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Cicero as User and Critic of Traditional Rhetorical Patterns: Structural Authority from *De inuentione* to *De oratore*

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I would like to start this paper by pointing at a paradox. Around 86 BCE, Cicero wrote and published a rhetorical treatise called the *De inuentione*. It is the first text ever written by Cicero that we know of. He was at the time a young man of seventeen, and still had a few more years to wait before he would plead his first case and be elected to public office for the first time. Thirty years later, the now well known and skilful orator published what we consider to be his most profound reflection on the orator's art, the *De oratore*. This text begins with the usual dedication to a loved one — his brother in this case —, a dedication to which Cicero adds an unusual acknowledgment: long ago, he states, he has written a text, the *De inuentione*, but now recognizes it was a very bad book, the work of a student not skilled enough to build up his own theory, a text of which he is nearly ashamed. He characterizes it as “inchoate and crude” – *incohata ac rudia*¹ – and based only on his notes as a student. Therefore, he intends to write the *De oratore* in order to give posterity an in-depth and authoritative theory, more suited to his own claimed status of greatest orator of all times². From his point of view, the *De oratore* simply makes the *De inuentione* useless.

But the tradition chose to discard the opinion of Cicero himself: Quintilian, in his well-known treatise written in the first century CE, the *Institutio oratoria*, continuously refers to the *De inuentione* and late rhetoricians such as Victorinus³ and Grillius⁴ wrote commentaries on it. It became the most commonly used and studied rhetorical handbook from the Middle Ages to the fifteenth century, while Cicero's other treatises like the *De oratore*, the *Brutus*, or the *Orator* received little attention after the classical period and nearly fell into oblivion in the Middle Ages. It was the *De inuentione*, this *coup d'essai* Cicero had disowned, along with the *Rhetorica ad Herennium*, a rhetorical treatise so similar to the *De inuentione* that it had been attributed to Cicero⁵, which enjoyed popularity and was used as the main basis of rhetorical teaching and training. How could it be so? I think the answer lies in the fact that in these two texts, Cicero used very different means to make his theory authoritative. How can we define authority in rhetorical theory? Since rhetoric is a technique which intends to give the student (or the reader) the means of convincing his audience, it has a completely

¹ *De orat.* 1.5.

² *Vis enim, ut mihi saepe dixisti, quoniam, quae pueris aut adulescentulis nobis ex commentariolis nostris incohata ac rudia exciderunt, uix <sunt> hac aetate digna et hoc usu, quem ex causis, quas diximus, tot tantisque consecuti sumus, aliquid eisdem de rebus politius a nobis perfectiusque proferri [...]. De orat.* 1.5.

³ 281/291-365 CE. See Q. Fabius Victorinus, *Explanationum in rhetoricam M. Tulli Ciceronis libri duo*, in HALM 1863: 154-304.

⁴ 4th/5th century CE. See the excerpts published in HALM 1863: 596-606, and the new and complete edition of Grillius by R. Jakobi.

⁵ This treatise was written between 86 and 82 BCE; see Achard's edition of the *Rhetorica ad Herennium* p. VI-XIII. Concerning the attribution of the *Rhetorica ad Herennium*, see the good summary and the bibliography provided by Achard, *op. cit.*, p. XIII-XXXIV.

practical goal. A rhetorical theory can claim authority if it is understandable, usable, and efficient — or, at least, is perceived as such. We may simply define textual authority in this context as the ability for the text itself to give its reader the impression that the theory it contains is the most efficient available.

Rhetorical texts present themselves as authoritative primarily in two ways. First, the text can clearly show it belongs to a solid and well established tradition, which has proved for years or centuries its validity through repeated teaching and transmission, sometimes from a cultural area to another. Resorting to respected names in the field — like Aristotle or Isocrates — may be a way of achieving this. But the text can also show it belongs to the tradition by its very organization and structure, by using patterns readily understandable and recognizable by the reader as traditional and, therefore, valid. What I mean by this is the use of traditional patterns to organize the text as a whole and of well known divisions into chapters, lists, topics and so on. Finally, prefaces and various metacommentaries throughout the text can contribute to an impression of authoritativeness. This is what we can consider as the traditional production of authority: it is perfectly illustrated by the *De inuentione* and by its twin, the *Rhetorica ad Herennium*, though they also use their own individual strategies to produce this effect. The other way of asserting the text's own efficiency is to take exactly the opposite stand and, while claiming to know the tradition, to ground (or pretend to ground) the theory into one's own practical experience. Such a claim obviously makes sense in a practice oriented theory such as rhetoric. However, as we shall see, it goes against the whole trend of the rhetorical tradition and raises a real problem: building the theory in such a way means inventing a new set of patterns for presenting it, a set of patterns which, though different from the traditional one, should give the reader sufficient indications for finding his way through a theory he is not used to. In both authoritative strategies, the organization of the text itself greatly contributes to the authoritativeness of the treatise.

Being a very traditional work, the *De inuentione* used the common structure of rhetorical handbooks and was therefore readily understandable for the educated reader. In the *De oratore*, on the other hand, Cicero chose to abandon this traditional way of organizing and constructing the precepts of rhetorical theory. His goals were not the usual goals writers of rhetorical treatises used to claim. Being who he was, with his political and oratorical achievements, suffering as he did from the collapse of the Republic, he wanted to build an entirely new way of theorizing Roman oratorical practice, deeply grounded in his own experience as orator, philosopher, and statesman: hence, the new means he used to give authority to the unusual text he wrote in 55 BCE, which could have disoriented the readers of the following centuries. This paper aims at showing that the *De inuentione* and the *De oratore* tend to use very different structural patterns and means of presenting their contents in order to appear authoritative; and that this difference corresponds to a change in Cicero's views regarding traditional rhetorical theory and teaching. I would like first to describe the various authoritative strategies used in the *De inuentione*. To this end, I will analyze both the *De inuentione* and the *Rhetorica ad Herennium*: their theoretical similarities may help us to perceive how the use of traditional patterns could help the authors make their texts authoritative and, on the other hand, how Cicero himself used this tradition to create authoritative patterns of his own. Using this basis, I will then explain in which way the *De oratore* differs from these handbooks and tries to create another kind of structural authority.

