the country. Thus lying, which in some circumstances is blameworthy even in slaves, in others is praiseworthy in the Wise Man himself.[10]

For Quintilian, deceit is not just a useful tactic in rhetorical practice: the statesman, the military commander, and even everyday parents find it justifiable in their various duties.[11] Throughout the *Institutio*, then, we see that deception—as long as it is done knowingly and with an eye to some beneficial practical outcome—is permitted in matters large and small, rhetorical and otherwise.[12]

---

[10] *Ac primum concedant mihi omnes oportet, quod Stoicorum quoque asperrimi confitentur, facturum aliquando bonum virum ut mendacium dicat, et quidem nonnumquam levioribus causis, ut in pueris aegrotantibus utilitatis eorum gratia multa fingimus, multa non facturi promittimus, nedum si ab homine occidendo grassator avertendus sit aut hostis pro salute patriae fallendus: ut hoc quod alias in servis quoque reprendendum est, sit alias in ipso sapiente laudandum*, XII.1.38.

[11] Austin points to a similar comparison of deception by military commanders and lying by parents in Xenophon's *Memorabilia* IV.2.17 (1965, p. 69).

[12] An earlier discussion in Book II highlights the role of deception in other *artes*, particularly painting: "And when the painter makes us believe by his art that some objects are in the foreground and others in the background, he himself is not ignorant of the fact that they are all on the same plane" (*Et pictor, cum vi artis suae efficit ut quaedam eminere in opere, quaedam recessisse credamus, ipse ea plana esse non nescit*, II.17.21). The curious litotes, *non nescit*, used in the description of the painter's art highlights how Quintilian allows that the painter may knowingly deceive his audience while accommodating a broader skeptical attitude toward the art of painting. While the painter is not unaware (*non nescit*) of how his figures both occupy a two-dimensional plane and represent three-dimensional space, the double nature of visual illusion eludes his firm knowledge of its spatial qualities. Epistemological problems related to painting are also present in Greek philosophy, especially concerning perspective and distance. Wesley Trimpi explains that Plato, Aristotle, and Vitruvius all expressed some degree of doubt regarding the ability to comprehend figures painted with the viewer's perspective in mind. Plato remarks that a skenographic painting, "setting aside the question of reality, seeks to secure the viewer's psychological 'participation' by establishing his precise spatial relation to the object within the geometrically quantitative planes of Euclidean optics" (Trimpi 1978, p. 412). See especially Plato's distinction between "eikastic" and "fantastic" images at *Sophist* 235B-236E. Plato uses distance "to emphasize the distortion already present in any verbal or pictorial representative image" (Trimpi 1973, p. 30). Trimpi also comments on Aristotle's use of deceptive painting (*skiagraphia*) as an example of an image that is "really something, but not that of which [it creates] the impression" (1978, p. 407). Vitruvius comments

Quintilian's understanding that deception is an acceptable element of the Wise Man's rhetorical practice sits within a larger discussion of the nature of such an ideal orator, and while Quintilian opens his manual with the aim of producing a student who is "not only perfect in morals…but also in knowledge," his final book tempers this perfect knowledge by looking to Academic skepticism as a model for oratorical study. Earlier in Book XII, Quintilian treats another hypothetical objection to his treatment of rhetorical education, an objection that argues "a good man only pleads good causes, and truth itself is defense enough for them without the help of learning."[13] Quintilian refutes this requirement not only on the grounds that the orator may need to use strategic falsehods but also that—in the spirit of Carneades, the well-known Academic—he may not have firm knowledge of the "truth itself" in the first place:

> In answering these people in the first instance in relation to my own work, I shall be satisfying them also as regards the duty of a good man, who may sometimes have reason to undertake the defense of the guilty. It is not useless to consider how one may on occasion speak for a falsehood or even for an injustice, if only because this enables us to detect and refute such things more easily, just as the person who knows what things are harmful will be better at applying remedies for them. After all, the Academics argue both sides of a question, but live according to one side only, and the great Carneades, who

that in "painted stages, there appear to be projecting columns, projecting shelves, and extensions of the shapes of statues, even though the panel, without a doubt, is flat along a straight edge" (*in scenis pictis videntur columnarum proiecturae, mutulorum ecphorae, signorum figurae prominentes, cum sit tabula sine dubio ad regulam plana*, VI.2.2). As Trimpi explains, Vitruvius then "cites the example of oars' appearing bent under water," which Plato uses to illustrate the "natural incomprehensibility of appearances" (1978, p. 409). Vitruvius points to a "psychological application to the illusionistic effects of optical perspective" (ibid., p. 409) whereby "things that are real appear to be false, and some things are approved by the eyes in a way that is inconsistent with their reality" (*quae sunt vera, falsa videantur et nonnulla aliter quam sunt oculis probentur*, VI.2.4). Similarly, Quintilian's painter allows two different pictorial compositions to exist simultaneously: he sees both the flat plane and the figures in perspective.

[13] *Bonus enim vir non agit nisi bonas causas, eas porro etiam sine doctrina satis per se tuetur veritas ipsa*, XII.1.33.

> is said to have spoken at Rome in the presence of the censor Cato just as vigorously against justice as he had spoken in defense of justice the day before, was a perfectly just man. What virtue is, in fact, is revealed by its opposite, vice; equity is better understood by looking at its opposite; and in general most things are shown to be good by comparison with their contraries.[14]

The central figure of this passage is "the great Carneades" (*Carneades ille*), head of the New Academy, who engages in the practice of arguing on both sides of an issue (*in utramque disserunt partem*).[15] As Quintilian reports, Carneades famously used this rhetorical tactic as a member of an embassy from Greece, arguing in Rome in 155 B.C. first in favor of justice and then as persuasively for injustice.[16] By positioning Carneades as a model for the "good man," for Carneades himself is "a perfectly just man" (*nec…iniustus ipse vir fuit*), Quintilian suggests that his ideal orator is not one with full, confident grasp of the truth but rather one willing to entertain differing if not opposite arguments.[17] And in fact,

[14] *Quibus ego, cum de meo primum opere respondero, etiam pro boni uiri officio, si quando eum ad defensionem nocentium ratio duxerit, satisfaciam. Pertractare enim quo modo aut pro falsis aut etiam pro iniustis aliquando dicatur non est inutile, uel propter hoc solum, ut ea facilius et deprendamus et refellamus, quem ad modum remedia melius adhibebit cui nota quae nocent fuerint. Neque enim Academici, cum in utramque disserunt partem, non secundum alteram uiuunt, nec Carneades ille, qui Romae audiente Censorio Catone non minoribus uiribus contra iustitiam dicitur disseruisse quam pridie pro iustitia dixerat, iniustus ipse uir fuit. Verum et uirtus quid sit aduersa ei malitia detegit, et aequitas fit ex iniqui contemplatione manifestior, et plurima contrariis probantur*, XII.1.34–35.

[15] K.E. Wilkerson notes that it was also a Stoic practice to argue on both sides of an issue (1988, p. 136), but he cites as justification a passage from the *Academica* (II.75) that itself doubts the existence of this practice among the Stoics. Quintilian surely intends to associate the practice—although perhaps not exclusively—with the New Academy. The Stoic Wise Man, with his unshakeable grasp of catalectic impressions, is not limited to purely theoretical and methodological knowledge like the science of rhetoric. See Atherton (1988, p. 398) for an explanation of how Stoic dialectic, "as a body of scientific knowledge, of which the sage alone, of course, is in full possession," encompasses "epistemology, linguistic, grammar and semantics, and the study of linguistic ambiguity, as well as stylistics."

[16] Carneades cautions that "we accept [appearances] because of their persuasive presentation not because we know they are true" (Wilkerson 1988, p. 142) He merely allows that "reasonable decisions can be made on the basis of probable rather than certain knowledge" (Mendelson 2001, p. 280).

[17] In his commentary on Book XII, Austin points to another passage in the *Academica* (II.7)

Quintilian envisages that Academic skepticism can allow the orator to make the soundest judgments in the courtroom on account of the fact that "the Academy is the most useful [in the opinion of some men] because its habit of arguing both sides of the question is closest to the practice of forensic cases."[18] Quintilian's admiration for Carneades in his discussion of the ideal orator thus suggests that his conception of the ideal orator, while never explicitly aligned with the Academic school outright, shares in Carneades' modest epistemological doctrines.[19]

After viewing Quintilian's admiration for Carneades and the methods of Academic skepticism in the last book of the *Institutio*, we turn back to Quintilian's defense of rhetoric's use of deception in Book II, where we find greater evidence of the epistemic modesty of the New Academy. As part of his broad defense of the use of falsehoods, in fact, Quintilian suggests that the rhetorician need not fully and accurately grasp the truth

---

where the method of inquiry among Academics is summarized as follows: "our disputations do nothing except (through speaking on each side of an issue) draw out and shape something which is either true or approaches the truth as closely as possible" (*neque nostrae disputationes quidquam aliud agunt nisi ut in utramque partem dicendo eliciant et tamquam exprimant aliquid quod aut verum sit aut ad id quam proxime accedat*).

[18] *Academiam quidem utilissimam credunt, quod mos in utramque partem disserendi ad exercitationem forensium causarum proxime accedat*, XII.2.25. It is worth noting that the subjunctive verb *accedat* shows that this view is not Quintilian's own original view. But as D.A. Russell writes in his commentary, the source he has in mind is perhaps Cicero who espouses a similar view in *De oratore*, 3.67-68, 80 (2001, 5:233). Quintilian, however, does caution against following one philosophical school blindly at XII.2.27. Quintilian's conception of the ideal orator, one might assume, aligns with the model of the Stoic sage on account of his attribution of the idea of the *vir bonus dicendi peritus* to Cato in the first pages of the *Institutio*'s final book, but this account of Carneadean skepticism resists a close coupling of Quintilian's ideal and the Stoic sage. For further discussion of the alignment of Quintilian's *vir bonus dicendi peritus* and the concept of the Stoic Wise Man, see Walzer (2003, p. 26). For Cicero's conception of Cato as the *perfectus…Stoicus* in his capacity as an oratorical model, see *Paradoxa Stoicorum*, §2–3.

[19] In Quintilian's eyes, "ethical training was the most important part of the development of the orator," not a complete knowledge of all subjects. (Willbanks 1996, p. 807). Willbanks even goes on to claim that Quintilan "was absolutely convinced that the ideal was achievable and practical" (ibid., p. 807).

that is absent from his speech; instead, he must merely know that he speaks falsely.[20] While this claim appears to require an excessively subtle reading of Quintilian's earlier discussion of rhetorical deceitfulness in Book II, where the rhetorician "substitutes a falsehood for the truth [and] knows it is false and that he is substituting it for the truth," a second discussion nearby emphasizes that the rhetorician does not know—and in fact cannot know—whether the content of his speeches is true. Quintilian again uses an argument from his hypothetical interlocutor to introduce his point:

> Rhetoric is the art of speaking well, and the orator knows how (*scit*) to speak well. "But he does not know (*nescit*) whether what he says is true." Well, neither do the people who tell us that the origin of all things lies in fire or water or the four elements or indivisible bodies, or indeed those who calculate the distances between the stars or the size of the sun and the earth; yet they call their study an art. And if reason (*ratio*) enables them to appear not just to have an opinion of these things but to appear to know them because of the cogency of their proofs, the same reason (*eadem ratio*) may very well do as much for the orator.[21]

Forms of the verb *scire* are used in two different senses in this passage: the rhetorician "knows how" (*scit*) to speak well (*bene dicere*), but he "does not know" (*nescit*) whether what he says is itself true.[22] Rhetoric, at least as Quintilian has portrayed it here, has

[20] *scit esse falsum eoque se pro vero uti*, II.17.20.

[21] *Rhetorice ars est bene dicendi, bene autem dicere scit orator. 'Sed nescit an verum sit quod dicit.' Ne ii quidem qui ignem aut aquam aut quattuor elementa aut corpora insecabilia esse ex quibus res omnes initium duxerint tradunt, nec qui intervalla siderum et mensuras solis ac terrae colligunt: disciplinam tamen suam artem vocant. Quodsi ratio efficit ut haec non opinari sed propter vim probationem scire videantur, eadem ratio idem praestare oratori potest*, II.17.37–38.

[22] Compare *OLD scio* 1d, "to have certain knowledge of (opp. mere belief or suspicion)," and 8a, "to know (an art, language, etc.), be versed in." Reinhardt and Winterbottom make a similar point about the separation of knowledge of subject-matter and knowledge of method, but they leave their summary of this passage unclear as it relates to these two definitions: "rhetoric says what it knows" (2006, p.347). I would emend that conclusion to point to the second type of knowing outlined here: "rhetoric says what it knows *how* to say." They are correct to note that "*bene dicere* is not rhetoric's *subject-matter* in Quintilian" (ibid., p. 346-347). Reinhardt and Winterbottom

knowledge of its own practices and principles (that is, its *ars*), but it does not claim knowledge of the material about which it speaks. Quintilian summarizes this nuanced understanding of *scire* shortly after the above passage: "in the end, the orator knows (*scit*) that the things he says are similar to the truth (*veri similia*)."[23] Book II of the *Institutio* thus advances a skeptical outlook for the rhetorician's practice: at best, he knows that his claims are verisimilar, but his knowledge never amounts to a firm grasp of the truth of these claims.

In addition to suggesting the rhetorician's inability to access perfect knowledge, this passage boldly advances a skeptical position that applies more broadly to a range of intellectual activities, for as part of this defense of rhetoric, Quintilian claims that the epistemological difficulties for the rhetorician also hold true for individuals working in fields of apodeictic reasoning. Natural philosophers, astronomers, and geometers also merely appear to know (*scire videantur*) that their subject-matter is true when in fact they only suppose (*opinari*) that it is so.[24] In the terms of Quintilian's conception of rhetoric, these experts merely know *how* to reason and do not know the content of their claims. No

explain this distinction between knowledge of an art and knowledge of subject-matter itself with a helpful example from Plato. They point to a passage from the *Theaetetus* (200D–201C) where "Socrates proves the non-identity of knowledge and true judgment with reference to a courtroom situation" (2006, p. 346). Socrates there argues that what has happened at the scene of a crime can be known only by an eyewitness. The orator's speeches, no matter how persuasive and evocative, cannot give the jury access to the knowledge of the eyewitness who himself saw the crime happen (*Theaetetus*, 201B–C).

[23] *scit autem esse veri similia quae dicit*, II.17.39. Reinhardt and Winterbottom align this statement with a kind of Platonic skepticism: "like Socrates, rhetoric knows that it does not know" (ibid., p. 348). A study of Quintilian's understanding of the law concludes that in the *Institutio* "truth is no more and no less than a high degree of plausibility" (Witteveen 2003, p. 309).

[24] Reinhardt and Winterbottom more precisely identify these natural philosophers as Heraclitus, Thales, Empedocles, and the Atomists (2006, p. 347). A discussion of these other fields is not out of character for an ancient rhetorical training manual, for rhetoricians were trained in astrology, dialectic, geometry, and many other disciplines even among the early sophists (Greer 1925, p. 27).

longer interested in rhetoric alone, Quintilian's discussion of geometry and natural philosophy here claims that other disciplines also suffer from an inaccessibility to knowledge. He moreover unifies rhetoric and these other intellectual activities by arguing that they all partake in one and the same limited brand of *ratio*, for the rational process used among philosophers and mathematicians is the same process (*eadem ratio*) which an orator uses in his own speeches. And on account of this shared method, all such intellectual activities suffer from the same epistemological limitations.

Book I of the *Institutio*, a discussion of the orator's early childhood education, provides further evidence of Quintilian's efforts to couple rhetoric and geometry in particular through their shared use of the same *ratio*:

> Geometry proves subsequent propositions from preceding ones, the uncertain from the certain: do we not do the same in speaking? Again: does not the solution of problems rest almost wholly in syllogisms? This is why you find the majority of people thinking that geometry is closer to dialectic than to rhetoric. But even the orator will sometimes, if rarely, prove his point by dialectic, seeing that if the subject demands it, he will use syllogisms, and certainly the enthymeme, which is a rhetorical syllogism.[25]

Like mathematicians, orators make use of syllogistic reasoning, and both kinds of practitioners root their proofs in *priora* and *certa*.[26] The verb *probare* in this passage recalls the *vis probationum* in Quintilian's discussion of geometry and natural philosophy in Book

[25] *Ex prioribus geometria probat insequentia et certis incerta: nonne id in dicendo facimus? Quid? Illa propositarum quaestionum conclusio non fere tota constat syllogismis? Propter quod pluris invenias qui dialectice similem quam qui rhetoricae fateantur hanc artem. Verum et orator, etiamsi raro, non tamen numquam probabit dialectice. Nam et syllogismis si res poscet utetur, et certe enthymemate, qui rhetoricus est syllogismus*, I.10.37.

[26] In a basic template of syllogistic reasoning, premises—that is, *priora*—give rise to conclusions. See *OLD prior* 8. The similarity between rhetoric and geometry may extend beyond their shared use of syllogisms, for Colson suggests that here "Quintilian is especially thinking of the resemblance between [Euclidean parts of a proof] and the regular divisions of a speech" (1924, p. 135).

II, where proof results not in knowledge but in the mere belief (*opiniari*) that one's conclusions are true.[27] The geometer's method of proof in Book I, as is the case in Book II, does not bring about knowledge of *vera*; instead, it grounds consequents (*insequentia*) and uncertainties (*incerta*) by means of antecedent certainties.[28] Quintilian's discussions in Book I and Book II, therefore, suggest that rhetoric, mathematics, and natural philosophy all operate through participation in the same method of imperfect reasoning, and by collapsing these various disciplines through their shared reliance on *ratio*, Quintilian implicitly rejects the long-standing division of apodeictic demonstration on the one hand and rhetorical and dialectical reasoning on the other.[29]

By appealing to the role of *certa* in this comparison of geometry and rhetoric in the first book of the *Institutio*, Quintilian anticipates the fuller discussion in Book V of argumentation and its reliance on certainty. There he sets out to explain how oratory's "particular and principal task is to confirm its own goals and to refute those which are expounded by one's adversary," but rather than limit his discussion to rhetorical proof alone, he expands the scope of his claims to include all forms of rational argument.[30] In

[27]Colson writes that "it is…fairly probable that Quintilian has in mind the treatise of Euclid called ψευδάρια, which Proclus couples with the *Elements*" (1924, p. 136). Now lost, the *Pseudaria* warned readers of fallacies brought about through geometrical reasoning.

[28]This skeptical attitude toward mathematics is not unique to Quintilian even in his own era. Seneca expresses a similar skepticism regarding the ability of mathematics to arrive at truths in *Epistle* 88.28.

[29]See Chapter 1 of this dissertation for a discussion of the division between apodeictic reasoning and endoxic dialectic and rhetoric in the works of Aristotle, particularly as this division is discussed at *Topica* 100b21-23 and *Rhetoric* 1356b33-35. See also *Nicomachean Ethics* where Aristotle argues that "it appears to be the same [level of foolishness] to accept probable statements from the mathematician and to demand strict proofs from the rhetorician" (παραπλήσιον γὰρ φαίνεται μαθηματικοῦ τε πιθανολογοῦντος ἀποδέχεσθαι καὶ ῥητορικὸν ἀποδείξεις ἀπαιτεῖν, I.3.4). Since "ethics [unlike mathematics] is essentially practical," he argues, "the roughness [of ethical judgments] is an immediate consequence of the practicality" (Broadie 2002, p. 265).

[30]*hoc tamen proprium atque paecipuum crederent opus, sua confirmare et quae ex adverso pro-*

that later discussion, Quintilian makes explicit his conflation of rhetoric and other disciplines by explaining how it is the "nature of all arguments"—including not just rhetorical proofs but also apodeictic demonstrations—to use certainties to prove what is doubtful.[31] And by defining certainty as a matter of agreement, as we shall see, Quintilian illustrates how *consensus* grounds the premises of all kinds of *argumenta*.

After reminding his readers that there are three kinds of *argumenta*, including the enthymeme, the epicheireme, and the apodeixis, and surveying their several definitions from earlier rhetorical theorists, Quintilian turns his attention to their shared basis:[32]

> All authorities, whatever their differences, agree in defining [*apodeixis* and *epicheirema*] in the same way, namely as a reasoning (*ratio*) which lends credence to what is doubtful (*dubia*) by means of what is certain (*certa*). This indeed is the nature of all arguments: certainties cannot be proven by uncertainties.[33]

Mirroring his discussion in Book II where Quintilian argues that the same type of reasoning (*eadem ratio*) grounds rhetoric, natural philosophy, and mathematics, Quintilian's definition of *argumenta* in Book V similarly blurs the distinctions among different kinds of proof: they all reason "in the same way" and share the same *natura*. Even if "in Greek usage there is some difference between [the enthymeme, the epicheireme, and the

---

ponerentur refutare, V.pr.2.

[31] *natura…omnium argumentorum*, V.10.8.

[32] *Nunc de argumentis: hoc enim nomine complectimur omnia quae Graeci enthymemata, epichiremata, apodeixis uocant*, V.10.1. For a discussion of Quintilian's debt to Aristotle in his understanding of the enthymeme in particular, see Chapter 1 of this dissertation. For a discussion of the enthymeme as understood in the Aristotelian and Stoic texts that ground Quintilian's text, see Burnyeat (1994).

[33] *Utrumque autem quamquam diversi auctores eodem modo finiunt, ut sit ratio per ea quae certa sunt fidem dubiis adferens: quae natura est omnium argumentorum, neque enim certa incertis declarantur*, V.10.8.

apodeixis]," so Quintilian explains in the first sentence of his discussion of *argumenta*, "the general sense is much the same."[34]

As part of this radical combination of these three categories of arguments, Quintilian turns his attention to the notion of certainty, a notion that he positions both as the beginning of rational arguments and as their aim. In the aforementioned discussion of apodeictic reasoning and epicheiremes in Book V, Quintilian remarks that it is the "nature of all arguments" to "lend credence to what is doubtful by means of what is certain," a notion he reiterates in the final chapter of Book V when he explains that "when reason (*ratio*) itself comes into question, we have to establish the certainty (*certum*) of the proposition we are going to use to prove what is uncertain (*incertum*)."[35] Whenever *ratio* serves as the probative strategy of an argument, then, such an argument uses certainties as its foundation.

The foundational importance of certainty for Quintilian's theory of argument is especially clear given his careful attention to its definition. As part of his refashioning of all argumentation as a method of using what is *certum* to prove what is *incertum*, Quintilian provides the following series of definitions for this crucially important term, a collection of definitions first mentioned in the introduction of this dissertation but to which we now turn with a more careful eye:

> Now we regard as certain things perceived by the senses, for example what we see or hear (Signs come under this head); things about which common opinion is unanimous: the existence of the gods, the duty of respecting par-

[34] *quamquam apud illos est aliqua horum nominum differentia, etiam si uis eodem fere tendit*, V.10.1.

[35] *cum ipsa ratio in quaestionem venit, efficiendum est certum id quo probaturi sumus quod incertum est*, V.14.16.

> ents; provisions of laws; what has been accepted as moral custom, if not the belief of all mankind, at least in that of the city or nation where the case is being pleaded—many matters of right, for example, involve custom rather than laws; whatever is agreed between both parties; whatever has been proved; lastly, whatever is not contradicted by our opponent.[36]

Quintilian structures his catalog of *certa* around three broad categories: previously proven statements, sense perceptions, and matters of consensus. The most important of these categories is that relating to consensus, but before turning to this primary meaning of certainty, it will be helpful first to show why Quintilian includes these other two categories.

First and most straightforwardly, Quintilian notes toward the end of his catalog that whatever has been proven beforehand (*quid probatum sit*) constitutes certainty. Alongside his aforementioned discussion of certainty as the foundation of arguments, where one uses certainties as the premises of proof, Quintilian here clarifies that certainty constitutes not only the beginning of arguments but their ends as well. Quintilian also remarks in the last book of the *Institutio* that "some things which we adduce to prove something else need to be proven themselves…[and] when this [proven conclusion] begins to be certain (*certum*), it can become the argument for an uncertain fact."[37] Certainties, then, can amount even to intermediate conclusions in more complex arguments.

But not all statements used in proofs need to be proven themselves, for Book V reminds

[36] *Pro certis autem habemus primum quae sensibus percipiuntur, ut quae videmus audimus, qualia sunt signa, deinde ea in quae communi opinione consensum est: 'deos esse,' 'praestandum pietatem parentibus,' praeterea quae legibus cauta sunt, quae persuasione etiam si non omnium hominum, eius tamen civitatis aut gentis in qua res agitur in mores recepta sunt, ut pleraque in iure non legibus sed moribus constant: si quid inter utramque partem convenit, si quid probatum est, denique cuicumque adversarius non contradicit*, V.10.12-13.

[37] *quaedam tamen quae in alterius rei probationem ducimus ipsa probanda sunt…cum id coeperit esse pro certo, fiat incerti argumentum*, V.12.2.

readers how there must be "something in the cause which does not need proof…[and] which either is true or seems to be true and from which assurance may be given to what is doubtful."[38] While the conclusions of arguments are considered certain, Quintilian acknowledges the need for argumentative starting points that at least "seem to be true" on their own. Perhaps as an example of what may constitute such material which itself "does not need proof," Quintilian includes matters of sense perception (*quae sensibus percipiuntur*) as a second category in his catalog.

