

ABSTRACT

Forensic Speeches in Acts 22-26 in their Literary Environment: A Rhetorical Study

Derek K. Hogan, M.T.S.

Mentor: Mikeal C. Parsons, Ph.D.

This dissertation offers an analysis of the form of the forensic speeches that occur in Acts 22-26 and the function of these speeches and the trial scenes of which they are a part. The study argues that these speeches manifest a basic reliance on the ancient rhetorical tradition as do most of the forensic speeches in both ancient novels and ancient histories. The trial narratives also function in a similar manner to trials in other ancient narrative contexts. The trial of Paul is not settled with any formal verdict from within the trial, but rather Paul's innocence is shown through his deliverance from the storm at sea and the snake-bite recorded in Acts 27-28.

After an introductory chapter which briefly covers matters of previous research and methodology, Chapter two reviews the guidelines given by the various rhetorical manuals such as the one by Quintilian concerning the appropriate form of a forensic speech.

Chapters three and four examine trial scenes with speeches in ancient novels and ancient histories respectively. They conclude that most of the speeches show some influence of the rhetorical tradition as outlined in the handbooks. They further find a common tendency to have the cases decided

outside the trial proper. Cases in which the trial was decided within the legal procedures but unjustly were commonly corrected by forces outside the trial.

Chapter five focuses on the trial narrative of Paul at the end of Acts. It finds that the speeches given roughly fit the rhetorical form suggested by the manuals, although interruptions leave the speeches incomplete. It argues that the shipwreck and snake-bite are integral parts of the trial narrative and would fit the ancient audience's expectation to have Paul's innocence shown outside the trial itself. Such confirmation of his innocence yields further narration of Paul's trial in Rome unnecessary.

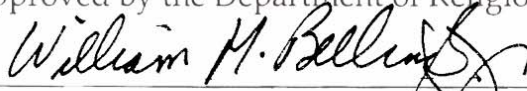
Forensic Speeches in Acts 22-26 in their
Literary Environment: A Rhetorical Study

by

Derek K. Hogan, M.T.S.

A Dissertation

Approved by the Department of Religion


William H. Bellinger, Jr., Chairperson

Submitted to the Graduate Faculty of
Baylor University in Partial Fulfillment of the
Requirements for the Degree
of
Doctor of Philosophy

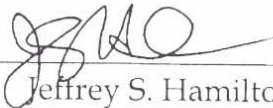
Approved by the Dissertation Committee



Mikeal C. Parsons, Ph.D., Chairperson



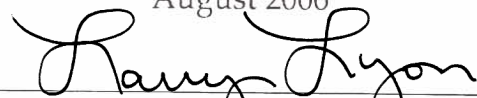
Charles H. Talbert, Ph.D.



Jeffrey S. Hamilton, Ph.D.

Accepted by the Graduate School

August 2006



J. Larry Lyon, Ph.D., Dean

Copyright © 2006 by Derek K. Hogan

All rights reserved

CONTENTS

ACKNOWLEDGMENTS	v
DEDICATION	vi
Chapter	
1. INTRODUCTION	1
Previous Scholarship	1
The Need for this Study and Its Approach	13
Overview of this Study	16
2. FORENSIC SPEECH ACCORDING TO RHETORICAL MANUALS	17
Introduction	17
Lost Handbooks	17
Extant Works	20
Parts of Speech	23
Conclusion	53
3. JUDICIAL SCENES WITH SPEECHES IN THE ANCIENT NOVELS	54
Introduction	54
Chariton's <i>Callirhoe</i>	55
Achilles Tatius' <i>Leucippe and Clitophon</i>	71
Xenophon's <i>Ephesian Tale of Anthia and Habrocomes</i>	81
Longus' <i>Daphnis and Chloe</i>	84
Heliodorus' <i>Ethiopian Story</i>	88
Conclusion	97
4. JUDICIAL SCENES WITH SPEECHES IN ANCIENT HISTORIOGRAPHY	99
Introduction	99

Thucydides	100
Xenophon	107
Dionysius of Halicarnassus	110
Appian	113
Livy	118
Q. Curtius Rufus	128
P. Cornelius Tacitus	135
Flavius Josephus	138
Conclusion	145
5. PAUL ON TRIAL	147
Introduction	148
Movement Towards Trial	149
Paul Before the Jewish Crowd	151
Paul Before Felix	160
Paul Before Festus	168
Paul Before Agrippa	169
Journey to Rome	175
Conclusion	179
6. CONCLUSION	182
Form of the Judicial Speeches of Paul in Acts	184
Function of the Judicial Speeches of Paul and the Trial Scenes	185
Further Areas of Research	188
BIBLIOGRAPHY	190

ACKNOWLEDGMENTS

I am indebted to a number of people who have provided assistance in this study. I appreciate the examination committee willingness to take time out of their busy summer to accommodate my schedule. Naymond Keathley has been a constant source of support and friendship since I arrived at Baylor. Jeffrey Hamilton has been helpful throughout the program offering his expertise in Greco-Roman history. It is pleasure to have Andrew Arterbury, my former classmate in the program, as a part of the committee.

Special thanks are due to Charles Talbert, who helped me find a better way to read New Testament texts. I am grateful for his wise counsel. Special thanks are also due to Mikeal Parsons, who has given me encouragement and shown me patience throughout this project. He introduced me to rhetorical criticism and modelled its use for me. His efforts on my behalf go far beyond this study.

I also wish to extend my thanks to Scott Nash, the senior editor of *Perspectives in Religious Studies*, for permission to use material published as "Paul's Defense: A Comparison of the Forensic Speeches in Acts, Callirhoe, and Leucippe and Clitiphon." *PRS* 29:1 (Spring 2002): 73-87. This material appears in revised form in chapters two, three, and five.

My deepest thanks are due to my wife, Stacie, without whom this study would not have been possible. Although she deserves much more than this meager gift, I joyfully dedicate it to her.

For Stacie

CHAPTER ONE

Introduction

The last quarter of Acts deals with Paul as a prisoner on trial. Of particular importance in this last section of Acts are the speeches that are given prominence in the trial and other legal procedures. This chapter will first present a brief overview of some of the previous scholarship produced on the two aspects of the speeches: form and function.¹ Second, it will outline the need for further study in these areas and give a brief overview of the approach taken in this study. Third, it will present a brief outline of this study.

*Previous Scholarship*²

Form of the Speeches

Although some once held that the speeches represented the most primitive material in Acts,³ the majority view in current scholarship recognizes the speeches to be compositions of the author of Acts rather than some historical record of what speakers said.⁴ Henry Cadbury, among others, realized that

¹The function of the speeches cannot be divorced from the narrative function of the trial scenes in which they are set. Therefore, function will include the overall function of the trial scenes as well as the speeches.

²See Marion L. Soards, *The Speeches in Acts Their Content, Context, and Concerns* (Louisville: Westminster/John Knox, 1994), 1-11, for additional history of scholarship.

³Notably, C. H. Dodd, *The Apostolic Preaching and Its Developments* (London: Hodder & Stoughton, 1936) although his emphasis was on the missionary speeches rather than the defense speeches in Acts.

⁴Exceptions include F. F. Bruce, "Speeches of Acts—Thirty Years Later," in *Reconciliation and Hope: New Testament Essays on Atonement and Eschatology Presented to L. L. Morris on His 60th Birthday* (ed. Robert Banks; Grand Rapids:

insertion of speeches into narrative was common practice among ancient historians, but was not optimistic that the speeches of Acts could be considered their equal.⁵ For him, Luke took up the practice but did not follow the model of the historians. Luke's speeches, though powerful, do not exhibit the same skill as those in the ancient histories.

Of particular importance in setting the stage for further work on the speeches is Martin Dibelius.⁶ He also notes the common practice among the ancient historians of inserting speeches of their own composition, but understands further work needs to be done in this area: "Commentators on [the book of Acts] have already referred from time to time to the speeches found in the works of ancient historians, but up till now they have not been aware of the task which should therefore have fallen to them, the task of discovering what place the speeches in the Acts of the Apostles take among the quite varied types of speeches recorded in the historians."⁷ Yet Dibelius does not himself offer such study in any full sense.

In his doctoral dissertation, Frederick Veltman in some sense took up the task mentioned by Dibelius. He produced the most thorough analysis of the defense speeches of Paul in Acts by comparing these speeches with other defense

Eerdmans, 1974), 53-68 and W. W. Gasque, "The Speeches of Acts: Dibelius Reconsidered," in *New Dimensions in New Testament Study* (ed. R. N. Longenecker and M. C. Tenney; Grand Rapids: Zondervan, 1974), 232-50.

⁵Henry J. Cadbury, "Note 32: Speeches in Acts," in *The Beginnings of Christianity*, vol. 5 (ed. F. J. Foakes Jackson and Kirsopp Lake; London: Macmillan, 1933), 424-25.

⁶Martin Dibelius, "The Speeches in Acts and Ancient Historiography," in *Studies in the Acts of the Apostles* (New York: Charles Scribner's Sons, 1956), 138-85.

⁷Dibelius, "Speeches in Acts," 145.

speeches in ancient novels and in ancient histories.⁸ His ultimate purpose is to see if the literary form of the speeches gives a key to unlock the question of the genre of Acts. His study is limited, however, by the lack of consideration of the rhetorical handbooks. Rather than using ancient categories provided by these handbooks, Veltman imposes his own categories in the comparison of speeches. His divisions are simply introduction, body, and conclusion. He also looks at formal elements outside the speech such as the extent to which the trial scene is described, whether the charges are read, whether the defendant is described, and whether the defendant is ordered to speak or he asks for permission to speak. Using a complex numerical system, Veltman finds that the speeches in Acts are most like the speeches in the Latin historians but only marginally more than in the other histories and novels. In answer to his overall purpose of the study, Veltman's findings were negative. The form of the speeches "does not provide an adequate method for establishing the literary genre of a composition."⁹

The histories are not the only ancient literature whose study yields insights into the speeches. George A. Kennedy's work was one of the first to examine not only the speeches but much of the New Testament through the lens of ancient rhetoric.¹⁰ He argues that an acquaintance with rhetoric was obtained by the larger culture whether formally educated or not. He states that "it is not a necessary premise of this study that the evangelists or Saint Paul had formally

⁸Frederick Veltman, "The Defense Speeches of Paul in Acts: Gattungsforschung and Its Limitations," (Ph.D. diss.; Graduate Theological Union, 1975).

⁹Veltman, "Defense Speeches of Paul," 252.

¹⁰George A. Kennedy, *New Testament Interpretation Through Rhetorical Criticism* (Chapel Hill: University of North Carolina Press, 1984).

studied Greek rhetoric.”¹¹ Only a brief treatment of each of the major speeches in Acts is given. His is not a full analysis of the speeches. As he admits, his “discussion consists of notes on some rhetorical features of discourses in Acts.”¹²

Marion Soards provides an extended treatment of thirty-six major speeches in Acts.¹³ He briefly charts the setting of each speech and provides a topical outline. He shows some interaction with the work of Kennedy, but makes little use of rhetorical theory in his analysis of the speeches. Soards’ outlines of the speeches are more concerned with their content than their form. His chief finding has more to do with function than form and will be discussed in the next section.

An essay that does deal with the rhetorical form of the defense speeches comes from Jerome Neyrey.¹⁴ He argues that the “trial speeches of Paul in Acts 22-26 are formally structured according to the profile of forensic defense speeches as these are described in the rhetorical handbooks.”¹⁵ He briefly considers passages from the rhetorical manuals regarding the basic divisions outlined in them and then finds elements of these divisions in Paul’s speeches. Neyrey advances the understanding of speeches by giving a fuller discussion of the speeches in light of rhetorical theory, but his analysis is problematic in

¹¹Kennedy, *New Testament Interpretation*, 9.

¹²Kennedy, *New Testament Interpretation*, 116.

¹³Soards, *Speeches in Acts*.

¹⁴Jerome H. Neyrey, “The Forensic Defense Speech and Paul’s Trial Speeches in Acts 22-26: Form and Function,” in *Luke-Acts: New Perspectives from the Society of Biblical Literature* (ed. Charles H. Talbert; New York: Crossroad, 1984), 210-24

¹⁵Neyrey, “Forensic Defense Speech,” 210.

several ways.¹⁶ These problems have led at least one to question the entire attempt to understand the speeches structurally in light of the categories of ancient rhetoric.¹⁷

Since the publication of Neyrey's work, many others have sought to analyze the speeches in a similar manner. Others simply mention that the speeches fit the form without giving any outline.¹⁸ Although there are many making the case that the speeches fit the structure of the rhetorical defense speech, there is a strikingly wide variety of outlines given. No two commentators find in the speeches the same structure. Such variety may call into question the applicability of using the categories of ancient rhetoric.¹⁹

Not everyone agrees that ancient rhetoric provides a helpful lens through which to view the speeches. H. Stephen Brown argues that the defense speeches given in Acts are not true speeches and are too brief to show the influence of rhetorical speeches.²⁰ Stanley Porter makes a similar argument: "We might well

¹⁶For a fuller evaluation of Neyrey's work, see chapter five below.

¹⁷Gustavo. Martín-Asensio, *Transitivity-Based Foregrounding in the Acts of the Apostles a Functional-Grammatical Approach to the Lukan Perspective* (Sheffield: Sheffield Academic Press, 2000), 129-33.

¹⁸E.g., Luke Timothy Johnson, *The Acts of the Apostles* (ed. Daniel J. Harrington; Sacra Pagina Series; Collegeville, MN: Liturgical Press, 1992), 392-93; Philip Satterthwaite, "Acts Against the Background of Classical Rhetoric," in *Book of Acts in Its First Century Setting*, vol. 1 (ed. Bruce W. Winter and Andrew D. Clark; Grand Rapids: Eerdmans, 1993), 360.

¹⁹Stanley E. Porter, "Paul of Tarsus and His Letters," in *Handbook of Classical Rhetoric in the Hellenistic Period (330 B.C.-A.D. 400)* (ed. Stanley E. Porter and Stanley E. Porter; Leiden: Brill, 1997), 584, makes this point in reference to the variety of rhetorical structures theorized in the letters of Paul.