The *De inuentione* and the *Rhetorica ad Herennium* were both written around 90-86 BCE. We already know that the *De inuentione* is the work of a very young man. It is therefore highly dependent on Cicero's own master's teaching⁶. The *Rhetorica ad Herennium*

⁶ On the rhetorical training of Cicero, see CALBOLI 1965: 3-20; DAVID 1992: 367-375.

is the work of an unknown Roman knight, with very strong *populares* views⁷, who had already been elected to public office. He refers very often to his master's views, his *magister*, whose name is never given. Whereas the *Rhetorica ad Herennium* is a complete treatise, dealing with all aspects of oratorical practice (namely, invention, disposition, style, memory and delivery⁸), the *De inuentione* remains unfinished, since Cicero only wrote the first two parts of the book he first planned to write. Cicero's treatise, as might be guessed from its title, only deals with the first of the five tasks of the orator: invention (*inuentio*), the art of finding and building an argument. Apart from a small number of variations, and the fact that Cicero's text is incomplete, these two handbooks belong to the same tradition. The views of the two authors are very close, and they follow the same organizational patterns, which is of course very helpful in our case. Both are intended for a rather young public, unfamiliar with oratorical practice⁹. They are not texts that may be used by advanced students or skilled orators who may want to improve their technique. Both begin with a preface, and present a second metacommentary later in the book¹⁰. But the two treatises are slightly different in tone and engage in various strategies to justify their way of presenting their theory. Let us start with the *De inuentione*.

The two prefaces of the *De inuentione*, one at the beginning of the first book, the other at the beginning of the second, have been quoted again and again for centuries and play an important role: they help give the text an apparently serious claim to authority up front, even before the reader is confronted with the actual content of the book. Written with a self-assurance that one may call pedantic, these introductions explain the intention of the author and the way that the past rhetorical tradition has influenced the text that the reader is about to read. To explain his use of the rhetorical tradition at the beginning of book two, Cicero uses the very well known story of the painter Zeuxis, who was hired to decorate the temple of Juno in Croton. Looking for a model, he decided to choose five of the women who were presented to him as the most beautiful of the city, and to mix their features in order to obtain the portrait of the perfect woman Juno was thought to be. Cicero then explains he has used the same method: aiming at exhaustiveness, he used all the theories available to him, and retained only the best precepts they provided:

“In a similar fashion when the inclination arose in my mind to write a text-book of rhetoric, I did not set before myself one model which I thought necessary to reproduce in all details, of whatever sort they might be, but after collecting all the works on the subject, I excerpted what seemed the most suitable precepts from each, and so culled the flowers of many minds¹¹.”

The idea motivating this method is that no one can be a competent teacher in all fields:

⁷ See CALBOLI 1965 (2).

⁸ *Rhet. Her.* 1.3.

⁹ These manuals correspond to a change in the teaching of rhetoric. Traditionally taught by private Greek rhetors hired by the family, rhetoric began to spread at the end of the first century BCE when teachers opened schools where they taught rhetoric in Latin, thus widening their audience. On this phenomenon, see, among others, DAVID 1979: 135-181; GRUEN 1990: 158-192. On rhetorical education in Rome, see MARROU 1948: 412-422; BONNER 1977: 34-75 and 250-276. For a recent overview on education in general during the Republic, see CORBEILL 2001: 241-260.

¹⁰ *Rhet. Her.* 1.1 and 4.1-10, *De inu.* 1.1-9 and 2.1-10.

¹¹ *Quod quoniam nobis quoque uoluntatis accidit, ut artem dicendi perscriberemus, non unum aliquod proposuimus exemplum, cuius omnes partes, quocumque essent in genere, exprimendae nobis necessarie uiderentur; sed omnibus unum in locum coactis scriptoribus, quod quisque commodissime praecipere uidebatur, excerpimus et ex uariis ingeniis excellentissima quaeque libauimus.* *De inu.* 2.4. All translations are taken from the Loeb Classical Library.

“For each of the writers who are worthy of fame and reputation seemed to say something better than anyone else, but not to attain preeminence in all points. It seemed folly therefore either to refuse to follow the good ideas of any author, merely because I was offended by some fault in his work, or to follow the mistakes of a writer who had attracted me by some correct precept¹².”

Here lies the claim to authority. Cicero has made the most complete enquiry possible and had access to all the thinkers who ever wrote on the topic of rhetoric — or so he claims:

“I was able to set out before me the store of wisdom of all who had written from the very beginning of instruction in rhetoric down to the present time, and choose whatever was acceptable¹³.”

Exhaustiveness now becomes the main justification of Cicero’s claim to authority. Since no one can achieve rhetorical perfection on his own, the more various and numerous the sources are, the more authoritative the theory produced will be. Let us state right away that this claim is simply a lie. On the other hand, it is clearly a very self-conscious strategy. We shall see how this project and this fallacious claim are reflected by the very organization of the text: Cicero’s statement is strangely echoed by the text itself which seeks to encompass all the theories available by its accumulation of refined subdivisions.

But why would we trust Cicero’s selection of precepts? How can we rely on his choices? The introduction to the first book provides sufficient proof of the author’s *ingenium*, in the form of a lengthy discussion on the nature and value of rhetoric¹⁴. Though a very clear amplification on a traditional *thesis*, those few paragraphs are clearly intended to dazzle the reader. In the preface to the second book, Cicero uses another strategy and insists on one of his sources, in a way which may seem more familiar to modern readers. But this strategy has its own share of contradictions. In fact, Cicero pretends to follow a very famous model: Aristotle himself, who, in his *Sunagwgh; tecnw`n*, gave a detailed account of the past rhetorical tradition:

“Aristotle collected the early books on rhetoric, even going back as far as Tisias, well known as the originator and inventor of the art; he made a careful examination of the rules of each author and wrote them out in plain language, giving the author’s name, and finally gave a painstaking explanation of the difficult parts¹⁵.”

The readers, so claims Cicero, preferred using Aristotle’s *Sunagôgè* than the original texts on which it relied. What is particularly striking in this account is the fact that Cicero, while not explicitly stating so, seems to pretend he has actually read the *Sunagôgè technôn*: citing Isocrates a few lines later¹⁶, he clearly says that he has not been able to use his treatise, a

¹² *Ex iis enim, qui nomine et memoria digni sunt, nec nihil optime nec omnia praeclarissime quisquam dicere nobis uidebatur. Quapropter stultitia uisa est aut a bene inuentis alicuius recedere, si quo in uitio eius offenderemur, aut ad uitia eius quoque accedere, cuius aliquo bene praecepto duceremur. De inu. 2.4.*

¹³ *Nobis omnium, quicumque fuerunt ab ultimo principio huius praeceptionis usque ad hoc tempus, expositis copiis, quodcumque placeret, eligendi potestas fuit. De inu. 2.5.*

¹⁴ *De inu. 1.1-7.* For an analysis of this prologue, see LÉVY 1995:155-168.

¹⁵ *Ac ueteres quidem scriptores artis usque a principe illo atque inuatore Tisia repetitos unum in locum conduxit Aristoteles et nominatim cuiusque praecepta magna conquisita cura perspicue conscripsit atque enodata diligenter exposuit. De inu. 2.6.* On the *Sunagôgè technôn*, see NOËL 2002: 223-244 and NOËL 2003: 113-125.