Even though Quintilian makes only this brief mention of sense perception against the several items relating to consensus, he nevertheless places this definition first in his catalog, likely on account of the etymological link between *certum* and *cerno*.[39] As discussed in the second chapter of this dissertation, Republican Latin texts and especially the philosophical works of Cicero take an interest in this link between certainty and sense perception, but as part of this etymlogical understanding, Cicero's skeptical position makes clear the separation of *certum* and *verum*. In the *Academica*, where Lucullus attempts to identify *certum* with *verum* on account of his confidence in the reliability of sense perceptions, Cicero drives these terms apart:

> The only difference is that whereas you [Lucullus], when you have been deeply affected, acquiesce, assent, approve, hold that a certain (*certum*), comprehended, perceived, ratified, firm, fixed thing is a true thing, and cannot be driven or moved away from it by any reason, I on the contrary am of the opinion that there is nothing of such a kind that if I assent to it I shall not often

[38] *necesse est esse aliquid in causa quod probatione non egeat. Alioqui nihil erit quo probemus, nisi fuerit quod aut sit verum aut videatur, ex quo dubiis fides fiat*, V.10.11–12.

[39] For *certum* as a derivative of *cerno*, see *OLD certus*. At *Leviathan* II.27, too, Thomas Hobbes also appeals to *cerno* as an etymlogical root for the manifest or conspicuous nature of a *crimen*, an action that includes an "outward act" and "not mere intentions" (2008, p. 193).

> be assenting to a falsehood, since truths are not separated from falsehoods by any particular distinction.[40]

Cicero begins his criticism of Lucullus' pairing of certainty and truth with a series of characterizations of these putatively reliable sense perceptions—certain, comprehended, fixed—and concludes that even in the face of such strong perceptions, there is no discernable difference between true and false impressions. Most important for our study is Cicero's use of *certum*: he remarks that while Lucullus understands that what is certain amounts to a "true thing" (*verum*), he himself rejects that equivalence. Within this framework of Ciceronian skepticism, a framework that perhaps underlies Quintilian's own understanding of the certainty of sense perceptions, certainty can be understood as a feature of perceptions that appear reliable but nevertheless amount to an imperfect category of knowledge.[41] For even if Quintilian himself does not advocate for an explicitly skeptical approach to philosophy here in Book V, a skeptical attitude toward sensory perception persists in his writings.[42] In Book XII of the *Institutio*, for instance, Quintilian similarly

[40] *Tantum interest quod tu cum es commotus adquiescis, adsentiris, adprobas, verum illud certum comprehensum perceptum ratum firmum fixum vis esse, deque eo nulla ratione neque pelli neque moveri potes, ego nihil eius modi esse arbitror cui si adsensus sim non adsentiar saepe falso, quoniam vera a falsis nulla discrimine separantur*, II.141.

[41] For a discussion of the link between *certum* and *enargeia* and the importance of "certainty" in epistemological debates between Stoics and Academics in Ciceronian philosophy, see Chapter 2 of this dissertation.

[42] Quintilian explains that rhetoricians should "pick the most eloquent [model] for imitation" and that one "has no need to swear allegiance to the laws [of any philosophical school]" (*oratori uero nihil est necesse in cuiusquam iurare leges. Maius enim opus atque praestantius ad quod ipse tendit et cuius est uelut candidatus, si quidem est futurus cum uitae tum etiam eloquentiae laude perfectus. Quare in exemplum bene dicendi facundissimum quemque proponet sibi ad imitandum*, XII.2.26–27). This allegiance to no school of philosophy should not be understood as a matter of philosophical ignorance, for Austin notes that the word "*orator* here is used, as so often in Quintilian, of the orator in the highest possible sense" (1965, p. 88). Despite the call to avoid allegiance to one philosophical school in paticular, Quintilian does express admiration for the philosophy of Carneades at XII.1.35.

contrasts mere sense perception with firmer theoretical understanding, the latter forming the roots of the ideal orator's knowledge of virtue: such an orator "has embraced the virtues themselves with his mind" and "has not simply heard them with his ears in order to repeat them with his tongue."[43] While not uniquely or even explicitly skeptical in its philosophical recommendations in this final book, the *Institutio* nevertheless espouses a measured confidence in sensory perception.[44]

Quintilian's awareness of the etymological link between certainty and sense perception appears to motivate not only this second category of *certa*—the *sensus* of the individual—but also the third and most important category, the *consensus* of a group. As shown in the first chapter of this dissertation, the reliance on shared beliefs and conventions, understood as *homolegoumena*, underlies much of Aristotelian rhetorical theory, for on account of the widespread adoption of such beliefs, the orator can omit them from otherwise lengthy and burdensome proofs. This catalog of *certa*, too, stresses the importance of such shared beliefs if by nothing other than the several categories Quintilian provides here. The *Institutio* defines such matters broadly, from the unanimous beliefs of all mankind (*ea in quae communi opinione consensum est*) to the agreements between parties in a forensic dispute (*quid inter utramque partem convenit*) to even what is "not contradicted by one's opponent" in such a dispute (*cuicumque adversarius non con-*

[43] *Sed ille vir bonus, qui haec non vocibus tantum sibi nota atque nominibus aurium tenus in usum linguae perceperit, sed qui virtutes ipsas mente complexus ita sentiet, nec in cogitando laborabit sed quod sciet vere dicet*, XII.2.17. Austin remarks that "Quintilian seems to mean that the good man, in whom virtues are innate, will not only speak of them with ease when they are needed in panegyric, but will base his thoughts on them also and reflect his personal knowledge in his words" (1965, p. 83).

[44] For a discussion of Quintilian's understanding of vision, hallucination, and influencing the imagination of one's audience, see Adams (1996).

tradicit).[45] Aside from the first item of consensus denoting unanimous and perhaps even cross-cultural beliefs, Quintilian's list is largely rooted in agreements pertinent to the law: forms of *lex* and *ius* appear three times in his catalog. And as we shall now see, discussions of legal foundations elsewhere in the *Institutio* illustrate the strong association between consensus and Quintilian's notion of certainty.

In Book XII, Quintilian writes that "every law, which is a certain thing (*quod certum est*), depends either on a written text (*scriptum*) or on custom (*mores*)," adding that when the text of the law has to be interpreted, the ability to do so is rooted in the shared understanding of educated rhetoricians: "To understand the meaning of each word is either common ground to sensible men or peculiar to the orator; equity is perfectly familiar to all good men."[46] The consensual nature of *mores*, one of the foundations of law cited here, is clear from Quintilian's catalog of certainties in Book V, where he explains how certainties can be derived from "moral customs (*mores*), if not in the belief of all mankind, at

[45]The range of meaning of *communis* is broad, at times denoting an agreement of two parties (*OLD* 1) and at others denoting something "belonging to, or affecting, everyone or everything" (*OLD* 2), but the catalog's structure from broadest agreements to most particular strongly suggests that "unanimous" is an appropriate translation of *communis* here. His example of "the duty of respecting parents" (*praestandam pietatem parentibus*) appeals to widespread notions of Roman *pietas*, and Quintilian's subsequently reports how a similar familial duty, "that children are loved by their parents" (*liberos a parentibus amari*), is "the strongest kind of credible statement, because it is nearly always true" (*unum firmissimum, quia fere accidit*, V.10.16). To begin his list of the various forms of consensus, Quintilian refers to *opinio*, an important term that he uses throughout Book II to denote beliefs that are not necessarily true but are perhaps verisimilar. For a discussion of *opinio* as a deficient category of knowledge, see Reinhardt and Winterbottom (2006, p. 328). The appearance of *opinio* here underscores that beliefs that are *certa* for Quintilian do not achieve the status of unassailable truth. For a discussion of Hellenistic debates regarding the status of unanimous opinions, see Obbink (1992).

[46]*namque omne ius, quod certum est, aut scripto aut moribus constat…vim cuiusque vocis intellegere aut commune prudentium est aut proprium oratoris, aequitas optimo cuique notissima*, XII.3.6–7.

least in that of the city or nation where the case is being pleaded."[47] Quintilian's appeal to language (*scriptum*) as one basis of legal certainty, too, should be understood as a conceptualization of the law rooted in shared beliefs. Since only those who are "sensible" or orators themselves share the "common ground" of understanding the law's words, the law is thus a "certain thing" insofar as rhetoricians agree on its meaning, whether a matter of *mores* or *verba*.[48]

Quintilian's notion of the certainty of the law and its deep connections with the shared ability to "understand the meaning of each word," in fact, serves as an example of Quintilian's broader conceptualization of language itself as a kind of certainty rooted in consensus, a helpful case for showing the strong association of agreement and certainty. As part of a discussion of the role of language in early childhood education, Quintilian elaborates a theory of language in Book I that calls *consuetudo* the "most certain teacher of speaking" (*certissima loquendi magistra*), and Quintilian clarifies his definition of *consuetudo* by drawing a parallel between language and money: "indeed one must use language as one uses a coin, for which there is a 'public die.' "[49] Of central importance in this passage is

[47] *quae persuasione etiam si non omnium hominum, eius tamen civitatis aut gentis in qua res agitur in mores recepta sunt*, V.10.13.

[48] Vincenzo Scarano Ussani argues that legal interpretation in Republican Rome was more of an oracular practice than a matter of consensus. He writes that "according to ancient custom, [the orator's] house would be visited by promising young men who would ask him, as an oracle, what is the path to true eloquence" and would ask "to interpret the law" (2003, p. 294). This understanding of the jurist as an oracular interpreter of the law is rooted in Cicero's image of the orator as an oracle in *De oratore* (I.200) (ibid., p. 294). Quintilian also portrays the orator as an oracle in his retirement, from whom young men (*iuvenes*) will seek out the "path to speaking well" (*dicendi viam*, XII.11.5), but the notion that legal interpretation happens in this oracular context is absent from Quintilian's manual.

[49] *consuetudo vero certissima loquendi magistra, utendumque plane sermone, ut nummo, cui publica forma est*, I.6.3. Colson does not comment on the meaning of *consuetudo* in this passage. Consultus Chirius Fortunatianus's *Ars Rhetorica* from the fourth or fifth century shows that the analogy between language use and coinage was long-lasting: *Verbis utendum est ut nummis publica mon-*

the notion of what is "public," for it demonstrates again how Quintilian's understanding of certainty is founded in *consensus*, whether that of the broader public or of a more selective group of educated authorities. On the one hand, the analogy between language and money roots language in the public valuation of even popular assessment of words, and Quintilian himself elsewhere recommends that a rhetorician should use language that is familiar to common people: "And yet Cicero had laid down quite clearly that the greatest fault in public speaking was to distance oneself from ordinary language and our normal instinctive usage (*consuetudine communis sensus*)."[50] By associating language with the *sensus communis*, a term that recalls the *communis opinio* of the broadest certainties in Book V, Quintilian suggests that the certainty of language is tied to its wide, public adoption.[51]

But Quintilian's understanding of language, like his catalog of certainties, looks not only to the broadest types of consensus but also to the narrower agreements of learned experts, whether forensic rhetoricians or, as is the case here, authorities on language. The *publica forma* used for minting authorized currency is perhaps best understood as a die that is not "public" but "official."[52] A later discussion of the role of *consuetudo* in Quintilian's text justifies this second, more restrictive interpretation: at the conclusion

eta signatis, III.3. For a brief discussion of Fortunatianus' appropriation of Quintilian's metaphor, see Montefusco (1979, p. 430). For an early modern example of further interest in Quintilian's comparison of language and money, see Camporeale (2002, pp. 8-9) on Lorenzo Valla's theories of language. Colson points to similar analogies in Ovid and Sextus Empiricus (1924, p. 74).

[50] *Atqui satis aperte Cicero praeceperat in dicendo vitium vel maximum esse a vulgari genere orationis atque a consuetudine communis sensus abhorrere*, VIII.pr.25.

[51] Recall that Quintilian includes unanimous or near-unanimous beliefs in his catalog of *certa*: *ea in quae communi opinione consensum est*, V.10.12.

[52] The adjective *publicus* extends over both meanings. See *OLD publicus*, which includes among definitions "authorized, provided, maintained, etc., by the state, official" (1a), "available to, shared or enjoyed by, all members of the community, public" (4), and "common to all, universal" (5a).

of his discussion of orthography and grammar, Quintilian argues that the customs of speech (*consuetudo sermonis*) should not be determined by the errors common among everyday Romans; rather, such customs should be governed by the "consensus of the educated" (*consensus eruditorum*) just as the "customary practices of living" (*consuetudo vivendi*) should be governed by the "consensus of good people" (*consensus bonorum*).[53] Thus, when the *Institutio* compares language to coinage insofar as each is stamped with the "public die," one need not read *publica* as an appeal to descriptivist approaches to ordinary language. For Quintilian, the more limited *consensus eruditorum* as well as the public determine how to mint the currency of speech.[54] In either case, whether one grounds language in the *consensus eruditorum* or the *sensus communis*, Quintilian's conceptualization of language shows how its certainty is deeply tied to the *consensus* of a group, not the *sensus* of the individual.

This reorientation of certainty through the lens of agreement, as we shall now see, stems not from a wholly original notion of the Roman schoolmaster but instead points to Quintilian's deep familiarity with and debt to so-called status theory, an immensely influential rhetorical framework devised by the Hellenistic rhetorical theorist Hermago-

[53] *sic in loquendo non si quid vitiose multis insederit pro regula sermonis accipiendum erit. Nam ut transeam quem ad modum circi turbam exclamasse barbare scimus. Ergo consuetudinem sermonis vocabo consensum eruditorum, sicut vivendi consensum bonorum*, I.6.44-45. Colson does not comment on the appearance of *consensus* in this passage.

[54] The tension between language guidelines set by learned authorities and those observed within "ordinary language" is a central concern for Lorenzo Valla, one of Quintilian's most avid readers in the fifteenth century. For scholarly debate surrounding Valla's views on ordinary language, particularly as they are rooted in Quintilian's discussion here, see Waswo (1987) and Monfasani (1989). For a more recent treatment of this debate concerning language within the context of Valla's broader concern with logic and rhetoric, see Nauta (2009). For Valla's interest in *consensus* as it is understood in the *Institutio*, see Chapter 4 of this dissertation.

ras.[55] Although we have already encountered status theory in the rhetorical treatises of Cicero, it will be helpful first to review Quintilian's account of Hermagoras' theory since, as Quintilian himself shows, there are several competing formulations by the time of the *Institutio*'s composition in the first century.[56] In the most general terms, status theory is a rhetorical framework where parties in a forensic dispute come to "a standing still" (that is, a *status*) at the point of contention between them, and in order to refine this stopping point in the most precise terms, status theory recommends that rhetoricians turn to the triad of questions at the heart of this framework: whether something happened, what happened, and what kind of thing it was.[57] After noting that "every cause rests on some issue (*status*)," Quintilian explains how these questions sit at the center of the disagreements between courtroom adversaries:[58]

> The issue (*status*) is not the first conflict—"You did it," "I didn't"—but what arises out of the first conflict. In other words, the type of question. With "You did it," "I didn't," the question is whether he did it. With "That is what you did," "I didn't do that," the question is what he did. Since it is obvious from

[55]For a survey of ancient references to Hermagoras as well as a survey of modern scholarship on his theory of *status*, see Bennett (2005). Bennett notes that "despite this scholarly attention [in the twentieth century], Hermagorean doctrine remains somewhat uncertain in its details" (ibid., p. 188).

[56]For a comprehensive discussion of Quintilian's views of status theory within its historical development, see Holtsmark (1968).

[57]For a helpful summary of the major components of status theory (also called stasis theory), see Dieter (1950). For a history of the development of status theory, see Nadeau (1959). The status or "issue" remains an important rhetorical framework for centuries and also appears in rhetorical handbooks in sixteenth-century England (Skinner 2014, pp. 44–45). For a discussion of the Aristotelian influence on status theory, particularly regarding the forensic framework of *circumstantiae*, see Sloan (2010). For Hermagoras' original formulation of four status questions including the final question of "objection," see Nadeau (1959, pp. 53–54). Nadeau writes that later Latin authors, including Cicero and Quintilian, consider the three questions listed here to be sufficient (ibid., p. 54). For a detailed summary of Book III of the *Institutio* and an account of the place of status theory within the broader treatment of rhetorical *inventio* in Book III, see Snieżewski (2013).

[58]*omnis causa contineatur aliquo statu*, III.6.1.

> this that the first point has to be considered by conjecture and the second by definition, and both parties rest their case on this, the question will be either of a conjectural or a definitional issue.[59]

This passage highlights the first two questions of status theory—conjecture and definition—to demonstrate the "type of question" at the center of forensic disputes. If the two parties disagree regarding *whether* one has committed a crime, the first issue of conjecture produces the question. If the two parties agree that a crime was committed but do not agree on *what* precisely the crime was, however, the case rests on the question of definition, not conjecture. While Quintilian reports that there are competing notions of status theory among rhetorical writers, where some theorists differ in terminology and offer up to eight issues rather than Quintilian's three, all such theorizations nevertheless take as their method of refining the case at hand a series of questions that identify disagreements. After laying out these various formulations, Quintilian himself acknowledges his debt to previous thinkers in subscribing to what he portrays as a canonical understanding of Hermagoras' framework: "Following most authorities, I kept three logical issues (*status*)—conjecture, quality, and definition—and one legal issue."[60] The *Institutio* thus presents an elaborate history of status theory not merely as a narrative of the development of rhetoric but also to provide a backdrop for Quintilian's own rhetorical view that "every cause rests on some *status*."

As part of Quintilian's account of the historical development of status theory and

[59] *Non enim est status prima conflictio: 'fecisti', 'non feci', sed quod ex prima conflictione nascitur, id est genus quaestionis: 'fecisti', 'non feci', 'an fecerit': 'hoc fecisti', 'non hoc feci', 'quid fecerit'. Quia ex his apparet illud coniectura, hoc finitione quaerendum atque in eo pars utraque insistit, erit quaestio coniecturalis uel finitiui status*, III.6.5.

[60] *Secundum plurimos auctores, servabam tris rationales status, coniecturam qualitatem finitionem, unum legalem*, III.6.66.

its influence on his own methods of rhetorical invention, he explains how it adopts the language of certainty in its treatment of the agreements and disagreements at the center of rhetorical arguments. In a discussion of the first question of conjecture, for example, Quintilian uses *certum* to describe an agreement within the courtroom:

> Many later writers, simply changing the names, spoke of "things that are not agreed" and "things that are agreed." For it is true—and it cannot be otherwise—that a fact must be either agreed (*certum*) or not. If it is not agreed (*si non est certum*), we have conjecture. If it is agreed (*si certum est*), we have other types of issue.[61]

Against the tradition seen in Ciceronian texts that associates *certum* with sense perception according to its etymological roots, Quintilian's discussion of certainty in his account of the development of status theory points to later developments (*deinceps*) that connect the notion of certainty with *consensus*, not *sensus*. Quintilian underscores this later understanding of certainty by linking the verb *consto* and the adjective *certum*, such that when disputing parties come to an agreement (*in rem de qua constet*) and arrive at a certainty (*certum*), there remain other issues (*reliqui status*) through which they can still articulate other disagreements.[62] As part of his adoption of the framework of status, then, Quintilian departs from the notion of *certum* rooted in matters of sense perception and instead understands certainty through the lens of the agreements and disagreements at the heart of forensic rhetoric.[63]

[61] *Plurimi deinceps, mutatis tantum nominibus, in rem de qua non constet et in rem de qua constet. Nam est uerum nec aliter fieri potest quam ut aut certum sit factum esse quid aut non sit; si non est certum, coniectura sit, si certum est, reliqui status*, III.6.34.

[62] Quintilian's discussion here centers on two-issue theories of *status*, so the suggestion that several issues (*reliqui status*) remain after the first has been settled is peculiar. This plural form perhaps points to Quintilian's own conception of the three rational issues at III.6.66: the *reliqui status*, then, would include both quality and definition, *qualitas* and *finitio*.

[63] The contrast between certainty and doubt that appears in Quintilian's treatment of Book V

Developed over the course of Book III, Quintilian's notion of status theory expands to domains outside forensic disputes, an expansion that facilitates his application of certainty, understood as *consensus*, to other methods of inquiry. Paralleling his assertion in Book V that it is the "nature of all arguments" to use certainties to prove what is doubtful, Book III of the *Institutio* similarly argues that even if "some have held that [the issues of status theory] are relevant only to forensic subjects, these people's ignorance will be revealed by the facts."[64] While Quintilian does not discuss the applicability of this forensic framework to apodeictic reasoning specifically, he nevertheless extends the language of certainty from Hermagoras' forensic framework to other branches of oratory. In the case of deliberative oratory, for example, Quintilian devises three issues in parallel to the traditional triad of questions at the heart of status theory; moreover, he uses the language of certainty to locate the precise question (*quaestio*) at the center of such deliberative matters:

> Whether the object is to persuade or to dissuade, there are therefore three considerations to take into account first: what the proposal is, who are the people discussing it, and who is the adviser. As for the proposal, its practicability is either certain (*certum*) or doubtful (*incertum*). If it is doubtful, this becomes the only or at least the most vital question (*quaestio*). We shall often find outselves saying first that a thing ought not to be done even if it could, and secondly that it cannot be done. When the question turns on this, we

reappears in Book III's treatment of status theory, suggesting moreover that the *Institutio* not only understands certainty as agreement but also doubt as disagreement. As part of a discussion on the status of quality, Quintilian appeals to this contrast in describing "a clearly named fact, where it is certain that the deed was done, and there is no doubt about what it is that has been done" (*succidentium autem aliae de communi appellatione, ut 'sitne sacrilegus qui pecuniam privatam ex templo futurus est,' aut de re denominata, ubi et factum esse certum est nec dubitatur quid sit quod factum est*, III.6.41).

[64] *Quamquam id nonnulli ad iudiciales tantum pertinere materias putaverunt, quorum inscitiam, cum omnia tria genera fuero executus, res ipsa deprendet*, III.6.1.

have conjecture.[65]

Rather than root deliberation in the three traditional status questions of forensic rhetoric—*an sit*, *quid sit*, *quale sit*—Quintilian here recommends that deliberation consider what proposal is at hand, who is deliberating, and who advocates for each side. Quintilian's framing of deliberative oratory around a question (*quaestio*) further recasts this second branch of oratory through the lens of status, for "what we call issue (*status*) is called by some 'constitution' (*constitutio*), by others 'question' (*quaestio*), by others 'that which the question reveals.' "[66] By theorizing deliberative oratory through the vocabulary of status theory, which is first and most emphatically a strategy useful for forensic rhetoric, Quintilian illustrates how he expands the applicability of status theory and the language of certainty beyond the courtroom, an expansion that foregrounds his refashioning of the full range of *argumenta* through the lens of *certa* in Book V.

The expansion of certainty's relevance to matters outside the conjectural issue of status theory, perhaps most clearly seen in Quintilian's appeal to *certum* in his discussion of deliberative oratory, further supports the view of argumentation in Book V, where all arguments and not just conjectural disagreements hinge on matters of certainty. As his discussion of status theory illustrates, Quintilian understands agreements

[65] *Quare in suadendo ac dissuadendo tria primum spectanda erunt: quid sit de quo deliberetur, qui sint qui deliberent, qui sit qui suadeat. Rem de qua deliberatur aut certum est posse fieri aut incertum. Si incertum, haec erit quaestio sola aut potentissima; saepe enim accidet ut prius dicamus ne si possit quidem fieri esse faciendum, deinde fieri non posse. Cum autem de hoc quaeritur, coniectura est*, III.8.16.

[66] *Quod nos statum, id quidam constitutionem vocant, alii quaestionem, alii quod ex quaestione appareat*, III.6.2. For a discussion of *constititio* and its place within different formulations of status theory, especially those in the works of Cicero, see Chapter IV where I treat Valla's rendering of *certum* as that which is *constitutum*.

and disagreements—articulated in the issues of conjecture, definition, and quality—as a central strategy of rhetorical invention. Rooted in the language of certainty, the version of status theory elaborated in the *Institutio* conceives of rhetorical argumentation more generally (and not just forensic oratory) through the notion of consensus, an extension that parallels Quintilian's assertion that geometry, natural philosophy, and rhetoric all operate through "the same reasoning" (*eadem ratio*). By coupling his skeptical outlook, through which no intellectual practitioners have reliable access to *vera*, with his understanding that it is the "nature of all arguments" both to use and to aim at *certa*, Quintilian positions certainty outside its originally limited position within Ciceronian understandings of status. If all *argumenta* begin with what is *certa* (that is, what is agreed upon) in the service of making *incerta* certain, one can see how Quintilian understands certainty not as mere matter of sense perception or specific type of forensic agreement; rather, its expansive definition in the *Institutio* extends into all matters, not just the issue of *coniectura*.

The earlier works of Cicero show a relatively limited function of *certum* in status theory, for it is most tightly coupled with the first status question of conjecture. In Quintilian, too, one sees that certainty is brought up most often in the context of this first question of forensic disputes, and even in his discussion of deliberative oratory, Quintilian positions *certum* within his discussion of the first question of "what the proposal is." Quintilian's final gloss of *status* here as some kind of *constitutio* or *quaestio*, however, suggests that his understanding of status and certainty is more flexibile than in the Ciceronian accounts. Any *status*, then, might be construed as an "act of deciding, determination, or settling," and in his first discussion of *coniectura*, too, Quintilian suggests that *certum* can stand

for a *res de qua constet* more generally.[67] One might see, then, that *certum* is not bound exclusively to the issue of *coniectura* but instead is tied more broadly to agreements of any sort. Indeed, this is the breadth of *certum* one sees in Book V, where matters of convention, consensus, and law all fall under this single term.

Quintilian's efforts to conflate several methods of inquiry and his suggestion of broader understandings of certainty within status theory, in fact, capture the attention of his later readers. As we shall see in the following chapter, Lorenzo Valla, one of Quintilian's most devoted early modern admirers, would consider this novel expansion of status theory to be one of the *Institutio*'s most important contributions to his own thinking on matters of logic and rhetoric. Indeed, through a reference to the three questions of status theory, Valla explains in his *Dialecticae Disputationes* that "in each kind of inquiry—rational, moral, natural, and many others—our practice is to ask whether it is, what it is, and what it is like, which is almost explicit in the words of Quintilian."[68]

[67]For *constitutio* as "an act of deciding, determination, or settling," see *OLD constitutio* 4.