²⁰H. Stephen Brown, "Paul's Hearing at Caesarea: A Preliminary Comparison with Legal Literature of the Roman Period," in *SBL Seminar Papers* (Atlanta: Scholars Press, 1996), 319-32.

posit that we have a firm idea of what Paul said on the occasion, even in terms of his approach (*stasis*) to various topics (*topoi*), but we do not have a sufficient quantity of those words to allow us to perform rhetorical analysis of the speeches as speeches of Paul" (emphasis his).²¹

Function of the Speeches/Trial Scenes

The work of Dibelius extends to the function of the speeches. Dibelius finds at least three differences between the speeches of Acts and the speeches in histories. These differences are not unrelated to how the speeches function. First, the speeches in Acts are much shorter.²² He finds this difference to be the case even with the major speeches in Acts although he does not give any real evidence to substantiate his claim. Second, although they, like the speeches in the histories, are inserted at pivotal times in the narrative, the speeches in Acts often do not match the event. "We find that, in the course of the speech, [the author of Acts] often pays no further regard to the situation and the actual problems of the moment."²³ The speeches have little to do with the narrative and are aimed at the auditors of Acts rather than the people within the narrative.²⁴ About Paul's speech in Acts 24, Dibelius claims it "means more to the readers of

²¹Stanley Porter, "Paul as Epistolographer and Rhetorician?" in *Paul in Acts* (Library of Pauline Studies; Peabody, Mass.: Hendrickson, 2001), 124. There is some tension in Porter. His judgment concerns the applicability of rhetorical analysis of the speeches as speeches of the historical Paul. He leaves open the possibility of this type analysis on the speeches as speeches created of the author of Acts. The quotation cited above, however, holds that it is the quantity of words and not their historicity that makes rhetorical analysis improper.

²²Dibelius, "Speeches," 181.

²³Dibelius, "Speeches," 182.

²⁴This study will use the term "auditor" rather than "reader" since the first audiences of the text were more likely to have heard the text than read it for themselves.

Acts than to the hearers in Caesarea."²⁵ Third, the author signals that which is most important in the speeches by inserting an interruption: "That these interruptions each occur at a significant point suggests literary technique; the speech is always allowed to reach just that point which is important to the author."²⁶ Dibelius does not give evidence for such a claim. He also claims that this technique is otherwise unknown in ancient historians and therefore peculiar to the author.

While Dibelius makes these claims of all the speeches in Acts, his examples often deal with the defense speeches. For instance, in Paul's speech to the Jewish crowd in Acts 22, "Luke transports his readers out of the situation and lets them hear what they do not yet know of Paul's biography."²⁷ This conversion account includes whatever is lacking in the first telling of Paul's experience on the way to Damascus.²⁸ Furthermore Dibelius claims, since no decision is made in the trial, "Luke cannot be greatly interested in the trial."²⁹ The speeches then

speak not for or against Paul, but for or against Christ, and they did so especially in the author's own day. The intention is to edify the reader by these arguments, not only as he observes their effectiveness in this one particular trial, but in order that he himself may be so strengthened by them that he too will be able to withstand such accusations.³⁰

²⁵Dibelius, "Speeches," 172.

²⁶Dibelius, "Speeches," 160.

²⁷Dibelius, "Speeches," 159.

²⁸Dibelius does not explain why the author of Acts would present a defective version that needed expansion here instead of giving a proper version earlier in the narrative.

²⁹Dibelius, "Speeches," 149.

³⁰Dibelius, "Speeches," 149.

In a later essay, Dibelius again sees the speeches providing aid to Christians who may be brought to trial. The speeches of Paul verify for the auditors of Acts that their conflict is not with Rome, or the temple but with the Jews over the question of the resurrection of Jesus.³¹ Dibelius' view remains. Gerhard Schneider writes, "Die Reden der Apostelgeschichte sind nicht an Hörer der vorausgesetzten Situation gerichtet, sondern von Lukas an die Leser seines Werkes."³²

Many others have sought to understand the function of the trials of Paul in terms of some apologetic aim. Alexandru Neagoe provides a survey of this work.³³ For these commentators the function of the trials of Paul point beyond Paul to some larger Lukan project. Paul's defense is seen as less about Paul and more about defending early Christianity on some front. Jacob Jervell, although realizing that Paul is not simply a generic representation of Christianity, sees the speeches and trial aimed ultimately at the church which has come under attack for following Paul's example. He assumes that 1) Luke has Christian readers in minds as he writes, and 2) Luke "writes history to solve actual problems these readers have."³⁴ The judicial speeches then are used by the author of Acts in this way: "Luke intends to present a defense for Paul by means of the apologetic speeches. He writes for Christian readers who are under fire from their Jewish

³¹Martin Dibelius, "Paul in the Acts of the Apostles," in *Studies in the Acts of the Apostles* (New York: Charles Scribner's Sons, 1956), 213.

³²Gerhard Schneider, *Die Apostelgeschichte* (HTKNT; Freiburg: Herder, 1980-82), 1:97 ("The speeches of Acts are addressed not to the listeners in the presupposed situation but are from Luke to the readers of his work").

³³Alexandru Neagoe, *The Trial of the Gospel: An Apologetic Reading of Luke's Trial Narratives* (Cambridge: Cambridge University Press, 2002), 175-85.

³⁴Jacob Jervell, "Paul: The Teacher of Israel: The Apologetic Speeches of Paul in Acts," in *Luke and the People of God: A New Look at Luke-Acts* (Minneapolis: Augsburg, 1972), 175.

neighbors because of Paul.”³⁵ Long gives a similar reading but takes its implications even further in making judgments about the Pauline corpus and the character of early Christianity.³⁶

Some have argued that the trial narratives point to an apologetic effort to show that Christianity is harmless and acceptable to the empire. Harry Tajra is a recent proponent of such a view.³⁷ According to Tajra, the author of Acts has “clear apologetic aims in his account of Paul’s encounters with Roman justice.”³⁸ These aims are shown in four ways: 1) Acts repeats positive opinions of Paul by various Roman leaders. 2) Luke tries to cast the Roman authorities in as favorable light as possible thereby demonstrating the justice of the Roman law. 3) Luke tries to show a tolerance of Christianity on the part of Rome. 4) Luke’s pro-Roman stance acts to counterbalance the anti-Roman stance present in Christianity under Neronian persecution. Such a view does not fit all the data in Acts.³⁹

Paul Walaskay reverses the apologetic aim and understands that Luke-Acts is written at least in part to a Christian audience in defense of Rome.⁴⁰ The trial of Paul plays a role in this apologetic purpose although Walaskay, too, sees the speeches out of place: “Luke has rightly reported Paul’s message, but forced

³⁵Jervell, “Paul,” 176-77.

³⁶Long, “Trial of Paul,” 263-367.

³⁷Harry W. Tajra, *The Trial of St. Paul: A Juridical Exegesis of the Second Half of the Acts of the Apostles* (Wissenschaftliche Untersuchungen Zum Neuen Testament.; Tübingen: Mohr, 1989).

³⁸Tajra, *Trial of St. Paul*, 199.

³⁹For a fuller critique of this view, see Richard J. Cassidy, *Society and Politics in the Acts of the Apostles* (Maryknoll, N.Y.: Orbis Books, 1987), 145-57.

⁴⁰Paul W. Walaskay, *“And So we Came to Rome” the Political Perspective of St. Luke* (Cambridge: Cambridge University Press, 1983).

it into a courtroom context that makes little sense.”⁴¹ The trials contrast the “ordered Roman justice” with “chaotic Jewish legal practice.”⁴² On the voyage to Rome, Paul and the others on the ship are saved through the work of Paul and Julius, the Roman centurion. This story shows how God works through both the efforts of church and empire. Walaskay’s view goes well beyond what the text of Acts will bear. The portrayal of Roman authorities is not always positive. Although Lysias saved Paul from the Jewish mob, he also misrepresented his actions in his letter to Felix. Felix himself acts to placate the Jews and hopes to take bribes from Paul. If Luke’s aim was a positive portrayal of Rome, he did not do a particularly good job.

A different apologetic aim is detected by Robert O’Toole.⁴³ His work is an extended study of Acts 26 in which he finds the climactic defense of the belief in the resurrection. For O’Toole “the trial concerns itself more with the belief that God raises the dead than with Paul himself.”⁴⁴ The defense speech given in Acts 26 is not meant for Agrippa. O’Toole finds that the speech is inappropriate for Agrippa since Paul only deals with a very general mention of the charges against him. O’Toole surmises that the speech then is addressed to Luke’s readers rather than Agrippa.

Neagoe presents yet another variation of an apologetic aim of Acts and the trials in particular. His work examines the various trial scenes throughout Luke-Acts. In the trial of Paul, Neagoe finds that much of the content of the

⁴¹Walaskay, *And So We Came to Rome*, 58.

⁴²Walaskay, *And So We Came to Rome*, 53.

⁴³Robert F. O’Toole, *The Christological Climax of Paul’s Defense: Acts 22:1-26:32* (Analecta Biblica; Rome: Biblical Institute Press, 1978).

⁴⁴O’Toole, *Christological Climax*, 157.

speeches “transcends what could have been of judicial relevance to his case.”⁴⁵ While Paul is the defendant on the narrative level, “the defendant is ultimately the gospel itself.”⁴⁶ To some extent, Neagoe thinks that this way of viewing the trials can accommodate the other apologetic interests outlined by others whether defending the church against attacks by Jews, pagans, or Romans. He ends his work noting the need for further investigation on the “function of trial stories in ancient literary compositions.”⁴⁷

While all of these attempts show some aspect of possible points of emphasis in the trial narratives, no one apologetic aim makes sense of all of the text. While showing the compatibility of Christianity with Judaism or Roman authority or giving assurance and aid to other Christians who may also be on trial may be a part of the author’s intent, it is unhelpful to pick one of them as the aim of the trial scenes and speeches.

A greater problem with these attempts is that they all understand the way in which the speeches and trial scenes function by looking beyond the narrative of Acts. To some extent they all view the speeches as inappropriate, irrelevant, or insufficient for their place in the narrative. This way of thinking has similarities with J. Louis Martyn’s work on the Fourth Gospel as he argues that the Fourth Gospel was written on two levels with the experiences of the community behind the Gospel projected into the story of Jesus.⁴⁸ For Martyn the threat of followers of Jesus being put out of the synagogue is out of place in the

⁴⁵Neagoe, *Trial of the Gospel*, 213.

⁴⁶Neagoe, *Trial of the Gospel*, 213.

⁴⁷Neagoe, *Trial of the Gospel*, 227.

⁴⁸J. Louis Martyn, *History and Theology in the Fourth Gospel* (Rev. ed.; Nashville: Abingdon, 1979).

Gospel and manifests the concerns of the community behind the Gospel. For Dibelius and others who find larger apologetic purposes in the trials, the content of the speeches in general and the defense speeches in particular is ill-fitted for the narrative and reflect more on the auditors of the book of Acts than those within the story that Acts tells.

This way of viewing the Gospels has rightly come under attack,⁴⁹ although this criticism is rarely made in reference to Acts. It assumes that the narrative portions of the New Testament should be read as if they were letters written to a particular person or community on some particular occasion or crisis.⁵⁰ In addition to the inherent difficulty, if not impossibility, of correctly reconstructing the particular community and occasion, there is a circularity to the argument. The text, or in this case the speeches, point to some situation beyond the narrative situation which is deemed to show *the* occasion and purpose for trial scenes and often the whole of Acts. The text of the Acts is then read in light of the hypothetical occasion.

Soards' study mentioned above looks at the function of the speeches in a different way. He argues that the speeches have numerous repetitive elements in vocabulary and theme that function to unify the otherwise diverse aspects of the account articulating a "distinct worldview."⁵¹ "Through the speeches, especially in their christological claims of theological realization, Luke shows the reader of

⁴⁹Richard Bauckham, "For Whom Were the Gospels Written?" in *The Gospel for All Christians: Rethinking Gospel Audiences* (ed. Richard Bauckham; Grand Rapids, Mich.: Eerdmans, 1998), 13-26.

⁵⁰Charles H. Talbert, *Reading John: A Literary and Theological Commentary on the Fourth Gospel and the Johannine Epistles* (New York: Crossroad, 1992), 63-64, argues against this way of reading the Fourth Gospel.

⁵¹Soards, *Speeches*, 186.

Acts the essential unity of early Christianity.”⁵² He compares them with samples from Greco-Roman historiography, the Septuagint, and Hellenistic-Jewish apologetic literature, and finds that while there are some parallel aspects of speeches in the comparative literature and in Acts, there is a substantial difference. This difference is the “sheer repetitiveness” of the speeches in Acts.⁵³ This repetition is manifested in that the speeches “often simply change the subject.” They introduce “seemingly *irrelevant* material” (emphasis his).⁵⁴ In his effort to work with the speeches not in isolation, but “with the speeches as a whole,”⁵⁵ Soards pays insufficient attention to the narrative surroundings of each speech. Although Soards’ claims are different from those who see a dominant apologetic claim in the speeches, both types of analysis essentially view the function of the speeches removed from their narrative setting.

The Need for this Study and Its Approach

This study will consider both the form of the speeches and the function of the speeches and trial scenes. Previous attempts to understand the form of the speeches have been handicapped by the limitation of considering the speeches to only one type of comparative literature. Veltman and Soards compare the defense speeches of Acts with those of ancient narratives, both novels and histories, but do not use the categories of ancient rhetoric.⁵⁶ Kennedy, Neyrey, and others who provide a rhetorical analysis use only the handbooks and not the

⁵²Soards, *Speeches*, 16.

⁵³Soards, *Speeches*, 161.

⁵⁴Soards, *Speeches*, 142.

⁵⁵Soards, *Speeches*, 14.

⁵⁶Soards does occasionally use some rhetorical language, but does not attempt to analyze the speeches according to the categories of ancient rhetoric.

ancient narratives. This study will examine both types of comparative literature: the rhetorical handbooks *and* ancient narrative material in the novels and histories. If the defense speeches embedded in other ancient narratives manifest the rhetorical structure outlined in the handbooks, it is assumed that the defense speeches in Acts may justifiably also be analyzed according to the categories of ancient rhetoric. It is hoped that the analysis of other defense speeches will give surer footing for finding such structures in Paul's speeches in Acts.

This study will also seek to determine how the speeches and trial scenes in other ancient narratives function. If there are commonalities in the ways in which they function in the novels and histories, this study will attempt to determine if the speeches and trial scenes in Acts function in a similar way. It will seek to interpret them from *within* the narrative, rather than looking for some purpose that has more to do with the auditors of the text than with Paul.