¹⁶ *Nam fuit tempore eodem quo Aristoteles magnus et nobilis rhetor Isocrates; cuius ipsius quam constet esse artem non inuenimus. De inu. 2.7.*

statement he never makes about the *Sunagôgè*. Are we to understand he actually used Aristotle's text? In fact, such a claim may be nothing more than a new example of his strategy meant to give authority to his text. We may doubt that, by 86 BCE, Cicero had access to the Aristotelian *corpus*¹⁷. This dubious claim is the clear and conscious statement of an authoritative strategy: having read and used such a respected and mythical author as Aristotle is in itself a guarantee of quality and, therefore, of authority. The fact that Cicero tries to use the prestige of a past theory, that nobody could have read at this time in Rome, clearly proves that from his point of view, the only way to give his handbook some authority was to show his work was based on a tradition and a theoretical framework which were not really recognized as valid, but enjoyed a kind of mythical aura — much more than proving he has reflected on the actual oratorical practice in order to provide efficient advice.

We have seen that two strategies are used by Cicero to assert his claim to authority: the first one is based on exhaustiveness, and the pretense to have read every available source. The other one relies on the authority of great past figures. However, Cicero also uses another strategy in addition to these two. At the end of the first preface, he criticizes Hermagoras's theories¹⁸ in a very harsh tone and accuses him of being skillful in theorizing but not in using the art of rhetoric:

“As a matter of fact, Hermagoras's ability is such that one will more readily deny him the power of rhetoric than grant him acquaintance with philosophy. For an orator it is a very slight thing to talk about his art, as he has done; by far the most important thing is to speak in accordance with the principles of his art, which we all see he was wholly incapable of doing¹⁹.”

This is therefore a very radical change, and a claim for authority which may seem to contradict the other developments we mentioned earlier. But a quick look at the *Rhetorica ad Herennium* will show that it is not the case: this rejection simply belongs to the traditional set of arguments authors used in their prefaces to lend validity and seriousness to their treatises. In fact, the *Rhetorica ad Herennium* mainly uses this kind of strategy. The anonymous author of the treatise adopts a very different attitude toward the rhetorical tradition and tends to openly reject it. This claim is again a self-conscious lie, since his text depends as much as the *De inuentione* on this tradition. But it shows us a strategy quite different from the one we have already encountered. The work of a very busy man or a man claiming to be so, the *Rhetorica ad Herennium* begins with a strangely short introduction. Overwhelmed by his private affairs, the author has delayed for a long time the writing of this book which his friend, Gaius Herennius, had requested he write. The goal of Herennius being to engage in

¹⁷ On the availability of this *corpus* during the late Republic, see BARNES 1997: 1-69. On Cicero's knowledge of Aristotle's rhetorical theory, two conflicting approaches must be taken into account. Some authors consider that the pretense of having read the *Rhetoric* that the character of Antony boasts in the *De oratore* denotes Cicero's knowledge of Aristotle's work: see BARNES 1997: 50-54 (who explicitly states, p. 52: « It cannot have seemed absurd to Cicero to imply that a Roman had read Aristotle's rhetorical works in the first decade of the century; and this in itself strongly suggests that such works were then available to the interested reader. It also and incidentally insinuates that by 55 Cicero himself had read the work. »), WISSE 1989: 105-189, and WISSE 2002: 382. But this view does not seem to be sustained by any explicit textual testimony: W. Fortenbaugh has cast doubt on the idea of Cicero's knowledge of Aristotle in a very convincing way. See FORTENBAUGH 1989: 39-60, and, more recently, FORTENBAUGH 2005: 37-64.

¹⁸ See the edition of Hermagoras' fragments given by MATTHES 1962.

¹⁹ *Nunc uero ea uis est in homine, ut ei multo rhetoricam citius quis ademerit, quam philosophiam concesserit [...]. Verum oratori minimum est de arte loqui, quod hic fecit, multo maximum ex arte dicere, quod eum minime potuisse omnes uidemus. De inu. 1.8.*

public speaking and starting a career, the author will deal only with the essential, setting aside the useless matters Greek rhetoricians usually dwell on:

« That is why I have omitted to treat those topics which, for the sake of futile self-assertion, Greek writers have adopted. For they, from fear of appearing to know too little, have gone in quest of notions irrelevant to the art, in order that the art might seem more difficult to understand. I, on the other hand, have treated those topics which seemed pertinent to the theory of public speaking²⁰. »

The author then insists on the essential insufficiency of rhetorical theory:

« To avoid prolixity, I shall now begin my discussion of the subject, as soon as I have given you this one injunction: theory without continuous practice in speaking is of little avail; from this you may understand that the precepts of theory here offered ought to be applied in practice²¹. »

The strategy is quite different from the one Cicero used: while Cicero stressed the fact that his text embraced the whole rhetorical tradition and aimed at exhaustiveness, the anonymous author presents his work as a partial version of the tradition. In so doing, he sets very strict boundaries around the topic which he is planning to treat and insists on the practical value of the work he has written, whereas Cicero insisted on the theoretical completeness of his text. This position is confirmed by another fact: the author never alludes explicitly to any specific theory or to any rhetorician. His sources are his master (*magister noster*), or the « Greeks » he openly criticizes. In the fourth book, he will admit he has « translated » the theory he uses from Greek treatises²². But he never uses his sources to pretend to an outstanding theoretical competence, as Cicero did. More practical than theoretical, the anonymous author of the *Rhetorica ad Herennium* does not try to rely on the authority of past theories and uses a simpler method than Cicero who in his preface clearly combines all strategies available to make his handbook authoritative.

Although they adopt different positions regarding their use of the tradition, both authors tend to use the very same patterns and structure to explain the rhetorical precepts they provide. In fact, these structures seem to be imposed nearly unconsciously on both authors, though Cicero also uses some of them to convey authority to his own version of the doctrine. I would like first to show how these treatises are influenced by contradictory traditions in their structure and secondly how Cicero, in the *De inuentione*, uses structural patterns of his own in his authoritative strategy.