[68]*praeterea in singulis—rationali, morali, naturali, et sique sint alia—quaerere solemus an sit, quid sit, quale sit, ut propemodum ex Quintiliani verbis palam est*, II.19.25.

Chapter 4

Certum atque Confessum*: Valla on the Forensics of Certainty*

The fifteenth-century Italian humanist Lorenzo Valla is perhaps most famous for demonstrating on philological grounds that the *Donation of Constantine* was a forgery.[1] But Valla's activity as an expert of the Latin language was not limited to this important revision of ecclesiastical and political history. Valla also employed his philological expertise to compile his influential *De Linguae Latinae Elegantia* (or *Elegantiae*), a 1441 work on the proper use of Latin.[2] As an admirer of the prose of Cicero and especially Quintilian, Valla wrote six volumes of learned stylistic recommendations to mitigate what he viewed as a decline and corruption of the purity of the Latin tongue.[3] Valla aimed to return to those exemplary authors of antiquity who were the "most devoted to speaking well."[4]

As part of this project to revitalize and restore the Latin language, Valla treats a variety

[1]The *Donation of Constantine* granted temporal authority over Rome and the Western empire to the papacy. For a survey of the document's history and Valla's philological methods in proving its illegitimacy, see Camporeale (1996).

[2]For studies of the novelty and influence of Valla's *Elegantiae*, see Percival (2004, p. 75) and Perreiah (2014, pp. 36-37).

[3]For Valla, the decrepitude of the Latin language mirrors the decrepitude of the city of Rome itself: "Everything has been overthrown, everything has been burned down, everthing has been ruined, so that hardly the Capitoline hill remains. And accordingly, for many centuries, not only has no one spoken Latin, but no one has even understood how to read it" (*Omnia everta, incensa, diruta, ut vix Capitolina supersit arx. Siquidem multi iam saeculis non modo Latine nemo locutus est, sed ne Latina quidem legens intellexit*), Proem to Book I (Moreda 1999, 1:60). Translations of Valla's *Elegantiae* are my own.

[4]Valla includes under the heading of *bene loquendi studiosissimi* not only orators and jurists but also philosophers and writers. See Moreda (ibid., 1:60).

of words and phrases in the *Elegantiae*, where he prescribes correct sense and syntax, usually by referencing model sentences. In the fifth book, Valla directs his readers to the phrase *certum est* with an example from Quintilian's *Institutio*:

> *certum est* is not just understood as "it is obvious" (*manifestum est*), as Quintilian does here: Truly, it is *certus* that there is a law [that one may kill an adulterer]. But it is also understood as "it is carefully considered" (*deliberatum est*) or "it is settled" (*constitutum est*). In the second case, a dative with an infinitive is usually attached to the phrase, as in "it is *certum* to me to go into Spain." Sometimes the dative is merely implied, as is the case in Vergil: it is *certum* that it is preferable to suffer in the forest, among the dens of beasts…that is, it is *certum* to me.[5]

Here Valla first links what is certain to what is "obvious" or "manifest," and while *manifestum* is a term familiar to the law courts, it also suggests an interest in sense perception more broadly, an interest that relates to the etymological origins of *certum* as a word related to perception.[6] This relationship between *certum* and sense perception, in fact, does not escape Quintilian's notice. His first rendering of *certum* in the *Institutio* points to

[5] *certum est non modo accipitur pro manifestum est, ut Quintilianus: Nempe legem esse certum est; sed etiam pro deliberatum et constitutum est. In quo secundo plerumque adiungitur dativus cum infinitivo; ut, certum est mihi ire in Hispaniam. Nonnumquam dativus subintelligitur, ut apud Vergilium: Certum est in sylvis, inter pelaea ferarum malle pati…Id est mihi*, V.27 (Moreda 1999, 2:582).

[6] For *certum* as a derivative of *cerno*, see *OLD certus*. Several Latin authors use *manifestum* in this sense of "visible" or "conspicuous": see *OLD manifestus* 4, 5, 6. *Manifestum* was originally relevant to evidence in criminal cases, and early appearances of *manifestum* in Plautus describe those who are caught red-handed. Only later authors make use of the term in more abstract senses of being "obvious" or "in plain sight." For *manifestum* as "obvious," see *OLD* 3a. The etymology of *manifestum* is unclear. The first component of the word derives from *manus*, likely related to a criminal whose hands are at work in the crime. The *OLD* hypothezies that *manifestus* and *infestus* use the same second component, *festus*, but the meaning has an "obscure origin." See *OLD infestus*. For early examples of *manifestum* relating to catching criminals as noted in *OLD* 1 and 2, see Plautus *Menaechmi* 594 or *Asinaria* 569. See also *OLD manifestus* 3b for the later construction *manifestum est*, "it is plain (that)." For a discussion of the importance of forensic oratory to New Comedy more generally, see Scafuro (1997, pp. 25-67).

this kinship: there the Roman schoolmaster writes that what is *certum* is that which is "perceived by the senses, for example what we see or hear."[7]

The passage in the *Institutio* that Valla references in his *Elegantiae*, however, calls attention not to evident sensory experience but rather to the strategies of the law court. Even though Valla had at his fingertips Book V of the *Institutio*, with its explicit definitions of *certum*, he instead takes as a model for his language study an earlier reference to *certum* in Book III that centers on the role of status theory in forensic rhetoric.[8] Rhetoricians, so Quintilian recommends, should refine the issue of a dispute by turning to the triad of questions at the heart of this rhetorical framework: whether something happened, what happened, and what kind of thing it was.[9] In this preliminary discussion in Book III cited in Valla's *Elegantiae*, Quintilian notes that the man accused of murder may defend himself by arguing that the victim was an adulterer, for as Quintilian reminds his readers, it is *certum* that the law permits one to kill such a criminal:

> Let us suppose the charge made by the accuser is "You killed the man." If the defendant denies it, it is he who produces the issue. But suppose he admits (*confitetur*) the fact, but says the adulterer was justifiably killed by him. (It is of course *certum* that there is a law permitting this.) Unless the accuser makes some reply, there is no case.[10]

---

[7] *Pro certis autem habetus primum quae sensibus percipiuntur, ut quae videmus audimus*, V.10.12. For a more thorough treatment of the relationship between sense perception and certainty in ancient epistemological discussions, see Chapter 2 of this dissertation.

[8] As we have discussed in previous chapters, status theory is a rhetorical framework where parties in a forensic dispute come to "a standing still" (that is, a *status*) in their arguments. See note 57 in Chapter 3.

[9] For Hermagoras' original formulation of four status questions including the final question of "objection," see Nadeau (1959, pp. 53-54). Nadeau writes that later Latin authors, including Cicero and Quintilian, consider the three questions listed here to be sufficient (ibid., p. 54).

[10] *Sit enim accusatoris intentio: 'hominem occidisti'; si negat reus, faciet statum qui negat. Quid si confitetur, sed iure a se adulterum dicit occisum (nempe legem esse certum est quae permittat)? Nisi*

While the accused admits *what* he has done—he agrees that he killed another man—he denies the action was unjustified. In other words, while the two parties of this case provide the same answers to the first two status questions of whether and what happened, they disagree on the answer to the third: what one calls a cold-blooded murder, the defendant calls a justifiable homicide. The application of status theory, as this example demonstrates, articulates the agreements of two parties in order to target their precise point of contention. Quintilian posits that since it is *certum* that a law exists allowing one to kill adulterers, there can be no disagreement about whether the defendant acted within his legal rights *if* his claim regarding the victim's adultery is true. But "if the prosecutor says, 'He [who was killed] was not an adulterer,' then the rebuttal of the charge is now the prosecutor's business, and he will produce the status," the point at which the two parties "stand still" in disagreement regarding the kind of homicide committed.[11]

The *Elegantiae*'s rendering of *certum* as *manifestum* and its invocation of status theory orient Valla's understanding of this adjective as a matter of legal dispute rather than mere sense perception. More broadly, Valla understands certainty through the lens of forensic rhetoric, as reflected not only in his citation of Quintilian's discussion of status theory but also in his second definition of *certum* in the *Elegantiae* as what is "settled" or *constitutum*, a word whose legal valence Valla explores extensively. This exploration, as we shall

aliquid accusator respondet, nulla lis est, III.6.17. Valla omits the relative clause *quae permittit* that follows Quintilian's acknowledgment of the law.

[11] '*Non fuit' inquit 'adulter': ergo depulsio incipit esse actoris, ille statum faciet*, III.6.17. The validity of the prosecutor's case would then depend on proving that the victim was not, in fact, an adulterer. This application of *certum* to the agreed-upon legal standard within the framework of status theory suggests again Quintilian's effort to extend certainty beyond the concerns of conjecture, an alteration of Ciceronian renderings of status. For a discussion of Quintilian's understanding of certainty within status theory, see Chapter 3 of this dissertation.

see, complements Valla's rendering of *certum* as agreement, which serves, in turn, as the foundation for his understanding of the law as a matter of broader public consensus and not as the dictates of nature. And this notion of certainty as forensic agreement serves more generally as the foundation for his reevaluation of both dialectic and jurisprudence as matters of rhetorical consensus rather than reason alone.

Valla's understanding of *certum* is central not only to his theory of the origins of law but also, as we shall investigate first, his reformation of Aristotelian dialectic in the *Dialecticae Disputationes*. In this work, the first edition of which was completed in 1439, Valla recommends that philosophy and dialectic look to his preferred model from antiquity, Quintilian, to replace Aristotle and the methods proposed by his scholastic followers. Even in the work's first chapter, which brims with Aristotelian predicables and transcendentals, Valla asks himself "in translating these terms, whom should I follow but Quintilian?"[12] The *Disputationes*, as Valla makes clear here, aims to reform the philosophical core of scholastic dialectic by importing the lessons of the rhetorical schoolmaster.

Valla's insertion of Quintilian's thought into the Aristotelian system of logical argumentation was, in one sense, a literal one. In the second book of the *Disputationes*, Valla merely extracts much of the second half of Book V of the *Institutio* word for word and includes it as the second half of his own book (II.21-23) in lieu of a discussion or even paraphrase of Quintilian's work. He justifies this transplanting by appealing to Quintilian's unparalleled genius: "no one—unless God were 'someone,' so to speak—can say anything that has the mighty genius and eloquence of Quintilian's language."[13] Like a du-

[12] *In quorum translatione quem potius quam Quintilianum sequar?*, I.I.6.

[13] *neminem neque ea ingenii vi neque ea eloquentia posse quicquam dicere—nisi Deus aliquis, ut*

tiful but over-zealous modern scholar, Valla provides this reference for his source before inserting *Institutio* V.8.1–V.10.125 as the remainder of Book II of his *Disputationes*, a full thirty-one pages of Latin in the most recent I Tatti edition.[14] This selection of Quintilian's "mighty genius and eloquence" includes his discussions of technical proof (*De probatione artificiali*, V.8), signs (*De signis*, V.9), and arguments (*De argumentis*, V.10), all of which encompass some of the most important materials from our discussion in earlier chapters of Quintilian's approach to forensic arguments through the *certa* at their foundations.[15]

Valla's interest in *certum* and its role in forensic argument extends even beyond these

sic dicam, foret—qua Quintilianus dixit, II.20.1-2.

[14]Valla may have been providing Quintilian's text not only on account of his admiration of the style of the *Institutio* but also on account of its novelty. That is, readers of the *Disputationes* may not have been familiar with Quintilian's text, discovered only a two decades before the first edition of Valla's own work here. While the earliest editions of Valla's *Disputationes* were written before Valla's acquisition of Quintilian's text in 1443, this large selection of the *Institutio* illustrates Valla's eagerness to include Quintilian's theory in later versions of his work. The version of the *Disputationes* which Valla was still writing at the time of his death in 1457 serves as the basis of the latest edition from the I Tatti Renaissance Library (Copenhaver and Nauta 2012, 2:498-499).

[15]These chapters, evidently indispensable for Valla, also include Quintilian's claim that arguments "confirm (*confirmat*) what is doubtful through what is not doubtful" and that an *argumentum* must begin with a statement which does not need to be proven itself. Quintilian writes, "Since argument is reasoning that provides proof, by which one thing is inferred through another, and which confirms what is doubtful through what is not doubtful, there must be something in the case that needs no proof" (*Ergo, cum sit argumentum ratio probationem praestans, que colligitur aliud per aliud, et quae quod est dubium per id quod dubium non est confirmat, necesse est aliquid esse in causa quod probatione non egeat. Alioquin nihil erit quo probemus, nisi fuerit quod aut sit verum aut videatur, ex quo dubiis fides fiat*, II.23.7, originally *Institutio* V.10.11-12). Even the original portions of Book II of the *Disputationes* appropriate Quintilian's rhetorical vocabulary. As a parallel to Quintilian's aforementioned claim that an argument must begin from what is not doubtful, for example, Valla writes that "one thing proves another, and one and the same thing does not prove itself; there is one thing that confirms (*confirmat*), another that is confirmed (*confirmatur*), and nothing is its own cause" (*Alia res alia probat; non una eademque seipsam. Et aliud est quod confirmat, aliud quod confirmatur, nec quicquam sibi ipsi causa est*, II.19.19). The reappearance of *confirmare* in Valla's formulation here recalls Quintilian's own focus on this crucially important dimension of forensic practice. As Quintilian explains, *confirmatio* is one of the essential parts of a forensic speech (IV.3.1). For this rhetorical valence of *confirmo*, see *OLD* 7a. For that of *confirmatio*, see *OLD* 4. Rhetorical theorists in the early modern period also see *confirmatio* as one of the principal tasks of forensic rhetoric. For a discussion of Thomas Wilson's appeal to *confirmatio* in his sixteenth-century *Arte of Rhetorique*, see Skinner (2014, p. 43).

passages of the *Institutio*. In his original sections of the *Disputationes*, Valla explains that the nature of proof is to make *certum* what was previously *incertum* and writes that "every proof is produced through truths that are *certum*, and through them, that very truth (*veritas*) causes some other truth (*verum*), which was *incertum*, to be seen as *certum*."[16] Valla's discussion here, however, is not a mere restatement of Quintilian's theory. While similar to Quintilian's claim that *incerta* are proved through *certa*, Valla's formulation diverges from that of his Roman predecessor when it states that an argument should arrive at a conclusion that is not merely *certum* but also *verum*. Whereas Quintilian writes that it "is the nature of all arguments that nothing is shown to be certain by what is uncertain," Valla here includes additional concerns for "the very truth" of arguments.[17] That is, while Quintilian merely proposes to use premises that are certain to prove a conclusion that is uncertain, Valla shows that the rhetorical concern of demonstrating what is *certum* is also relevant to discussions of philosophical *veritas*. He understands that at stake in argumentation is not just certainty but also truth.[18]

Underlying Valla's preoccupation with the truth is his dismantling of the tradition of

[16] *probatio omnis fit per vera quae certa sunt, facitque per haec ipsa veritas aliud quoddam verum videri certum quod erat incertum*, II.19.22. Alan Perreiah's recent study of Valla's approach to language asserts that "Valla conflates truth with certainty" (2014, p. 70). While these two terms are closely related, Valla does not fuse them into one concept. As he shows here, what is *verum* can nevertheless remain *incertum*.

[17] As discussed in the third chapter of this dissertation, Quintilian understands argument as the use of *certa* to make *certum* what was previously *incertum*: *quae natura est omnium argumentorum, neque enim certa incertis declarantur*, V.10.8.

[18] Valla's understanding of truth continues to inspire scholarly debate. Charles Trinkaus argues that for Valla "truth and knowledge are…what an individual thinks they are" (1983, p. 151). Peter Mack, taking an opposite view, argues that Valla understands that "language adequately describes what is in the world [and that] truth depends on accurate knowledge of the world and correct representation of such knowledge" (1993, p. 57).

Aristotelian modal propositions.[19] Valla's critique of modality is two-fold: first he criticizes the redundant and confusing terminology of the six traditional modal adjectives—possible, impossible, necessary, contingent, true, false; and second he challenges the category of modal propositions at its root by arguing that all sentences, and not only those of the six original varieties, are modal insofar as they are true.[20] As Lodi Nauta explains, Valla "starts with criticizing the traditional six modal terms…[but] soon changes tactics and extends the range of 'modal' terms to include all kinds of qualifications of verbs such as 'easy/difficult,' 'certain/uncertain,' and 'useful/not useful.' "[21] After Valla first restricts the traditional range of modal statements from six to one, he then expands the reach of true statements well beyond their original role as merely one of a few available types of propositions and introduces "a whole new concept of modality, which comes to an adverbial qualification."[22] Valla places all Aristotelian modes under the category of true statements and explains that a claim of what is possible or necessary or contingent nevertheless makes a truth claim about such possibility, necessity, or contingency.

Valla's emphasis on the truth of all kinds of modal propositions leads him to propose the radically true nature of all arguments more generally. He explains that a proof (*probatio*), which is the aim of argument (*argumentum*), "ought to be true without qualifica-

[19]For a discussion of Valla's rejection of modal logic and this rejection's incompatibility with his frequent use of the *reductio ad absurdum*, see Perreiah (2014, pp. 67-70).

[20]See Nauta (2009, pp. 230-238) for a helpful discussion of Valla's rejection of the six modal categories.

[21]Nauta (ibid., p. 230).

[22]Nauta (ibid., p. 232). Valla summarizes his new conception of modal logic in a defense against charges of heresy in his *Defensio Quaestionum in Philosophia Laurentii Vallensis, Viri Doctissimi atque Eloquentissimi*: *Male dici propositiones 'modales' easque sex, cum sint proprie infinite*, §7. See Zippel (1970, p. 86).

tion."[23] He ultimately concludes that every argument, and not just individual propositions, must employ true statements in all its parts:

> In fact, all parts of an argument must be true, whether you say it is 'necessary' or 'possible' or 'easy' or 'honorable' or anything else. Suppose I say 'it is honorable that a citizen should fight for his country': will this sentence really come under any of those modes? Not at all. Because the case is very clear, let this one example suffice for many. Accordingly, I think that a 'modal' sentence means nothing, and that whatever weight those six modes have, the nouns or verbs that I have mentioned have just as much; but I think that necessity and possibility is in the conclusion, just as there is truth in all the parts of the structure of an argument.[24]

Valla cannot be clearer when he asserts that a modal statement "means nothing." Rather than hinge his understanding of arguments on careful analysis of possibility, contingency, or necessity, Valla instead considers only the truth of proof. As he explains earlier in his text, "proof does not come from the false," and here he reiterates that "there is truth in all parts of the structure of an argument."[25]

After reducing the number of modal categories and subordinating all propositions to what is "true," Valla then introduces *certum* as an additional qualifier of the statements of an *argumentum*:

> In this context, however, 'true' is the same as *certum* because it matters not at all that something is true unless it is *certum atque confessum.* But in the first two parts of a syllogism or structure of argument, a truth is posited as *certum*

[23] *quasi falsitas ad probationem faciat, quae vera utique debet esse*, II.19.4.

[24] *Omnia enim sint vera oportet, sive dicas necesse est sive possibile sive facile sive honestum sive cetera omnia. Quid enim si dicam honestum est civem pugnare pro patria: nunquid sub aliquo illorum modorum haec erit enuntiatio? Minime. Unum pro multis in re apertissima suffecerit exemplum. Quapropter ita sentio nihil esse enuntiationem modalem, tantundemque momenti quantum illa sex habent, habere cetera quae dixi nomina seu verba; sed necessitatem ac possibilitatem in conclusione esse, sicut veritatem in omnibus partibus argumentationis*, II.19.7.

[25] For Valla's claim that proof does not arise from what is false (*e falso non fit probatio*), see *Disputationes* II.19.4.

> *atque confessum* as such. In the last part, however—in the conclusion—the truth is extracted by force (*extorquetur*), and thus it has necessity, or a sort of necessity.[26]

This addition of *certum* to Valla's conception of modal statements underscores an important epistemological dimension of the nature and purpose of argument. To be clear, Valla here does not recommend adding *certum* as a second modal qualifier. Indeed, as he explains earlier, modal statements "mean nothing," and propositions should be considered "true" and nothing more. His use of *certum* points to his interest in the recognition of a true statement as such: it denotes not the character of the statement itself but our *recognition* and even admission of that statement's truth.[27] "It matters not at all that something is true," Valla insists, "unless it is *certum atque confessum*."[28] The goal of proof, so Valla believes, is not merely to demonstrate that a conclusion is true but also to compel another to confess that truth.[29]

---

[26] *Idem autem est hoc loco verum quod certum, quia nihil attinet esse quid verum nisi fuerit certum atque confessum. Sed veritas duarum priorum syllogismi argumentationisque partium, pro certa atque confessa ponitur. In ultima autem–idest in conclusione–extorquetur, ideoque necessitas inest sive tanquam necessitas*, II.19.8.

[27] An example can help illustrate this important relationship between *verum* and *certum*. The statement "There are 361 votes against Socrates" is true even before the votes are counted. But this true statement remains *incertum* as long as the tally is not counted and "confessed." By counting the votes, one does not change the truth of the original statement, but the counting allows one to recognize its truth. For a discussion of several conceptions of truth in Valla's writings that relate to mental recognition, see Perreiah (2014, pp. 67-70). As Perreiah explains, Valla often sees truth "primarily as the expression of an affective or a cognitive act" or as "spoken and written expressions of mental acts" (ibid., pp. 68-69).

[28] The most recent I Tatti translation renders *nihil attinet esse quid verum* as "nothing gets to be true." I choose to render *attinet* as an impersonal verb with an accusative and infinitive verb, as recommended at *OLD attineo* 7c. The I Tatti translation suggests a logical relationship (that *certum* is a necessary condition of *verum*) that Valla's Latin does not contain.

[29] Valla's reorientation of argument around the process of turning disagreement into agreement—*incertum* into *certum*—reorients the whole project of philosophical syllogism from a question of ontology to a question of epistemology and rhetoric. In other words, Valla is not interested in the discovery of truths but in others' recognition and understanding of them. Com-

In this careful explanation of logical premises and their conclusions, Valla uses legal language to reformulate dialectical reasoning as a concern of the lawyer's courtroom rather than the philosopher's study. The first two parts of an argument—that is, its two premises—are *confessa*, and Valla's use of *confiteor*, a verb closely associated with the world of criminal action, imbues his description of the syllogism with the air of forensic strategy.[30] Valla's legally tinged terminology here extends also to the third part of the argument—the conclusion—where the truth must be "extracted" (*extorquetur*), recalling the gathering of evidence "by forcible argument" or even by dislocating joints and torturing on the rack.[31] Valla's use of *extorqueo* also recalls methods of gathering of evidence that Quintilian himself considers in his discussions of inartificial proofs: as Valla's model for his work, Quintilian describes how an expert interrogator can "extort (*extorquere*) from a witness what he did not want to say."[32] Valla thus reinforces that rational arguments are dependent on the language of legal procedure, even in the context of philosophical

pare Aristotle's separation of scientific demonstration and dialectic. Aristotle explains that only the former uses premises that are "primary and true" whereas dialectical argument uses *endoxa*, premises that are "reputable" and in many cases "agreed upon." See *Topica* 100a25-30 and 100b21-23. For a recent discussion of the role of *endoxa* in argument, see Frede (2012) and Chapter 1 of this dissertation. Valla's suggestion that truth exists independent of its recognition runs counter to modern scholarship that argues for Valla's rejection of truth: "On the one hand Valla denies that there is an ontological truth, [but] on the other hand he affirms that there is solely and exclusively a logical truth" (Camporeale 1986, p. 233). Valla never doubts the existence of *veritas* in this discussion, and in fact he suggests that the existence of *veritas* is prior to its recognition in argument. At least here, the truth is not merely a product or creation of logical syllogism; rather, syllogism provides access to it.

[30]For the legal dimension of *confiteor*, see wide-ranging examples from Plautus and Terence through Statius and Tacitus, *OLD* 1a, 1c.

[31]See *OLD extorqueo* 2, 3.

[32]*At in eo qui verum invitus dicturus est, prima felicitas interrogantis extorquere quod is noluerit....Respondebit enim quae nocere causae non arbitrabitur, ex pluribus deinde quae confessus erit eo perducetur ut quod dicere non vult negare non possit*, V.7.17. See Quintilian's similar point about an expert defense attorney where *extorqueo* also appears (V.7.27). Note, too, the appearance of *confessus* in Quintilian's discussion of the interrogator at V.7.17.

dialectic.[33]

Valla's concern with extracting a confessed conclusion through dialectical argument, in fact, complements the two renderings of *certum est* in the *Elegantiae*, where certainty points on the one hand to given premises and on the other to claims that require consideration and ultimately a kind of agreement. As explained earlier, Valla's first definition of *certum* in the *Elegantiae*, that which is *manifestum*, recalls the language of evidence and witness testimony. Valla's second definition there, which equates *certum* and *constitutum*, similarly points to the close ties between certainty and status theory, which takes as its concern the point of disagreement in a legal dispute.[34] For while Quintilian himself generally uses the Latin term *status* to denote the issue of a forensic dispute, Cicero and the author of the *Rhetorica Ad Herennium* both prefer *constitutio*.[35] The *Rhetorica ad Herennium* uses *constitutio* to denote a "synthesis, a conjunction, co-stasis, or 'standing

[33]Nauta frames the difference between dialectic and philosophy underlying Valla's project here according to the rough division proposed by Quintilian: "The orator may use syllogism, but since his task is to plead rather than to seek the truth, he must employ the full range of his verbal skills to attract and convince the jury and the audience, who often are ignorant of the fine points of dialectic" (2009, p. 235).