The approach taken here will not be to find the function in light of some particular audience occasioned by some particular crisis for which Luke is writing. Instead its focus will be on the authorial audience as conceived by Peter J. Rabinowitz.⁵⁷ He distinguishes four "levels of audience interaction" implied in any narrative text: the "actual audience" (those people who actually read or hear a text), the "authorial audience" (those for whom the author presumes to be writing who possess necessary background knowledge to understand the text), the "narrative audience" (imaginary audience with whom the narrator

⁵⁷Peter J. Rabinowitz, "Truth in Fiction: A Reexamination of Audiences," *Critical Inquiry* 4 (1977): 121-41; idem, *Before Reading: Narrative Conventions and the Politics of Interpretation* (Ithaca, N.Y.: Cornell University Press, 1987); idem, "Whirl Without End: Audience Oriented Criticism," in *Contemporary Literary Theory* (ed. G. D. Atkins and L. Morrow; Amherst: University of Massachusetts Press, 1989), 81-100.

communicates), and “ideal narrative audience” (imaginary audience who accept every statement by the narrator as true and reliable).⁵⁸

It is the authorial audience of Rabinowitz which proves most helpful in understanding ancient texts. Rabinowitz argues that, “if historically or culturally distant texts are hard to understand, it is often precisely because we do not possess the knowledge required to join the authorial audience.”⁵⁹ The effort to understand the authorial audience of an ancient text requires that readers today must seek to learn as much as possible about the ancient cultural milieu from which the narrative originated. This pursuit does not seek to uncover the actual audience or hypothesize about a particular community for which the document was written and then read the document with that community in mind. Rather it seeks to answer the question, “How would an ancient auditor of the text of Acts understand it?”⁶⁰

This study assumes with Kennedy and others that the larger ancient Mediterranean culture had some acquaintance with rhetoric.⁶¹ Hearing speeches was a form of entertainment, and even those without education could recognize something of a proper speech. Looking at the writings of the ancient rhetorical tradition and the speeches in other ancient narratives will help supply needed information which will better allow twenty-first century readers to bridge the

⁵⁸Rabinowitz, “Truth in Fiction,” 125-36.

⁵⁹Rabinowitz, “Truth in Fiction,” 127.

⁶⁰For additional discussion of the method, see Charles H. Talbert, “On Reading Luke and Acts,” in *Reading Luke-Acts in Its Mediterranean Milieu*, vol. 108 (Supplements to Novum Testamentum; Leiden: Brill, 2003), 14-18. Most of the other essays in the collection model this methodology.

⁶¹Kennedy, *New Testament Interpretation*, 9. This assumption also undergirds most of the essays in Stanley E. Porter, *Handbook of Classical Rhetoric in the Hellenistic Period (330 B.C.-A.D. 400)* (ed. Stanley E. Porter; Leiden: Brill, 1997).

gap to the first century and come to a closer approximation of how the authorial audience understood the judicial speeches and trial scenes in the latter part of Acts.

Overview of this Study

This study will first examine various ancient rhetorical guides for their discussions on judicial speeches (chapter two). Next, it will deal with defense speeches that are embedded in other forms of ancient narrative: novels (chapter three) and histories (chapter four). Attention will then be focused on the speeches and trial scenes in Acts 22-26 and the narrative resolution of the trial in Acts 27-28 (chapter five). Finally, a review of the conclusions from this study will be given (chapter six).

CHAPTER TWO

Forensic Speech According to Rhetorical Manuals

Introduction

This chapter will briefly trace the rhetorical tradition concerning the form of a judicial speech from the earliest records to shortly after the writings of the New Testament. The fullest such treatments are found in rhetorical handbooks. There are also shorter statements concerning the division of these speeches in other types of works such as dialogues. These works will be introduced and then the various parts of the judicial speech will be outlined.

Lost Handbooks

There are indications that the rhetorical tradition begins with a Sicilian named Corax around 367 B.C.E. Another Sicilian named Tisias may have been his student. The fullest reports of these individuals are found in collections of introductions to rhetorical handbooks dating from the third to the thirteenth century C.E.¹ These accounts are not consistent in the details concerning the origin of rhetoric. The names of Corax and Tisias are found in various ancient works including Plato's *Phaedrus* and Aristototle's *Ars Rhetorica*. Corax is usually credited with writing the first rhetorical manual. A late and probably apocryphal story tells how Corax takes Tisias to court when he refused to pay for his rhetorical instruction. Tisias argued that if he won the case he should not need to pay and if he lost the case he should not pay since the rhetorical instruction would be shown to be worthless. Corax argued the reverse, that he

¹These introductions are collected in Hugo Rabe, *Prolegomena Sylloge* (Leipzig: Teubner, 1931).

should be paid if Tisias lost or if Tisias won. From this case came the saying “a bad egg from a bad crow (korax).”²

George A. Kennedy, following the prolegomena to handbooks from the third century C.E., has argued that the origin of the rhetorical training and handbook arose with the emergence of democracy.³ With democracy came the need for individuals to be able to articulate clearly their views and convince others. This condition led Corax and others to outline the parts of a basic speech in a handbook form. Using the scant information that has survived, Kennedy theorizes that Corax was more interested in deliberative rhetoric and that Tisias was the innovator in judicial rhetoric.

According to Kennedy, these handbooks were utilized by relatively poor citizens who did not have the luxury of gaining a full education nor could they afford a speech writer to compose their speeches for them. The handbooks gave them the basics for putting together their own speeches.⁴ The next several generations also produced handbooks. With the production of Aristotle’s *Ars Rhetorica*, the previous handbooks were rendered obsolete and unsurprisingly have been lost.

²The oldest account of this episode may be given in Rabe fourth Prolegomenon, pp. 26-27. This prolegomenon is anonymous and probably comes from the fourth or fifth century C.E. A similar but fuller tale is given of Protagoras and his pupil Euathlus in Aulus Gellius, *Attic Nights* 5.10 and also in Diogenes Laertius, *Lives* 9.8.56.

³George A. Kennedy, “The Earliest Rhetorical Handbooks,” *American Journal of Philology* 80, no. 2 (1959): 174-76.

⁴This scenario proposed by Kennedy does not deal with the question of literacy in the ancient world. William V. Harris, *Ancient Literacy* (Cambridge: Harvard University Press, 1989) has estimated the literacy rate of less than ten percent in the ancient world. Presumably, the handbooks were used by those who received the most elementary education search as writing and reading, but could not afford the secondary education of learning oratory.

Although this account has often become standard, being reproduced as historically accurate, the details concerning rhetoric in the fifth century B.C.E. are scant and hardly unambiguous. Recently, Thomas Cole suggested that Corax was simply the nickname for Tisias not a separate individual.⁵ Others are even more skeptical about the Corax and Tisias. Edward Schiappa argues that the two represent a mythical past that Kennedy and others have mistakenly taken as historical.⁶ The fuller details of the account come from the sixth century C.E. and are suspect. Schiappa argues that Aristotle not Corax should be credited with the first rhetorical handbook.

While the tradition that credits Corax with the first handbook cannot be substantiated, it may be worth noting the various sources concerning the parts of speech credited to Corax. Rabe's fourth Prolegomenon (Rabe, no. 4, p. 26) attributes only three divisions to Corax: προοίμιον (introduction), ἄγών (argument), and ἐπίλογος (epilogue). Rabe's seventeenth Prolegomenon comes from an introduction to Hermogenes' *Peri staseōn* and was probably written by Marcellinus in the fifth to sixth century C.E. (Rabe, no. 17, p. 271). It attributes five parts: προοίμιον (introduction), διήγησις (narration), ἄγών (argument), παρεκβαῖσιν (digression) and ἐπίλογος (epilogue). The tripartite division is usually considered to be more likely to represent the earliest tradition but cannot be confidently traced back to Corax.

After Corax, various rhetoricians are credited with writing handbooks. Aristotle mentions Theodurus of Byzantium, who multiplied the divisions of a

⁵Thomas Cole, *The Origins of Rhetoric in Ancient Greece* (Baltimore: Johns Hopkins University Press, 1991).

⁶Edward Schiappa, *The Beginnings of Rhetorical Theory in Classical Greece* (New Haven: Yale University Press, 1999).

speech by distinguishing δῆγησις, ἐπιδήγησις, and προδήγησις as well as ἔλεγχος and ἐπεξέλεγχος. (*Rhet.* 3.13.5).

Extant Works

Plato

The first enumeration of parts of a typical judicial speech in an extant text comes from Plato's *Phaedrus*.⁷ This work is not a rhetorical handbook but a dialogue between Socrates and the young Phaedrus who is studying a written speech by Lysias. Socrates ridicules the teachers of rhetoric. Such teachers conceal the nature of the soul (271c) and prefer that which is persuasive over that which is true (271d). In the course of the dialogue, Socrates lists various parts of a speech.

Aristotle

The next work that gives the various parts of a judicial speech is Aristotle's *Ars Rhetorica*⁸ (c. 335 B.C.E.). Aristotle provides a much fuller discussion of various aspects of rhetoric. This work seems to be a compilation of material written at different times. In Book One, Aristotle is critical of handbooks that give instruction based on arousing emotion rather than teaching how to compose a logical argument. He also faults the handbooks for spending too much time on such things as division of the speeches into various parts. Despite these criticisms in Book One, Book Two largely deals with how to arouse the emotions and Book Three deals with the proper division of the speech.

⁷Text and translation are from Plato, *Phaedrus* (trans. Harold North Fowler; LCL; Cambridge: Harvard University Press, 1914).

⁸Text and translation are from Aristotle, *The Art of Rhetoric* (trans. John Henry Freese; LCL; Cambridge: Harvard University Press, 1926).

Aristotle gives two necessary parts (ἀναγκαῖα μοῖρα) of speech: πρόθεσις (thesis) and πίστις (proof)(*Rhet.* 3.12). To these essential parts, two additional elements may be added: προοίμιον (introduction) and ἐπίλογος (conclusion) (*Rhet.* 3.13).

In addition to the parts of speech, Aristotle makes several important innovations that are followed by later rhetoricians. He divides proofs into ἄτεχνοι (non-artistic), which includes anything that the speakers does not invent such as witnesses, letters, and contracts, and ἔντεχνοι (artistic), which includes anything that the speaker does invent such as logical syllogism, arguments from probability, and emotional pleas. He also distinguishes the three species of oratory: deliberative, in which the audience makes a judgment about the future; judicial, in which the audience makes a judgment about the past; and epideictic, in which the audience makes a judgment about the present. Each of these species can further be divided according to its tone, either positive or negative. Deliberative speeches are either for or against, judicial speeches are either prosecution or defense; and epideictic speeches are either praise or blame (1.3).

Rhetorica ad Alexandrum

The only other rhetorical handbook from the fourth century B.C.E. is *Rhetorica ad Alexandrum* (*Rhet. Al.*).⁹ Although it purports to be from Aristotle written at the request of Alexander, scholars reject this claim.¹⁰ On the basis of a remark from Quintilian (*Inst.* 3.4.9), authorship is often ascribed to Anaximenes of Lampsacus (ca. 380-329 B.C.E). It divides oratory into the three usual

⁹Text and Translation are *Rhetorica ad Alexandrum* (trans. H. Rackman; LCL; Cambridge: Harvard University Press, 1937).

¹⁰George A. Kennedy, "Historical Survey of Rhetoric," in *Handbook of Classical Rhetoric in the Hellenistic Period (330 B.C.-A.D. 400)*, edited by Stanley E. Porter (Leiden: Brill, 1997), 22-23.

categories of epideictic, deliberative, and judicial. It then divides each of these categories in terms of positive and negative and adds another kind of speech that can be used in any of the three species of rhetoric—ἐξετασίς —investigation.

Rhetorica ad Herennium

The next extant rhetorical handbooks come from over two hundred years after *Rhetorica ad Alexandrum*. The first is *Rhetorica ad Herennium* (*Rhet. Her.*).¹¹ It is dated around 85 B.C.E. It was attributed to Cicero until the Renaissance and is written in Latin. Its structure is a conflation of the pre-Aristotelian emphasis on the parts of a speech and later organization around the five works of rhetoric (arrangement, invention, style, delivery, and memory). The parts of speech are treated under the topic of invention. Judicial rhetoric is discussed first and more fully than deliberative or epideictic.

Cicero

De inventione (*Inv.*).¹² This work is an unfinished handbook by Cicero when he was young (c. 89 B.C.E.). It contains only two books on invention. The sections on arrangement, style, memory, and delivery were not completed. The work has many similarities with *Ad Herennium* but it is uncertain whether one used the other or if they both relied on a common source. The work does include a treatment on the parts of a judicial speech.

De Oratore (*De or.*).¹³ This philosophical dialogue comes from 55 B.C.E.

¹¹Text and translation are from *Rhetorica ad Herennium* (trans. Harry Caplan; LCL; Cambridge: Harvard University Press, 1954).

¹²Text and translation are from Cicero, *De Inventione* (trans. H. M. Hubbell; LCL; Cambridge: Harvard University Press, 1949).

¹³Text and translation are from Cicero, *De Oratore* (trans. H. Rackham; LCL; Cambridge: Harvard University Press, 1942).

De Partitiones Oratoria (Part. or.).¹⁴ This shorter work comes from the early 50's B.C.E. It was ostensibly written for his son.

Quintilian

Quintilian gives the fullest account of classical rhetoric in *Institutio Oratoria (Inst.)*.¹⁵ This work dates mid to late first century C.E. and is therefore roughly contemporary to the writing of Acts. Not particularly innovative, Quintilian surveys and evaluates many of the rhetorical teachers who preceded him. Quintilian expands the usual treatment of rhetoric to include education from a very young age. Books Four through Six discuss arrangement including parts of speech.

Anonymous Seguerianus

Anonymous Seguerianus (An. Seg.).¹⁶ This work probably dates from the second century C.E. It consists primarily of a discussion of the parts of speech.

Parts of Speech

Introduction

The beginning of a judicial speech is called προόμιον in Greek sources (Plato, *Phaedr.* 266D; Aristotle, *Rhet.* 3.14; [*Rhet. Alex.*] 1441b30-1442b32). Plato mentions the προόμιον without any discussion. For Aristotle, this element is not essential. According to him, the προόμιον in judicial speech is to give a sample of the theme of the rest of the speech. If the theme is known before the

¹⁴Text and translation are from Cicero, *De Partitione Oratoria* (trans. H. Rackham; LCL; Cambridge: Harvard University Press, 1942).

¹⁵Text and translation are from Quintilian, *The Orator's Education* (trans. Donald A. Russell; LCL; Cambridge: Harvard University Press, 2001).

¹⁶Text and translation are from M. R. Dilts and George A. Kennedy, *Greek Rhetorical Treatises from the Roman Empire* (Leiden: Brill, 1997).

speech, a *προοίμιον* is not necessary. A secondary use of the *προοίμιον* is to gain the favorable attention of the hearer. This secondary use is appropriate to all branches of rhetoric. In such cases the topics are derived from the speaker, the hearer, the topic, or the opponent. The speaker usually wishes to gain the attention of the hearer; occasionally to make them less attentive, presumably when one does not have a strong case. The need to engage the hearer is not, however, reserved for the *προοίμιον*. An appeal for the hearer attention is useful throughout the speech. Often in the *προοίμιον*, the speaker will wish to prejudice the hearer for himself and/or against his opponent.