The general structure of the two handbooks is slightly different, but still very similar. They are both representative of the traditional scheme used in school rhetoric at the end of the first century BCE in Rome. The text of the *Rhetorica ad Herennium* as a whole is organized according to the tasks of the orator defined at the beginning of the first book:

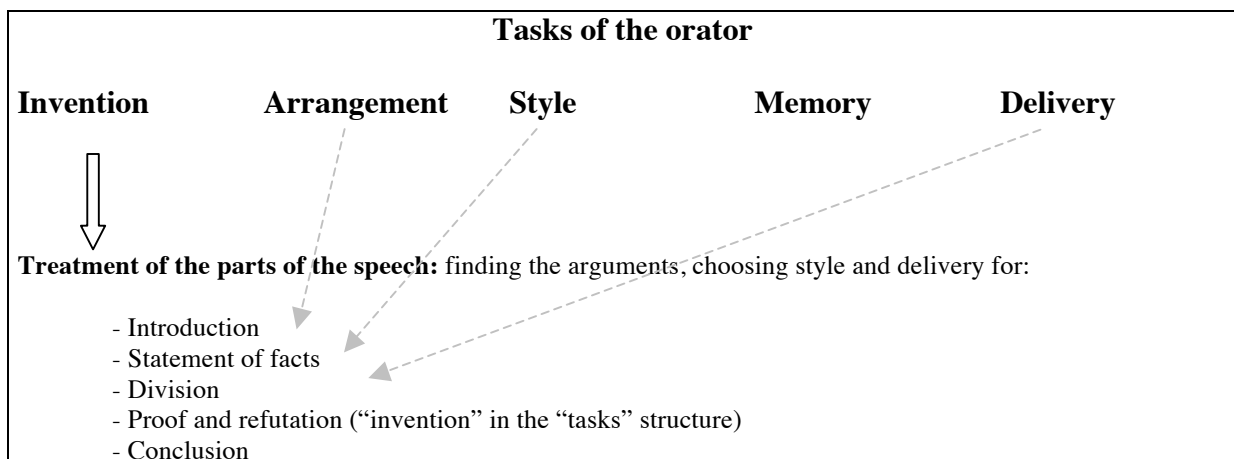
²⁰ *Quas ob res illa, quae Graeci scriptores inanis adrogantiae causa sibi adsumpserunt reliquimus. Nam illi, ne parum multa scisse uiderentur, ea conquisierunt, quae nihil adtinebant, ut ars difficilior cognitu putaretur, nos autem ea, quae uidebantur ad rationem dicendi pertinere, sumpsimus. Rhet. Her. 1.1.*

²¹ *Nunc, ne nimium longa sumatur oratio, de re dicere incipimus, si te unum illud monuerimus, artem sine adsiduitate dicendi non multum iuuare, ut intellegas hanc rationem praeceptionis ad exercitationem adcommodari oportere. Rhet. Her. 1.1.*

²² *Rhet. Her. 4.10.*

“The speaker then should possess the faculties of invention, arrangement, style, memory, and delivery²³.”

These are the very topics treated in the book: the author begins with invention in books one and two, then turns to arrangement, delivery and memory in book three, and treats at great length the topic of style in book four. Both book one and two should then deal with the art of finding an argument, leaving aside the other topics. But this is not the case. Books one and two use another kind of structural division as well: they are clearly organized according to the parts of the speech, namely introduction (1.5-11), statement of facts (1.12-16), division (1.17), proof and refutation (2.22-46), and finally conclusion (2.47-50). The treatment of the different parts of the speech is therefore included in the theory of invention. Accordingly, the chapter dealing directly with arrangement in book three will be very short. If we turn to the incomplete *De inuentione*, we see exactly the same pattern: the whole of book one is dealing with invention in general and does so according to the parts of the speech. Moreover if we take a closer look, we’ll notice that in this structure where the parts of the speech are treated under the heading *inuentio*, both authors give advice about style and delivery under this heading and not when they are supposed to do so, that is, under the corresponding headings as it is shown in scheme n°1:

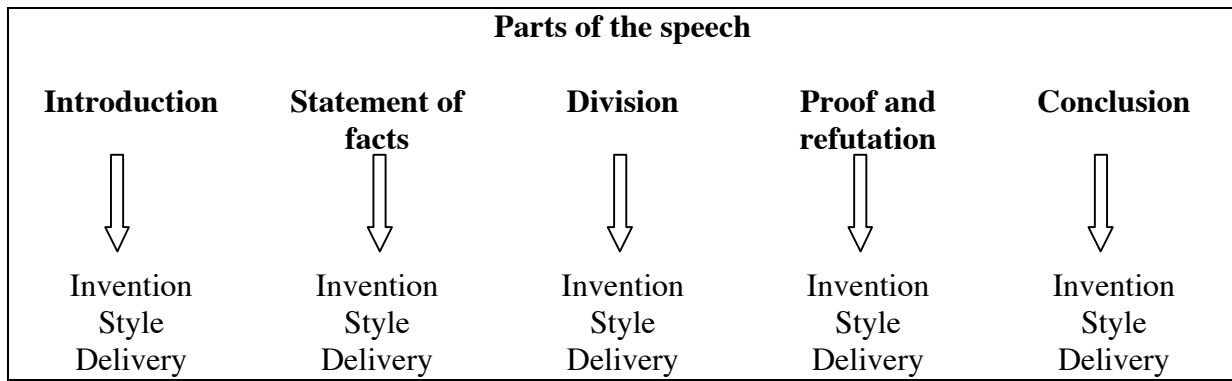


Scheme 1 : Structure of Handbook Theory

Beneath a general structure that seems very clear and simple, both authors tend to take the different parts of the speech one after another and to give every piece of advice possible on every topic possible for each of these parts, neglecting therefore the general structure they first adopted. What we see here is the result of the conflicting use of two rhetorical traditions.

The first tradition uses a very simple pattern which roughly follows the different parts of the speech in a forensic context: that is introduction, statement of the facts, division, proof, refutation, conclusion. This means that the author will explain first how to make an efficient introduction regarding invention, style, delivery, then how to present division, proof and so on. This structure follows a pattern which describes the end product:

²³ *Oportet igitur esse in oratore inuentionem, dispositionem, elocutionem, memoriam, pronuntiationem. Rhet. Her. 1.3.*



Scheme 2 : "End-Product Structure"

This we can find in the Greek handbook of Apsines²⁴, written in the third century CE, or in the anonymous treatise of Seguiet written in the second or third century CE²⁵. It is a very rigid pattern, which does not follow the order of composition as we will see later. It gives a definite function to every part of the speech and does not allow much room for any variation. One of the most striking features of this kind of handbook is its interest in listing things: arguments, sources of arguments, figures, examples. Explaining the doctrine often means reducing it to a list, with a very precise structure. For example, both Cicero and the anonymous author of *Rhetorica ad Herennium* provide a very long list of arguments to use in conclusions. In forensic speeches, the epilogue is divided in two parts: first, the orator must remind his audience of his arguments. Then, he has to stir up emotions, either anger or pity. Patterns are provided to achieve these two goals: both the *De inuentione* and the *Rhetorica ad Herennium* describe ten of these patterns used to create anger and ten others to arouse pity²⁶. Cicero explains the arousal of anger as follows:

“The peroration is the end and conclusion of the whole speech; it has three parts, the summing-up, the *indignatio* and the *conquestio*. [...] The *indignatio* is a passage which results in arousing great hatred against some person, or violent offence at some action. [...] The first topic is derived from authority when we relate how much care and interest has been devoted to the subject under discussion by those whose authority ought to have the greatest weight²⁷.”