[34]Valla also suggests *deliberatum* as an alternative for *constitutum* in this second sense. The verb *delibero* always denotes active thinking, never passive awareness. Some definitions in *OLD* include, for example, "to engage in careful thought (usually in consultation with others), weigh the pros and cons, deliberate" (1a), "to consider (a matter) carefully, ponder, think over" (2a), and "to have resolved on (after consideration); to have decided" (3a). Valla's brief discussion here of the use of the dative case with *certum est* helps to illustrate the difference between his two examples of *certum*. He notes that in the second meaning of the phrase—that is, when *certum* has the meaning of *deliberatum* or *constitutum* rather than *manifestum*—the word appears with a personal pronoun in the dative case, or one is at least understood (*subintelligitur*). The second sense of *certum*—that is, what has been deliberated or settled—requires one's thought and assent.

[35]In his discussion of status, Quintilian explicitly notes his preference for *status* over *constitutio* in discussions of locating the issue of a forensic dispute: *Quod nos statum, id quidam constitutionem uocant, alii quaestionem, alii quod ex quaestione appareat, Theodorus caput [id est κεφάλαιον γενικώτατον] ad quod referantur omnia, quorum diuersa appellatio, uis eadem est, nec interest discentium quibus quidque nominibus appelletur dum res ipsa manifesta sit* (III.6.2.2). The word *constitutio* appears only 4 times in all of the *Institutio*.

together' of specific statements, or declarations, between which there is an interval of conflict, or disagreement."[36] Cicero, too, notes in his *De Inventione* that the *constitutio* is the "original clash, or primary conflict of causes."[37] In Valla's eyes, then, certainty points not just to the "manifest" premises of a forensic dispute but also to the "standing together" at a point of dispute.

Valla's close coupling of *constitutum* and *certum* adumbrates his broader interest in what is "settled" both in matters of legal argumentation and even, as we shall now see, in the origins of the law itself. Valla's most thorough discussion of the roots of the law, where he corroborates the forensic link between *certum* and *constitutum*, appears in the elaborate marginal notes of his edition of Quintilian's *Institutio*. These notes—which themselves are largely drawn from legal sources—illustrate Valla's close association of *certum*, *constitutum*, and *consensus*.[38] Alongside Quintilian's own enumeration of the categories of *certa*

[36]See Dieter (1950, p. 359).

[37]See I.10 and Dieter (ibid., pp. 364-365). For further references to *constitutio* as the "formulation of the point at issue in a case," see *OLD* 7a.

[38]Although it was the famous papal secretary-cum-book hunter Poggio Bracciolini who discovered a complete manuscript of the *Institutio* at the monastery of St. Gall in 1416, Valla took up the task of editing the damaged text. Poggio expresses in his letters an admiration for Quintilian, from whom "we could learn the perfect method of public speaking, even if we did not have Cicero, the father of Roman oratory." He explains in a letter to Guarinus Veronensis the benefit to the study of language he expects from his discovery of this manuscript: "there was one outstanding and extraordinary man, M. Fabius Quintilian, who so cleverly, so thoroughly, and attentively worked out everything which had to do with training even the very best orator that he seems in my judgment to be perfect in both the highest theory and the most distinguished practice of oratory. From this man alone we could learn the perfect method of public speaking, even if we did not have Cicero, the father of Roman oratory. But among us Italians, he so far has been so fragmentary, so cut down, by the action of time, I think, that the shape and style of the man has become unrecognizable" (Gordon 1991, pp. 193-194). The complete manuscript of the *Institutio*, Poggio also notes in his letter to Guarinus Veronensis, was "still safe and sound, though filthy with mold and dust. For these books were not in the library, as befitted their worth, but in a sort of foul and gloomy dungeon at the bottom of one of the towers, where not even men convicted of a capital offence would have been stuck away" (ibid., p. 195). Valla likely received the complete manuscript of Quintilian's *Institutio* in 1443, and completed editing the text in December of 1444.

in Book V, for instance, Valla includes a passage from the jurist Salvius Julianus:[39]

> Long-standing custom (*consuetudo*) is observed in the place of law with good reason, and this is the law which is said to be settled by customs (*moribus constitutum*). For as these laws in particular restrain us for no other reason than because they are accepted by the judgment of the public, those things which the populace approved without any written law likewise justly restrain all men: for what difference is there whether the populace declares its will by vote or by its very deeds and actions? It is understood most correctly, therefore, that laws may be abolished not only by the vote of the proposer of a law but also by the silent agreement of all people through disuse (*tacito consensu omnium per desuetudinem*).[40]

In a letter from the winter of 1443, Giovanni Aurispa complains that Valla has not yet told him whether he received the manuscript of Quintilian that Aurispa had sent earlier. In a letter dated December 31, 1443, Valla replies that he "wrote long ago that I had received the copy of Quintilian" (Cook 2013, pp. 151, 157).

Valla, even from a young age, admired Quintilian not merely as a superior rhetorical theorist or expert of Roman forensic practices but as an expert stylist of the Latin language. One of Valla's earlier works is *De comparatione Ciceronis et Quintiliani*, now lost, which many scholars assume to have included a scandalous statement of his preference for Quintilian over Cicero as a stylist and rhetorical thinker. Recent work has suggested that this work may have been a comparison of a declamation by Pseudo-Quintilian and Cicero's *Pro Ligario* (Pagliaroli 2006). For a discussion of Valla's estimation of Quintilian's writing, see Cesarini Martinelli (1986). In his letters, Valla writes that he is "the man who composed a *Commentary* on Cicero and Quintilian in which I exalted Quintilian above Cicero, Demosthenes, and Homer himself" (Cook 2013, p. 110).

The manuscript of the *Institutio* was well regarded not merely for its textual emendations but also for Valla's marginal notes. Winterbottom explains that "the name and fame of Lorenzo Valla gave his manuscript a large and swift progeny" and lists a selection of later editions that emerged from Valla's editorial work (1967, pp. 361-363). In fact, Valla's notes on the first two books of the *Institutio* were included in a Venice edition of Quintilian's work in 1494, almost 50 years after Valla's death (Sandys 1908, 2:67). Valla's editing of the *Institutio* was a critical success: one correspondent, eager to borrow Valla's manuscript of Quintilian, writes that it was "the only correct copy on earth" (Cook 2013, pp. 306-307). Valla's manuscript is now held at the Bibliothèque nationale de France, cataloged as MS Par. Lat. 7723. In their edition of Valla's marginal notes, Martinelli and Perosa write that "the discipline most persistently investigated in the marginal comments of Quintilian in each case is the law: Valla has stripped the *Corpus iuris* (and the *Sententiae* of Paulus) looking for evidence pertaining to the legal situations described by the orator" (1996, p. lxxxi).

[39]Lucius Octavius Cornelius Publius Salvius Julianus Aemilianus served in the *consilium principis* under Hadrian and wrote the *Digesta*, 90 books of case law.

[40]*Inveterata consuetudo pro lege non immerito custoditur, et hoc est ius quod dicitur moribus constitutum. Nam cum ipse leges nulla alia ex causa [nos teneant,] quam quod iudicio populi recepte sunt, merito et ea, que sine ullo scripto populus [probavit], tenebunt omnes: nam quid interest utrum suffragio populus voluntatem suam declaret an rebus ipsis et factis? Quare rectissime et illud receptum est, ut leges non solum suffragio legis latoris, sed etiam tacito consensu omnium per desuetudinem*

As he explains in the *Elegantiae* and as we see in his citation of Julianus here, Valla draws a close connection between what is *certum* and what is *constitutum*. Rather than focus on Quintilian's first rendering of *certum* in Book V—namely, what is perceived by the senses—Valla instead concentrates on the varieties of *certa* rooted in what is established or settled or agreed upon.[41] Through his reference to Julianus, Valla draws attention to the derivation of laws not from the deliberation of a group of expert legislators but rather from the "judgment of the public." Similarly, such laws can be overturned "by the silent agreement (*tacito consensu*) of all through disuse," where the appearance of *desuetudo*, the lack of *consuetudo*, emerges through the unnoticed consensus of many.[42] By focusing on popular use as the foundation for law, this citation of Julianus underscores the close relationship in Valla's eyes between what is *certum* and what is agreed upon.

And just as Quintilian appeals to *consensus* in his discussion of *certum*, so too does

abrogentur. Valla's marginal note does not include *nos teneant* after *causa*, but modern editions of the *Digest* include these two words. I have changed *probabit* to the perfect tense verb that appears in Julianus' text since he intends to quote the *Digest* here. Martinelli and Perosa do not note these textual differences in their edited volume of Valla's marginal notes (Martinelli and Perosa 1996, p. 105).

[41]Quintilian lists several categories of *certa* at V.10.12-14: "Now we regard as *certa* things perceived by the senses, for example what we see or hear (signs come under this head); things about which common opinion is unanimous: the existence of gods, the duty of respecting parents; provisions of laws; what has been accepted as moral custom, if not in the belief of all mankind, at least in that of a city or nation where the case is being pleaded—many matters of right, for example, involve custom rather than laws; whatever is agreed upon between both parties; whatever has been proved; lastly, whatever is not contradicted by our opponent" (*Pro certis autem habemus primum quae sensibus percipiuntur, ut quae videmus audimus, qualia sunt signa, deinde ea in quae communi opinione consensum est: "deos esse," "praestandum pietatem parentibus," praeterea quae legibus cauta sunt, quae persuasione etiam si non omnium hominum, eius tamen civitatis aut gentis in qua res agitur in mores recepta sunt, ut pleraque in iure non legibus sed moribus constant: si quid inter utramque partem convenit, si quid probatum est, denique cuicumque adversarius non contradicit*). Quintilian's use of *consto* in his enumeration of the types of *certa* foreshadows Valla's efforts to align *certum* and *constitutum*.

[42]For Valla's link between *utor* and *consuetudo*, see his discussion in the *Elegantiae* V.5 (Moreda 1999, 2:558). For Valla's debt to Quintilian for his understanding of *consuetudo*, see Pareja (1998).

Valla in his reference to Julianus' discussion of laws stemming from public agreement.[43] These consensual foundations of law are similarly evident in Valla's discussion of the origins of *leges* in the *Elegantiae*, a discussion that—like his section on *certum est*—concentrates less on purely stylistic concerns and more on Valla's jurisprudence:

> Laws come from either a prince or a free people. Those which are established by a king do not require the *consensus* of one other person. There are those which are brought upon the people and those which are not really ratified without the people's decree, because the public is accustomed to being asked, or rather interrogated, about them, and so these laws are called *rogationes*.[44]

Valla's capacious understanding of *leges* here includes not only laws that are imposed upon the population by a monarch (*a rege*), but also those which are validated by the people's agreement, a contrasting pair of sources also referenced in Valla's citation of Julianus' discussion of laws that come about either through a "proposer" or through the "agreement of all people." At one extreme, a law enacted by an autocrat requires no consensus, not even of "one other person." At the other extreme, laws that are enacted through a *rogatio* "are not really ratified without the people's decree." In contrast to laws enacted by the king, they require the *consensus* of many.[45]

Valla's understanding of the law as a matter of consensus is so strong that it leads him to reject natural law—*ius naturale*—in favor of empirical approaches to jurisprudence, a

[43]For Quintilian's link between *certum* and *consensus*, see his second definition of *certum* in note 41.

[44]*Sunt igitur leges aut principis, aut liberi populi. Quae a rege conduntur, alterius consensum non requirunt; quae ad populum feruntur, quaeque sine eius iussu fere ratae non sunt, quia rogari, id est, interrogari de his populus solet, rogationes etiam dicuntur*, XLVIII (Moreda 1999, 1:474).

[45]The final clause of Valla's explanation references the *rogatio*, a legislative procedure dating to the Roman Republic that involved a Roman magistrate proposing legislation as a question to a Roman assembly. After the requisite period of three days reserved for debate (*trinundium*), the assembly would reconvene to answer the question with a 'yes' or 'no,' either passing or rejecting the law. See *OCD lex*.

position he also explores in his commentary on Quintilian's rhetorical manual. In the second book of the *Institutio*, Quintilian suggests that there are three categories of law: the sacred, the public, and the private.[46] Valla first comments on the superiority of Quintilian's formulation to that found in the *Digest—Melior hec divisio quam est illa in Digestis—* and then includes as an example of the inferior theorization contained within the *Digest* a long citation from the jurist Ulpian, who defends the existence of *ius naturale*.[47] Of great interest to Valla is Ulpian's distinction between natural law (*ius naturale*) and the law of nations (*ius gentium*), a separation that Ulpian explains as follows:

> Natural law (*ius naturale*) is what nature has taught to all animals. For that kind of law is not only the property of the human race, but of all animals, including those born both on land and in the sea. And it is shared with birds, too. The joining of male and female derives from this law, which we ourselves call matrimony. And the procreation of children comes from this law. Indeed, we see that other animals, even wild animals, have experience with this kind of law. The law of nations (*ius gentium*) is that which human nations use. And one is allowed to understand that the law of nations is separate from natural law since the latter pertains to all animals, whereas the law of nations is common only among men.[48]

[46] *nam et genera sunt tria sacri, publici, privati iuris*, II.4.33. Martinelli and Perosa (1996, p. lxxxii) calls Valla's notes on this passage the "pearl" of the entire manuscript.

[47] Ulpian writes that there are only two kinds of law, the public and the private, where public law is further divided into laws pertaining to sacred rites (*in sacris*), those pertaining to priests (*in sacerdotibus*), and those pertaining to civil officers (*in magistratibus*). Ulpian similarly divides private laws into three categories: natural laws (*ex naturalibus praeceptis*), laws of different nations (*ex praeceptis gentium*), and civil laws (*ex praeceptis civilibus*): *Huius studii due sunt positiones, publica et privata. Publicum ius est quod statum rei publice Romane spectat, privatum quod ad singulorum utilitatem: sunt enim quedam publice utilia, quedam privatim. Publicum ius in sacris, in sacerdotibus, in magistratibus consistit. Privatum ius tripartitum est: collectum enim est ex naturalibus preceptis aut gentium aut civilibus*, *Institutio* II.4.33 (ibid., pp. 56-57).

[48] *Ius naturale est, quod natura omnia animalia docuit. Nam ius istud non solum humani generis proprium est, sed omnium animalium, que in terra, que in mari nascuntur; aviumquoque commune est. Hinc descendit maris et femine coniugatio, quam nos matrimonium appellamus; hinc liberorum procreatio; videmus enim cetera animalia, feras etiam, istius iurus [peritia] censeri. Ius gentium est quo gentes humane utuntur. Quod a naturali recedere facile intellegere licet, quia illud omnibus animalibus, hoc solis hominibus inter se commune sit*, *Institutio* I.4.33 (ibid., p. 57). Valla's manuscript

In a pointed critique of Ulpian's separation of *ius naturale* and *ius gentium*, Valla rejects the notion that law can ever be natural, arguing that the existence of any law among "beasts" is even more absurd than Ulpian's claim that the law of nations is a kind of private law.[49] In contrast to Ulpian's description of *ius naturale* as a law that pertains to all living creatures and their mating and procreation, Valla defines law as a uniquely human institution: "nature is one thing, and the law is another, and whatever animals do, they without a doubt do through nature."[50]

But Valla's strongest criticism of Ulpian's *ius naturale* focuses on the fundamental difference between the former's insistence that laws always arise from human agreements and the latter's view of a natural law that exists independent of human activity. In his commentary on Quintilian's *Institutio*, Valla illustrates his interest in such agreements by

---

uses the noun *peritia* (practical knowledge or skill) instead of the adjective *perita* (skilled or expert), but I have emended the text to use the predicate adjective after *censeri* in agreement with *animalia*. The noun *peritia* would effect the sense of animals being considered a skill itself rather than skillful.

[49] *Nam quod bestias etiam complexus est, ut dicat "ius naturale," hoc absurdius est quam id quod modo peccavit*, *Institutio* II.4.33 (Martinelli and Perosa 1996, pp. 57-58).

[50] *Aliud est enim natura, aliud ius, et quicquid animalia faciunt, haud dubie natura faciunt*, *Institutio* II.4.33, (ibid., p. 58). Martinelli postulates that this difference hinges on Valla's understanding of choice as a uniquely human capability. She writes, "The concept of justice, which involves the freedom of choice, is proper only to mankind. And animals defend themselves from violence, but 'whatever happens justly or unjustly pertains only to men' " (ibid., p. lxxxiii). Valla emphasizes his distaste for the term *ius naturale* in the *Elegantiae*, too, by drawing contrasts between the behavior of men and the behavior of animals. In a chapter titled *Aliud leges esse, aliud iura* ("That *leges* are one thing, and *iura* another"), he explains that "it is ridiculous to speak of *ius naturale*, which nature teaches to all animals. An instinctive desire to mate and even for harming, plundering, and killing a weaker animal—who says this is *ius*? And so Cicero in his books on duties was silent about the natural law, illustrating that there is *ius* only among humans, and that is the *ius gentium* or the *ius civilium*" (*Nam ius naturale dicere, quod natura omnia animalia docuit, ridiculum est. Appetitum coeundi atque adeo nocendi imbecilliori animali, spoliandi, occidendi, quis ius esse dixerit? Ideoque M. Tullius in libris officiorum de iure naturali silentium egit inter solos homines ius esse significans, idque Gentium esse vel Civilium*, IV.XLVIII) (Moreda 1999, 1:474). Here Valla refers to Cicero's late work, *De Officiis*. As he does in his commentary on the *Institutio*, Valla here separates the events of the natural world from the affairs of man, and his examples of inhumane activity, so to speak, of capturing and killing prey underscore this difference.

appealing to a requirement of consistency among all *iura*. A nation should not be able to enact a *ius gentium*, he argues, that contradicts the putative *ius naturale*, but by adopting Ulpian's notion of natural law, such contradictions could appear:

> That which all nations consider just—since nature is their guide—and [about which] one nation does not differ from another, let us call that one kind of law. And that which nations or peoples individually have deemed to be just on their own, let us call that another kind, at least regarding its appearance. For if it were the case, as Ulpian says, that all men are born free by natural law but become slaves by the law of nations, it would not be called the law of nations but rather injustice (*iniuria*). And this would likewise be the case if some nation wished to have a law for taking a cow as a wife: because if this [law of marrying a cow] is the *ius*, then that first notion [of a *ius naturale*] is not the *ius*. Indeed, it is not possible for the law to be contrary to the law, although the natural law in particular, if it differs from the law of nations, can be called a divine law or sacred law.[51]

Valla views *ius* as a single set of rules that must be internally consistent—"it is not possible for the law to be contrary to the law"—but he then illustrates the contradictions in contemporary thought concerning slavery: men are born free according to natural law, but through the law of nations, they are made slaves.[52] To strengthen his case, Valla then invokes a derisive hypothetical scenario: that a nation might allow men to marry cows. If a nation were to enact a law whereby one could marry a cow, however unlikely the case may be, an inconsistency among *iura* would arise: as Ulpian explains, *ius nat-*

[51] *Quod enim omnes gentes iustum sentiunt natura duce, nec alia ab alia differunt, id unum genus iuris existimememus, alterum, huius nimirum speciem, quod singule gentes populive privatim iustum esse decreverunt. Nam quod ait Ulpianus, omnes nasci liberos naturali iure, sed iure gentium servos fieri, si ita esset, non ius gentium, sed iniuria appellabitur, perinde ac si vellet aliqua gens ius esse vaccam ducendi uxorem; quod si hoc ius est, illud ius non erit: neque enim potest ius iuri esse contrarium, cum presertim ius naturale, si quid a gentium differt, possit appellari ius divinum aut ius sacrum*, *Institutio* II.4.33 (Martinelli and Perosa 1996, p. 58).

[52] Valla calls this contradiction between the two laws *iniuria*, often translated as "injustice" as I have done here. One might also think of the term as what simply contradicts *ius*, or "unlawfulness." See *OLD*, *iniuria* 1a.

urale includes "the joining of male and female" and the procreation of children, goals that human-animal matrimony would impede.[53] Valla's examples illustrate his interest in not merely what "all nations consider just" but also what "nations or peoples (*gentes populive*) individually have deemed just on their own," and however outrageous these individual judgments may seem, they nevertheless stand as a kind of *ius*. Rather than define law according to what nature has imposed upon man, Valla instead insists on the agreements of people as the source of legal authority, and since the notion of *ius naturale* runs counter to this authority, Valla rejects it.

Valla's detailed critique of natural law serves as a prelude to his central claim, taken from another book of the *Institutio*, that "all justice rests either on nature (*natura*) or on convention (*constitutio*)," a claim that recalls Valla's forensic understanding of certainty as what is *constitutum*.[54] Quintilian's unambigious appeal to *natura* as a foundation for

[53]Valla hedges his proclamation that natural law and civil law can never contradict each other by appealing to Quintilian's third category of laws, sacred law (*ius sacrum*). He writes here that "natural law, if it differs from the law of nations, can be called the divine law or the law of nations." His discussion of sacred law is unclear, and Martinelli and Perosa note that Valla may simply use *ius divinum* as another phrase for *ius naturale*, as he seems to do in his commentary on *Institutio* II.4.33 (1996, p. lxxxiv). There is a similar kinship between *ius divinum* and *ius naturale* in the *Elegantiae*. In his discussion concerning *leges* and *ius*, Valla writes that Cicero "nevertheless referred to the *ius naturale* in his rhetorical works, but that which pertains only to mankind; he meant that there were six kinds of this law: *religio*, *pietas*, *gratia*, *vindicatio*, *observantia*, *veritas*" (*In rhetoricis tamen ius naturale statuit, sed quod in homines tantummodo cadat; cuius species sex esse voluit, religionem, pietatem, gratiam, vindicationem, observantiam, veritatem*, IV.XLVIII) (Moreda 1999, 1:474). These six examples of natural laws do not constitute the same kind of instinctual or animal behavior that Ulpian cites as examples of *ius naturale*. For a more thorough discussion of the inconsistencies in Valla's use of *ius divinum*, see Martinelli and Perosa (1996, pp. lxxxiii-lxxxvi).

[54]*iustum omne continetur natura vel constitutione*, VII.4.5. Valla cites this passage from the *Institutio* as part of his commentary of the *Institutio* at II.4.33 (ibid., p. 58), but he does not comment on this passage of the *Institutio* where it appears in Book VII. Valla explains the conventional nature of justice and the law more generally here through two references to the *Digest*. His first reference to the *Digest* here, taken from Paulus, argues "that which is always fair and good is said to be the law, as it is natural law" (*id quod semper equum et bonum est ius dicitur, ut est ius naturale*). Valla takes this citation from *Digest* I.I.II. Julius Paulus Prudentissimus served as a jurist under Septimius

justice, however, seems to run counter to Valla's earlier account of the inadequacy of theories of a *ius naturale*. But in a discussion of *leges* in the *Elegantiae*, Valla explains how *natura* is not separate from human agreements but instead serves as the underlying motivation for them:

> That which was established through the custom of ancestors was thus established through laws, and was thus settled through laws (*legibus ita constitutum est*), and was thus established through nature, and was thus settled through nature (*ita natura constitutum est*), and was thus ordered by nature. This thing nature herself ordered to us, and it was given to us through nature, just as we give aid to those who are in danger. Reason herself (*ratio ipsa*) commands this to us, and it thus seems that reason dictates it.[55]

Valla clarifies that customs and laws can themselves be "settled through nature" (*natura constitutum est*). This thorough intertwining of *natura* and *constitutio* for Valla stands in contrast to Ulpian's formulation of a law that derives exclusively from *natura* without reference to the agreements of men themselves. In fact, underlying Valla's rendering of *natura* is *ratio*, the rational faculty that guides nature as well as mankind's formation of its own laws and customs. In other words, what is *constitutum* is a manifestation of *natura*'s effects, not a legal apparatus counter to or even independent of nature's dictates.

Severus, Caracalla, and finally Alexander Severus, who appointed him the praetorian prefect. He was a contemporary of Ulpian. Valla takes his second reference from Gaius and inserts it shortly after the first: "All people, who are ruled by customs and laws, make use of a law that is in part particular to themselves, and in part common to all men" (*omnes populi, qui moribus et legibus reguntur, partim suo proprio, partim communi omnium hominum iure utuntur*). Gaius worked as a Roman jurist from 130-180 AD. His citation of Paulus argues that *ius naturale* consists of what is "always fair and good," a universalizing sentiment that continues with his second citation, where Gaius distinguishes between laws that are particular to one community or another (*partim suo proprio*) and laws that are shared among all humans (*partim communi omnium hominum*).

[55] *More maiorum comparatum est, legibus ita comparatum est, legibus ita constitutum est, ita natura comparatum est, ita natura constitutum est, ita natura praescriptum, hoc nobis ipsa natura praescribit, nobis natura datum est, ut periclitantes allevemus. hoc ratio ipsa praescribit, ita videtur ratio dictare*, III.LXXVIII (Moreda 1999, 1:396). See an additional discussion of *ius* and *leges* at *Elegantiae* IV.XLVIII (ibid., 1:474).

Valla reiterates his understanding of the rational basis of law and its close ties with human legal agreements in his commentary on the *Institutio*, where he writes that a natural law is only natural in that it arises from the natural reason common to all men: "But what natural reason (*naturalis ratio*) has established (*constituit*) among all men is rightly preserved and called the *ius gentium* among all nations, since it is the law which all nations use."[56] By drawing attention to the subset of *ius gentium* that all nations use on account of their shared natural reason (*gentes omnes utuntur*), Valla blurs the distinction between *ius naturale* and *ius gentium*. Thus, nature does not impose a set of regulations on humanity; instead, there exists a class of constructed laws which are natural by virtue of their rational basis and omnipresence among all nations. Natural laws, at least as Valla understands them, do not descend from heaven but rather arise from humanity.