Ad Alexandrum also speaks of the *προοίμιον* as a place to secure the goodwill of the hearer. One way to do so is to praise one's client and ridicule the opponent. Such praise and blame should play off the qualities held dear by the judge. One's client should be shown honorable and the opponent dishonorable. Another way to gain the goodwill of the judge is by flattery. One may also seek to prejudice the judge by showing the defendant compatible or incompatible with the charges brought. For instance, if a man charged with defrauding another can be shown to be rich while the accuser is poor, the defense has a much easier task since it is difficult to imagine a rich person stealing from someone who is poor.

Most Latin works differentiate two types of introductions: *principium* and *insinuatio* (*Rhet. Her.* 1.4.6; *Inv.* 1.15.20; *Inst.* 4.1.42). The type most commonly used is the *principium*. *De Partitiones Oratoria* mentions only the *principium* (8.28). It is sometimes equated with the *προοίμιον*. (e.g. *Rhet. Her.* 1.4.6). The type of introduction used depends on the type of cause represented by the case. These causes were variously differentiated. Five such types are sometimes given: honorable (*honestum*), in which one's cause corresponds to the judge's sense of

justice, shocking or discreditable (*turpe or admirable*), in which one's cause runs counter to the judge's probable sense of justice, doubtful (*dubium*), in which one's case does not fully correspond or possibly contradicts the judge's sense of justice, petty (*humile*), in which the cause is likely to appear inconsequential to the judge, and obscure (*obscurum*), in which the complexities of the case may cause difficulty for the judge. Only in the case of a shocking or discreditable cause is the *insinatio* to be used.

In general, the introduction is to make the hearer well disposed, attentive and ready to learn (*benivolum attentum docilem*). This three-fold formula is standard among the rhetorical manuals although the order is not (*Rhet. Her.* 1.7; *Cic., Inv.* 1.20; *Quint., Inst.* 4.1.5). According to the type of cause, one of these attributes may be more desirable. For a doubtful cause, making the judge well disposed is tantamount. One arguing a petty cause should seek to make the judge attentive. For obscure cases, the judge must be receptive of information. If the cause be honorable, little introduction will be needed since the nature of the case will make the judge sympathetic. All these types of causes should begin with *principium*.

To make the hearer well-disposed, the speaker may choose from among these topics: the speaker himself or his client if not speaking on his own behalf, the opponents, the hearers, or the facts of the case. The speaker may speak of his own character and recount his conduct toward the country, family, and friends. He may extol his own virtue or give his reasons for taking the case. In addition to gaining the goodwill of the hearer by highlighting prior praiseworthy behavior, the speaker may also recount any disabilities, need, or misfortunes and plead for the aid of the hearers. Goodwill can also be gained by debasing the character of the opponent by highlighting any vice or the absence of any virtue.

Quintilian, however, adds that it is often helpful to speak of one's opponents in honorific terms under the pretense of fearing his eloquence. Such praise may make it appear that the opponent's case is based not on the truth of his claim but on his skill as a speaker (*Inst.* 4.1.11).

Concerning one's hearers, it is advised that the equity and wisdom of past decisions be praised. Often in trying to make the listeners attentive, the speaker flatters the judge or jury. In doing so, the flattery is to be connected to the furtherance of the case. Quintilian writes:

We should ensure the judge's goodwill not only by praising him (which must be done with restraint, though it is something that both sides do) but by linking his praise to the needs of our Cause. With a client of good standing, we invoke the judge's own dignity; with a humbler client, his sense of justice; with the unfortunate, his mercifulness; with the victim, his severity; and so on. I like, if possible, to know the judge's character too. For whether it is harsh or mild, pleasant or grave, stern or relaxed, we shall need to take advantage of its qualities for our Cause where they are useful, or play them down where they present an obstacle.

Iudicem conciliabimus nobis non tantum laudano eum, quod et fieri cum modo debet et est tamen parti utrique commune, sed se laudem eius ad utilitatem causae nostrae coniunxerimus, ut adlegemus pro honestis dignitatem illi suam, pro humilibus iustitiam, pro infelicibus misericordiam, pro laesis severitatem, et similiter cetera. Mores quoque, si fieri potest, iudicis velim nosse. Nam prout asperiores, iucundi graves, duri remissi erunt, aut adsumere in causam naturas eorum qua competent aut mitigare qua repugnabunt oportebit. (Inst. 4.1.17)

If the orator feels that the judge is against him, he may choose to threaten the judge, most commonly with the displeasure of the Roman people (*Inst.* 4.1.21). The most desperate measure is threatening prosecution for corruption (*Inst.* 4.1.21). Quintilian advises this tactic only when for a large jury or when all else has failed.

The final topic that may be addressed in the *principium* is the case itself. Judges are more likely to be interested in cases that are important. The speaker may seek to make the case appear "unparalleled, important, scandalous, or likely to set a precedent, and especially if he is affected by it on his own account or on

that of the state" (*Inst.* 4.1.33). Anonymous Seguerianus mentions a statement by Lucurgus: "Although many great cases have come before you, have never been assembled to judge so important a one as this" ("Art of Political Speech" 1.7).

There are other ways to secure the attention of the hearers. One may choose to ask directly for the attention of hearers (*Rhet. Her.* 1.7). The promise of brevity also gains the attention of the hearers especially if they are tired (*Inst.* 4.1.34). An appeal to the emotions can likewise be effective, although Quintilian advises this tactic should be used cautiously.

The techniques for gaining the attention of the hearers also tend to aid making them receptive of the information. Besides these techniques, a brief and lucid summary also helps make the hearer receptive since it makes clear what topics will be covered. With the help of a summary, the hearer is less likely to become lost in the complexities of the case.

All of these topics are used in the *principium* type of introduction. There are three special cases which call for the *insinuatio* to be used: 1) when one's cause is discreditable, 2) when the opponent has won the goodwill of the hearers, or 3) when the hearers have become fatigued by the previous speakers (*Inst.* 4.1.42-43). *Ad Herennium* advises that in the first case, the speaker should agree that the actions alleged are unjust, but then argue that these actions were not committed. Another option is to find a favorable judgment given in an analogous case and establish the analogy (1.6.9). Quintilian adds other arguments to deal with a discreditable cause if denial is not possible: One can argue 1) that the offense is not as great as presented, 2) that the intentions do not match the action, 3) that the act does not involve the present question, 4) that the act can be atoned for by repentance, or 5) that it has already been sufficiently punished.

If the opponent has captured the minds of the hearers, the speakers should not try to counter the proofs of the opponent, but rather promising different proofs to justify his position (*Inst.* 4.1.48). If the hearers are fatigued, Quintilian advises the promise of brevity (*Inst.* 4.1.49). *Ad Herennium* suggests some sort of word play that would likely cause laughter, such as a fable, an exaggeration, a pun, or an innuendo.

Both styles of introduction have the same threefold purpose; the *principium* simply seeks these goals directly while the *insinuatio* seeks them covertly. The author of *Ad Herennium* claims that he reflects the tradition of other rhetoric writers except for his innovations in *insinuatio* (1.9.16).

The style of the *exordium* should differ from the other elements, “but it must not however always be finely spun or sophisticated, but often simple and apparently effortless, not promising too much either by words or by the speaker’s expression. An unobtrusive delivery (what the Greeks call *anepiphantos*) often worms its way into the mind better” (*Inst.* 4.1.60). It should be straightforward so that the hearers will easily understand. It should be characterized by restraint in voice, thought, and facial expression (*Inst.* 4.1.55). The speaker should also show restraint in self-confidence. Word choice is important. No unfamiliar word, archaism, or extravagant metaphor should be used.

Quintilian permits some rhetorical techniques although he cautions against their overuse. Sometimes a speaker may address someone other than the judge (*apostrophe*). Sometimes *prosopopoeia*, in which the speaker takes on the persona of another person, may be used effectively. Quintilian also mentions similes, metaphors, and other tropes claiming that cautious pedants forbid their use in the introduction. Quintilian himself admits that they may occasionally be helpful.

The length of the introduction is dependent upon the cause. If the cause is simple, a short introduction will suffice. A complex or discreditable cause necessitates a longer introduction. It should be proportionally shorter than the parts that succeed it. Quintilian mocks the suggestion that the introduction should be no more than four sentences, but cautions that undue length will give the impression of a head too large for the body. A long introduction may have the opposite of the desired effect and bore the hearers rather than making them attentive.

It is helpful to mention material taken from the opponent's speech. This practice shows that the speech had not been composed in advance but spontaneously thereby exhibiting the skill of the speaker. Even if the rest of the speech has been written out, an extemporaneous introduction may give the entire speech the impression of spontaneity (*Inst.* 4.1.54).

Mistakes in the introduction are especially damaging for the speaker. Quintilian compares a faulty introduction to a scarred face or a bad pilot who runs his ship aground before it has left the harbor (*Inst.* 4.1.61). A number of introductions are given as faulty. An introduction is faulty if it is too generic so that it can be applied to numerous cases (*Inv.* 1.26; *Inst.* 4.1.71; *Ad. Her.* 1.11). A *commune* introduction is one that can just as well be used by one's opponent. A *commutabile* introduction is one that can be turned against the speaker. A *separatum* introduction has no connection with the cause. A *translatum* introduction is out of context. A *longum* introduction is tedious. Likewise any introduction that does not make the hearers well-disposed, attentive, and receptive is to be considered a faulty introduction.

The introduction is not always necessary. Aristotle says that it is unnecessary before good judges (*Rhet.* 3.1415b7). Quintilian adds other occasions

in which the introduction can be omitted: if the judge is considered to be ready to hear the case, if the subject needs no introduction or if time is short (*Inst.* 4.1.72). Anonymous Seguerianus advises no introduction in trivial cases that have no pathos (1.22). In such cases, an introduction appears excessive. There can also be what amounts to an introduction elsewhere in the speech. Appeals for attention can occur in the narrative or the proofs. Quintilian mentions a second introduction which can occur before the proofs (*Inst.* 4.3.9).

The conclusion of the introduction should make a smooth transition to the *narratio*. Quintilian, however, cautions against obscuring the transition from one to the other. This practice may confuse the hearers and make the first of the *narratio* ineffective.

Narrative

After the introduction comes the statement of facts concerning the case. The Greek sources do not agree in terminology. Plato uses the term δῆγσις (266D). Aristotle uses πρόθεσις to designate the second part of speech (*Rhet.* 3.13) but in his discussion also uses δῆγσις (3.16) . *Rhetorica ad Alexandrum* (266E) speaks of a narrative called δῆγσις (1438 B 24) or ἀπαγγελίας (1442B30) which can either be attached to the introduction, another part of speech, or constitutes a separate section. Only Aristotle gives any discussion concerning the narrative, and there is a lacuna in his discussion of how the narrative in a judicial speech differs from that in a epideictic speech. In the latter, Aristotle recommends that the narrative not be consecutive but in sections (οὐκ ἐφεξῆς ἀλλὰ κατὰ μέρος, 3.16.1). It is easier for the audience to follow if the actions are grouped according to virtue or vice rather than chronologically. For example, certain actions may show a person to be wise, and others to be just. If a well-known action is involved only a brief mention or no narrative is needed.

Aristotle disagrees that a narrative must be rapid (ταχέϊαν, 3.16.4). What is important is not the speed but clarity. One must say whatever is necessary to make the action clear and to make the hearers believe that the action took place. The narrative of the defense can often be briefer than that of the prosecution if there are any points that are agreed upon by both sides. If there is something that seems incredible, reasons should be given to make it appear more credible. For instance, in a case involving Antigone who says that she cared more for her brother than her husband or children. Sophocles gives the reason: husband and children can be replaced, but for a child of deceased parents, a brother cannot be replaced. If no reason can be given, the speaker should assure the audience that he is aware of the incredible nature of the account. Details that are apt to produce an emotional response should be used.

The Latin sources uniformly use the term *narratio*. Quintilian defines it as follows: “A narrative is an exposition designed to be persuasive, of an action done or deemed to have been done; alternatively (as Apollodorus defines it) is a speech instructing the hearer on what is in dispute” (*Narratio est rei factae aut ut factae utilis ad persuadendum expositio, vel, ut Apollodorus finit, oratio docens auditorem quid in controversia sit, Inst. 4.2.31*). According to Cicero, it is “an exposition of events that have occurred or are supposed to have occurred” (*Narratio est rerum gestarum aut ut gestarum expositio, Inv. 1.19.27*).

Three types of narrative are sometimes distinguished (*Inv. 1.19.27; Rhet. Her. 1.8.12*): 1) a narrative which pertains only to case and reasons for the dispute, 2) a narrative as digression which goes beyond the limits of the case for the purpose of attacking someone or amplifying the case, and 3) a narrative that is not used in an actual case but is recited either to provide training or amusement. The third type of narrative is further divided into narratives

concerning events and those concerning persons. Narratives concerning events consist of three types: 1) *fabula*, which lack truth and verisimilitude, 2) *historia*, which gives actual occurrences but come from the ancient past, and 3) *argumentum*, which has verisimilitude but lacks truth.

Quintilian does not enumerate the types of narrative as neatly as Cicero and the author of *Ad Herennium*, but does make similar distinctions. In a defense case in which the defendant denies the charge, the defense does not give a full narrative concerning elaborating on the actions that he denies took place. Instead a narrative may be given that presents the past life of the defendant and explains why an innocent person has been brought to trial. Such a narrative does not expound the case itself but matters that are relevant to the case. Quintilian adds other narratives that do not directly outline the actions in questions: 1) narratives told as examples, 2) narratives to dispel a charge irrelevant to the case, and 3) narratives intended for amplification. Quintilian also allows for the use of fictitious narratives for some purposes: 1) to arouse the emotions of the auditors, 2) to relax the audience with humor, and 3) to show the skill of the speaker (*Inst.* 4.2.19).

Unlike Aristotle, who touts only clarity and plausibility, later writers include brevity among the three desired qualities of the narrative (*Rhet.Alex.* 30; *Rhet.Her.* 1.14; Cicero, *Inv.*, 1.28; Quintilian, *Inst.* 4.2.32; *An. Seg.* 63). The most common ordering is brevity, clarity, and plausibility. Only Quintilian and *Ad Alexandrum* give the order as clarity, brevity, and plausibility. Cicero's *De Partitione Oratoria* differs. It names clarity, plausibility, and pleasantness (*suavitas*) (9.31-32).