The scheme used here is striking as well as very simple. The author attributes a definite function to the part of the speech he is dealing with: *indignatio* in this case. Then, he defines what this technical term means practically and after that gives a set of pre-designed arguments in which the orator can choose what best suits his case. Such a scheme illustrates perfectly the general tendency of handbook theory to give the reader ready-made arguments, thus reflecting the end-product structure that underlies its organization.

The second tradition is Aristotelian. It is based on the structure of Aristotle's *Rhetoric*, which does not mean that the structure itself was the one chosen by Aristotle. We don't know for sure what the origin of the *Rhetoric* really is, whether a text written directly by Aristotle, a book made of students' notes, or something else. However, the structure it bears was transmitted in the tradition as Aristotelian; even if the general architecture of the book was not

²⁴ See the recent edition of Apsines given by M. Patillon in 2001.

²⁵ See the new edition of the treatise by M. Patillon.

²⁶ *De inu.* 1.98-109, *Rhet. Her.* 2.48-50.

²⁷ *Conclusio est exitus et determinatio totius orationis. Haec habet partes tres: enumerationem, indignationem, conquestionem. [...] Indignatio est oratio, per quam conficitur, ut in aliquem hominem magnum odium aut in rem grauis offensio concitetur. [...] Primus locus sumitur ab auctoritate, cum commemoramus, quantae curae res ea fuerit iis, quorum auctoritas grauissima debeat esse. De inu.* 1.98-101. The same structure is used in the *Rhetorica ad Herennium*.

Aristotle's own, it received the authority of Aristotle's name through the centuries. The *Rhetoric*, therefore, can be read as a speculative inquiry on the art of rhetoric, but also as a prescriptive text, which gives the orator the weapons he needs to achieve his goal in public speaking. The Aristotelian structure corresponds to the different tasks of the orator. Aristotle had not yet included delivery in the tasks of the orator. This would be done by his follower Theophrastus: the peripatetic rhetorical tradition would then identify five tasks, precisely those we can retrieve in the general architecture of our Roman handbooks. The idea underlying this structure was to differentiate invention and disposition, and to "divide the various stages of handling the material of a case²⁸" into different and well delimited sequences: instead of organizing the theoretical knowledge while having only in mind the end product, this structure clearly meant that invention came first, and that the orator had to find all his arguments before even thinking about dividing his speech into parts and formulating his arguments in a definite style. As J. Wisse has written, "When an orator starts working on his prologue, he has already thought out all possible means of persuasion [...]. This procedure is suited to compose a maximally coherent speech, for it enables the orator to connect the separate parts with all available material²⁹." The structure used in this method can be delineated as follows:

Tasks of the orator				
Invention	Arrangement	Style	Memory	Delivery
<ul style="list-style-type: none"> - method for finding arguments - sources of arguments - methods of argumentation 	<ul style="list-style-type: none"> - introduction - statement of facts - division - proof and refutation - conclusion 	<ul style="list-style-type: none"> - figures - periods - appropriateness of style... 	<ul style="list-style-type: none"> - natural and artificial memory 	<ul style="list-style-type: none"> - voice - physiognomy - gestures (absent from Aristotle's <i>Rhetoric</i>)

Scheme 3 : "Tasks of the Orator" Structure

So, as G. Kennedy puts it³⁰, a "conflation" of the two models took place sometimes in the Hellenistic period, mixing together these two schemes. This phenomenon resulted in a general organization based on the tasks of the orator and a secondary substructure where the parts of the speech played the primary role in the treatment of invention. And since the result of this conflation is exactly similar in both textbooks, we have to admit that it derives from a common model and has not been created by our authors. The choice of this structure goes unquestioned, even by Cicero who claims such great competence in matters of doctrine in his prologue. That is to say, this strange scheme does not result from a conscious choice on the part of Cicero and the *Rhetorica ad Herennium*'s anonymous author. Its validity seemed so evident that they both reproduced it as it was, just because it was the one they had been taught. There is absolutely no matter for discussion or analysis from the authors' point of view: although Cicero claimed to have read even Aristotle, we now discover that he was highly dependent on a single source which prescribed the very organization of his handbook

²⁸ WISSE 1989: 84.

²⁹ WISSE 1989: 84.

³⁰ KENNEDY 1963: 265-266. On the existence of two main organization patterns, see SOLMSEN 1938: 390-404 and SOLMSEN 1941: 35-50 & 169-190. On the conflation of these two patterns and its theoretical consequences, see WISSE 1989: 83-88.

and that he did not notice the awkwardness of the structure he used. Theoretical authority, in this case, is only a matter of dissemination and practicality; the system is used and transmitted because it was used before. Authoritative doctrine comes mostly from tradition.

I will use another example to illustrate how theoretical schemes can reflect not only the authority of past models reduplicated by the author but also an original strategy aiming at authority. This example is the long list of what Cicero calls “the attributes of the person”, a list that appears three times with virtually no variation throughout the book³¹. *De inuentione* 1.35-36 will be used as the basis of our demonstration. The list appears as follows:

- *Nomen* (name)
- *Natura* (nature)
- *Victus* (manner of life)
- *Fortuna* (condition)
- *Habitus* (habits)
- *Affectio* (feelings)
- *Studium* (interests)
- *Consilium aliquid faciendi aut non faciendi* (purpose)
- *Facta* (achievements), *casus* (accidents), *orationes* (speeches)

This list is intended to provide a source of arguments: when the orator has to construct a proof, he can resort either to the facts that are discussed or to the persons involved³². The goal is to use their personal characteristics to prove they could or, on the other hand, could not have committed the crime in question. This list is intended to cover the widest range possible:

“All propositions are supported in argument by attributes of persons and of actions. We hold the following to be the attributes of persons: name, nature, manner of life, fortune, habit, feelings, interests, purposes, achievements, accidents, speeches made before³³.”

The list begins with natural attributes, then goes on with the education received, and so on. It goes into as much detail as possible in subdividing the various personal qualities. For example, Cicero refines his list of natural attributes in a binary scheme:

- *commoda et incommoda ab natura data animo aut corpori* (advantages and disadvantages given to mind and body by nature)
 - *ualens an imbecillus* (strong or weak)
 - *longus an breuis* (tall or short)
 - *formosus an deformis* (handsome or ugly)
 - *uelox an tardus* (swift or slow)
 - *acutus an hebetior* (bright or dull)
 - *memor an obliuius* (retentive or forgetful)
 - *comis an infacetus* (affable or unmannerly)
 - *pudens an contra* (modest or the contrary)

³¹ See *De inu.* 1.33 and 35-36, 2.42, 2.177.