By emphasizing the role of what is *constitutum* in the origins of both *ius gentium* and *ius naturale*, Valla again shows the decisive importance of agreements in his understanding of forensic matters more generally. And Valla's conflation of natural reason and settled agreement in his theory of the origin of law parallels his efforts in the *Disputationes* to understand dialectical reasoning and rhetorical argument through the shared lens of forensic procedures, particularly in the aim of forging consensus. As Valla explains at the end of his study of modal propositions, the dialectical syllogism should draw a conclusion that resolves one of the three questions central to status theory:

> Every proof is produced through truths that are *certum*, and, through them, that very truth causes some other truth, which was *incertum*, to be seen as

[56] *Quod autem naturalis ratio inter omnes homines constituit, id apud omnes gentes pereque custoditur vocaturque ius gentium, cum quo iure gentes omnes utuntur* (Martinelli and Perosa 1996, p. 59).

> *certum*, and this happens either necessarily or plausibly. There are, however, three ways for a truth to be *incertum* since, according to some of the greatest authorities, our doubts are of three kinds: whether something is; what that something or anything is; and what it is like.[57]

Valla's integration of the syllogism and status theory reformulates dialectic in terms of the agreements and disagreements of forensic rhetoric, and his understanding of what is *incertum* as what is unsettled shows how disputes, both dialectical and rhetorical, can be categorized according to the three "doubts" in traditional renderings of status theory: *an sit*, *quid sit*, and *quale sit*.[58] The goal of argumentation, so Valla explains here, is to resolve disagreements about what is doubtful: by using what is already *certum atque confessum*, an *argumentum* tries to make *certum* a true but controversial conclusion. What is *incertum* only becomes *certum* after an agreement emerges about what was at first doubtful—that is, after the conclusion itself becomes *constitutum*. Certainty, therefore, occupies a central role in both the beginning and the end of logical arguments: in the collection of premises that are agreed upon and finally in the resolution of disagreements in the argument's conclusion, a conclusion that eventually becomes *constitutum*, *confessum*, and *certum*.

As Valla closes his discussion of syllogism, he notes that the three questions at the heart of status theory can and should be applied not merely to forensic disputes and philosophical proofs but also to matters from a wide variety of intellectual disciplines. He

[57] *Probatio omnis fit per vera quae certa sunt, facitque per haec ipsa veritas aliud quoddam verum videri certum quod erat incertum, idque vel necessario vel verisimiliter. Est autem verum intercum triplici via quia, ut maximis quibusdam auctoribus placuit, tripliciter dubitamus: aut an quippiam sit; aut quid illud quippiam sive aliquid sit; aut quale sit ipsum aliquid*, II.19.22. Compare *Institutio* V.10.8 where Quintilian argues that it is the nature of arguments to "give credence to what is doubtful by means of what is certain."

[58] For status theory considered as a "doctrine of inquiry" around these three questions, see Carter (1988, p. 100).

argues that "every problem—whether within the law or outside the law, whether within philosophy or outside philosophy—derives from these questions."[59] Valla defends this unified approach to both logic and rhetoric that takes as its tools both *ratio* and *consensus* by appealing to the lessons of his favorite Roman schoolmaster. He concludes that "in each kind of inquiry—rational, moral, natural, and many others—our practice is to ask whether it is, what it is, and what it is like, which is almost explicit in the words of Quintilian."[60] For Valla, Quintilian is the prime inspiration for turning philosophy and legal theory (and in fact any branch of intellectual activity) into a forensic investigation centered around status theory, a framework that takes certainty both as its material and as its aim. By theorizing law and logic through the shared foundation of what is *certum*, Valla clears the way for the application of status theory and for the search for certainty in all kinds of investigations, not just those of the courtroom.

Quintilian's influence on Valla is clear both from the humanist's explicit copying from his Roman predecessor and also from the material history of Quintilian's manuscript. By dealing with the newly discovered text in the first half of the fifteenth century, Valla is naturally influenced by this ancient rhetorical manual: his humanist rendering of Quin-

[59] *ex quibus omnis quaestio—sive in iure sive extra ius, sive in philosophia sive extra philosophiam—pendet*, II.19.24.

[60] *praeterea in singulis—rationali, morali, naturali, et sique sint alia—quaerere solemus an sit, quid sit, quale sit, ut propemodum ex Quintiliani verbis palam est*, II.19.25. In support of this expansive understanding of status theory, Valla cites Boethius on the divisons of moral and natural questions. For Valla's citation of Boethius *De Topicis Diferentiis* at II.19.24, see *Patrologia Latina* 64:1180A-B. Valla's expansive view of status theory is perhaps influenced by Quintilian, who takes inspiration from Cicero: "Most writers offer us three general issues. Cicero adopts these in the *Orator*, and thinks they embrace everything which comes into dispute or contention. They are: Does it exist? What is it? What sort of thing is it?" (*a plurimis tres sunt facti generales status, quibus et Cicero in Oratore utitur et omni quae aut in controversiam aut in contentionem veniant contineri putat: sitne, quid sit, quale sit*, III.6.44). Quintilian, like Cicero, enumerates the three status questions at V.10.53. See also Valla's brief mention of the three status questions at *Disputationes* I.17.5.

tilian's notion of certainty is perhaps most facilitated by the physical presence of the *Institutio* on his desk. But as we shall see in this dissertation's final chapter, Quintilian's influence extends to later centuries and their thinkers as well. For Giambattista Vico, an eighteenth-century professor of rhetoric and law, Quintilian's theory of certainty still exerts a powerful influence even though the novelty of Poggio Bracciolini's discovery has long passed. Indeed, as we shall see, Quintilian's lasting legacy does not even require his later readers to acknowledge the Roman educator as the source of their thinking, for Vico's works incorporate Quintilian's notion of *certum* often without even acknowledging its source.

Chapter 5

A Vichian Coda: The End of Humanist Certainty

The works of Giambattista Vico, a Neapolitan professor of rhetoric whose writings span the end of the seventeenth and the first half of the eighteenth centuries, could perhaps be summarized best as a defense of philology.[1] Although Vico's works are contemporary enough with Cartesian epistemology and English empiricism to engage with them, his writings nevertheless often look backward as part of a larger effort to recover the meanings of ancient words, meanings that Vico believes can elucidate human history. Against the rise of Cartesian attitudes toward scientific knowledge, Vico follows the methods of early humanist writers like Valla (who precedes Vico by about three centuries) in their shared confidence in the instructive power of language itself.[2]

As part of his interest in words and their origins, Vico points his readers not only to early examples of Latin literature but also to humanist experts on the Latin tongue. In his *Institutiones Oratoriae*, a collection of university lessons on rhetoric, Vico recommends to his readers that they look to a variety of Renaissance texts in order to understand the "native meanings of words" (*nativa significatio verborum*).[3] More specifically, Vico

[1]For a study of Vico's understanding of language as the foundational science, see Mooney (1976) and Manson (1969, pp. 44–63).

[2]For a broader discussion of the shared rhetorical and epistemological theories of Vico and Valla, see Struever (1976).

[3]The dating of the *Institutiones Oratoriae* is a matter of scholarly debate. The Latin edition

suggests as part of his lesson on verbal elegance that readers turn to Valla's *Elegantiae*, for through the study of such sources, one might learn about the primeval, rustic character of words.[4] And among the words in which Vico takes an interest in his *Institutiones*, one finds *cerno*, signifiying both "to sift" and "to distinguish," as well as *decerno*, signifying "to select the right reason" or "to decide, judge, decree."[5] Vico's gloss of *cerno*—whose past participle is the etymological foundation of *certum*—is just one small sign of a much larger interest in the study of certainty: like Valla, Vico positions the notion of what is *certum* at the center of much of his epistemological and rhetorical writings.

In some significant part, Vico's understanding of certainty throughout his works reflects the lasting influence of Quintilian and his devoted follower Lorenzo Valla. As part of his rejection of Cartesian epistemology, Vico appeals to a brand of certainty rooted in *vulgaris cognitio* and *conscientia*, the common knowledge of a people. This notion of conventional certainty, moreover, is tied to an understanding of language determined by usage, a relationship that appears in Quintilian's *Institutio* as we have seen in Chapter 3 and also in Valla's discussion of the Roman educator as we have seen in Chapter 4. By presenting certainty as a kind of widespread knowledge as well as an attribute of language derived from the *consuetudo* of a broader public and of learned experts, Vico's discussions

---

referenced here "consists of material from the extant manuscripts which are either transcriptions of Vico's lectures made by students at the University of Naples between 1699 to 1741 or copies of them" (Pinton and Shippee 1996, p. xviii).

[4] *Ad eas igitu addiscendas verborum significationes nativas conferunt plurimum Laurentii Vallae Elegantiarum libri*, §35.290–292.

[5] As is the case with many words in Vico's discussion here, he looks to uncover a physical antecedent to verbs of intellectual activity: *multa sunt ruris vocabula quae ad mentis humanae operas significandas translata sunt, ut lego, intelligo, puto, dissero, cerno, decerno, et alia eius generis*, §35.281–284.

of epistemology and language reveal the influence of Quintilian's rendering of certainty as a matter of consensus. Indeed, the constellation of words Vico uses in his discussions of certainty—*consuetudo*, *consensus*, *conscientia*—all point to his fundamental association of what is *certum* and what is agreed upon, an associaiton that reveals his debt to Quintilian and even Valla.

But even if Vico turns away from the Cartesian interest in demonstrative knowledge and instead turns to the legal and rhetorical foundations of certainty that have developed in the centuries that precede him, his discussions of rhetorical premises in the *Institutiones* avoid positioning *certa* as the basis of argumentation. In fact, several passages of Vico's works suggest that while he is aware of and often eager to employ the conception of certainty theorized in Quintilian's *Institutio*, he nevertheless uses *certum* in ways that are at odds with the Roman schoolmaster's rhetorical formulation. By sometimes shifting his vocabulary of common beliefs to *effata* and *sententiae* and by occasionally defining *certum* as a close relative of rational, even scientific *verum*, Vico can be seen as a transitional figure: on the one hand acknowledging Quintilian's enormous influence in the history of humanist certainty, but on the other hand, moving away from this ancient terminology toward a more "modern," less rhetorical understanding of the meaning of *certum*.

In this chapter, I trace this allegiance to and departure from Quintilian's notion of certainty in two sections. I first look at Vico's confrontation with the Cartesian reverence for *scientia*, where Vico illustrates his close association of the certain and common consensus by defining the value of *conscientia* as a kind of ordinary knowledge that produces *certitudo*. Turning then to a range of Vico's writings on the law, I show that what Vico calls certain law or *certa lex* is tied to his understanding of the language of the law

as a custom or *consuetudo* as well as the consensus of experts. After drawing attention to these several appeals to various forms of consensus in Vico's discussions of certainty, I show in the chapter's second half how Vico's rhetorical works in particular suggest a departure from Quintilian's notion of certainty. I conclude with some examples of *certum* in Vico's epistemological and rhetorical discussions that show the decline of Quintilian's understanding of certainty as consensus.

Vico's writing is often understood, at least in part, as a critical response to the rise of Cartesian philosophy on the European continent. Vico himself makes this stance against Cartesianism clear in one of his early works, the 1710 *De Antiquissima Italorum Sapientia*, whose first chapter details Vico's critique of Descartes' well-known *cogito* proof.[6] By highlighting the division between classical strains of skepticism and (as Vico understands) the more extreme rejection of knowledge claims in Cartesian methodology, the *De Antiquissima* attempts to show how Descartes' project discards the valuable epistemic category of probable but unassured belief, a category Vico renders in the language of certainty: "no [classical] skeptic doubts his own thinking: indeed, he professes that what he seems to see is so certain (*certum*), and professes it with such steadfastness, that he defends it even in the face of ridicule and calumny."[7] The classical skeptic, Vico contends

[6]For a discussion of the opposition between Vico's efforts to "reunite philosophy and rhetoric" and the sharp "contrast between the sterile geometric method of the Cartesians and [Vico's] creative power of the imagination that grasps truth as metaphor rather than as clear and distinct ideas," see Carr (2009, pp. 1–5). For a discussion of probability within Vichian and Cartesian systems of rhetoric, see Schaeffer (1981). The *De Antiquissima* was intended to be a trilogy consisting of three books—one on metaphysics, one on physics, and one on ethics—but only the first on metaphysics survives (Taylor 2010, p. vii).

[7]*Sed Scepticus non dubiat se cogitare; quin profitetur ita certum esse, quod sibi videre videatur, et tam obfirmate, ut id vel cavillis, kaluniisque propugnet*, I.2. Translations of Vico's *De Antiquissima* are adapted from Jason Taylor, ed. and trans. *On the Most Ancient Wisdom of the Italians Drawn*

here, does not wholly reject his confidence in sense perceptions since such a skeptic believes that his sensory experience is *certum*, even if it falls short of unassailable knowledge of the truth. The Cartesian dogmatist, by contrast, takes the classical position to its extreme and refrains from granting even this provisional or partial assent.[8]

Vico's description of sense perception (*quod sibi videre videatur*) as a kind of belief that is "certain" already recalls some of the epistemological discussions in the texts of Cicero and Quintilian, discussions treated in the second and third chapters of this dissertation. But Vico's transmission of these ancient thinkers is not limited to a notion of certainty as sense perception; on the contrary, he extends his definition of certainty to beliefs rooted in common knowledge by highlighting the epistemic value of *conscientia* or "consciousness":

> What [the classical skeptic] contends is that the certitude (*certitudo*) that he is thinking is mere consciousness (*conscientia*), not science (*scientia*), and is ordinary knowledge (*vulgaris cognitio*) available to even a person without any learning…not some rare and exquisite truth (*verum*) which requires the meditation of a great philosopher to invent.[9]

At the core of Vico's argument against Cartesian dogmatism is the absence of *conscientia* in its epistemological terminology, for even if Descartes allows one to experience *scientia* of what is *verum*—true, unimpeachable knowledge—he provides no intermediate epistemic category for what is merely probable, verisimilar, or a matter of "consciousness."[10]

---

out from the Origins of the Latin Language (New Haven: Yale University Press, 2010).

[8]While there is no mention of the *Academica* here in the *De Antiquissima*, Cicero's work argues that sensory experience can be *certum* but still fall short of the status of *verum*. This intermediate reliability of what is *certum* perhaps inspires Vico's understanding of the adjective here. See the second chapter of this dissertation.

[9]*Sed certitudinem, quod cogitet, conscientiam contendit esse, non scientiam, et vulgarem cognitionem, quae in indoctum quemvis cadat; ut Sosiam; non rarum verum, et exquisitum, quod tanta maximi Philosophi meditatione egeat ut inveniatur*, I.2.

[10]Vico's own definition of *verum* is a subject of great scholarly controversy. This chapter does

If the Cartesian dogmatist's cognitive experience does not fulfill the qualifications of *scientia*, in other words, he grants such experience not even the status of *conscientia*. Within his defense of this intermediate category of knowledge, Vico equates *conscientia* with *certitudo*, and this appeal to *certitudo* is tightly bundled with widely held beliefs: *certitudo* is "ordinary knowledge" (*vulgaris cognitio*) rather than the learned inquiry of a Cartesian philosopher.[11] This *vulgaris cognitio* merely happens upon (*cadat*) everyday people and not just careful meditators. As Vico explains here with perhaps a dash of irony, the Cartesian proof of existence is a "rare and exquisite truth," understood only by the single "great philosopher."[12]

Vico's criticism of Cartesian epistemology in the *De Antiquissima* thus relies on a conception of certainty that parallels Quintilian's notion of *certum* in two dimensions. Quintilian's first category of the many types of *certa* in the *Institutio* includes "what we perceive

not treat in great detail the well-known Vichian axiom that identifies the *verum* and the *factum*, a puzzling statement that is explicitly stated in the *De Antiquissima* but is absent from later works like the *Scienza Nuova*. For a discussion of this axiom and its place in the development of Vichian thought and its bearing on his rejection of Cartesianism, see Morrison (1978b).

[11]For Vico's understanding of rhetoric more broadly as "a kind of reasoning that went on among nonspecialists," see Mooney (1976, p. 588). The Latin phrase *vulgaris cognitio* is a helpful and accurate translation of *conscientia* (rather than the English "consciousness"). The first definition of *conscientia* in the *Thesaurus Linguae Latinae* is *communis complurium scientia*, or the common knowledge of many people. While the author of this *TLL* entry finds several examples of *conscientia* in this sentence from early rhetorical texts like the *Rhetorica ad Herennium* to Apuleius and even early Christian texts, the word never appears in Quintilian with this sense. The term *conscientia* appears only eleven times in the *Institutio*, for example at V.6.2 with the sense of what is *intus hominis* (*TLL* III) or at V.11.41 with the sense of what is proverbial (*TLL* III.B). Vico thus does not seem to have borrowed this term from Quintilian's text, at least as he understands it here in the *De Antiquissima*.

[12]As James Morrison explains Vico's thinking, "Descartes was wrong to claim to know (*scire*) that he is a thinking being (*res cogitans*): *that* he exists is certain, not *what* he is" Morrison (1978b, p. 586). His proof, Vico imagines, "gives only certitude and not truth, consciousness and not knowledge" Morrison (ibid., p. 591). Additionally, one might see *conscientia* as a collective brand of knowledge through its prefix (*con-*) of Vico's Latin term.

through the senses," and Vico here too links *certitudo* with sensory experience.[13] Second, by drawing attention to the common availability of *conscientia* and *certitudo*, Vico's argument parallels the *Institutio* in its rendering of certainty as broad agreements rooted in *consensus* and custom. Indeed, the common prefix of *conscientia* and *consensus* affirms Vico's parallel understanding of certainty as a kind of knowledge found in shared belief, not in individual discovery, and against the Cartesian backdrop of careful, deliberate, and individual meditation, Vico rehabilitates the value of *vulgaris cognitio*, a kind of collective or common knowledge that constitutes a separate but still valid epistemological category. In sum, Vico's attack on Cartesian epistemology in the *De Antiquissima* relies on a notion of certainty that, while never explicitly tied to the writings of Quintilian, nevertheless appears to have adopted the Roman schoolmaster's manifold understanding of *certum*.

Even if the *De Antiquissima* suggests that Vico adopts this ancient terminology unproblematically, the full corpus of Vico's writings jumbles this tidy alignment between the certain and consensus. In his 1725 *Scienza Nuova*, the last major work of his career, for example, Vico appeals to the terminology of certainty not to define objections to Cartesianism but as a categorization of two types of law: certain law (*certa lex*) and true law (*vera lex*). Even though the work is written almost entirely in Italian, Vico nevertheless includes a recommendation of the correct sense of *certum* in Latin in the course of elaborating this fundamental legal division: "In good Latin, *certum* means particularized, or,

[13] I depart here from Donald Verene's assessment that Vico's understanding of "*certum*, that of the indubitable, corresponds to Descartes' sense of certainty [which is] established by rational thought" Verene (2003, p. 128). Drawing some affinity between Descartes and Vico is not wholly unjustified, however, since Vico "posited mathematics as the highest, indeed the only, kind of knowledge (*scientia*) which man possesses" (Morrison 1978b, p. 585). More scientific if not outright Cartesian notions of certainty that appear in Vico's own thought are treated later in this chapter. As his first definition of *certum*, Quintilian includes *quae sensibus percipiuntur* (V.10.12).

as the schools say, individuated; so that, in overelengant Latin, *certum* and *commune*, the certain and the common, are opposed to each other."[14] Vico's opposition between *certum* and *commune* here appears to contradict his close association of *certum* and the *conscientia* of "ordinary knowledge" in the *De Antiquissima*: in that text, *certitudo* is the quality of widely available and widely held belief, not the quality of refined *scientia* of the uniquely wise philosopher. Vico's works, thus, leave readers with a paradox. How can certainty be *vulgaris* but not *commune*? Does this paradox signify a radical shift in Vico's thinking between the *De Antiquissima* and the *Scienza Nuova*, or does it merely point to a consistent but nuanced understanding of certainty developed over the course of Vico's career?[15]

A resolution of this apparent paradox can be found in Vico's discussion of language and its role in grounding "certain law" (*certa lex*). This interest in language reveals how Vico, like Quintilian and Valla before him, understands its "certain" character through its close ties to the *consuetudo* of broad public usage and the *consensus* of the grammatical experts who provide norms for the proper use of language. Like Vico's epistemological discussions that define *certitudo* as a *vulgaris* or ordinary kind of knowledge—*conscientia* rather than *scientia*—his discussions of language and the law reveal further parallels between Vico's understanding of certainty and notions of consensus. And by pointing to linguistically defined forms of consensus, Vico maintains a rift between what is *certum*

[14]in buon latino significa "particolarizzato" o, come le scuole cidono, "individuato"; nel qual senso "certo" e "commune", con troppa latina eleganza, son opposti tra loro, §322.

[15]The meaning of certainty in the *Scienza Nuova* continues to puzzle scholars. Recent work on Vico characterizes the *verum* as "the true, the intelligible, the never eliminable possibility that the actual and the equitable are distinct" in opposition to the *certum*, "the violent, the particular, that which has appeared in place and time" (Marshall 2011, p. 158). For a discussion of the tension between *verum* and *certum* understood through the opposition of violence and equity, see Strassberg (2007).

and what is truly universal: communities defined by language rather than reason, he suggests, can never be *commune* in the broadest possible sense.

When Vico introduces the notion of *certa lex* in the *Scienza Nuova*, he does so through the well-known opposition between the letter and spirit of the law.[16] Turning his attention first to a critique of strict methods of interpretation, he notes that "men of limited ideas take for law what the words expressly say" and then adds three paragraphs that link such a scrupulous view of language to the notion of certainty:[17]

> CX. Golden is the definition which Ulpian assigns to civil equity: "a kind of probable judgment, not naturally known to all men" (as natural equity is) "but to those few who being eminently endowed with prudence, experience, or learning, have come to know what things are necessary for the conservation of human society." This is what is nowadays called "reason of state."
>
> CXI. The certain in the laws is an obscurity of judgment backed only by authority (*autorità*), so that we find them harsh in application, yet are obliged to apply them just because they are certain. In good Latin, *certum* means particularized, or, as the schools say, individuated; so that, in overelegant Latin, *certum* and *commune* the certain and the common, are opposed to each other.
>
> [The above axiom] and the two following definitions constitute the principle of strict law. Its rule is civil equity, by whose certainty that is to say by the determinate particularity of whose words, the barbarians, men of particular [not universal] ideas, are naturally satisfied, and such is the law they think their due. So that which Ulpian says in such cases, "the law is harsh, but it is written" (*lex dura est, sed scripta est*), may be put in finer Latin and with greater legal elegance, "the law is harsh, but it is certain" (*lex dura est, sed certa est*).[18]

---

[16]For a discussion of the relationship between the letter and the spirit of the law, especially as it appears in the works of antiquity, see Eden (2005, pp. 1–40).

[17]Gli uomini di corte idee stimano diritto quanto si è spiegato con le parole, §319. Giovanni Consalvi here explains that "those who are unaware of *ratio* and well-educated fools who have no historical memory understand as truth whatever is proposed to them with ornate language (rhetoric) regardless of documentary facts" (2000, p. 275).

[18]È aurea la diffinizione ch'Ulpiano assegna dell'equità civile: ch'ella è "*probabilis quaedam ratio non omnibus hominibus naturaliter cognita (com'è l'equità naturale), sed paucis tantum qui prudentia, usu, doctrina proediti didicerunt quae ad societati humanae conservationem sunt necessaria*"; la quale in bell'italiano si chiama "ragion di Stato."

Vico's final sentence here bookends this discussion of certainty with two mentions of its close ties to language: he prefaces these paragraphs by alluding to strategies of legal interpretation aimed at "what the words [of the law] expressly say" and finishes with an identification of *scriptum* with *certum*. While Vico earlier defines certainty for his readers as what is "individuated" or "particularized," he shows here how one can also render it through the legal practices of "barbarians" and their slavishness to the "determinate particularity" of positive law.[19] And this devotion to language serves as the foundation of Vico's understanding of barbarian "civil equity," which Vico explains is not "naturally known to all men" (and thus not universally *commune*) but instead is shared by "those few who [are] eminently endowed with prudence, experience, or learning."[20] Rather than extend its influence to all people as a kind of "natural equity," Vico's *certa lex* might be seen as both politically and linguistically individuated—the "reason of state" grounded in particularized language.

Vico's close association of certainty and the language of the law is not wholly un-

---

Il certo delle leggi è un'oscurezza della ragione unicamente sostenuta dall'autorità, che le ci fa sperimentare dure nel praticarle, e siamo necessitati praticarle per lo di lor "certo", che in buon latino significa "particolarizzato" o, come le scuole dicono, "individuato"; nel qual senso *certum* e *commune*, con troppa latina eleganza, son opposti tra loro.

Questa degnità, con le due seguenti diffinizioni, constituiscono il principio della ragion stretta, della qual è regola l'equità civile, al cui certo, o sia alla determinata particolarità delle cui parole, i barbari, d'idee particolari, naturalmente s'acquetano, e tale stimano, il diritto che lor si debba. Onde ciò che in tali casi Ulpiano dice: "*lex dura est, sed scripta est*", du diresti, con più bellezza latina e con maggiore eleganza legale: "*lex dura est, sed certa est*," §320–321. Translations of Vico's *Il Diritto Universale* are adapted from John D. Schaeffer and Donald P. Verene, eds. and trans. *A Translation From Latin into English of Giambattista Vico's Il Diritto Universale/Universal Law* (Lewiston, NY: The Edwin Mellen Press, 2011).

[19]Vico's allusion to "barbarians" here recalls his theories concerning stages of human civilization, the *corso* of historical development. For a more detailed discussion of Vico's view of the stages of human history and its bearing on "natural" and "real" law, see Morrison (1978a).