The quality of brevity is achieved when the speaker begins with the facts that concern the case rather than going back to the remote past. All irrelevant

details should be omitted. Only what must be said should be said. Anonymous Seguerianus cautions against using synonyms, repetitions, unnecessary epithets, and paraphrases (69-73). Quintilian stresses the importance of brevity, but also advises against saying too little in the narrative. He considers leaving out essential elements of the narrative as more harmful than saying too much. Speakers should be careful to say enough that the hearers understand. Although he opines that readers can be assumed to be well educated, those in the courts may not be so quick to grasp the arguments placed before them (*Inst.* 4.2.45-46). He also advises against being brief at the expense of elegance. Elegant speech, even if longer, is less tiresome than brief but inelegant speech. Details that add to the plausibility of the case should never be excluded in the name of brevity. Quintilian also advises postponing some elements for later in the speech while not failing to mention what is postponed: "What motives he had for killing him, what accomplices he picked, how he set his ambush, I will explain when I come to my proofs" (*Inst.* 4.2.48). The use of partition also helps give the appearance of brevity. "I shall tell you what happened before the beginning of this affair, I shall tell you what happened during it, and I shall tell you what happened afterwards" (4.2.50). Such a statement gives the impression of three brief narratives instead of one long one.

Clarity is gained by giving the narrative in a logical order, usually in the chronological order. The speakers should not jump from one subject to another or back and forth in the sequence of events. Word choice is also important. The speaker should be careful to avoid foreign or ambiguous words. Various word plays may also potentially cause confusion in the hearers. The guidelines for brevity also aid in making the narrative clear.

Plausibility is perhaps the most important of the virtues of the narrative. According to Quintilian, it was the only necessary quality according to the followers of Theodorus (*Inst.* 4.2.32). Quintilian argues that a narrative will be plausible if the speaker: 1) claims nothing that is contrary to nature, 2) gives motives and reasons for the important events narrated, 3) makes sure that the actions of people are consistent with the portrayal of their character, and 4) includes details such as place and time. A speaker should not depend on the factuality of his narrative to convince the hearers. Even that which is true may be implausible. If the narrative is untrue, then the need for plausibility is even more important. If the narrative is incredible, the speaker should concede that it sounds incredible. Sometimes one can use the unbelievable nature of the case to make the crime all the worse. Anonymous Seguerianus also advises that the speaker admit some small fault of his own or of his client and something good about his opponent (95). Persuasiveness is also achieved if the speaker is not overconfident and does not say everything definitely.

Anonymous Seguerianus mentions that some add other virtues to brevity, clarity, and plausibility. These include grandeur (μεγαλοπρέπειαν), amplification (αὔξησιν), pleasure (ἡδονήν), and mildness or fairness (προσῆγειαν ἢτοι ἐπιείκειαν)(101). Quintilian also reports others. He includes grandeur (μεγαλοπρέπειαν) and vividness (ἐνάργεια) (4.2.61-65). About the first Quintilian said that it was appropriate in some but not all cases. A grand style would seem unsuitable in trivial cases or in cases in which the speaker needs to minimize the facts rather than inflate them. Quintilian claims that vividness is included under the quality of clarity.

Quintilian allows that the narrative be omitted in certain circumstances. Some cases are so brief that only a proposition is needed and not a narration. In

some cases the facts of the case are agreed by both sides and only the law is in question. For instance, in the case deciding whether a son or brother should inherit the estate of a woman, no narrative is needed (*Inst.* 4.2.5). No narration is needed if the judge already knows the facts of the case. Although Quintilian permits omission of narration in these circumstances, he emphasizes the need of a narrative in difficult cases in which the facts of the case are against the speaker (*Inst.* 4.2.66-78). Sometimes there are cases in which the question is not one of guilt or innocence but of what crime is the defendant guilty. In such cases the speaker can argue for the lesser offense. For example, money is stolen from a temple. While the prosecution may charge that the defendant is guilty of sacrilege, the defense may claim that the money stolen was private and so the defendant is guilty of theft but not sacrilege. Sometimes all the facts are against the defendant, yet the defense should still give a narration. In such cases, the narration may be retold. Different motives can be attached to the actions. Choice of words is important. The actions can be stated in milder terms than used by the prosecution. Anonymous Seguerianus gives similar advice on the possible omission of the narration and ultimately argues that utility should be the final authority as to whether there is a narration (113-124).

Quintilian and Anonymous Seguerianus likewise discuss whether the narration must always be placed immediately after the introduction. They agree that in some instances the narration may be moved to other parts of the speech. Anonymous Seguerianus gives examples of narrations that occur in various parts of the speech. Sometimes it can even precede the introduction, sometimes after the proofs, and sometimes with the epilogue. Anonymous Seguerianus does not, however, advise that it be placed after the proofs.

The order within the narration is also flexible. Although the authorities that survive give evidence of some who argued that the narrative should always follow chronological order, the surviving records advise that sometimes it may be advantageous to do otherwise. The author of *Ad Herennium* advises that the narration should observe the sequence of events in an effort to achieve clarity (*Rhet. Her.* 1.15).

Quintilian, as he often does, advises flexibility. Usually chronology should be followed, but not always. Sometimes one abandons chronological ordering for the sake of clarity and groups the actions in some other way. Sometimes it may be strategically advantageous for the speaker to pretend to have forgotten something and mention it out of order. Whatever order best fits the purposes of a given case should be followed (*Inst.* 4.2.85-88).

Ancient authorities also address the question of whether the narration can be divided into more than one narration. Quintilian and Anonymous Seguerianus both permit multiple narrations in some cases. For both, cases in which there are multiple charges often necessitate multiple narrations. Quintilian recommends division of narration if it has more damaging points than advantageous one. By spreading out the negatives, they are less damaging. Anonymous Seguerianus allows a long narration to be divided into smaller units.

Quintilian also gives advice concerning false narrations (4.2.88-94). He divides them into two categories: 1) those which rely on external evidence such as witnesses, and 2) those which depend solely on the speaker's ingenuity. He gives the unsurprisingly admonition to invent only what seems plausible and fits the person, place, time, and motive. The false narrative should avoid self-contradiction and inconsistency. It is important that the speaker remember well

his falsehoods. The speaker should be careful in what sources he uses. Among those that can be used are the dead since they cannot be denied, those who are on the side of the speaker, and those on the adversary's side because his denial will be expected.

The style of the narration should be rather understated. It can be somewhat bolder than the introduction, but not overly emotional. Quintilian gives several rhetorical techniques that are best not used in the narration. In general, there should be no digression, no apostrophe, no *prosopopoeia*, no argumentation, and no appeals to emotion. Digressions are obviously out of place in that they endanger both brevity and clarity. Apostrophe, speaking to someone other than the judge, and *prosopopoeia*, speaking as if another person, can occasionally be used to make a point more quickly and sharply. Emotion should not be overdone in the narration, but neither should the narration be utterly without pathos. If narrating something that produces anger or pity, the speaker should not tell it without any emotion. While emotions can be given full reign only later in the speech, a touching narration will often be advantageous. There could occasionally be a repeated narrative (ἐπιδήγησις) that is longer than the initial narrative, and affords one the opportunity of more emotion and ornamentation (4.2.128).

A good narration will paint a plausible picture of the scene in such a way to give the impression that the hearers are brought face to face with the actual occurrence. It should be narrated vividly but not give the appearance of excessive ingenuity on the part of the speaker. While the art of the speaker is important, it must be so subtle that it is not detected.

After the discussion of the narration, Quintilian makes a few remarks concerning digressions (*Inst.* 4.3). While not one of the basic parts of a speech,

digressions may be placed throughout the speech. They may be very short, such as a statement of indignation. If skillfully employed, digressions can add elegance to the speech. If not used well they can artificially divide an otherwise cohesive speech. Between the narrative and the confirmation is sometimes a good place for a digression. If the narrative has been shocking, a word of indignation may be effective. Quintilian only advises this tactic, however, if the facts of the narrative have been firmly established. If not, nothing should slow the speaker from getting to the proof of the narrative.

Proofs

After giving the narrative, the speaker is to present the evidence that the narrative took place as given. According to Quintilian, this division is the only part that can never be omitted (5.pr.5). The introduction and narrative serve only to prepare the hearers for the proofs. It is called the *πίστις* by Aristotle (*Rhet.* 3.13.4) and Anonymous Seguerianus (3.143), *confirmatio* by Cicero (*Inv.* 1.34), and *probatio* by Quintilian (*Inst.* 5.1.1).

The *πίστις* seeks to demonstrate the answer of one or more of the following four questions: Was the action committed? Was there injury done by the action? Was it important? Was it just?

Aristotle made the innovation of dividing proofs into *ἄτεχναι* (non-artistic), which includes anything that the speaker does not invent such as witnesses, letters, and contracts, and *ἐντεχναι* (artistic), which includes anything that the speaker does invent such as logical syllogism, arguments from probability, and emotional pleas. Artistic proofs require the skill of a trained speaker. Aristotle considers five types of inartistic proofs—laws, witnesses, contracts, torture and oaths (*Rhet.* 1.15). He outlines advice for dealing with

these proofs for both the prosecution and defense. If a written law runs counter to one's case, that one should appeal to the general unwritten law that is superior to the particular written law given by a particular government. Genuine justice demands more than adherence to written law. Other tactics in dealing with laws that are against one's case are to reveal any ambiguity in the law, to find another law that in some way contradicts the law in question, or to show that the conditions under which the law was enacted are no longer exist. If a law favors one's case, then he should argue that the judge's authority and responsibility permit him only to render judgment concerning the laws that are in place.

Aristotle distinguishes between ancient and recent witnesses. Ancient witnesses are the poets and famous figures of the past. Both oracles and proverbs can be used effectively as witnesses, as can those who have interpreted their meanings. These ancient witnesses are the most trustworthy. Not all recent witnesses appear at the trial. Recent poets and proverbs may be used as witnesses. The least helpful witnesses are those who are connected with the action in question. They can only serve to establish the whether the action in question took place; they cannot answer the whether the action was just or unjust. If one does not have any witnesses, he can argue that probabilities are superior to witnesses since probabilities cannot be bribed. On the other hand, one with witnesses can argue that probabilities do not fear the charge of perjury.

Contracts can be treated in much the same way as written law. Those arguing against a contract may appeal to the superior general law and minimize the importance of the contract. Also the contract may be a product of fraud or compulsion and thereby worthless. If a contract is in one's favor, he should maximize the authority of the agreement and the mutual agreement that the contract represents.

In the case of torture, Aristotle clearly questions the appropriateness of its use in trial. Yet, he briefly gives a possible argument for its use. One could claim that it is the truest form of witness. A stronger case can be made to counter that claim by arguing that persons often lie in order to end their sufferings.

The final type of inartistic proof involves oaths. Disputing parties could challenge one another to take an oath to settle the issue. In such cases there are various possibilities as outcomes. Both parties could accept, both could refuse, one could accept and the other refuse, one could tender an oath, but it not be accepted by the other. Whatever the situation, the speaker can make a case for his actions.

Aristotle's categories continue to be used by later rhetoricians with some additions. Quintilian discusses previous judgments in similar cases. Judges are not eager to counter another judge's decision, so if the precedents are against the speaker, he may outline how his case differs from the previous case. Quintilian also mentions the category of rumors, but does not develop this topic (*Inst.* 5.3). The author of *Ad Herennium* gives some strategies for arguing for and against rumors (2.8.12). If one needs the support of a rumor, he should show that there is no reason for the rumor to be fabricated. The one of argues against the rumor should say that many rumors are false and give some examples, then show that the rumor in question is likewise false.

Quintilian enlarges Aristotle's discussion of witnesses (*Inst.* 5.7). He divides them into written and oral witnesses. The written testimonies are easier to combat since the witness would more likely lie in a document than before an official court. The absence of the witness also could be construed as a lack of confidence. Dealing with witnesses who are present is much more difficult according to Quintilian. These witnesses fall into two categories: voluntary and

constrained. According to Quintilian, the prerogative to call voluntary witnesses was given only to the prosecution. The prosecutor knows at least something of what the voluntary witness will say, and therefore have an easier task in dealing with these witnesses. Nevertheless, some preparation is necessary to ensure that the witness not appear frightened, confused, or inconsistent. The witness should be well-rehearsed so as to not be drawn into the traps laid by the advocates of the other side. The prosecution should also learn the motivation behind the witness's willingness to give testimony against the accused. Such precautions are necessary whether the witness is telling the truth or lying. Witnesses who are compelled to be present are more difficult since it will not always be known with which side the witness will side. If the prosecutor is aware that the witness wishes to damage the accused, he should try to make this desire less than obvious. Such a testimony will carry greater weight under the pretense that the witness is saying what he does not wish. If the prosecutor how the witness will side, he should proceed gradually to learn if the testimony will benefit his side or that of his opponent.

The defense should seek to uncover something about the witnesses, and if they have some quarrel with the accused, to find out the nature of the conflict. The quarrel can be used to counter the testimony showing the motivation of the witnesses against the defendant, such as hatred, envy, or influence. Quintilian gives other techniques for mollifying the testimony of the witnesses. If there are only a few, the limited number can be attacked; if there are many, a conspiracy can be alleged. If they are low socially, their poor character can be highlighted; if powerful people, their unbridled nature of the power can be mentioned (*Inst.* 5.7.22-25).

A special category of witnesses is divine testimony from oracles, omens dreams, or astrology. These testimonies fall into two categories. First, those of a general nature, such as the debate whether everything is ruled by providence. Second, those specific in nature relating to a particular person or event. Quintilian does not develop strategies for dealing with such evidence.

The task of the speaker in non-artistic proofs is to amplify and confirm those things that aid his case and attack those that do not (*An. Seg.* 3.145). While it does not take a skilled rhetorician to produce these proofs, rhetorical skill is needed to support or refute them (*Inst.* 5.1.2).

Artistic proofs require even more rhetorical skill since they are wholly products of the speaker. Aristotle distinguishes three categories of artificial proofs: 1) those which depend on the moral character of the speaker, 2) those which arouse certain passions from the hearers, and 3) those which rely on the logical consistency of the speech itself (*Rhet.* 1.2.3). In order to all three well, a person must be a person of character and virtue who understand the emotions and logical reasoning. It is the third type of artistic proof that receives the most treatment in the handbooks.

All of these types of artistic arguments share certain qualities. First, they concern either person or things (*Inst.* 5.8.4). Second, there is a logical relationship between two different things (*Inst.* 5.8.5). Third, they can be necessary, credible, or not contradictory. Fourth, they can be presented in four forms: 1) Since something is true, something else is not true: "It is day, therefore it is not night." 2) Because something is true, something else is also true: "The sun is shining, therefore it is day." 3) Because something is not true, something else is true: "It is not night, therefore it is day." 4) Because something is not true, something else is also not true: "He is not rational, therefore he is not a human."