³² See also Quintilian, *Inst. orat.* 5.10.23 sq.

³³ *Omnēs res argumentando confirmantur aut ex eo, quod personis, aut ex eo, quod negotiis est adtributum. Ac personis has res adtributas putamus: nomen, naturam, uictum, fortunam, habitum, affectionem, studia, consilia, facta, casus, orationes. De inu.* 1.34.

- *patiens an contra* (long-suffering or the contrary)

And then, to be sure that he does not forget any attribute, he adds:

- *et omnino quae a natura dantur animo et corpori* (and all qualities of mind and body that are bestowed by nature)

At first sight, the procedure might seem rather basic and even childish: Cicero tries to list all natural qualities possible. He organizes this list starting from physical qualities and then cites the other qualities according to their degree of abstraction: beauty, intelligence, memory, sociability, modesty. At the end, he breaks down his nice theoretical construction by using again the general category he mentioned at the beginning, *quae a natura dantur*, “the qualities bestowed by nature”, as if he were not so sure to be able to encompass all possible attributes. Cicero uses the same approach in treating the other categories.

This way of listing every category conceivable illustrates eloquently the project of the author, whose claim for authority relied on the exhaustiveness of his book: just as he planned to proceed in his introduction, he tries to list here every single aspect of the definition he provides. And in my opinion, Cicero is no longer using the theories of his direct source here: he found that list elsewhere, and with this list, makes a clear attempt to give his text an authority of its own. As a matter of fact, the anonymous author, whose book is so similar to Cicero’s, does not provide any theory of the attributes of things or persons in his treatment of proof. While dealing with the category of probability (*Rhet. Her. 2.3 sq.*), he only mentions the “motive” and the “past life” as means of argumentation :

“Next, the defendant’s manner of life will be examined in the light of his previous conduct. First, the prosecutor will consider whether the accused has ever committed a similar offence. If he does not find any, he will seek to learn whether the accused has ever incurred the suspicion of any similar guilt. In short, if he possibly can, let him brand the defendant with the stigma of some fault, or, indeed, of as many faults as possible³⁴.”

So, he only uses one of the eleven categories we find in Cicero. What we can deduce from this is that either the use or the rejection of the complete list of attributes was a conscious choice: having used very similar sources, the authors had access to the same theory of proof. So, either Cicero chose to add this list to the common source or the anonymous author chose to remove it. A closer look to the treatment of this category shows that Cicero did actually choose to add it. In fact, when Cicero gives examples to illustrate this point, he only uses the category of past life, the only one the *Rhetorica ad Herennium* deals with. This is clearly shown by the following example:

“The prosecutor ought to discredit the life of the accused on the basis of his past acts, and to point out if he has previously been convicted of any crime equally serious. If this is impossible, he should prove that the defendant has been under suspicion of a similar crime before³⁵.”

³⁴ *Primum considerabit accusator, num quando simile quid fecerit. Si id non reperiet, quaeret, num quando uenerit in similem suspicionem [...]. Si quoquo modo poterit denique aliquo aut quam plurimis uitis contaminabit personam. Rhet. Her. 2.5.*

³⁵ *Quare uitam eius, quem arguit, ex ante factis accusator inprobare debet et ostendere, si quo in pari ante peccato conuictus sit; si id non poterit, si quam in similem ante suspicionem uenerit. De inu. 2.32.*

This example and the others that follow are exactly similar to those we can find in the *Rhetorica ad Herennium*. Cicero never goes into deductions and analyses of the probability for a man of a certain age, origin, birth, or education to commit a particular kind of crime. He never provides examples linking a particular human category with definite passions or attitudes as Aristotle did in the second book of his *Rhetoric*. Although Cicero cites this very long list three times in his book, he does not build an elaborate theory which may render these attributes useful. It appears clearly that the use of this precise pattern is nothing more than a way for Cicero to impress his reader. And this is a very important clue. If Cicero resorted to this useless list, it clearly means that listing as many things as possible in as many categories as possible was a way of proving the quality and validity of the text. The lists of topics intended for the epilogue were common to both textbooks, but by presenting the “attributes of the person” he would never actually use, Cicero added something to the common tradition and found a way of proving his own ability to encompass all possible situations and circumstances. In so doing, he gave the reader a guarantee of his competence as a handbook writer, just as he suggested it in his introduction.

So, we first have seen that the patterns in these handbooks can be a manifestation of the authority of the past tradition the authors refer to. It is a largely unconscious phenomenon: the traditional doctrine as a whole influences the writer and shapes the general organization of the treatise. On the other hand, we discovered that Cicero clearly understood the importance of listing items in a systematic way, that it was an efficient means to appear knowledgeable and competent, and that he used this feature to bolster his own text’s authoritativeness. These two strategies are precisely the ones he will reject in his later work, the *De Oratore*.

We can perceive immediately the huge theoretical and methodological gap that separates the handbooks I have just described and the *De oratore*: its very structure shows we are dealing with an entirely different model. First, the *De oratore* is a dialogue, where several well known orators discuss the nature and function of the art of rhetoric³⁶. It is not a handbook where a teacher speaks directly to a student or to a reader in general. The characters expound very different themes, and the range of topics is quite wide: in a way, we might say that the *De oratore* is the exact opposite of the *Rhetorica ad Herennium*, where the author insisted on the very narrow range of his subject. Here, philosophy, rhetoric, politics, law and ethics will all be discussed throughout the text. Since it narrates a fictional debate which took place earlier between the greatest orators of the time, the *De oratore* contains contradictory views, and requires of the reader not only attention but also very solid notions in rhetoric. So, we must keep in mind that the public intended is not the same as for the handbooks: Cicero now writes for the rich, well born, and highly educated man, not for the young pupil of the teacher of rhetoric. His goal is precisely to create a new kind of rhetorical treatise, which will no longer be grounded in a tradition he openly criticizes for its rigidity and formalist structure.

Cicero takes into account the models I have described, the ones we found in the textbooks. It is included in the general criticism of the usual teaching of rhetoric which is ridiculed and summarized by Antony, one of the participants, in no more than eight paragraphs. Here is what Antony says of the rhetoricians:

“They either contribute to my amusement, or contrive to soften my regret at not having been a student. Their theory, however, as far as I can judge, is utterly ludicrous³⁷.”

³⁶ For an overview of the goal and contents of Cicero’s *De oratore*, see KENNEDY 1972: 205-230; ACHARD 1987: 318-329; FANTHAM 1989: 230-235; KENNEDY 1994: 140-147; WISSE 2002: 375-400; FANTHAM 2004.