[20]For recent discussions of Vico's interest in language as a matter of educating lawyers, see Danesi (2012) and Mootz (2009).

precedented in the Latin tradition, for Quintilian's *Institutio* similarly draws a connection between what is *certum* and the conventions of language.[21] As discussed in the third chapter of this dissertation, Quintilian elaborates a theory of language that identifies *consuetudo* as the "most certain teacher of speaking" (*certissima loquendi magistra*), a definition of *consuetudo* he clarifies by drawing a parallel between language and money: "indeed one must use language as one uses a coin, for which there is a 'public die.' "[22] Quintilian's notion of language—situated within the terminology of custom, consensus, and certainty—foregrounds Vico's understanding of *certa lex* as a kind of law rooted in what is *scriptum* rather than in the *ratio* of "true law." And Quintilian's association between language and certainty is reiterated in the writings of Lorenzo Valla, whose works on language Vico explicitly reveres.[23] Valla, too, repeats Quintilian's analogical understanding of language and money: "Who does not know that speaking is based mainly on usage and authority? This is what Quintilian says about it: 'In speaking, usage is the most certain (*certissima*) teacher, and obviously language is to be used like money, sealed with a public stamp.' "[24] Vico's continuation of these predecessors' coupling of certainty and language

[21]For a discussion of Vico's broader conception of the *sensus communis* and its close relationship with poetic and primaeval language, see Schaeffer (1990, pp. 80–99).

[22]*consuetudo vero certissima loquendi magistra, utendumque plane sermone, ut nummo, cui publica forma est*, I.6.3.

[23]*Institutiones Oratoriae* §35.290–292.

[24]*Nam quis nescit maximam loquendi partem auctoritate niti et consuetudine? De qua ita ait Quintilianus: Consuetudo certissima est loquendi magistra, utendumque plane sermone ut nummo, cui publica forma est*), II.11.6. For an early modern example of further interest in Quintilian's comparison of language and money, see Camporeale (2002, pp. 8-9) on Lorenzo Valla's theories of language. Quintilian's claim that there is a "public die" (*publica forma*) for coinage and language alike captures Valla's attention, shown in the three references he attaches to Quintilian's discussion in his commentary on this passage in his manuscript of the *Institutio*. First, he cites Ulpian from the *Digest*: The material of the coin is chosen whose public and lasting valuation reduces the difficulties of transactions through an evenness in weight. And this material, after

is perhaps a development of his admiration for both of these earlier accounts.

Although Vico neither adopts the imagery of language-as-coinage nor repeats Quintilian's maxim that *consuetudo* is the *certissima magistra loquendi*, his works show that his understanding of language stems from a reliance on Quintilian, a possible inspiration for his own efforts to couple language and certainty. In his *Institutiones Oratoriae*, Vico begins his discussion of language by pointing out that there is a "well-known and true saying of Quintilian: it is one thing to speak grammatically, but another to speak in a Latin manner" (*aliud est grammatice, aliud Latine loqui*).[25] Quintilian appears later in Vico's text, too, as part of his recommendations for learning proper Latin style, where Vico praises

---

it has been minted with the public die, allows for usage and ownership, not so much because of the intrinsic value of the material as from its weight. And both [the substance and the weight] were called not a commodity but rather were called another price (*electa materia est, cuius publica ac perpetua estimatio difficultatibus permutationum equalitate quantitatis subveniret. Eaque materia forma publica percussa usum dominiumque non tam ex substantia prebet quam ex quantitate, nec ultra merx utrunque, sed alterum pretium vocabatur*, I.4.3) Martinelli and Perosa (1996, p. 32). According to Ulpian's analogy, the standardization of material (*materia*) used in coins shifts the value of money from its natural value as a precious substance (*substantia*) to its accustomed value as a denominated currency (*quantitas*). Or as Ulpian explains here, people do not treat money as a valuable commodity (*merx*) on account of its substance but as "another price" (*alterum pretium*) for which one can purchase goods. On the shift in currency's value from the value of the metal itself to the value of its stated denomination, see Bransbourg (2011).

Valla's second marginal note here also shows his interest in the "public die" used to stamp coins and language. This second reference, a brief quotation from Consultus Chirius Fortunatianus's *Ars Rhetorica* from the fourth or fifth century, shows that the analogy between language use and coinage was long-lasting: "Consultus, having followed Quintilian, also says this: one must use words just as one must use money minted by the public die" (*Consultus etiam Quintilianum sequutus inquit: "Utendum verbis ut nummis publica moneta signatis."*) Valla actually misquotes Consultus Fortunatianus, who writes the following: *Aperta quem ad modum erit elocutio? Si utamur verbis propriis, usitatis, sicuti nummis, ut dixi, publica moneta signatis* (*Ars Rhetorica* III.8). For Valla's commentary on this selection of the *Institutio*, see (Martinelli and Perosa 1996, p. 58). Valla's third marginal reference, Gellius' citation of *De Analogia*, a lost work by Julius Caesar, reiterates this more descriptivist view of language: "Always keep in your memory and your mind that 'you should avoid an unheard and unusual word just as you avoid a craggy cliff' " (*habe semper in memoria atque in pectore, ut "tamquam scopulum, sic fugias inauditum atque insolens verbum"*, *Institutio* I.4.3 (ibid., p. 32)).

[25] *praeclarum enim et verum est illud Quintiliani dictum: aliud est grammatice, aliud Latine loqui*, §35.6–8. Quintilian's original statement can be found at *Institutio* I.6.27.

Quintilian's suggestion to learn Latin from comic poets who "employ a type of speech used especially by the masses," the "common manner of speaking Latin" (*vulgaris Latine loquendi ratio*).[26] The reappearance of *vulgaris* in Vico's discussion of language here is telling: for Vico, Quintilian is a principal authority on the value of language as a practice of the common man, a language Vico defines as *vulgaris*, the adjective he uses to define the *certitudo* of ordinary knowledge in his critique of Cartesianism in the *De Antiquissima*.

Vico's appeal to this "vulgar" conception of language even recycles some phrases from Quintilian and Valla, pointing to a studied reverence for their earlier accounts. Vico's preference for speaking *Latine* rather than *grammatice* is borrowed from Quintilian's rhetorical manual, and the same preference appears in Valla's account of Quintilian's recommendations, where the early humanist advises that "we must speak according to a grammatical standard, speaking not so much grammatically as in Latin (*nec tam grammatice quam Latine*)—that is, following not so much the rules of an art as the usage of educated and cultured people (*consuetudo eruditorum atque elegantium*), which is the best art of all."[27]

[26] *Si quis autem vestrum quaerat unde addiscenda haec vulgaris Latine loquendi ratio, quando lingua intermortua est et ad nos nonnisi auctores Latini pervenerunt, ego dicam: a comicis. Ii namque a solo argumento poetae sunt; caeterum dictionis genere omnino populari utuntur*, §36.431–436. To support his recommendation, Vico turns to Quintilian, who understands the necessity of learning such common language and "who prescribed that the poets had to be explained to children"; even if Quintilian's students "had already acquired the common language of the Latins when they joined themselves to grammarians and teachers," they still needed these teachers to explain the language of poetry to them (*nec ullum facessit negotium Quintilianus, qui praecipit pueris ad linguae doctrinam poetas esse explanandos. Nam Quintiliani tempestate Latina lingua per Romanorum ora vivebat: quare pueri iam linguam vulgarem Latinorum tenebant, cum ad grammaticos seu litteratos sese applicabant, qui poetas ipsis enarrarent*, §36.459–465).

[27] *Nobis quidem ad normam grammatices loquendum est, nec tam grammatice quam Latine loquendam—hoc est non tam ad praecepta artis, quam ad consuetudinem eruditorum atque elegantium, quae optima ars est*, II.11.6. Notably, Valla changes Quintilian's expression *consensus eruditorum* to *consuetudo eruditorum*. For Valla, an appeal to "usage and authority" is not uniquely interested in the language practices of the public. His understanding of Quintilian's image of the public mint instead points to this more restricted notion of a *consensus eruditorum* that reg-

And Vico, too, adopts the phrase that Valla has taken from his predecessor: as a matter of concluding his discussion on the history of the Latin tongue in his *Institutiones Oratoriae*, Vico notes that even in pronunciation one should defer to the *consuetudo eruditorum*, the same authority cited by Valla for guiding the norms of language.[28] As discussed in the third chapter of this dissertation, Quintilian points to the *consensus eruditorum* as the proper guide of language, and both Valla and Vico follow Quintilian's recommendation, even approximating if not explicitly repeating his original terminology.

Vico's reliance on notions of language that is *vulgaris* and the *consuetudo* at such language's foundation, along with his explanation of *certa lex* as a kind of law that is both *scriptum* and rooted in the "determinate particularity of words," all help to sketch an understanding of language as a matter of certainty, as understood by these earlier authors. Accordingly, one should read Vico's definition of *certum*—what is "individuated" and "particularized"—not as what is unique to one individual. That is to say, when Vico contrasts *certum* with *commune*, it seems unlikely that he means to suggest that certainty is that which is not shared at all. Rather, the certain is "particularized" to those who

ulates language use. This more restrictive understanding of *consuetudo*, rooted not in the use of ordinary Romans, reminds readers that "the only truly authoritative *consuetudo* for Valla was the classical Latin of the best authors, not the vulgar language of classical Rome or its fifteeth-century descendent, the Roman *Volgare* of Valla's own time" (Nauta 2009, p. 276). For more on Valla's understanding of vulgar Latin and his preference for the style of classical authors, see Tavoni (1986). Readers of Valla are thus left with a paradoxical picture of *consuetudo*: at times it is cited as an appeal to common practices, but at others it defers to the careful consideration of a group of officials or experts. Nauta recognizes this tension: "It is therefore not correct to state categorically that for Valla *consuetudo* always means what the learned—the orators and the cultured—say, that is, the literary practice of the best authors rather than ordinary people's parlance. Valla's arguments naturally make use of classical Latin and often depend on it, but they are not always *about* classical Latin. Even when he makes a point about classical Latin, he *treats* it as a common language" (Nauta 2009, p. 280).

[28] *Quamquam fuerint qui de orthoëpedia scripserint, tamen pronunciandum hodie est ex consuetudine praesenti eruditorum*, §36.530–533.

share a language in which civil laws are grounded. As his accounts of language in his own rhetorical writings illustrate, Vico understands how language is *vulgaris* and coupled with the *consuetudo* and *consensus* of its users. Like the *certitudo* of the *De Antiquissima*, then, the *certa lex* of the *Scienza Nuova* is grounded in the ordinary and the widely available.

One can clarify this distinction between the *commune* and the broadest forms of consensus in a later discussion of the *Scienza Nuova*, for there Vico's language-based notion of *certa lex* and its ties to *consuetudo* or local convention contrast with the *vera lex* of universal human reason.[29] As a parallel to his claim about "men of limited ideas" and their attention to written laws, Vico begins this discussion of *vera lex* with the claim that "intelligent men take for law whatever impartial utility dictates in each case," a brand of utility that is grounded in "natural reason":[30]

> CXIII. The true in the laws is a certain light and splendor with which natural reason illuminates them; that jurisconsults are often in the habit of saying *verum est* for *aequum est.*
>
> …
>
> Axiom CXII and the two following definitions constitute the principle of mild law. Its rule is the natural equity which is connatural with civilized nations. This is the public school from which, as we shall show, the philosophers emerged.
>
> Propositions CIX–CXIV establish that the natural law of the *gentes* was instituted by providence. In order that the nations might be preserved, and since they had to live for centuries incapable of truth and natural equity (the latter of which the philosophers later clarified), providence permitted them to cleave to certainty and civil equity—which guards scrupulously the words of

[29]The distinction between *certum* and *verum* is central to Vico's study of the law, for as Guido Fasso explains, "the philosophical problem which law raised for Vico was precisely that of the relationship between the true and the certain – between a natural, or rational, law that was universally valid and positive and historical laws, apparently valid only insofar as they are chosen by human will, by auctoritas" (Fassò 1976, p. 9).

[30]Gli uomini intelligenti stimano diritto tutto ciò che dette essa uguale utilità delle cause, §112.

> decrees and laws—and to be led by the words to observe them generally, even in cases where they proved harsh.[31]

Vico highlights the "natural" character of true laws (la ragion naturale, l'equità naturale della ragion umana) by contrasting their applicability to all nations with the specificity of *certa lex* to communities that share a written legal code. Whereas the *ratio* of *vera lex* is "natural" and its brand of equity is "connatural with civilized nations," such nations were "incapable of truth" before the arrival of philosophy and thus had to "cleave to certainty and civil equity." These individual nations, not participating in what is *commune* to all, rely on their own, individuated certain law and are "led by words." To clarify Vico's note on usage regarding *certum*, one might say that the certain takes as its opposite not the *commune* but instead the *universale*. And returning to our original paradox presented by a comparison of the *vulgaris cognitio* of the *De Antiquissima* and the "particularized" certainty of the *Scienza Nuova*, one can understand how *certum* might be "individuated" and *vulgaris* but also not "common" in this broadest sense of omnipresent natural reason.

This discussion of Vico's understanding of certainty and its ties to "particularized" law is in service of the argument that Vico's general interpretation of *certum* relies on the intellectual tradition of humanist certainty that takes as its most thorough account

[31]Il vero delle leggi è un certo lume e splendore di che ne illumina la ragion naturale; onde spesso i giureconsulti usan dire *verum est* per *aequum est*.

…

Questa degnità con l'altre due seguenti diffinizioni costituiscono il principio della ragion benigna, regolata dall'equità naturale, la qual è connaturale alle nazioni ingentilite; dalla quale scuola pubblica si dimostrerà esser usciti i filosofi.

Tutte queste sei ultime proposizioni fermano che la Provvedenza fu l'ordinatrice del Diritto natural delle genti; la qual permise che, poiché per lunga scorsa di secoli le nazioni avevano a vivere incapaci del vero e dell'equità naturale (la quale più rischiararono, appresso, i filosofi), esse si attenessero al certo ed all'equità civile, che scrupolosamente custodisce le parole degli ordini e delle leggi; e da queste fussero portate ad osservarle generalmente anco ne' casi che riuscissero dure, perchè si serbassero le nazioni, §322–324.

Quintilian's *Institutio*. Now turning to another discussion of the law in Vico's writing, we see how he couples his notion of *certa lex* with *auctoritas*, a concept whose definition manifestly relies on discussions of certainty in Quintilian's *Institutio*. Vico's elaboration of *auctoritas*, a term he perhaps borrows from Valla's discussion of Quintilian's advocacy of *consuetudo* as a guide of language, provides the most powerful evidence of the Neapolitan's debt to his ancient predecessor.[32] While the notion of "authority" seems to include several aspects of culture other than language alone, Vico's most explicit discussions of *auctoritas* reveal near-imitations of Quintilian's text within his discussions of certainty.[33] Now added to the several words Vico associates with *certum*—including *consensus*, *consuetudo*, and *conscientia*—the concept of *auctoritas* again illustrates how Vico's fundamental understanding of certainty bears the marks of Quintilian's influence.

In his *Il Diritto Universale*, a 1720-1722 treatise on the law that precedes and in many ways anticipates his *Scienza Nuova*, Vico remarks that *vera lex* is grounded in *ratio* while *certa lex* is grounded in *auctoritas*, a term that Vico treats in great detail over several chapters of the treatise.[34] In a more succinct account of the difference between *verum* and *certum* in the treatise's prologue, Vico's definition of *auctoritas*—the foundation of certainty—bears the unmistakable influence of Quintilian's catalog of *certa* from the *In-*

[32]Valla, we should recall, positions *auctoritas* and *consuetudo* as parallel guides in his discussion of language in the *Disputationes*: *Nam quis nescit maximam loquendi partem auctoritate niti et consuetudine? De qua ita ait Quintilianus: Consuetudo certissima est loquendi magistra, utendumque plane sermone ut nummo, cui publica forma est*), II.11.6.

[33]Vico provides a lengthy discussion of the many types of "authority" in the main text of the *Il Diritto Universale*—types that include natural, monastic, and economic authority—in *Il Diritto Universale* §88–101.

[34]Note, too, the appearance of *autorità* in *Scienza Nuova* CXI, a discussion of *certa lex*, cited earlier in this chapter.

stitutio:

> Truth (*verum*) arises when the mind is in conformity with the order of things; the certain (*certum*) arises when consciousness (*conscientia*) is secure from doubt. That which conforms to the order of things is called reason. Thus, if the order of things is eternal, reason is eternal, from which it follows that truth is eternal. But if the order of things is not permanent in every place for everyone or everything, then reason will have only probable knowledge of things and achieve only a degree of verisimilitude in cases requiring action. As the truth rests on reason, so the certain rests upon authority (*auctoritas*), whether of the senses, called αὐτοψία, or on the words of others, which is called authority in particular. From both of these, persuasion is born.[35]

Vico reuses several terms from his other works in this discussion. As in the *De Antiquissima*, Vico here aligns *certum* and *conscientia*, and as in the *Scienza Nuova*, Vico defines the true as a kind of univeral *ratio*, the "eternal order of things" that is "permanent in every place for everyone or everything"—that is, what is *ratio* is understood as *commune* in the broadest sense, rather than "particularized" or "individuated." Vico gives similar definitions for *certum* and *verum* in the *Synopsis of Universal Law*, a prefatory exposition attached to his *Il Diritto Universale*, where Vico explains that what is *verum* is "that conforming to the order of things" (*quod rerum ordini conformatur*) and that what is *certum* is "consciousness free from doubt" (*conscientia dubitandi secura*).[36] But when Vico turns to *auctoritas* in the *Il Diritto Universale* itself, one finds an explanation of certainty not seen in these other works. Like Quintilian's study of *certa* which first defines the certain as

[35] *Verum gignit mentis cum rerum ordine conformatio; certum gignit conscientia dubitandi secura. Ea autem conformatio cum ipso ordine rerum est et dicitur "ratio." Quare, si aeternus est ordo rerum, ratio est aeterna, ex qua verum aeternum est: sin ordo rerum non semper, non ubique, non omnibus constet, tunc in rebus cognitionis ratio probabilis, in rebus actionis ratio verisimilis erit. Ut autem verum constat ratione, ita certum nititur auctoritate, vel nostra sensuum, quae dicitur* αὐτοψία *vel aliorum dictis, quae in specie dicitur "auctoritas," ex quarum alteruta nascitur persuasio*, Preface §31.

[36] For a text of the *Synopsis of Universal Law*, not always coupled with the *Il Diritto*, see Cristofolini (1974, p. 13).

"what we perceive through the senses," *auctoritas* is first defined here as *autopsia*, one's own sense perception. Vico then turns from sense perception to "the words of others," a phrase that suggests the forging of agreements between parties. As a summary of all kinds of *auctoritas*, in fact, Vico remarks that such "authority" effects a kind of "persuasion"; rather than couple certainty with objectivity or the universal reason of the truth, Vico takes up his Roman predecessor's insistence that the certain is tied to the persuasive arguments of the rhetorician.

In these various discussions of law, language, and epistemology, Vico thus exhibits the vestiges of Quintilian's understanding of certainty throughout his corpus. Sometimes explicit, as in his discussion of language education in the *Institutiones*, and sometimes unmentioned, as in the definition of *auctoritas* as sense perception and persuasion in the prologue to the *Il Diritto Universale*, Quintilian's recurring presence in Vico's work is indisputable. Always emphasizing the common or shared nature of what is *certum*, most evident in the appearance of his reliance on words beginning with *con-*, Vico relays the notion of humanist certainty set forth in the ancient and early modern works that precede him.

But Vico's writings are not a mere reiteration of ancient rhetorical texts, and his notions of the certain and the true depart from Quintilian's original formulations in significant ways. Vico's definition of *vera lex*, for example, suggests that the true and the certain are not entirely disjunct, for the fundamental concern of the *Scienza Nuova* is "the problem of 'verifying' the certain and 'certifying' the true universal, of grounding philology in philosophy and philosophy in philology."[37] Rather than draw a firm boundary between

[37]Morrison (1978b, p. 591).

the *verum* and the *certum*, Vico's project is, at least in part, an effort to reconcile them, a reconciliation he suggests in a later discussion in *Il Diritto Universale*:

> The reason (*ratio*) of the law is that which makes the law true (*verum*), and the true is the proper and perpetual concomitant of necessary law. The certain is part of the true (*certum est pars veri*). The certain is a proper and perpetual attribute of positive law but the certain is nevertheless a part of the true, as in the definition of civil law by Ulpian we cited above. Lawgivers seize that part of the truth and make it certain by means of their authority (*auctoritas*) because men may not be able to hold to it merely from a sense of shame. This is the rationale of Ulpian's definition. Thus, in all legal fictions that ground all positive law—for the natural law is both true and noble—there is to be found a truth dictated by reason (*ratio*). Thus we have the well-known passage from Ulpian: "The law is harsh, but it is written" by which he means "The law is certain (*certum*), but does not contain the whole truth." In other words, there is some reason that does not permit the law to conform entirely to the truth.[38]

This discussion reiterates some attributes of certainty discussed in the *Scienza Nuova.* Like that later work, this passage couples certainty and language when it explains how Ulpian's maxim—*durum est, sed scriptum est*—applies to the notion of certain law. Vico also shows how certainty is, at least to some degree, separate from the *verum*, for Vico's closing statement shows that what is certain does not "conform entirely to the truth." Despite these resonances, Vico blends the certain and the true by noting that the certain forms part of it: *certum est pars veri.*[39] While Valla's *Dialecticae Disputationes* explains how an

[38] *Ratio autem legis eidem dat esse verum. Verum autem est proprium ac perpetuum adiunctum iuris necessarii. Certum est pars veri. Certum vero est proprium et perpetuum iuris voluntarii attributum, sub aliqua tamen veri parte, ut Ulpianus nuper ius civile definivit. Quam veri partem legislatores arripiunt, ut certo teneant ea ex parte verum auctoritate, quod hominum pudore tenere non possunt: quae est eius iuris voluntarii sunt—nam ius naturale est generosum et verax—subest aliquod verum ratione dictatum. Quin eiusdem Ulpiani celebre illud. "Durum est, sed scriptum est." tantumdem sonat: "Certa lex est, sed vera prosus non est." At aliqua tamen ratio eam veram omnino esse non sinit"*, §82.

[39] "In general, Vico thought, 'ancient jurisprudence neglected the true for the certain,' that is, equity for the 'propriety and origin of words.' On the other hand the medieval 'interpreters' tended to dogmatize unhistorically without a proper understanding of philology and philosophy which

uncertain truth can become certain by reconciling disagreements, a topic discussed in the fourth chapter of this dissertation, here Vico suggests that the certain is inseparable from the true ("the certain is nevertheless a part of the truth") yet perhaps never fully aligned with it.[40] While Valla's conception of truth and certainty seeks to create an agreement (that is, what is *certum* and *confessum*) about what the truth is, Vico scholars instead point to the Neapolitan's novel use of the certain to *invent* the true. As Vico himself explains, the *verum* is the *factum*.[41]

One finds, in fact, a modification if not a rejection of Quintilian's theory of certainty elsewhere in Vico's works. While Vico's understanding of certainty as "persuasion" in the *Il Diritto Universale* and as ordinary knowledge (*vulgaris cognitio*) in the *De Antiquissima* both suggest Vico's debt to Quintilian, one finds that certainty is alluded to but largely absent from the discussion of status theory in the *Institutiones Oratoriae*. Even in his *De Antiquissima*, which in its first chapters sets out its anti-Cartesian brand of *certitudo* built upon hallmarks of Quintilian's notion of *certum*, Vico ultimately advances two competing

Grotius, that philologist of universal understanding…began to repair" (Kelley 1976, p. 26). John Schaeffer sees Vico's general approach as one that attempts to discover the *verum* through the rhetorical processes more aligned with the *certum*: "Natural law is not deduced from reason but induced from history. This historical process, from *auctoritas* to *factum*, from *factum* to *certum*, and from *certum* to *verum* (universal principles of justice) is essentially a rhetorical process involving argument and negotiation rather than a rational or philosophical one " (2011, pp. xxvi-xxvii).

[40]Scholars have noted the originality (and oftentimes inscrutability) of Vico's model of the certain and the true where the certain does not reveal a transcendent true law, but rather constitutes it. Vico's understanding of "true law" is nevertheless tied to "certain law" since "'Vico's basic thesis is that natural law, rather than a nomothetic idea, on the Platonic model, paradoxically, transcendent to, and yet normative to all conditions of time, place, circumstance and historical process, refers to a principle of mediation between the basic structures of law, namely, authority and ratio, certum and verum, particularity and universality" (Caponigri 1979, p. 3).

[41]The certain becomes the true through an "observable pattern of evolution of structures of thought and feeling on the basis of which humanity creates its institutions" (Bedani 1989, p. 202). For recent scholarship on Vico's understanding of the *verum* and its manufactured nature, see note 10 of this chapter.

definitions of certainty, one of which is the "well-tested and indubitable." These foundational changes to status theory and rendering of *certum* as unimpeachable knowledge, as we shall see in the remainder of this chapter, both point to Vico's ambivalent position in the tradition of humanist certainty: on the one hand, he carries this ancient understanding into the eighteenth century, but on the other, he suggests its fading relevance among European thinkers during the rise of empirical science.

Vico's reverence for Quintilian's work is evident throughout his *Institutiones Oratoriae*, not only in his discussion of the customary nature of language and his pedagogical recommendations. Like Quintilian's original work, Vico's *Institutiones* treats a variety of topics over sixty-seven chapters, including the nature of rhetoric, the divisions of a speech, and the verbal figures at the heart of rhetorical eloquence. But these topics are not all treated with the same emphasis or interest, and Vico's *Institutiones Oratoriae* shows that its debt to Quintilian's original book is not just in its title: its interest in forensic rhetoric—treated over the course of six full pages in the most recent English translation—far outweighs its treatment of the epideictic and deliberative genres, each of which he treats in just a few paragraphs.[42] From Quintilian's work, the *Institutiones* borrow their "fundamental juridical orientation."[43] In its discussions of status theory and rhetorical proof, too, this manual for university students of rhetoric borrows heavily from Quintilian's extensive discussions on the topic in Book III of the *Institutio*.[44]

[42]For Vico's discussion of the *demonstrativum* and *deliberativum* genres of oratory, see §20 and §21, respectively. For Vico's discussion of the forensic or "judicial" genre of oratory, see §22 (Pinton and Shippee 1996, pp. 254–259).