Quintilian divides artistic proofs into three categories all of which fall under Aristotle's third category. They are 1) signs, 2) arguments, and 3) examples. Signs are closely related to non-artistic proofs since they involve some perceptible indication, and therefore are unlike arguments and examples in that they are not produced solely by the invention of the speaker. There are necessary and unnecessary signs. Necessary signs hardly fall under artistic proofs at all since they are irrefutable. They can be related to past, present, or future. For example, the birth of a child is a necessary sign that the mother has had intercourse (past); large waves on the sea are necessary signs of high winds (present); and a wound in the heart is a necessary sign of impending death (future). Unnecessary signs are more common for the rhetorician. They show probability but are not irrefutable. For instance, a man with blood on his clothes may be guilty of homicide, but not necessarily. While one unnecessary sign may be unconvincing, when many are grouped together they can be compelling evidence.

Arguments are exercises in logic. They are known by various Greek terms, συλλογισμός (Aristotle, *Rhet.* 1.2.13) ἐνθύμημα (Aristotle, *Rhet.* 1.2.13; *Rhet.Al.* 10.1) ἐπιχείρημα (*Ad. Her.* 2.2.1; *De or.*, 5.10.1). These terms often overlap in ancient rhetoric. Quintilian argues that they are much the same. ἐνθύμηματα are often differentiated from syllogisms by saying that an ἐνθύμημα is incomplete in some way presumably with one of the premises or the conclusion missing. While this differentiation holds in modern rhetoric, it is not obvious that it is what was meant by Aristotle.¹⁷ An ἐνθύμημα can also be considered incomplete that it deals with probabilities rather than certainties. In either case, a

¹⁷M. F. Burnyeat, "Enthymeme: Aristotle on the Logic of Persuasion," in *Aristotle's Rhetoric: Philosophical Essays* (ed. David J. Furley and Alexander Nehamas; Princeton: Princeton University Press, 1994), 3-55.

complete syllogism is not required in trial speeches. Stating all the premises when one of them is obvious impedes the virtue of brevity. Using probabilities rather than certainties is often demanded since probabilities are all that are available for the speaker.

Quintilian gives seven types of information that can be used in creating an argument: 1) that which is perceived by the senses, 2) that which is commonly held to be true, 3) that which is provided by laws, 4) that which is commonly accepted as moral custom, 5) that which has agreed upon by both parties, 6) that which has already been proven, and 7) that which cannot be contradicted. Like signs, arguments vary according to probability. Some are almost always true; some are highly likely, and some are mere compatible (*Inst.* 5.10.12-14).

Quintilian devotes a long section on the *loci* of arguments (*Inst.* 5.10.20-94). The first of these *loci* is drawn from the person. Among the *loci* concerning personhood are 1) birth 2) nationality, 3) country, 4) gender, 5) age, 6) education, 7) physique, 8) wealth, 9) status, 10) lifestyle, 11) occupation, 12) appearance, 13) past actions, 14) emotional state, 15) intentions, 16) mental attitudes. All of these have some bearing on the probability of a person committing a particular action. For example, a man is more likely to commit crime by force while a woman is more likely to poison a victim.

Quintilian adds many more *loci* to those associated with person, such as motives, places, times, means, manner, definition, genus, species, properties, similarities and dissimilarities, consequences, causes and effects, and comparisons. These topics borrow from Aristotle (*Rhet.* 2.22-23) but are given with additions and elaborations. These topics are the standard supply that will be used by both sides in the case. These *loci* do not form a discrete group; other topics may be used as warranted in a given case.

Quintilian also mentions a special type of argument based on hypothetical situations (*Inst.* 5.10.96-100). These hypothetical arguments can be used in any of the *loci* given. They can be particularly helpful in cases countering the letter of the law. This type of argument could begin, "Suppose. . ." or "Imagine if. . ."

Arguments fall into three degrees of probabilities: 1) *firmissimum*, as in the claim that children are loved by their parents, 2) *propensius*, as in the claim that someone in good health will survive until tomorrow, and 3) *non repugnans*, as in the claim that a theft in a house was committed by a man in the house. A single argument of the strongest form may be sufficient to win a case. When using arguments with a lesser degree of probability, a series of arguments may be required.

Cicero outlines various types of faulty arguments (*De Inv.* 1.49). Some arguments are farfetched with the probability being very slim. Some arguments are faulty due to bad definition so that the definition is too broad to fit the argument. Self evident arguments are faulty in that they are unnecessary. An argument may be offensive to the audience. Inconsistent arguments have conflicting statements. If some part of the argument can be turned and used by the opponent, it is faulty.

Quintilian gives suggestions concerning the use of arguments. Sometimes the case can be won with a strong argument like a bolt of lightning. Other times it is won by a multitude of weaker arguments like a hailstorm (*Inst.* 5.12.5). The speaker should be careful when using the latter tactic not to bore the judges with unnecessary arguments. Arguments can be strengthened by an occasional emotional interjection such as, "This crime is outrageous!" While no actual support is given, it gives the perception of evidence. Quintilian briefly discusses the order of arguments, but does not set a pattern to be universally followed.

The individual case dictates how the arguments should be given. The one order that Quintilian categorically rejects is to move from the strongest arguments to the weakest.

The third type of artistic proof is example (παράδειγμα, *exemplum*). The most common term in Greek is παράδειγμα (Aristotle, *Rhet.* 1.2.13). Examples are proofs that are drawn from outside the case and are independent of it. Since the speaker must invent the relationship between the case and the example, examples fall into the category of artistic proofs. Examples can give greater verisimilitude to a point. They can also render an obscure point more understandable (*Ad. Her.* 4.49.62). The similarity need not apply in every aspect of the comparison, only the precise point that is to be made. According to Aristotle, examples are weaker form of proof than argument since they do not so much prove an action as prove that such actions may take place (*Rhet.* 2.20).

Quintilian outlines some of the possible relationship utilized in examples (*Inst.* 5.11.11-16). Most basically the relationship can be one of similarity or dissimilarity. In either case, there are three levels of relationship: 1) those between two things of similar importance, 2) those that move from greater to lesser, and 3) those that move from lesser to greater. Examples may be drawn from history or from poetic fables. The former are more common and are usually more effective and may be used for any audience. When drawing examples from fables, the speaker should be mindful of his audience. More sophisticated fables (*fabula*) should be used when speaking to an educated crowd, and cruder fables (*fabella*) will be effective before less educated people. Examples may come from animals as well as humans. Quintilian notes that when arguing that people should work together the speaker may use the example of ants or bees which without intellect are able to work together. The

speaker should be careful so that the example cannot be turned and used by the opponent. Cicero mentions that speakers have license to create hypothetical situations to serve as examples. They can even create impossible scenarios such as making animals talk or the dead rise from the grave to make their points (*Top.*, 45). Examples may be very short giving only an allusion to well-known story or a longer narrative.

Quintilian includes reference to an authority under the category of example. This type is less narrative than other examples and uses an opinion of famous people or trusted poets. The opinion is used much as if the saying was given as testimony in the case. Well-known anonymous sayings may also be used such as, "Where your friends are, there your treasure is" (*Inst.* 5.11.41).

Refutation

Some theorists such as Aristotle (*Rhet.* 3.13.4) include arguing against the validity of the other side as falling under the head of πίστις. The author of *Rhetorica ad Alexandrum* speaks of the prosecution's προκατάληψις (anticipation). Here the speaker seeks to refute that anticipated argument of the opponent. This part is properly designated the προκατάληψις only for the prosecution's speech since the defense refutes the actual argument of the other side not the anticipated argument. If the opponent is expected to deny the actions, the prosecution should emphasize the proofs that the actions took place. If the defense is expected to argue that the laws concerning the action are in error, the prosecution should claim that the role of the jury is to decide cases based upon the current laws, not to change the laws. If the defense is expected to admit guilt and ask for pardon, the prosecution should stress the consequences for letting crimes go unpunished. Anonymous Seguerianus also includes refutations (λύσεις) under proof.

Other theorists separated the positive and negative proofs. The author of *Ad Herennium* divides the positive proof (*confirmationem*) and negative proof (*confutationem*) but discusses them together (e.g., 1.10.18). Cicero's *De Partitione Oratoria* also notes the division but deals only sparingly with negative proof which he calls *reprehensionem* (9.33; 12.44). Quintilian devotes more time to *refutatio* (5.13).

For Quintilian, *refutatio* can be used in two senses. In one sense all of the defense is an exercise in refutation. In a narrower sense, it is the fourth part of speeches of both the prosecution and the defense. For the defense it is more difficult. Usually the charge and prosecution's speech can be written entirely beforehand and made in a straightforward manner. The defense, being primarily refutation, requires more creativity and often must be produced extemporaneously.

The same topics used in the proof should be utilized in the refutation. In forensic speech, the defense should deny the action, justify it, or make it seem irrelevant. Pleas of mercy are extremely rare and slip into deliberative speech rather than forensic in that the guilt is admitted. The speech seeks to persuade the judge that his own mercy should outweigh his vengeance.

When dealing with non-artistic proofs, the speaker may seek to discredit them. For instance, in dealing with witnesses, a speaker may seek to show that they are unreliable. Letters can be shown to be forgeries. Anonymous Seguerianus, although including refutation under proof, also provides advice for dealing with non-artistic proofs (188). Laws can be refuted by claiming ambiguity or that the intent of the law is different from the letter of the law. A contradictory law may also be mentioned. Decrees, contracts, and oracles may be refuted in a similar manner. Human testimony can be refuted by showing false

motives or by arguing that the witness was coerced into giving testimony.

Artistic proofs can favorably refute human testimony since it can be stated that while humans often give false witness, logic does not. In cases involving testimony given under torture, the speaker should consider the status of those tortured. If the torture was brutal, the speaker can argue that the statements were made because of the severity of the pain. If the torture were meager, the speaker can note the timidity of the witness.

If the opponent's statement is patently false or contradictory, only a denial is necessary. Likewise, if an alleged action is said to have been done in secret or there are no witnesses, only a brief denial is necessary. When the opponent's statement involves the standard topics, standard questions apply: Is it true? Is it relevant? Is it honorable, fair, and just? Statements that cannot be refuted in these manners may be skirted by treating them with contempt as trivial or irrelevant.

Sometimes the arguments of the opponent should be combated as a group. This strategy is preferred if they are weak or if it would be awkward to treat them one by one. For arguments that have a cumulative effect, it is advisable to take them individually. When divided, the arguments will often lose their potency.

When dealing with examples, the defense should look for dissimilarities between the example and the case at hand. No two cases will be identical. Whatever differences there are should be exploited. If this tactic does not work, the defense can argue that the outcome in the example is incorrect. In refuting examples and other arguments, it is sometimes helpful to paraphrase the words of the opposition using more favorable terms, for example a slanderer can be called outspoken. Sometimes if the prosecution's speech is improbable, the

defense may want to give a parody of the whole speech to point out inconsistencies.

Another way of aiding in the *refutatio* is to note the eloquence of the opponent. By stressing the skills of the opponent, the strength of the opposing case may be credited with the talents of the speaker rather than the inherent strength of the case.

The common mistakes are trying to do too much or too little. In the refutation, the speaker does not need to answer every comment by the opposition. However, one also errs if too many arguments of the opponent are ignored.

The prosecution must make a refutation of the defense's position before the defense says anything. This situation can sometimes be used to the advantage of the defense. The prosecution may give imagined arguments that the defense may not have considered but that prove helpful. He may give imagined arguments that the defense can categorize as foolish. The defense may use the imagined arguments as proof that the prosecution knows that its case is weak.

Conclusion

Various terms are used for the final portion of the speech. Aristotle (*Rhet.* 3.19.1) and Anonymous Seguerianus (198-239) use ἐπίλογος. *Conclusio* is used by the author of *Ad Herennium* (*Rhet. Her.* 2.47). Quintilian uses *peroratio* (*Inst.* 6.1). Cicero uses both *conclusio* (*Inv.* 1.98) and *peroratio* (*Part. Or.* 52-60).

There are two main aspects of the conclusion, one factual summarizing the case and one emotional (*Inst.* 6.1.1; *An. Seg.* 203). These two aspects are variously divided. Aristotle distinguishes four purposes in an ἐπίλογος: 1) to dispose the

hearer favorably to oneself 2) to dispose the hearer unfavorably toward one's opponent, 3) to arouse emotion, and 4) to recapitulate. The first three reflect the emotional aspect, and the last reflects the factual. Cicero (*Inv.* 1.98) and the author of *Ad Alexandrum* (36) give only three: 1) to make the hearer look with favor on oneself, 2) to make the hearer look with displeasure on his opponent, and to summarize one's case. They presume that the emotions will be aroused throughout the conclusion. Neither the factual or the emotional are needed in every case (*An. Seg.* 204-206). In some case the speech is short enough that an a summary would be insulting. There are some case that not inherently emotional and interjecting emotion in such cases would be inappropriate.

The factual aspect of giving a summary of one's case is not unique to the conclusion. Summaries may be used throughout the speech to aid the hearer. According to *Ad Herennium* such summaries are advisable in the *principio*, after the *narratio*, after the strongest argument, and at the end of the speech. At the end of the speech a summary is particularly needed. It should not summarize everything in the speech, and should not mention anything from the introduction or statement of facts (*Rhet. Her.* 2.47). They should be as brief as possible lest they appear to be a second speech (*Inst.* 6.1.2).

The speakers are advised to try to win the favor of hearers and turn them against the opponent in the conclusion just as in the introduction. In the conclusion, however, they are free to use a less restrained style than in the introduction. In general, the prosecution seeks to rouse anger and loathing in the judge at the defendant. The defense seeks to elicit pity and mercy. The prosecution may stress anything particular heinous about the crime such as how it was committed or against whom it was committed. The prosecution may also seek pity, but pity for those against whom the crime was committed. The

defense may seek favor by outlining the defendant's past, his noble birth, or his actions for the good of the public. The most effective way to arouse sympathy is to recall his sufferings. In addition, both sides may appeal to the judge in terms of public good, the judge's reputation, the importance of precedent, or how history will look back on this judgment.

Cicero gives the fullest discussion of how to incite anger or indignation against one's opponent. He gives fifteen topics that can be used: 1) the interest in the subject in question by authorities such as the gods, forefathers, kings, people of wisdom, and authors of laws, 2) the people who are affected by the outcome of the trial, 3) the dire circumstance that was come about if everyone were permitted to act like the accused, 4) the precedent that this case will set, 5) the irrevocable nature of the verdict, 6) the willful nature of the crime, 7) the nature of the crime, 8) the unique cruelty of the crime, 9) a comparison of this crime with lesser crimes, 10) performance of the crime itself, 11) the unexpected source of the crime, 12) the unprecedented nature of the crime, 13) the arrogance of the accused, 14) the audience is asked to imagine that the crime had happened to them, and 15) the crime is such that even enemies are would not give such treatment (*Inv.* 1.101-105).