³⁷ *Aut aliquid adferunt, quod mihi non displiceat, aut efficiunt, ut me non didicisse minus paeniteat [...]. Sed tamen est eorum doctrina, quantum ego iudicare possum, perridicula. De orat. 2.77.*

But Antony does not only make fun of this system: he shows why it is inadequate and should be replaced by a new, more efficient one. According to his views, an orator should not start his invention with the prologue and then go on to the division and so on. If he did so, he would follow the pattern set out in the handbooks. And there is, according to Antony, a major flaw to this method³⁸: if the orator treats the different parts of the speech one after the other, looking for material for the introduction, then for the proof, and then for the epilogue, he will not be able, as J. Wisse has written it, “to draw upon a vast and complete set of arguments³⁹”. Antony does not imply that orators actually proceed this way, but that the traditional scheme implies this method. The alternative way he advocates is to follow strictly an organization based upon the tasks of the orator: the orator must first find what to say, then arrange his material into parts, adapt his style to his subject and so on. That is why he concludes his development on invention with these words:

“When all these things (that is, the material he found for presenting his case) have been considered, only then, as the last stage, it is my custom to think about what is to be said first, that is, what prologue I must use. For whenever I tried to find that first, the only things that occurred to me were dry, or futile, or general, or common⁴⁰.”

So, the very structure of the handbooks, according to Cicero and the characters of his dialogue, tends to produce unskilled orators or at least bad speeches, which are common and dull. What does he propose instead? Nothing new but rather the pattern we have described as belonging to the peripatetic tradition. We cannot know for sure if Cicero had read the *Rhetoric* or not when he wrote the *De oratore*⁴¹. But striking parallels between the treatise of 55 BCE and Aristotle’s text tend to prove that Cicero had been somewhat influenced by the peripatetic tradition when he wrote his work. The *Rhetoric*, as we have seen, first treated invention, then style, and finally disposition – this structure being either intentional or accidental. While this general pattern was also at work in the handbooks, it was contaminated by the “end-product” structure. But it is clearly this “tasks of the orator” pattern that gives the *De oratore* its organization. If we leave apart the first book, which deals with the nature of rhetoric itself, we can see that books one and two follow the peripatetic scheme. Antony and Caesar Strabo expound invention in 2.28-307, then Antony explains his own views on disposition (2.307-350) and memory (2.350-361). Crassus then goes on treating style (3.37-119 and 148-212) and delivery (3.213-227). Moreover, the way invention is presented reveals the same kind of influence. There was another major division in the *Rhetoric*: the one that divided the means of proof into rational, ethical, and emotional arguments (pivsti" dia; tou` lovgou, pivsti" dia; tou` h[qou", and pivsti" dia; tou` pavqou"⁴²). This division is entirely absent from the handbooks, but we find a reinterpretation of it in the *De oratore*, where Cicero assigns three *officia*, three duties, to the orator: to instruct, to please, and to move⁴³. I quote one of the many paragraphs where these duties are set forth:

³⁸ *De orat.* 2.65-85.

³⁹ WISSE 1989: 85.

⁴⁰ *Hisce omnibus rebus consideratis tum denique id, quod primum est dicendum, postremum soleo cogitare, quouitar exordio. Nam si quando id primum inuenire uolui, nullum mihi occurrit nisi aut exile aut nugatorium aut uulgare aut commune. De orat.* 2, 315.

⁴¹ Cf. *supra*, n. 17.

⁴² See Aristotle, *Rhet.* 1356a1-20.

⁴³ The relationship between the Aristotelian division of the means of proof and the Ciceronian duties of the orator, though evident, has been frequently oversimplified. A discussion of this point would go beyond the scope of this article. Among others, see FANTHAM 1973: 262-275, WISSE 1989: 190-221, and ENOS & SCHNAKENBERG 1994: 191-209 who concentrate on *ethos* and *conciliare*.

“Thus, for purposes of persuasion the art of speaking relies wholly upon three things: the proof of our allegations, the winning of our hearers’ favour, and the rousing of their feelings to whatever impulse our case may require⁴⁴.”

To achieve each of these goals, the orator can resort to different means: rational proof to instruct, his own *ethos* to please, and the public’s emotions to move⁴⁵. So, we have here a very efficient architecture that gives its structure and meaning to the treatment of invention. Whereas the use of ethical proof was limited to the introduction in the handbooks and the use of emotions to the conclusion, this new presentation allows the orator to develop his ethical, emotional, and rational arguments and then, to use each kind of argument throughout his discourse: the theoretical gap is huge, since the orator now has a larger set of arguments at his disposal than he could have while using the old pattern⁴⁶. The general structure of the text clearly seems to be peripatetic.

But even if we acknowledge the practical superiority of this structure, we have to admit it is quite different from what the readers must have been used to. How could Cicero give authority to such an unusual way of presenting the theory? The text had to prove its own validity by itself. The first proof of this validity was given by the form adopted by Cicero: the dialogue. The scene is set out in Tusculum, under a tree, where the characters openly mimic Socrates and his followers:

(Scaeuola speaking): “Crassus, why do we not imitate Socrates as he appears in the *Phaedrus* of Plato? For our plane-tree has suggested this comparison to my mind, casting as it does, with its spreading branches, as deep a shade over this spot as the one cast whose shelter Socrates sought [...], and what Socrates did, when he threw himself down on the grass [...] and began his talk which philosophers say was divine [...]. Right, answered Crassus, but we will make things more comfortable still, whereupon, according to Cotta, he called for cushions, and they all sat down together on the benches that were under the plane-tree⁴⁷.”

By creating this setting, Cicero openly affirms that his book does not belong to the rhetorical tradition, but aims to reach the realms of philosophy. It is therefore a completely different set of patterns that comes into play: questions, answers, disputes. The very form of philosophical dialogue proves that the characters are no petty rhetoricians but men with more profound views, who have actually read Plato. The characters of these men were also used to convey authority to the text. Crassus, Antony, Caesar Strabo were still, fifty years after their deaths, respected and celebrated figures in the field of oratory. Since he wanted to prove the inadequacy of the old patterns, Cicero tried to revive – through those characters – the old educational model that once prevailed in Rome, when the young citizen and orator was formed by a respected and powerful friend of his father, or by his father himself. Imitation was the only way to learn how to speak efficiently. And this is precisely the idea Cicero tries to evoke here:

⁴⁴ *Ita omnis ratio dicendi tribus ad persuadendum rebus est nixa: ut probemus uera esse, quae defendimus; ut conciliemus eos nobis, qui audiunt; ut animos eorum, ad quemcumque causa postulabit motum, uocemus. De orat.* 2.115. The same statement repeatedly occurs in the *De oratore*. See among other passages, *De orat.* 1.143, 2.115, 2.121, 2.128, 2.181, 2.310.