[43]Pinton and Shippee (ibid., p. 254).

[44]As part of a comparison of Vico's *Institutiones* and the texts of Aristotle, Cicero, and Quintilian

Even if Vico's text shows a clear debt to his Roman educational predecessor, however, it does not always look back to Quintilian's *Institutio* in unconditionally favorable terms. Compared with the second book of Valla's *Disputationes Dialecticae*, where one finds an unbridled admiration for Quintilian, Vico's *Institutiones Oratoriae* can feel quite critical in its treatment of Quintilian's manual, despite its heavy reliance on this earlier work. Whereas Valla compares Quintilian to God for his rhetorical expertise and masterful prose style, Vico laments the complex theorization of rhetorical invention in the original *Institutio*.[45] Like Aristotle, who in Vico's eyes "collected innumerable propositions" that "burdened the student more than equipping and instructing him," Quintilian too inundates his students with an excess of propositions and tactics.[46] Quintilian's rhetorical manual, Vico remarks, provides "rules for the study of rhetorical *loci* more befitting some laborer rather than an orator."[47] In an even more pointed rejection of Quintilian's rhetorical methods, Vico writes that "in every single case, Quintilian enumerates propositions (*propositiones*) which are so *certae*…that from them the orators may make credible any cause. And so that the propositions might proceed more certainly (*certius*), Quintilian, by means of a very long chapter which added weightiness to an already boring book, as well as Hermogenes, by means of an entire book of his own, pursued the handling of the

from which it borrows heavily, David Marshall notes that "like many other early modern conduits of ancient rhetoric, Vico's reception of rhetoric is at times mechanical" (Marshall 2010, p. 77). For a larger discussion of Vico's particular interest in *ingenium* as theorized in these earlier treatises, see Marshall (ibid., pp. 76-79).

[45]For Valla's estimation of Quintilian as the consummate rhetorical theorist, see *Dialecticae Disputationes* II.19.

[46]*nam innumeras colligit et tamen omnes colligi non possunt, cum infinitae rei infinita regula sit: itaque sua multitudine tironem onerat magis quam ornat et instuit*, §19.23-26.

[47]*locos rhetoricos vestigandos praecipiunt tamquam fabum aliquen non oratorem, instruerent*, §19.39-41.

thorny treatment of the status of causes."[48] While Quintilian's place next to Aristotle here confirms his canonical authority on the topic of rhetorical invention, Vico criticizes them both for their unnecessary complexity, burdensome pedagogy, and even unstimulating prose.

This criticism does not prevent Vico from borrowing much of his own treatment of status theory from this ancient Roman manual. Vico's allusion to the *certae propositiones* of Quintilian is perhaps intended to recall the prominent place of certainty in Quintilian's rendering of status theory in Book III of the *Institutio* and perhaps even the more extensive treatment of certainty in Book V.[49] Like his Roman predecessor, Vico structures the paradigm of status around the three *status rationales* found in Quintilian's original text: "The status, therefore, is where the cause stands which, as we have seen, is threefold—of fact, of name, and of law; that is, the conjectural, the definitional, and the qualitative."[50] And "conforming to Quintilian," Vico enumerates five *status legales*: "conflicting laws, the letter and the spirit of the law, ratiocination, ambiguity, and continuance."[51] Even if Vico understands Quintilian's manual to be "befitting some laborer rather than an orator," he

[48] *nam in unaquaque causa certas propositiones enumerant…ut ex iis orator cuiquecausa faciat fidem [De statibus causarum iudicium] et, quo certius procederent, de statibus causarum spinosissimam tractationem Quintilianus, longissimo capite quod iniusti libri molem excrescit, et Hermogenes, integro libro, exequuntur*, §19.41-49.

[49] For a discussion of Quintilian's use of *certum* in his discussion of status, see the third chapter of this dissertation. It is perhaps unsurprising that Vico's rhetorical manual devotes so much attention to the theory of status, for Vico acquired his academic position of the chair of rhetoric in Naples on account of his disputation on the *De Statibus Caussarum*, the chapter of Quintilian's *Institutio* devoted to the history and systematization of status theory. As David Marshall reports, "there is no record of what Vico actually said" in this lecture (2010, p. 86).

[50] *status igitur estin quo stat causa, et, ut vidimus, triplex est, facti, nominis, iuris; seu coniecturae, definitionis, qualitatis*, §22.20–22.

[51] Pinton and Shippee (1996, p. 254).

has nonetheless imported some of these alleged burdens into his own work.

In fact, Vico's further discussions of status theory seem to be rooted in Quintilian's concern with consensus and agreements seen throughout his framework. For example, Vico shows how the definitional issue—*quid sit*—is related to the *sensus communis* of the definition of words: "In the status of the definitional, the loci are common to both parties so that each may give a definition in the best way possible according to common sense (*sensus communis*) and the proper meaning of the words (*vis verbi*)."[52] Vico's approach to the qualitative issue—*quale sit*—similarly relies on notions of consensus, and his collection of circumstances relevant to this issue approximates Quintilian's original catalog of *certa* in its concern for laws, local customs, previously proven statements, and even naturally shared sentiments:

> We defend straightforwardly in an absolute manner that what is done has been rightly because of natural instinct, the consensus of nations (*nationum consensus*), the judgment of the most wise men (*sapientium virorum iudicium*), and according to laws (*leges*), the customs (*mores*), the institutions (*instituta*), the accepted covenants of our commonwealth (*pacta conventa*), precedence, and previous judicial rulings.[53]

Despite the appearance of *consensus* throughout these discussions of status theory, however, Vico never explicitly adopts the language of certainty in these discussions. As part of his complaint of Quintilian's burdensome complexity, Vico does once refer to the *certae propositiones* that Quintilian uses to "make credible any cause," but aside from this one

[52] *in statu finitivo, loci utrique parti communes sunt: ut deiniat uterque quam maxime potest ad communem sensum et vim verbi accommodate*, §22.88–90.

[53] *Absolute, cum simpliciter quod factum est recte factum esse defendimus, naturae instinctu, nationum consensu, sapeintum virorum iudicio, nostrae civitatis legibus, moribus, institutis, pactis conventis, exemplisque et rebus iudicatis*, §22.109–113.

allusion to Quintilian's interest in *certa*, the term is absent from Vico's adoption of this treatment of status from his predecessor.[54]

The absence of a discussion of certainty from these accounts of status theory and rhetorical argumentation more generally, however, does not prevent Vico from adopting a host of concepts from the *Institutio* for his own educational manual. In fact, as Vico's broader discussion of rhetorical proof shows, he relies on a theory of argumentation that largely parallels Quintilian's understanding of enthymemes, audience psychology, and widely held beliefs.[55] This debt is most obvious in Vico's formulation of the enthymeme as a kind of rhetorical proof that allows the rhetorician to omit "general statements" familiar to the audience for the purposes of ensuring the emotional receptiveness of one's listeners, a concern treated at length in Quintilian's discussion:

> Orators, for the purposes of variety, may omit general statements (*effata ex genere*) most of the time so that the one who is listening would never be aware of the technique or be bored by the repetition (*similitudinem fastidiat*), and so that the listener may supply the argumentation with something of his own in which he will take delight.[56]

Instead of continuing with a discussion of *certae propositiones*, Vico instead appeals to

[54]In the following section on "The selection of loci or the art of criticism," Vico notes that the *loci* related to status theory "are the elements for convincing, all of which the orator must examine when he takes on the defense of a cause so that he will be certain to have found that in the cause which is verisimilar" (*Haec sunt elementa docendi, quae orator ubi causam suscipit defendendam, percurrere omnia debet, ut quidquid in causa sit verisimile, invenisse certus sit*, §23.3–5. It is not clear whether this appearance of *certus* is a subtle connection of certainty to Quintilian's understanding of status theory, but there is not real evidence for such a claim.

[55]And this inheritence from Quintilian naturally incorporates elements from Aristotelian rhetoric on which Quintilian bases his own discussions. Even if "Vico and his Enlightenment contemporaries" turn away from Aristotle, "we must understand Vico's rhetoric relative to the Aristotelian tradition which frames it" (Hobbs 1996, p. 561).

[56]*Et oratores varietatis gratia, neve cognoscat artem quit audet neve similitudinem fastidiat et ut de suo argumentatione aliquid suppleat, unde ea tamquam sua delectetur, effata ex genere fere plerumque omittunt*, §30.114–117.

"general statements" (*effata ex genere*) in rhetorical proof, an understanding of rhetoric that returns to the Aristotelian roots of *homolegoumena* and Quintilian's understanding of rhetorical argumentation built upon widely accepted beliefs. Vico's understanding that one may omit such *effata* in order to effect emotional pleasure in an audience—or at least to avoid boredom—recalls Quintilian's commentary on the proper function of enthymemes at the conclusion of Book V of the *Institutio*.[57] There Quintilian cautions against "definite, frequent, and monotonously structured formal arguments" that include so much material as to inspire "satiety" and "boredom" (*ex similitudine fastidium*), a concern Vico seems to have borrowed here in both sense and phrasing (*similitudinem fastidiat*).[58] It is better, so Quintilian and Vico both advise, to omit ordinary knowledge for the sake of facilitating an audience's receptiveness and specifically for avoiding monotonous, dry argumentation.

And like Quintilian's own account, Vico's conception of enthymematic proof does not simply parrot Aristotelian doctrine; instead, it shows the same awareness of Stoic developments that Quintilian incorporates into his own writings.[59] Just as Quintilian includes within his several definitions of the enthymeme the formal Stoic frameworks that he later sets aside in favor of a more Aristotelian understanding of rhetorical argumentation, Vico

[57]David Marshall has already studied how in these rhetorical discussions Vico also take a great interest in the *sententia*, "an utterance that states in a compact, abbreviated form a combination of the key premises or conclusions in a rhetorical argument," a concept that uses "*concetto*…[as] the Italian equivalent; there the emphasis is on the cryptic quality of the utterance's compactness" (2010, p. 79).

[58]*Locuples et speciosa vult esse eloquentia: quorum nihil consequetur si conclusionibus certis et crebris et in unam prope formam cadentibus concisa et contemptum ex humilitate et odium ex quadam servitute et ex copia satietatem et ex similitudine fastidium tulerit*, *Institutio Oratoria* V.14.30.

[59]Vico nevertheless positions the syllogism as an Aristotelian form of argumentation: "As the Platonists have used induction and the Aristotelians the syllogism, so the Stoics have used their own proper weapon of argumentation. It is called the sorites" (§30.263–265).

also cites the competing understanding of the enthymeme as a "proof from contraries."[60] In his adoption of Quintilian's sources and language as well as his fundamentally Aristotelian notion of rhetorical argumentation, then, Vico follows his Roman educational predecessor in crafting his own system of rhetoric. Despite this incorporation of so much material from Quintilian, however, the *Institutio*'s notion of certainty is almost entirely absent from Vico's work.

Over the course of his own lessons, Vico thus exhibits a debt to Quintilian that is at once undeniable but also ambivalent. His criticism of what he sees as the complex, technical instruction of the *Institutio* leads Vico to differentiate his own rhetorical manual from Quintilian's as a simpler, purer alternative. In lieu of a mastery of "burdensome" frameworks, Vico's student should instead learn "moral philosophy in which the nature of all virtues and vices, the character of customs, and the duties of this life are discussed in order and with method."[61] But even while Vico announces his support for a kind of moral education that avoids what he sees as the overly technical nature of classical rhetorical manuals, he nevertheless advises that his readers grasp the concept of status "so that [they] will not be totally unaware of how the rhetoricians teach how to find the arguments in whatever kind of causes, concerning the three types of which we will touch upon."[62] Vico's alleged alternative to the ancient *Institutio* thus seems to be a false one:

[60] *Sed enthymema per excellentiam, ut aiunt, illud in rhetorica dicitur quod ex contrariis constat*, §30.137–138.

[61] *morali philosophia condisci, ubi de virtutum omnium et vitiorum natura, de morum characteribus, de omnibus huius vitae officiis ordine et ratione disseritur*, §19.58–61. Vico's call for moral education as the primary goal of rhetorical training could be seen as a parallel to Quintilian's aim of crafting a "good man skilled in speaking," as he discusses in the first chapter of *Institutio Oratoria* XII.

[62] *verum ne omnino expertes sitis quo pacto rhetores in quoque causarum genere argumenta inve-*

it similarly urges its readers to become a "good man skilled in speaking," particularly in a kind of speaking that relies on the mastery of status theory. For all its interest in fulfilling a separate, superior pedagogical aim, Vico's manual appears to be quite similar to Quintilian's original work in both sense and language. But this early modern casting of ancient rhetorical instruction—at least as far as certainty is concerned—does not wholly adopt the terminology of its predecessor. Humanist certainty, in fact, has almost entirely vanished from Vico's treatise on the art of rhetoric.

To conclude our study of Vico, we return to the *De Antiquissima* and its epistemological discussions of certainty and its rejection of the Cartesian search for *scientia* alone. Even in this early work, however, one already sees the foundational changes Vico makes to both status theory and the sometimes-peripheral importance of certainty within this framework. As part of a combined discussion of status theory and Aristotelian categories, Vico offers not the three essential status questions that one finds in the *Institutiones* but instead a five-part division that innovatively and even radically expands Hermagoras' original system:

> In point of fact, on what basis could a clear and distinct idea of our mind (*clara ac distincta mentis nostrae idea*) be the rule of truth unless one had already perceived all that is involved in some thing, all that is connected with it? For who can be certain (*certus*) that he has perceived all this, unless he has run through with all the questions which can be proposed concerning some thesis? To begin with, he runs through the questions, "is it?" lest he makes up words about nothing; next, through the questions "what is it?" lest there be disagreement about its definition; then, "how much is it?" whether in terms of extension or weight or number; next "quality" and, in this regard, he contemplates color, taste, flexibility, durability, and everything else belonging to touch; and thereafter, "when does it come to be?", "how long does it last?",

nienda praecipiant, de tribus causarum generibus aliqua attingamus, §19.74–77.

> "into what does it decompose?"; and in the same way, he runs through the remaining categories.[63]

Still working to contrast his own epistemological positions against the Cartesian search for "clear and distinct ideas," Vico positions certainty at the front of his modified rendering of status theory: without answering all its questions, one cannot be *certus* of one's knowledge.[64] But Vico's treatment here avoids discussions of forensic debate or rhetorical persuasiveness, and it instead positions status theory within a scientific investigation of extension, color, and other properties. Catherine Hobbs underscores the particular novelty of the fifth question—that of birth, lifetime, and decomposition—within Vico's larger interests in the history of civilization, for here "Vico's key insight was that humans have not simply changed by degrees over time, but have passed through qualitatively different transformations, evidenced by changes in their use of language and parallel institutions."[65] Status theory, at least the vestiges of it here, suggests that certainty is a matter of the science of human history, not merely the concerns of the courtroom.

Perhaps in Vico's time, then, the concept of certainty is similarly passing from one era to the next, for his *Institutiones Oratoriae* and refutations of Cartesianism clearly acknowledge this ancient notion but nevertheless show signs of radical changes underway. While

[63] *Etenim quonam pacto clara ac distincta mentis nostrae idea veri regula sit, nisi ea, quae in re insunt, ad rem sunt affecta, cuncta perspexerit? et quanam ratione quis certus sit, omnia perspexisse, nisi per quaestiones omnes, quae de re proposita institui possunt, sit persecutus? Principio per quaestione an sit, ne de nihilo verba faciat: deinde per eam quid sit, ne de nomine condendatur: tum quanta sit, sive extensione, sive pondere, sive numero: porro qualis, et heic contemplari colorem, saporem, mollitudinem, duriciem, et alia tactus: praeterea quando nascatur, quamdiu duret, et in quae corrumpatur: et ad hoc instar per reliqua praedicamenta conferre*, §113–114.

[64] The notion of certainty here points not to an agreement itself but to one's own mental assurance of a something's validity. For this sense of *certus*, see *OLD* 11.

[65] Hobbs (1996, p. 570).

Quintilian's ancient notion of humanist certainty is perhaps disappearing from the works of Vico and his contemporaries, an alternative notion of certainty is taking its place. In the *De Antiquissima*, Vico admits that

> for [the ancient philosophers of Italy], certain (*certum*) refers to two things, first what is well-tested and indubitable, second, what is particular as opposed to what is common, as if to say the certain is what is particular (*particulare*), but the doubtful what is common (*commune*). Also, for them, the true (*verum*) and the equitable (*aequum*) are the same.[66]

The ascendant understanding of *certum* as what is "well-tested and indubitable (*exploratum indubiumque*)," as Vico suggests here, is not a new meaning of *certum*.[67] But what Vico's ambivalence about *certum* here shows is that even in an author whose works are thoroughly indebted to Quintilian's rhetorical manual—in matters of language, law, and epistemology—the ancient notion of *certum* as consensus has started to lose its influence in the early modern period. Or as Vico might understand it, after its long life of nearly two millennia, Quintilian's original formulation of humanist certainty finally begins to decompose.

---

[66] *Atque ita sensisse antiquos Italiae Philosophos haec in lingua latina extant vestiga: quod certum duo significat, et quod est exploratum indubiumque, et peculiare, quod communi respondet: quasi quod peculiare est, certum sit, dubium autem quod commune. Iisdemque verum, et aequm idem*, §47.

[67] As noted in the introduction of this dissertation, the *Thesaurus Linguae Latinae*'s third major category of the meanings of *certus* aligns with *verus*, the true.

Conclusion

Over these five chapters, I have shown how the notion of certainty—what is *certum*—often assumes a definition radically separate from the modern concept of the same name. Even if *certum* is often aligned with *verum*, an alignment attested not just in the *Thesaurus Linguae Latinae* and the *Oxford Latin Dictionary* but even in the seventh-century Harleianus glossary, Quintilian's text and his readers show one prominent tradition of certainty that stands at odds with this coupling. I have shown not only how Quintilian adopts a skeptical conception of rhetorical argumentation and several other intellectual endeavors, all of which aim at the merely *certum* rather than the indisputably *verum*, but also how this measured understanding of the epistemic value of certainty persists for nearly two millennia. Indeed, Valla and Vico, while perhaps not household names in the twenty-first century, are nevertheless decisively influential early modern thinkers, and their debt to Quintilian's fashioning of certainty, as this dissertation has demonstrated, is unmistakable.

While the primary goal of this dissertation has been to lay out as clearly as possible this tradition of "humanist certainty," both in its sources and in its influence, a second thread related to the categorization of knowledge runs throughout my study, and as a concluding gesture, I would like to address how the questions at the center of this dissertation

bear on this other topic. The impulse to categorize different kinds of knowledge and argument appears in the first chaper of this dissertation, where Aristotle separates apodeictic demonstration from dialectical argument. And this effort to distinguish *apodeixis* from dialectic, while not unique to Aristotle, is emblematic of his consistent interest in defining various types of knowledge and the particular methods used to acquire them.[68] In his *Nicomachean Ethics*, for example, Aristotle similarly distinguishes mathematics and oratory on account of their differing capacities for precision:

> Precision of the same kind must not be sought in all accounts of things.…It is a mark of an educated person to look for precision in each kind of inquiry just to the extent that the nature of the subject allows it; it looks like the same kind of mistake to accept a merely persuasive account from a mathematician and to demand demonstrations from an expert in oratory.[69]

Paralleling the separation one sees in the *Topica*, where Aristotle sets apart apodeictic demonstrations with their "true and primary" premises and dialectical arguments rooted in *endoxa*, the *Nicomachean Ethics* similarly carves out two categories of inquiry, one that produces "demonstrations" and another that produces "merely persuasive accounts." And Aristotle, it should be noted, is not belittling the study of ethics or advocating for a kind of ethical relativism: he merely addresses the general regularity of ethical thinking that—unlike mathematical proof—accommodates a kind of variability.[70]

---

[68]For the Platonic effort to categorize kinds of knowledge and belief, see Plato's metaphor of the divided line in the *Republic* (509d6–511e5). For a discussion of some competing interpretations of this metaphor, see Smith (1996).

[69]τὸ γὰρ ἀκριβὲς οὐχ ὁμοίως ἐν ἅπασι τοῖς λόγοις ἐπιζητητέον…πεπαιδευμένου γάρ ἐστιν ἐπὶ τοσοῦτον τἀκριβὲς ἐπιζητεῖν καθ' ἕκαστον γένος, ἐφ' ὅσον ἡ τοῦ πράγματος φύσις ἐπιδέχεται· παραπλήσιον γὰρ φαίνεται μαθηματικοῦ τε πιθανολογοῦντος ἀποδέχεσθαι καὶ ῥητορικὸν ἀποδείξεις ἀπαιτεῖν, 1094b12–1094b13, 1094b23–1094b27. Translation of *Nicomachean Ethics* adapted from S. Broadie, ed., and C. Rowe, trans. (Oxford: Oxford University Press, 2011).

[70]For a discussion of Aristotle's understanding of the relative imprecision of ethical inquiry

Quintilian, however, makes no such distinction regarding the relative precision of different intellectual enterprises, for all arguments merely conclude what is *certum*. Against the backdrop of Aristotle's *Topica*, Quintilian's rendering of all kinds of argumentation—including natural philosophy, geometry, and forensic rhetoric—as arguments rooted in the epistemically modest category of certainty is a radical departure from the Peripatetic division of demonstration and dialectic. And even if Quintilian adopts Aristotelian understandings of the enthymeme, emotional appeal, and (as this dissertation has argued) the place of *homolegoumena* in rhetoric, he nevertheless collapses these foundational Aristotelian categorizations of types of arguments and their respective varieties of conclusions. As his most enthusiastic reader Lorenzo Valla confirms, Quintilian rejects these distinctions when he calls his readers to understand all kinds of inquiry as applications of status theory: "In each kind of inquiry—rational, moral, natural, and many others—our practice is to ask whether it is, what it is, and what it is like, which is almost explicit in the words of Quintilian."[71]

One need only look to medieval thinkers like Augustine or early modern reformers like Descartes to see how Quintilian's broadly skeptical approach does not completely infiltrate the thinking of post-classical Europe. But as Vico's text suggests, Quintilian's efforts to collapse epistemological distinctions strangely foreshadows a parallel flattening of such categories among authors of the early modern period. According to the first chapters of

and fiction compared to the exactness of scientific demonstration, see Eden (1986, pp. 32–54) and Trimpi (1983, pp. 118–129). I am grateful to Katja Vogt for sharing a chapter draft from her forthcoming book, *Desiring the Good: Ancient Theory and Contemporary Proposals*, whose terminology of ethical "variability" and "general regularity" I have adopted here.

[71] *praeterea in singulis—rationali, morali, naturali, et sique sint alia—quaerere solemus an sit, quid sit, quale sit, ut propemodum ex Quintiliani verbis palam est*, II.19.25.

Vico's *De Antiquissima*, Descartes venerates only *scientia*, the rigorous knowledge of the philosophical meditator, while rejecting claims that fall short of its strict requirements. Looking to rehabilitate *certitudo* and *conscientia* as valid if deficient kinds of knowledge, Vico rejects the "all-or-none" attitude of the Cartesian skeptic: a second category of *vulgaris cognitio* can ground probabilistic thinking that may not constitute "knowledge" but nevertheless proves valuable for managing one's life. Paralleling Quintilian's combination of geometry and rhetoric into one investigation of the certain, Descartes similarly concerns himself with a study of *scientia* alone. And against this radical combination of categories of knowledge and the methods for acquiring such knowledge, Vico advocates for different types of inquiry that can produce conclusions of varying degrees of epistemic assurance.

In one way, then, Vico's methodology seems closer to Aristotle's than Quintilian's in its effort to define a role for *certitudo* alongside the Cartesian conception of the true. While Quintilian equalizes all argumentation as a study of mere certainty and while Vico's early modern adversaries elevate the status of proof to a study of unassailable knowledge, Vico himself recognizes the value of these two approaches, perhaps in the spirit of Aristotle's careful divisions at the outset of the *Topica* and *Nicomachean Ethics*. For all his debt to Quintilian, Vico's manifold inquiries—into *scientia* and *conscientia*, into *vera lex* and *certa lex*, into *ratio* and *auctoritas*—set his method apart from the *Institutio*'s uniform approach to all investigations, both inside and outside the courtroom.

This unexpected parallel between Quintilian and Descartes should suggest in no way that Quintilian's theory of argument is proto-scientific. To be sure, one can see how Quintilian's understanding of *certum* is incompatible with the definition of certainty in

Locke's *An Essay Concerning Human Understanding*, which claims that "the highest probability, amounts not to certainty; without which, there can be no true knowledge." The contrast has been clear from this study's first pages. But perhaps these early modern reformers and Quintilian are not so dissimilar, despite their nearly opposite approaches to the assurance of argument. Like Quintilian in his anti-Aristotelian conflation of several types of argument into an investigation of mere certainty, these later thinkers show a similar impulse to collapse distinctions. In Vico's eyes, Descartes attempts to assimilate certainty into a monolithic vision of scientific or objective argumentation, uprooting the modest confidence in the merely *certum* that Quintilian especially is responsible for instituting. While demonstrating the longevity of the notion of humanist certainty, therefore, this dissertation also shows how Quintilian's flattening of epistemological categories foreshadows those later authors who would come to reject his understanding of *certum* through combinations of their own.

Bibliography

Adams, John C. (1996). "Don Quixote's Character: Hallucination, Inspiration, and Quintilian's Rhetorical Concept of Vision." In: *Quintiliano, historia y actualidad de la retórica: actas del Congreso Quintiliano*. Ed. by Tomás Albaladejo Mayordomo Emilio del Río José Antonio Caballero. Vol. II. Calahorra, Spain: Instituto de Estudios Riojanos, pp. 433–442.