Cicero also presents a long list of commonplaces that may be effectively used to arouse pity for one's side: 1) the prosperity once enjoyed in comparison to the present situation, 2) an outline of the past, present and future troubles, 3) highlights of happiness that can no longer be enjoyed, 4) suffering unworthy of one's age, status, or fortune, 5) portrayal of each misfortune presented one by one, 6) comparison of high expectations and the troubles that were realized, 7) asking the audience to consider if one of their loved ones were in this situation, 8) comparison of what should have happened with what did happen, 9) speech

addressed to beloved animal or object, 10) revealing one's weakness and loneliness, 11) the commending to the audience the task of some solemn duty, 12) the separation from one dearly loved, 13) unkind treatment by those who have been treated kindly, 14) entreaty to have mercy, 15) the bemoaning of the circumstances not for oneself but for one's loved ones, and 16) one's own mercy even in the face of misfortune (*Inv.* 106-109).

One tactic that is particularly effective in the conclusion is using *prosopoeiae*, speaking as if one was another person (Quintilian, *Inst.* 6.1.26). The advocate may speak as if he was the victim and move the judge to tears. However, when the speakers appeal to the emotions, they should not take too much time. Excessive emotions cannot be sustained for long. The judge may grow weary if his emotions are continually aroused. Words alone are not the only way to produce an emotional response. The defendant may arrive disheveled with many friends and family. The prosecution may display a bloody sword or blood-stained clothing.

Conclusion

While the rhetorical manuals span a significant period of time and are composed in two languages, the basic directives in composing judicial speeches are quite stable. The authors of the manuals usually outlined these speeches with five basic components. Not all of the elements are required in every speech. There is also widespread agreement as to the standards for each division of the speech. This basic outline will be used in the next chapters as judicial speeches set in ancient narratives are examined to see how well they match the pattern set by the rhetorical manuals.

CHAPTER THREE

Judicial Scenes with Speeches in the Ancient Novels

Introduction

Dating from the first through the third or fourth century C.E., five extant novels compose the corpus of the ancient Greek romance. Although they once suffered neglect at the hands of classicists for being unsophisticated and clichéd, the last thirty years have seen a burgeoning of interest in them.¹ Scholars have also increasingly realized the helpfulness of the novels in interpreting the New Testament and the world that produced it.²

The Greek novels share a basic common plot. A young and beautiful couple meets and falls in love only to be separated from each other. During their separation, each of them undergoes various adventures and near death experiences until they are happily reunited at the end. Each of the novels features a least one trial, and all except Xenophon's *Ephesian Tale* give speeches in

¹For an overview of scholarship on the novels, see E. L. Bowie and S. J. Harrison, "The Romance of the Novel," *JRS* 83 (1993): 159-78. As is apparent from this overview, rhetorical analysis of the novels remains limited. The most notable exception is Ronald F. Hock, "The Rhetoric of Romance," in *Handbook of Classical Rhetoric in the Hellenistic Period 330 B.C.-A.D. 400* (ed. Stanley E. Porter; Leiden: Brill, 1997), 445-65. For a more comprehensive examination of the critical issues involving the novels, see Gareth L. Schmeling, ed., *The Novel in the Ancient World* (Leiden: Brill, 1996).

²This trend as evidenced in the formation of the Ancient Fiction and Early Christian and Jewish Narrative Group (now a section) in 1992, and the work that the group has produced: Ronald F. Hock, J. Bradley Chance, and Judith Perkins, eds., *Ancient Fiction and Early Christian Narrative* (Atlanta: Scholars Press, 1998) and Jo-Ann A. Brant, Charles W. Hedrick, and Chris Shea, eds., *Ancient Fiction: The Matrix of Early Christian and Jewish Narrative* (Atlanta: Society of Biblical Literature, 2005). See especially, Ronald F. Hock, "Why New Testament Scholars Should Read Ancient Novels," in *Ancient Fiction and Early Christian Narrative*, 121-38.

the trials. These trials are not read as glimpses of legal history. They are usually very contrived cases that cannot be settled within the courtroom.³ They do, however, show how the rules of ancient rhetoric might be used within a narrative framework. As Graham Anderson remarks, “No extant ancient novel is without some form of court-room case where school rhetoric can be practised with a vengeance.”⁴ They also yield a helpful frame of reference for the trial scenes in Acts.

*Chariton's Callirhoe*⁵

Chariton's *Callirhoe* is probably dated to the middle of the first century C.E. making it the earliest of the extant Greek novels and the most nearly contemporary of the author of Acts.⁶ Chariton deserves special attention since he has some training in the law. In the proem of the novel, the author calls himself

³For the most detailed study of this trials, see Sandra C. Schwartz, “Courtroom Scenes in the Ancient Greek Novels,” (Ph.D. diss., Columbia University, 1998). See idem, “Clitophon the *Moichos*: Achilles Tatius and the Trial Scene in the Greek Novel,” *Ancient Narrative* 1 (2000-01): 93-113, and “The Trial Scene in the Greek Novels and in Acts,” in *Contextualizing Acts: Lukan Narrative and Greco-Roman Discourse* (ed. Todd Penner and Caroline Vander Stichele; Atlanta: Society of Biblical Literature, 2003), 105-33.

⁴Graham Anderson, *The Second Sophistic: A Cultural Phenomenon in the Roman Empire* (New York: Routledge, 1993), 66.

⁵Critical editions include Warren E. Blake, ed., *Charitonis Aphrodisiensis De Chaerea et Callirhoe Amatoriarum Narrationum Libri Octo* (Oxford: Clarendon, 1938); Georges Molinié, ed., *Chariton, Le Roman de Chairéas et Callirhoé* (Budé; Paris: Belles lettres, 1979). Second edition, corrected by A. Billault, 1989; and Chariton, *Callirhoe* (trans. G. P. Goold; LCL; Cambridge: Harvard University Press, 1995). Another recent English translation is Bryan P. Reardon, trans., “Chariton: Chaereas and Callirhoe,” in *Collected Ancient Greek Novels* (ed. Bryan P. Reardon; Berkeley: University of California Press, 1989), 17-124.

⁶For the argument of this dating or slightly earlier see, Bryan P. Reardon, “Chariton,” in *The Novel in the Ancient World* (ed. Gareth Schmeling; Leiden: Brill, 1996), 312-17, and Karl Plepelits, ed. and trans., *Chariton von Aphrodisias, Kallirhoe* (Stuttgart: Hiersmann, 1976), 4-9. For other introductory issues, see also Consuelo Ruiz-Montero, “Chariton von Aphrodisias: Ein Überblick,” *ANRW* 34.2:1006-54.

the clerk of the rhetor Athenagoras (Ἀθηναγόρου τοῦ ῥητορος ὑπογραφεύς, 1.1). Ronald Hock, building on the work of Raffaella Cribiore⁷ and Teresa Morgan,⁸ has examined Chariton's style and use of quotations and argues that Chariton's writing manifests rhetorical education over and above the primary and secondary levels of education.⁹

Trial of Chaereas

The story begins as the beautiful Callirhoe, whose beauty is not human, runs into the radiant young Chaereas. They fall immediately in love and are tormented by their newly kindled passion. Callirhoe is the daughter of Hermocrates, the ruler of Syracuse. The love-sick Chaereas does not attempt to win the hand of Callirhoe because she, after being pursued by many wealthy suitors, withdrew from normal activities. As a result the people petition Hermocrates on behalf of Chaereas. He consents that the two should be married.

The failed suitors are angered and insulted that someone else had won the hand of Callirhoe. They decide against killing Chaereas in favor of sabotaging the marriage. After an unsuccessful attempt to break up the lovers, the suitors devise a scheme to make Chaereas believe that Callirhoe was unfaithful. One

⁷Raffaella Cribiore, *Writing, Teachers, and Students in Graeco-Roman Egypt* (ASP; Atlanta: Scholars Press, 1996); and idem, *Gymnastics of the Mind: Greek Education in Hellenistic and Roman Egypt* (Princeton: Princeton University Press, 2001).

⁸Teresa Morgan, *Literate Education in the Hellenistic and Roman Worlds* (New York: Cambridge University Press, 1998).

⁹Ronald F. Hock, "The Educational Curriculum in Chariton's *Callirhoe*," in *Ancient Fiction: The Matrix of Early Christian and Jewish Narrative* (ed. Jo-Ann A. Brant, Charles W. Hedrick, and Chris Shea; Atlanta: Society of Biblical Literature, 2005), 15-36. For others who attribute a relatively high level of education to Chariton, see Antonios D. Papanikolaou, *Chariton-Studien: Untersuchungen Zur Sprache und Chronologie der Griechischen Romane* (Hypomnemata; Göttingen: Vandenhoeck & Ruprecht, 1973), 24, and Antonio M. Scarcella, "The Social and Economic Structures of the Ancient Novels," in *The Novel in the Ancient World* (ed. Gareth Schmeling; Leiden: Brill, 1996), 223.

night, Chaereas enters his house late after seeing a man enter. Callirhoe came rushing to greet her husband, who being overcome with anger at his wife's presumed unfaithfulness, kicks, and apparently kills her. While the characters believe that she has died, Callirhoe has in fact only been struck unconscious. After torturing the servants, Chaereas learns the truth that the male intruder was the maid's lover rather than Callirhoe's. Chaereas seeks to kill himself, but is stopped by a friend.

He is then brought to trial for the murder of his wife. No prosecutorial speech is given; the reader is only told that the charge is read. Then Chaereas is given an opportunity to give his defense speech. This case is an unusual one since the defendant wanted to be convicted and executed: "After the charge had been read and his time had been allotted him, the killer, instead of a defense, accused himself even more savagely and cast the first vote for conviction" (ῥηθείσης γὰρ τῆς κατηγορίας ὁ φονεὺς μετρηθέντος αὐτῷ τοῦ ὕδατος ἀντὶ τῆς ἀπολογίας αὐτοῦ κατηγόρνε πικρότερων καὶ πρῶτος τὴν καταδικάζουσαν ψήφον ἤνεγκεν, 1.5.4).¹⁰ Although the stasis of the case was not a matter of fact for Chaereas had clearly committed the accused act, he could have made a proper speech outlining extenuating circumstances. Chariton notes that Chaereas mentioned none of the circumstances that could have been justly urged in his defense, such as slander, jealousy, the lack of premeditation.¹¹ Rather he begged them all:

¹⁰Unless otherwise noted, the translations are from Goold.

¹¹D. A. Russell, *Greek Declamation* (Cambridge: Cambridge University Press, 1983), 91, 96, mentions the practice of self-denunciation (προσαγγελία) by which a person essentially asks for permission to commit suicide given the dire state of one's life. This term is missing from the rhetorical manuals. It is not certain if Russell views this practice as an attempt to win the pity of the jurors or as a sincere desire on the part of the defendant to be found guilty. In any case, Chariton sees Chaereas' action as without precedent (1.4.3) and a genuine

Stone me to death in public. I have robbed the people of its chief distinction. It would be merciful to hand me over to the executioner. I should have deserved this, had I only killed Hermocrates' maidservant. Look for some condign form of punishment. I have committed a crime worse than temple-robbing or parricide. Do not bury me. Do not pollute the earth but plunge my wicked body to the bottom of the sea!

δημοσίᾳ με καταλεύσατε· ἀπεστρφάνωσα τὸν δῆμον. φιλάνθρωπόν ἐστιν ἂν παραδωτέ με δημίῳ. τοῦτο ὥφειλον παθεῖν, εἰ καὶ θεραπαινίδα Ἑρμοκράτους ἀπέκτεινα. τρόπον ζητήσατε κολάσεως ἀπόρρητον. χεῖρονα δέδρακα ἱεροσύλων καὶ πατροκτόνων. μὴ θάψητέ με, μὴ μιάνητε τὴν γῆν, ἀλλὰ τὸ ἀσεβὲς καταποντώσατε σῶμα. (1.5.5)

Ironically, the speech has the opposite of its intended effect. Immediately the crowd was struck with pity. The irony is increased as Hermocrates speaks in defense of the man who killed his daughter. No full speech is given. Rather than a full narrative, Hermocrates does not recount the murder, but only says he knows what happened was unintended, (ἀκούσιον, 1.5.6).. The conspirators and not the accused are to blame. After Callirhoe's father, Hermocrates, speaks in his defense, Chaereas is acquitted.

Chariton does not seem to intend for the reader to view this as a normal trial scene. In fact, he says that this occurred as "never before in a courtroom" (ἐν δικαστηρίῳ μηδεπώποτε πραχθέν, 1.5.3). Justice is served, although it is fraught with irony as the defendant argues for death and the victim's father pleads for his mercy. The crime itself is paradoxical since the apparent murder victim is still alive. The trial has little consequence in the overarching narrative. It only gives dramatic expression to the pathos of the hero and adds narrative space between the apparent death of Callirhoe and her burial.

Trial of Theron

After the burial of Callirhoe, a pirate named Theron recruits a band of thieves to rob her tomb. While they only expected to steal her riches, they

attempt to be put to death. Throughout the novel whenever trouble befalls him, Chaereas is ready to commit suicide.

discover a living Callirhoe. After some deliberation, Theron and the pirates decide against killing her in order to sell her. After an elaborate scheme is put in place, Theron succeeds in the sale of Callirhoe as a slave to an eminent Ionian named Dionysius through Dionsius' estate manager. The payment is made, but before the papers were signed, Theron and his band take to the seas for the prosperous island of Crete. Providence (πρόνοια), however, does not permit them to reach their planned destination (3.3.10). A violent wind struck them, but God would not let their destruction be quick. They cannot reach land and begin dying of thirst. All except Theron repent of their actions. The unscrupulous Theron robs water from the other robbers in order to save himself. "He thought he had done something clever, but this was the design of Providence, preserving him for torture and the cross" (3.3.12).

Meanwhile in Syracuse, Chaereas discovers the robbery of Callirhoe tomb. He sets out with warships in search of the robbers. Soon, they find Theron's boat and the stolen riches. Theron alone is left alive. True to his nature he tells Chaereas that he had joined this ship only recently and was saved because of his piety. He is taken back to Syracuse to stand trial.

The trial seems to be a somewhat larger trial than that of Chaereas. Whereas in the earlier trial a jury was chosen by lottery, Theron's trial is set in the theater with presumably the entire Syracusan assembly gathered to hear the case.

The trial is given only summarily. First to speak is Chaereas. He is dressed in black and disheveled, a look more fitting for a defendant than prosecutor. He refuses to mount the platform and is overcome by tears. This action, whether contrived or genuine, accomplishes the purpose of a *exordium*. The crowd is eager to hear him and even vocally urges Chaereas to speak. He

begins with a *exordium* by saying that it is a time not for speeches but for mourning (3.4.5). He then gives a short *narratio* recounting his discovery of the boats with Theron and the possessions of Callirhoe. No specific charge is brought in Chaereas' speech. He simply presents Theron to be interrogated by the magistrates (3.4.5-6).