⁴⁵ *De orat.* 2.114-178 (*probare*), 2.178-185 (*conciliare*), 2.205-216 (*mouere*).

⁴⁶ See WISSE 1989: 190-221.

⁴⁷ ‘*Cur non imitamur, Crasse, Socratem illum, qui est in Phaedro Platonis? Nam me haec tua platanus admonuit, quae non minus ad opacandum hunc locum patulis est diffusa ramis, quam illa, cuius umbram secutus est Socrates [...], et quod ille [...] fecit ut se abiceret in herba atque ita illa, quae philosophi diuinitus ferunt esse dicta, loqueretur [...].’ Tum Crassum ‘immo uero commodius etiam’; puluinosque poposcisse et omnis in eis sedibus, quae erant sub platano, consedisce dicebat. De orat.* 1.28.

(Antony speaking) “Let this then be my first counsel, that we show the student whom to copy, and to copy in such a way as to strive with all possible care to attain the most excellent qualities of his model⁴⁸.”

In fact, the characters of Crassus, Antony, and Scaeuola are given as models by the *De oratore*. Antony, instead of reciting a dry and useless theory, will explain his own oratorical method:

“Let us so speak as to impart to him merely what practice has taught us, so that under our leadership he may reach that stage at which we ourselves have arrived without a leader, since we cannot give a better teaching⁴⁹.”

I would like to make a few comments on this. First, the traditional theory is no longer used as a guarantee: here, the achievements of these great men, who present their own personal approach, are the real source of authority. But there is something more important to this new approach: for Cicero’s goal is not only to change the schemes used in rhetorical teaching. What he really wants to do is to ground oratorical practice on a new basis that would help to save the endangered Republic. When he chose to reject the traditional model, Cicero certainly wanted to change the art of rhetoric. To make it better, more philosophical, more efficient, and less scholastic. But he also wanted to create a new kind of orator, who, by virtue of his oratorical training, would be able to fight back at the imperators (*imperatores*), who were dismantling the Republic and bringing down the aristocratic model of government. When he chose to write the *De oratore* in the form of a dialogue and use great Republican figures as his characters, Cicero wanted to promote an old model of education, the model of the traditional Republic, which did not let non-aristocratic men learn rhetoric quickly (with the use of handbooks for example) and use it to destroy the old values and serve the powerful clan of one general or another. He wanted to recreate the link that he thought had once existed between oratorical capacity and ethical value. By criticizing the common model of rhetorical training, which could give oratorical faculties to anyone, even to those who in his eyes did not deserve it, Cicero wanted to revive a nearly mythical model, where only the “best citizens” mastered the art of public speaking; because only they could learn how to speak. This was of course a highly aristocratic model, the one once advocated by Crassus, the character of the *De oratore* who, while censor in 92 BCE, expelled from Rome the teachers of rhetoric who taught in Latin; whereas, the Greek teachers were left alone⁵⁰. Only the elite could understand their teaching in Greek: what Crassus wanted was to stop the general public from getting the same weapons as the elite⁵¹.

⁴⁸ *Ergo hoc sit primum in praeceptis meis, ut demonstremus, quem imitetur atque ita, ut, quae maxime excellent in eo, quem imitabitur, ea diligentissime persequatur. De orat. 2.90.*

⁴⁹ *Ita loquamur, ut ei tradamus ea dumtaxat, quae nos usus docuit, ut nobis ducibus ueniat eo, quo sine duce ipsi peruenimus, quoniam meliora docere non possumus. De orat. 2.87.*

⁵⁰ Suetonius, *De grammaticis et rhetoribus* 25.1. On this edict, its meaning, and the social value of the training provided by the *rhetores latini*, see ACHARD 1989: 181-188, GRUEN 1990: 179-186.

⁵¹ Trying to restrict the teaching of rhetoric is a common attitude on the part of the aristocracy from the second century BCE onward. In 161 BCE, a *senatus consultum* made the teaching of rhetoric illegal, and banned all rhetoricians from Rome (Suet. *De grammaticis et rhetoribus* 25.1, see GRUEN 1990: 171-179). But at the end of the second century BCE, elite members finally accepted the Greek cultural model they had first rejected (see GRUEN 1992: 52-83): they used to hire Greek rhetoricians to teach their sons and to stop rhetoric from being taught in Latin, thus restricting the diffusion of the *ars oratoria* which was seen as a weapon newcomers could use against the ruling class in the political game. See DAVID 1979: 135-181, DAVID 1992: 281-310 and 497-569.

This is exactly how we ought to understand the general architecture of the *De oratore*: in a non-systematic, non scholarly way, elite orators expound their personal experience and propose themselves as models for the future well-born orator. The common rhetorical technique available to everyone is despised, and their teachers scornfully dismissed. The discussion that is narrated is mimetic of the social model Cicero wants to promote. By refusing the usual structure of handbooks, Cicero revived two ancient systems: the peripatetic one, which he brilliantly adapted to the Roman oratorical context, and the traditional Roman one, which he used as a frame to set his own theory forth. Instead of long systematic lists, uttered by a teacher whose authority comes from his vast knowledge of the doctrine, we now have an urbane discussion⁵², presenting contradictory views, where authoritativeness derives from the oratorical ability and social status of the characters and from the general references made to the model of philosophical dialogues. We may hear in this an echo of the harsh judgment Cicero uttered against Hermagoras in his teens and measure how deep a change the *De oratore* has introduced in the way the theory was formulated. In the *De oratore*, authoritative theory comes from the practice and experience of highly educated men belonging to the ruling class.

Of course, we have to admit the complete failure of Cicero's attempt. As I have mentioned it before, this model did not prevail. We can easily understand why the handbook structural model stayed in use: being easier to handle, it was of course better adapted to the young public of rhetorical schools. But I would like to insist on another reason, which is that the *De oratore* came too late in Roman history. Thirty years after the *De oratore* was written, the Republic was gone⁵³. The traditional aristocratic model promoted in the treatise was now useless. Soon, it would become even incomprehensible for the public. Oratory was no longer a political activity: it certainly did flourish, but as a scholarly practice, not as a tool for gaining power. The goal in oratorical practice was no longer to win a debate, since there were no more debates, but only to follow the rules, to make a magnificent discourse strictly by the book. What schoolboys needed to help them learn these rules were plain handbooks. In this context, the *De oratore* was of absolutely no use⁵⁴.

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⁵² See HALL 1996.

⁵³ On the crisis and collapse of the Republic, see GRUEN 1974 and the recent overview of VON UNGERN-STERNBERG 2004: 89-108.

⁵⁴ I would like to thank my friend Nicolas Russell from the Department of French Studies at Smith College, Massachusetts, who helped me proof-read this paper. Remaining mistakes, needless to say, are my own.

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