Algra, K. (1997). "Chrysippus, Carneades, Cicero: The Ethical *divisiones* of Cicero's *Lucullus*." In: *Assent and Argument: Studies in Cicero's Academic Books*. Ed. by B. Inwood and J. Mansfeld. Leiden: Brill, pp. 107–139.

Allen, J. (1997). "Carneadean Argument in Cicero's Academic Books." In: *Assent and Argument: Studies in Cicero's Academic Books*. Ed. by B. Inwood and J. Mansfeld. Leiden: Brill, pp. 217–256.

Annas, J. (1990). "Stoic Epistmology." In: *Epistemology*. Ed. by S. Everson. Companions to Ancient Thought. Cambridge: Cambridge University Press. Chap. 9, pp. 185–203.

Atherton, Catherine (1988). "Hand over Fist: The Failure of Stoic Rhetoric." In: *Classical Quarterly* 38.2, pp. 392–427.

Austin, R. G., ed. and comm. (1960). *Pro M. Caelio Oratio*. By M. T. Cicero. Oxford: Oxford University Press.

— ed. and comm. (1965). *Institutionis Oratoriae Liber XII*. By Quintilian. Oxford: Oxford University Press.

Barker, Andrew (1976). "The Digression in *Theaetetus*." In: *Journal of the History of Philosophy* 14.4, pp. 457–462.

Bedani, Gino (1989). *Vico Revisited: Orthodoxy, Natura, and Science in the* Scienza Nuova. Oxford: Berg Publishers.

Bennett, Beth (2005). "Hermagoras of Temnos." In: *Classical Rhetorics and Rhetoricians: Critical Studies and Sources*. Ed. by Michael G. Moran Michelle Ballif. Westport, Connecticut: Greenwood Publishing Group, pp. 187–193.

Braet, Antoine (1987). "The Classical Doctrine of "Status" and the Rhetorical Theory of Argumentation." In: *Philosophy & Rhetoric* 20.2, pp. 79–93.

Bransbourg, G. (2011). "*Fides et pecunia numerata*: Chartalism and Metallism in the Roman World." In: *American Journal of Numismatics* 23.1, pp. 87–152.

Broadie, Sarah, ed. and comm. (2002). *Nicomachean Ethics*. By Aristotle. Trans. by Christopher Rowe. Oxford: Oxford University Press.

Brunschwig, Jacques (1996). "Aristotle's Rhetoric as a "Counterpart" to Dialectic." In: *Essays on Aristotle's* Rhetoric. Ed. by Amelie Oksenberg Rorty. Philosophical Traditions 6. University of California Press.

Burnyeat, M.F. (1994). "Enthymeme: Aristotle on the Logic of Persuasion." In: *Aristotle's Rhetoric: Philosophical Essays*. Ed. by David J. Furley and Alexander Nehamas. Princeton: Princeton University Press, pp. 3–55.

Camporeale, Salvatore (1986). "Lorenzo Valla, "Repastinatio, liber primus": retorica e linguaggio." In: *Lorenzo Valla E L'Umanismo Italiano*. Ed. by Ottavio Besomi and Mariangela Regoliosi. Padova: Editrice Antenore, pp. 217–240.

— (1996). "Lorenzo Valla's *Oratio* on the Pseudo-Donation of Constantine: Dissent and Innovation in Early Renaissance Humanism." In: *Journal of the History of Ideas* 57.1, pp. 9–26.

— (2002). *Lorenzo Valla: Umanesimo, Riforma e Controriforma*. Roma: Edizioni di Storia e Letteratura.

Caplan, Harry (1954). *[Cicero]: Rhetorica Ad Herennium*. Ed. by Harry Caplan. Loeb Classical Library. Cambridge, MA: Harvard University Press.

Caponigri, A. Robert (1979). "Jus et Aevom: The Historical Theory of Natural Law in Vico." In: *American Journal of Jurisprudence* 24.1, pp. 3–26.

Carr, Thomas M. (2009). *Descartes and the Resilience of Rhetoric: Varieties of Cartesian Rhetorical Theory*. Carbondale: Southern Illinois University Press.

Carter, Michael (1988). "Stasis and Kairos: Principles of Social Consruction in Classical Rhetoric." In: *Rhetoric Review* 7.1, pp. 97–112.

Cesarini Martinelli, L. (1986). "Le Postille di Lorenzo Valla all' "Institutio oratoria" di Quintiliano." In: *Lorenzo Valla e L'Umanismo Italiano*. Ed. by Ottavio Besomi and Mariangela Regoliosi. Padova: Editrice Antenore, pp. 21–50.

Chantraine, Pierre (1968). *Dictionnaire étymologique de la langue grecque: histoire des mots*. Vol. I-V. Paris: Klincksieck.

Colson, F.H., ed. and comm. (1924). *Institutionis Oratoriae Liber I*. By Quintilian. Cambridge, UK: Cambridge University Press.

Conley, Thomas M. (1984). "The Enthymeme in Perspective." In: *Quarterly Journal of Speech* 70, pp. 168–187.

Consalvi, Giovanni, ed. (2000). *La Scienza Nuova: Libro Primo*. By Giambattista Vico. Pavia: Bonomi Editore.

Cook, B., ed. and trans. (2013). *Correspondence*. By Lorenzo Valla. I Tatti Renaissance Library. Cambridge, MA: Harvard University Press.

Cope, Edward, ed., trans., and comm. (1877). *The Rhetoric of Aristotle*. By Aristotle. I-III vols. Cambridge, UK: Cambridge University Press.

Copenhaver, B. and L. Nauta, eds. and trans. (2012). *Dialectical Disputations*. By Lorenzo Valla. 2 vols. I Tatti Renaissance Library. Cambridge, MA: Harvard University Press.

Cristofolini, Paolo, ed. (1974). *Opere Giuridiche: Il Diritto Universale*. By Giambattista Vico. Florence: Sansoni Editore.

Danesi, Marcel (2012). "The Languages of the Law: An Integrated View From Vico and Conceptual Metaphor Theory." In: *International Journal for the Semiotics of Law* 25.1, pp. 95–106.

Dieter, O. A. L. (1950). "Stasis." In: *Speech Monographs* 17.4, pp. 345–369.

Eden, Kathy (1986). *Poetic and Legal Fiction in the Aristotelian Tradition*. Princeton: Princeton University Press.

— (2005). *Hermeneutics and the Rhetorical Tradition: Chapters in the Ancient Legacy and Its Humanist Reception*. New Haven: Yale University Press.

— (2012). *The Renaissance Rediscovery of Intimacy*. Chicago: University of Chicago Press.

Elmer, David (2013). *The Poetics of Consent: Collective Decision Making in the* Iliad. Baltimore: Johns Hopkins University Press.

Evans, J.D.G. (1977). *Aristotle's Concept of Dialectic*. Cambridge: Cambridge University Press.

Everson, S. (1990). "Introduction." In: *Epistmology*. Ed. by S. Everson. Companions to Ancient Thought. Cambridge, UK: Cambridge University Press, pp. 1–10.

Fantham, Elaine (1979). "The Use of Genus-Terminology in Cicero's Rhetorical Works." In: *Hermes* 107 (4), pp. 441–459.

Fassò, Guido (1976). "The Problem of Law and the Historical Origin of the *New Science*." In: *Giambattista Vico's Science of Humanity*. Ed. by Giorgio Tagliacozzo and Donald P. Verene. Baltimore: The Johns Hopkins University Press, pp. 3–14.

Fortenbaugh, William W. (1994). "Quintilian 6.2.8-9: Ethos and Pathos and the Ancient Tradition." In: *Peripatetic Rhetoric After Aristotle*. Ed. by William W. Fortenbaugh and David C. Mirhady. New Brunswick: Transaction Publishers, pp. 183–191.

Frede, Dorothea (2012). "The Endoxon Mystique: What Endoxa Are And What They Are Not." In: *Oxford Studies in Ancient Philosophy*. Vol. 43. Oxford University Press, pp. 185–214.

Freese, John, ed. and trans. (2006). *The "Art" of Rhetoric*. By Aristotle. Cambridge, MA: Harvard University Press.

Glucker, John (1995). "*Probabile*, *Veri Simile*, and Related Terms." In: *Cicero the Philosopher: Twelve Papers*. Ed. by J. G. F. Powell. Oxford: Oxford University Press, pp. 115–145.

Goetz, G. and G. Gundermann, eds. (1965). *Glossae Latinograecae et Graecolatinae*. Vol. 2. Leipzig: Tuebner.

Gordon, Phyllis (1991). *Two Renaissance book hunters : the letters of Poggius Bracciolini to Nicolaus de Niccolis*. New York: Columbia University Press.

Green, L. (1995). "Aristotle's Enthymeme and the Imperfect Syllogism." In: *Rhetoric and Pedagogy: Its History, Philosophy, and Practice: Essays in Honor of James J. Murphy*. Ed. by Winifred Bryan Horner and Michael Leff. Lawrence Erlbaum Associates, Publishers, pp. 19–41.

Greer, Wilbur J. (1925). "Quintilian and the Declamation." In: *The Classical Weekly* 19.4, pp. 27–31.

Grimaldi William M.A., SJ (1980). *Aristotle,* Rhetoric*, A Commentary*. 2 vols. New York: Fordham University Press.

Hankinson, R. J. (1997). "Natural Criteria and the Transparency of Judgement: Antiochus, Philo and Galen on Epistemological Justification." In: *Assent and Argument: Studies in Cicero's Academic Books*. Ed. by B. Inwood and J. Mansfeld. Leiden: Brill, pp. 161–216.

Haskins, Ekaterina (2004). "Endoxa, Epistemological Optimism, and Aristotle's Rhetorical Project." In: *Philosophy and Rhetoric* 37.1, pp. 1–20.

Hobbes, Thomas (2008). *Leviathan*. Ed. and comm. by J. C. A. Gaskin. Oxford: Oxford University Press.

Hobbs, Catherine L. (1996). "Vico, Rhetorical Tropes and Historical Thought." In: *Historical Reflections / Réflexions Historiques* 22.3, pp. 559–585.

Hodge, H. G., ed. and trans. (1990). *Pro Lege Manilia, Pro Caecina, Pro Cluentio, Pro Rabirio Perduellionis*. By M. T. Cicero. Loeb Classical Library. Cambridge, MA: Harvard University Press.

Holtsmark, Erling B. (1968). "Quintilian on Status: A Progymnasmata." In: *Hermes* 96.3. 1968, pp. 356–368.

Innes, Doreen (1988). "Cicero on Tropes." In: *Rhetorica* 6.3, pp. 307–325.

Jocelyn, H. D. (2008). *The Tragedies of Ennius: The Fragments*. Cambridge, UK: Cambridge University Press.

Kelley, Donald R. (1976). "Vico's Road: From Philology to Jurisprudence and Back." In: *Giambattista Vico's Science of Humanity*. Ed. by Giorgio Tagliacozzo and Donald P. Verene. Baltimore: The Johns Hopkins University Press, pp. 15–29.

Leeman, A. D., Harm Pinkster, et al. (1981). De Oratore *Libri III*. Vol. 1-5. Heidelberg: Winter.

Liebersohn, Y.Z. (2010). *The Dispute Concerning Rhetoric in Hellenistic Thought*. Göttingen: Vandenhoeck & Ruprecht.

Long, A. A. and D. N. Sedley (1987). *The Hellenistic Philosophers*. Vol. 1 and 2. Cambridge, UK: Cambridge University Press.

Lucas, D. W., ed. and comm. (1968). *Poetics*. By Aristotle. Oxford: Oxford University Press.

Mack, Peter (1993). *Renaissance Argument: Valla and Agricola in the Traditions of Rhetoric and Dialectic*. Leiden: Brill.

Mankin, David, ed. and comm. (2011). De Oratore*, Book III*. By M. T. Cicero. Cambridge, UK: Cambridge University Press.

Manson, Richard (1969). *The Theory of Knowledge of Giambattista Vico*. Hamden, CT: Archon Books.

Marshall, David L. (2010). *Vico and the Transformation of Rhetoric in Early Modern Europe*. Cambridge, UK: Cambridge University Press.

— (2011). "The Current State of Vico Scholarship." In: *Journal of the History of Ideas* 72.1, pp. 141–160.

Martinelli, L. Cesarini and A. Perosa, eds. (1996). *Le postille all'"Institutio Oratoria" di Quintiliano: edizione critica*. By Lorenzo Valla. Vol. 91. Padova: Editrice Antenore.

McAdon, B. (2001). "Rhetoric is a Counterpart of Dialectic." In: *Philosophy and Rhetoric* 34.2, pp. 115–150.

— (2003). "Probabilities, Signs, Necessary Signs, Idia, and Topoi: The Confusing Discussion of Materials for Enthymemes in the Rhetoric." In: *Philosophy and Rhetoric* 36.3, pp. 223–248.

— (2006). "The "Special Topics" in the "Rhetoric": A Reconsideration." In: *Rhetoric Society Quarterly* 36.4, pp. 399–424.

McAdon, Brad (2004). "Two Irreconcilable Conceptions of Rhetorical Proofs in Aristotle's *Rhetoric*." In: *Rhetorica* 22.4, pp. 307–325.

McBurney, James (1936). "The Place of the Enthymeme in Rhetorical Theory." In: *Speech Monographs* 3.1, pp. 49–74.

Mendelson, Michael (2001). "Quintilian and the Pedagogy of Argument." In: *Argumentation* 15.3, pp. 277–294.

Monfasani, J. (1989). "Was Lorenzo Valla an Ordinary Language Philosopher?" In: *Journal of the History of Ideas* 50.2, pp. 309–323.

Montefusco, Lucia Calboli, ed. (1979). *Ars Rhetorica*. By Consultus Fortunatianus. Bologna: Casa Editrice Patron.

Montmollin, Daniel de (1951). *La Poétique d'Aristote*. Neuchâtel: H. Messeiller.

Mooney, Michael (1976). "The Primary of Language in Vico." In: *Social Research* 43.3, pp. 581–600.

Mootz, Francis J. (2009). "Vico and Imagination: An Ingenious Approach to Educating Lawyers with Semiotic Sensibility." In: *International Journal for the Semiotics of Law* 22.1, pp. 11–22.

Moreda, S. L., ed. (1999). *De Linguae Latinae Elegantia*. By Lorenzo Valla. 2 vols. Cáceres: Universidad de Extremadura.

Morrison, James C. (1978a). "Vico's Doctrine of the Natural Law of the Gentes." In: *Journal of the History of Philosophy* 16.1, pp. 47–60.

— (1978b). "Vico's Problem of Verum is Factum and the Problem of Historicism." In: *Journal of the History of Ideas* 39.4, pp. 579–595.

Most, Glenn (1994). "The Uses of *endoxa*: Philosophy and Rhetoric in the *Rhetoric*." In: *Aristotle's Rhetoric: Philosophical Essays*. Ed. by D.J. Furley. Princeton: Princeton University Press, pp. 167–190.

Nadeau, Ray (1959). "Classical Systems of Stases in Greek: Hermagoras to Hermogenes." In: *Greek, Roman, and Byzantine Studies* 2.1, pp. 51–71.

Nauta, Lodi (2009). *In Defense of Common Sense: Lorenzo Valla's humanist critique of scholastic philosophy*. I Tatti Studies in Italian Renaissance History. Cambridge, MA: Harvard University Press.

Nawar, Tamer (2014). "The Stoic Account of Apprehension." In: *Philosopher's Imprint* 14.29, pp. 1–29.

Nehamas, Alexander (1990). "Eristic, Antilogic, Sophistic, Dialectic: Plato's Demarcation of Philosophy from Sophistry." In: *History of Philosophy Quarterly* 7.1, pp. 3–16.

Noël, Marie-Pierre (2011). "Isocrates and the *Rhetoric to Alexander*: Meaning and Uses of *Tekmerion*." In: *Rhetorica* 29.3, pp. 319–335.

Nussbaum, M. (1986). *The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy*. New York: Cambridge University Press.

Obbink, Dirk (1992). "What all men believe–must be true: Common conceptions and *consensio omnium* in Aristotle and Hellenistic philosophy." In: *Oxford Studies in Ancient Philosophy* 10, pp. 193–231.

Ophuijsen, J M. van (1994). "Where Have the Topics Gone?" In: *Peripatetic Rhetoric After Aristotle*. Ed. by William W Fortenbaugh and David C Mirhady. New Brunswick: Transaction Publishers, pp. 131–173.

Owen, G.E.L. (1961). "Titheanai ta Phainomena." In: *Aristote et les problèmes de méthode*. Ed. by S. Mansion. Louvain: Nauwelarts, pp. 83–103.

Pagliaroli, S. (2006). "Una proposta per il giovane Valla: *Quintiliani Tulliique examen*." In: *Studi medievali e umanistici* 4.

Pardo, Antonio Miguel Seoane (1998). "El legado filosófico de Cicerón a Quintiliano." In: *Quintiliano, historia y actualidad de la retórica: actas del Congreso Quintiliano*. Ed. by

Tomás Albaladejo Mayordomo Emilio del Río José Antonio Caballero. Vol. II. Calahorra, Spain: Instituto de Estudios Riojanos, pp. 1059–1070.

Pareja, Marcos Jesús Herráiz (1998). "Quintiliano en las Elegancias de Lorenzo Valla." In: *Quintiliano, historia y actualidad de la retórica: actas del Congreso Quintiliano*. Ed. by Tomás Albaladejo Mayordomo Emilio del Río José Antonio Caballero. Vol. III. Calahorra, Spain: Instituto de Estudios Riojanos, pp. 1363–1372.

Percival, W. Keith (2004). *Studies in Renaissance Grammar*. Burlington: Ashgate.

Perreiah, Alan R. (2014). *Renaissance Truths: Humanism, Scholasticism, and the Search for the Perfect Language*. Burlington, VT: Ashgate.

Piazza, Francesca (2011). "Pisteis in Comparison: Examples and Enthymemes in the Rhetoric to Alexander and in Aristotle's Rhetoric." In: *Rhetorica: A Journal of the History of Rhetoric* 29.3, pp. 305–318. ISSN: 0734-8584.

Pinton, Giorgio A. and Arthur W. Shippee, eds. and trans. (1996). *The Art of Rhetoric (Institutiones Oratoriae, 1711–1741)*. By Giambattista Vico. Value Inquiry Book Series 37. Atlanta: Rodopi.

Rackham, H., ed. and trans. (1942). *On the Orator Book 3, On Fate, Stoic Paradoxes, Divisions of Oratory*. By Cicero. Cambridge, MA: Harvard University Press.

— ed. and trans. (2000). *De Natura Deorum, Academica*. By Marcus Tullius Cicero. Cambridge, MA: Harvard University Press.

Reid, James S., ed. and comm. (1885). *M. Tulli Ciceronis Academica*. By Marcus Tullius Cicero. London: Macmillan.

Reinhardt, Tobias, ed., trans., and comm. (2003). *Topica*. By M. T. Cicero. Oxford: Oxford University Press.

Reinhardt, Tobias and Michael Winterbottom, eds. (2006). *Institutio Oratoria, Book 2*. By Quintilian. Oxford: Oxford University Press.

Russell, Donald A., ed. and trans. (2001). *The Orator's Education*. By Quintilian. I-V vols. Loeb Classical Library. Cambridge, MA: Harvard University Press.

Sandys, J. E. (1908). *A History of Classical Scholarship*. 3 vols. Cambridge, UK: Cambridge University Press.

Scafuro, Adele (1997). *The Forensic Stage: Settling Disputes in Graeco-Roman New Comedy*. Cambridge, UK: Cambridge University Press.

Schaeffer, John D. (1981). "Vico's Rhetorical Model of the Mind: 'Sensus Communis' in the "De Nostri Temporis Studiorum Ratione"." In: *Philosophy and Rhetoric* 14.3, pp. 152–167.

— (1990). *Sensus Communis: Vico, Rhetoric, and the Limits of Relativism*. Durham: Duke University Press.

Schaeffer, John D. and Donald P. Verene, eds. and trans. (2011). *A Translation From Latin into English of Giambattista Vico's Il Diritto Universale/Universal Law*. By Giambattista Vico. Vol. I and II. Lewiston, New York: The Edwin Mellen Press.

Seaton, R. C. (1914). "The Aristotelian Enthymeme." In: *The Classical Review* 28.4, pp. 113–119.

Shapiro, Barbara J. (1983). *Probability and Certainty in Seventeenth Century England: A Study of the Relationships Between National Science, Religion, History, Law and Literature*. Princeton: Princeton University Press.

Skinner, Quentin (2014). *Forensic Shakespeare*. Oxford: Oxford University Press.

Sloan, Michael (2010). "Aristotle's *Nichomachean Ethics* as the Original *Locus* for the *Septem Circumstantiae*." In: *Classical Philology* 105.3, pp. 236–251.

Smith, Nicholas D. (1996). "Plato's Divided Line." In: *Ancient Philosophy* 16.1, pp. 25–46.

Smith, Robin (1997). *Topics: Books I and VII*. Oxford: Oxford University Press.

Snieżewski, Stanisław (2013). "Rhetorical Theory in the Third Book of Quintilian's *Institutio Oratoria*." In: *Classica Cracoviensia* 16, pp. 113–135.

Solmsen, Friedrich (1941). "The Aristotelian Tradition in Ancient Rhetoric." In: *The American Journal of Philology* 62.2, pp. 35–50, 169–190.

Strassberg, Daniel (2007). *Das Poietische Subjekt: Giambattista Vicos Wissenschaft vom Singulären*. Munich: W. Fink.

Striker, G. (1997). "Academics Fighting Academics." In: *Assent and Argument: Studies in Cicero's Academic Books*. Ed. by B. Inwood and J. Mansfeld. Leiden: Brill, pp. 257–276.

Striker, Gisela (1990). "The Problem of the Criterion." In: *Epistemology*. Ed. by Stephen Everson. Companions to Ancient Thought 1. Cambridge, UK: Cambridge University Press. Chap. 7, pp. 143–160.

Struever, Nancy S. (1976). "Vico, Valla, and the Logic of Humanist Inquiry." In: *Giambattista Vico's Science of Humanity*. Ed. by Giorgio Tagliacozzo and Donald P. Verene. Baltimore: The Johns Hopkins University Press, pp. 173–187.

Sturm, Johannis, ed. and comm. (1565). *Joannis Sturmii* In Partitiones Oratorias *Ciceronis, Dialogi quatuor: ab ipso Authore emendati, & aucti*. By M. T. Cicero. Rihelius.

Tarrant, H. (1981). "Agreement and the Self-Evident in Philo of Larissa." In: *Dionysius Halifax, NS* 5, pp. 66–97.

Tavoni, I. (1986). "Lorenzo Valla e Il volgare." In: *Lorenzo Valla e L'Umanismo Italiano*. Ed. by Ottavio Besomi and Mariangela Regoliosi. Padova: Editrice Antenore, pp. 199–216.

Taylor, Jason, ed. and trans. (2010). *On the Most Ancient Wisdom of the Italians: Drawn Out from the Origins of the Latin Language*. By Giambattista Vico. New Haven: Yale University Press.

Trimpi, Wesley (1973). "The Meaning of Horace's *Ut Pictura Poesis*." In: *Journal of the Warburg and Courtauld Institutes* 36, pp. 1–34.

— (1978). "The Early Metaphorical Uses of *Skiagraphia* and *Skenographia*." In: *Traditio* 34, pp. 403–413.

— (1983). *Muses of One Mind: The Literary Analysis of Experience and Its Continuity*. Princeton: Princeton University Press.

Trinkaus, Charles (1983). *The Scope of Renaissance Humanism*. Ann Arbor: University of Michigan Press, pp. 140–168.

Ussani, Vincenzo Scarano (2003). "*Romanus Sapiens* and *Civilis Vir*." In: *Quintilian and the Law*. Ed. by Olga Tellegen-Couperus. Leuven: Leuven University Press, pp. 287–301.

Verene, Donald P. (2003). *Knowledge of Things Human and Divine : Vico's New Science and Finnegans Wake*. New Haven: Yale University Press.

Vogt, Katja (2012). *Belief and Truth*. Oxford: Oxford University Press.

Walton, D. and C. A. Reed (2005). "Argumentation Schemes and Enthymemes." In: *Synthese* 145.3, pp. 339–370.

Walzer, Arthur E. (2003). "Quintilian's "Vir Bonus" and the Stoic Wise Man." In: *Rhetoric Society Quarterly* 33.4, pp. 25–41.

Waswo, Richard (1987). *Language and Meaning in the Renaissance*. Princeton: Princeton University Press.

Wilkerson, K. E. (1988). "Carneades at Rome: A Problem of Sceptical Rhetoric." In: *Philosophy and Rhetoric* 21.2, pp. 131–144.

Wilkins, A. S., ed. and comm. (1962). *De Oratore Libri Tres*. By M. T. Cicero. Amsterdam: A. M. Hakkert.

Willbanks, Charles (1996). "Quintilian's *Institutio Oratoria*: A Practical Rhetoric of Ethics." In: *Quintiliano, historia y actualidad de la retórica: actas del Congreso Quintiliano*. Ed. by Tomás Albaladejo Mayordomo Emilio del Río José Antonio Caballero. Vol. II. Calahorra, Spain: Instituto de Estudios Riojanos, pp. 803–809.

Winterbottom, M. (1967). "Fifteenth-Century Manuscripts of Quintilian." In: *The Classical Quarterly (New Series)* 17.2, pp. 339–369.

Witteveen, Willem J. (2003). "The Jurisprudence of Quintilian." In: *Quintilian and the Law*. Ed. by Olga Tellegen-Couperus. Leuven: Leuven University Press, pp. 303–317.

Zippel, Gianni (1970). *L'autodifesa di Lorenzo Valla per il processo dell'inquisizione napoletana (1444)*. Padova: Editrice Antenore.