The magistrates question Theron as to who he is, where he is from, and what he knows. Theron's response does not fit the pattern of a rhetorical defense speech. It seems to reflect a *narratio*, a sort of proof, and a *peroratio* but lacks the other parts (3.4.8). His narrative outlines the untrue account of himself as a Cretan who joined the ship of pirates whom he mistook for legitimate merchants. As proof he tells how the pirates slowly died of thirst while he had done nothing wrong. He ends with a direct appeal: "Men of Syracuse, city famed for humanity, do not be more cruel to me than thirst and the sea!" (3.4.9). Momentarily his words convinced the crowd who were moved with pity. "At his pathetic words the crowd was seized with pity, and he might have persuaded them even to arrange his passage home, had not some divine avenger (δαίμων τις τιμωρὸς) of Callirhoe been angered by his glib lying" (3.4.9).

A fisherman exposes Theron's lies by quietly mentioning that he has seen the man around the harbor. This word spreads quickly through the crowd until it reached the magistrates. Theron denied the fisherman's claim until after much torture he confesses the complete account of his actions. Chaereas pleads for a delay in the execution so that Theron's knowledge may lead him to find Callirhoe. Hermocrates denies this proposal, and Theron is quickly executed.

This trial, like the first, accomplishes justice. The speeches given in the trial have limited impact on the verdict. The crowd was poised to acquit Theron when some supernatural force intervened, and the fisherman's testimony comes

to light and brings about the villain's execution.¹² Torture, and not the trial speeches, brings out the truth

Trial of Mithridates

Soon the stage is set for another trial. Theron had sold Callirhoe in Ionia as a slave to Leonas, the steward of the prominent Dionysius, who was in mourning over his wife. When Theron left without completing the legal documentation of the sale, Leonas suspected that Callirhoe had been kidnapped. She is entrusted to Plangon, the wife of the estate manager. Later Dionysius sees Callirhoe in the Temple of Aphrodite and mistakes her for the goddess. He is overcome by her beauty and wishes to marry her. He questions Callirhoe, and she tells her story with the exception of Chaereas. She expresses her wish to be returned to her father. Dionysius seeks to win Callirhoe's affections but is unable. Callirhoe, however, had become pregnant before her ordeal began. Wishing to keep the child, Callirhoe marries Dionysius and allows him to think that the child is his own.

Meanwhile, Chaereas sets out and prays that the sea will join him with his lost love. Chaereas arrives by warship in Ionia and upon visiting a temple of Aphrodite learns that Callirhoe has married another. A servant of Dionysius learns of the warship and the purpose of the expedition. In order to preserve the marriage of his master, the servant reported to the Orientals that the ship was filled with spies who were conspiring against their king. During the night

¹²For a brief discussion on divine causation in ancient narrative, see Whitney Shiner, "Creating Plot in Episodic Narratives: *The Life of Aesop* and the Gospel of Mark," in *Ancient Fiction and Early Christian Narrative* (ed. Ronald F. Hock, J. Bradley Chance, and Judith Perkins; Atlanta: Scholars Press, 1998), 167-69. He claims that "divine causation is not merely a literary device but reflects a shared understanding of the nature of causation in the world" (167).

Chaereas's ship was attacked and destroyed. Chaereas and a friend named Polycharmus survived but were sold as slaves to Mithridates, governor of Caria.

Chaereas appears to Callirhoe in a dream bound and unable to reach her. Callirhoe screams his name and awakens Dionysius. She tells him of her first husband and takes the dream to mean that Chaereas has died. After the birth of Callirhoe's son, there is a celebration. Callirhoe, however, is distraught and separates herself from the celebration. A priestess tries to comfort her by telling of two strangers who recently visited the temple who were overcome by a statue of her. Callirhoe immediately suspects that it was Chaereas but cannot find proof. She tells Dionysius about the strangers because she knows his jealousy would cause him to seek to ascertain the whole story and the identity of the strangers.

Dionysius does learn of the entire story except he cannot determine whether Chaereas was killed or sold as a slave. Dionysius recounted the story to Callirhoe of how Chaereas's ship was attacked by brigands and destroyed. He hoped that Callirhoe would believe that Chaereas was dead and so give up any feeling for him. Callirhoe again mourns her lost love. In an attempt to comfort Callirhoe Dionysius proposes that although they do not have the body of Chaereas they should build a fitting monument to him. This suggestion pleases Callirhoe and a funeral ceremony is planned. At the funeral, Mithridates sees Callirhoe and he, too, falls in love. He returns to his home heartsick.

Some of the slaves chained with Chaereas break free, murder the overseer, and are then caught. Chaereas is sentenced with them to crucifixion. As he and his friend are being taken to be crucified, his friend Polycharmus cries out that Callirhoe was responsible for all their troubles. At this outburst, the guard separates Polycharmus thinking that the attempted escape was the part of larger

plot. Polycharmus is taken to Mithridates who is lost in his thoughts about Callirhoe. Eventually, Polycharmus's story is told, and Mithridates orders that Chaereas be spared. Mithridates informs Chaereas of Callirhoe's marriage to Dionysius and her new child. Mithridates is hopeful that he might set Chaereas and Dionysius in opposition to each other while he gained the enchanting Callirhoe.

Chaereas is eager to go to Ionia and claim his wife. Mithridates counsels that such a move would be unwise. Dionysius would likely kill him. Instead, Mithridates advises him to write a letter to Callirhoe in order to ascertain whether she still has feelings for him and enlist her aid. Chaereas takes the advice and writes a letter to Callirhoe. Mithridates also writes a letter to Callirhoe in which he tells her that he will help the two to reunite. Mithridates, however, still hopes that he can use the situation to win Callirhoe for himself.

Servants are sent with the letters and lavish gifts for Dionysius. The servants take advantage of the wealth that was in their possession and are mistaken for thieves. They are arrested and sent directly to Dionysius. When Dionysius receives the letters, he refuses to believe that Chaereas is alive and suspects a plot by Mithridates to steal his beautiful Callirhoe. Dionysius reports the alleged plot to Pharnaces, the governor of Lydia and Ionia. Pharnaces had had feuds with Mithridates in the past and was eager to intercede to the King Artaxerxes concerning the matter. He, having seen Callirhoe, falls victim to her beauty and is in love with her. His letter alleges that Mithridates is misusing his authority and causing the damage to the king's reputation.

Artaxerxes consults his advisors who are divided as to whether he should hear the case. In the end Artaxerxes agrees to hear the case based more on his enthusiasm about the prospect of seeing Callirhoe than the counsel of his

advisors. He summons Mithridates to defend himself in the presence of both Dionysius and Callirhoe.

Mithridates contemplates marching against Dionysius, taking Callirhoe by force, and revolting against the king. When he learns that Dionysius and Callirhoe have already embarked on the trip, Mithridates decides that he will go to Babylon to plead his case.

Mithridates makes the journey more quickly than Dionysius and his retinue and presents gifts to the king's court. He instructs Chaereas to remain hidden until the trial. When Dionysius finally reaches Babylon, Artaxerxes is in the midst of festival and the trial is delayed for thirty days. During this time the populace is all but overcome with anticipation concerning the trial. They were divided concerning the case, and the parties involved each feel that their side had the upper hand. Although it is set in Persia, the trial is ostensible like what would be expected in Rome.¹³

In this trial both parties give speeches that fit the rhetorical form of a judicial speech.¹⁴ Before the trial begins, both sides prepare their cases as required by Quintilian (*Inst.* 4.1.57). When Mithridates appeared, "He looked by no means bright and cheerful but, as befits an accused man, pitiable" (5.4.6). This description is in keeping with Quintilian's remarks about the appearance of an accused person (*Inst.* 6.1.30). The case begins with the king's order for the clerk to read letters explaining the case. There is a delay because Callirhoe, one of the principals of the case, is absent. The court is adjourned until the next day when Callirhoe is present.

¹³Schwartz, "Courtroom Scenes," 82-83.

¹⁴For another discussion of these speeches, see Hock, "The Rhetoric of Romance," 462-64.

When the trial begins, Dionysius speaks first and begins with a fitting *exordium*. He thanks the King for hearing the case and then focuses on the character of the accused. He deserves greater penalty than the average criminal. Mithridates schemed to steal from one who was not an enemy but a friend. Then Dionysius turns to the flattery of the King: "Your Majesty, in your justice and in the laws which you administer impartially to all" (5.6.5). Dionysius does not stop at flattery, he also mildly threatens the King: "Until now everyone has lived in fear of improper conduct being punished if one were brought to trial. But if when tried before you one is not punished, he will thereafter hold you in contempt" (5.6.5).

Dionysius then begins his *narratio*, "My story is clear and brief" (5.6.5), thereby assuring his hearers that it will have two of the necessary attributes. He then tells how he had married Callirhoe after the death of her first husband. The lewd Mithridates wanted her for himself, but sensing her chastity devised a plan. He pretended that her first husband was alive and forged letters in his name.

The *probatatio* reveals an inartificial proof. Dionysius has both the letters and the witness of the magistrate who sent them: "Bias, the chief magistrate of Priene, dispatched these slaves together with the letters to me, and I, detecting villainy afoot, reported them to Phernaces, governor of Lydia and Ionia, and he reported them to you" (5.6.8).

Dionysius concludes with the *peroratio* omitting the *refutatio* as often is the case for the prosecutor. Yet, in keeping with Quintilian's advice, he tries to refute the anticipated defense of ignorance, "He cannot even claim that he was ignorant of Chaereas' death, because we built his tomb while Mithridates was there in Miletus and joined in our mourning" (5.6.9). Dionysius further adheres to the manuals' advice in making an emotional appeal to produce indignation

from the judge, “Just think, Your Majesty, how shameless an adulterer is, when he even impersonates the dead!” (5.6.10).

The speech seemed to accomplish its purpose: “The speech of Dionysius impressed his audience and he had them with him at once. Moved to anger the king looked at Mithridates with a severe and forbidding expression” (5.6.11).

Then it was Mithridates’ turn to speak. He, too, seems to follow the prescribed form of the forensic speech. He begins with an *exordium* which flatters the king (“You are just and compassionate”) and impugns the opposition (“Do not let a mere Greek, who has cunningly put together false slanders against me, to have more credit with you than the truth” 5.7.1).

In his *narratio* Mithridates does not simply narrate past events as is sometimes the case in forensic speeches. Nevertheless, it no less conforms to the rules laid down by Quintilian: “[the *narratio*] will deal with the past life of the accused, the causes which have brought an innocent man into peril, and other circumstances as show the charge to be incredible” (*Inst.* 4.2.12). He begins by claiming that he has lived his entire life virtuously with no previous charges brought against him. He cannot be a lewd and dissolute man as charged since he was entrusted with the governance of many cities. His *narratio* follows a kind mentioned by Cicero “in which a digression is made beyond the strict limits of the case for the purpose of attacking someone” (*De Inv.* 1.19). He attacks Dionysius on the grounds that he is not legally married to Callirhoe. He bought her as a slave. It is Dionysius who is guilty of misconduct.

As the defense, Mithridates reverses the usual order of the *refutatio* and *probatio*. He denies the charges brought against him by making light of the charges (cf. *Inst.* 6.3.72): “He charges me with adultery, not committed, but as he says, intended, and being unable to specify any deed, he reads us irrelevant

letters. Yet the laws exact punishment only for actual deeds" (5.7.5-6). Although he does not need to pursue this line of the defense, Mithridates mentions the claim that the letters are forgeries, which is the primary means mentioned by Quintilian of refuting documentary evidence (*Inst.* 5.5.1).

Mithridates merges the *probatio* and the *peroratio* since the emotional proof from one who is dead is better suited in the *peroratio*. Quintilian even mentions that the *peroratio* is the time to "call the dead to life," although he does not envision the dead actually appearing (*Inst.* 4.1.28). Mithridates first makes a dramatic plea for Dionysius to drop the charge for his own good. When Dionysius refuses, Mithridates makes the following dramatic scene:

Taking up from this point, Mithridates raised his voice and uttered as though under divine inspiration, "Ye majestic deities who rule Heaven and Hell, come to the aid of a virtuous man! Often have I duly prayed and made sumptuous sacrifice to you. Render me, then, the reward for my piety now that I am falsely accused. Grant to me Chaereas, if only for this trial. Appear noble spirit! Your Callirhoe summons you! Take your stand between the two of us, myself and Dionysius, and tell the king which of us is the adulterer."

ἐνθεν ἐλὼν ὁ Μιθριδάτης φωνὴν ἐπήρε καὶ ὥσπερ ἐπὶ θειασμοῦ "θεοὶ" φησὶ "βασίλειοι ἐπουράνιοί τε καὶ ὑποχθόνιοι, βοηθήσατε ἀνδρὶ ἀγαθῷ, πολλάκις ὑμῖν εὐξαμένῳ δικαίως καὶ θύσαντι μεγαλοπρεπῶς· ἀπόδοτέ μοι τὴν ἀμοιβὴν τῆς εὐσεβείας συκοφαντουμένῳ· χρήσατέ μοι κἂν εἰ τὴν δίκην Χαιρέαν. φάνηθι, δαίμον ἀγαθέ· καλεῖ σε ἡ σὴ Καλλιρόν· μεταξύ δὲ ἀμφοτέρων, ἐμοῦ τε καὶ Διονυσίου στὰς εἶπον βασιλεῖ τίς ἐστὶν ἐξ ἡμῶν μοιχός." (5.7.10)

This third trial scene from Chariton clearly shows the influence of rhetorical tradition. The speech of Dionysius fits the form especially well. Mithridates' defense speech also conforms to the pattern except in the placement of the *probatio*. This deviation can be explained by the extraordinary proof given by Mithridates. Such a deviation does not seem uncommon. According to the manuals, each case is different and changes to the form can be made if they strengthen the case.

Actual forensic speeches were probably longer than those given by Chariton. This fact does not negate their reliance on the rhetorical tradition. They are best seen as summaries of forensic speeches which follow the rhetorical pattern set forth by Quintilian and others.

Chaereas appears on cue, and there is great commotion. A heated argument begins between Chaereas and Dionysius with each claiming to be the lawful husband of Callirhoe. Chaereas argues that he was her husband first; Dionysius that he was a better husband. Chaereas asks if he had divorced his wife; Dionysius answers that he had buried her. Chaereas says that she was given to him by Hermocrates, her father; Dionysius that she gave herself to him. Chaereas alleges Dionysius guilty of adultery; Dionysius that Chaereas is guilty of murder.

After a recess, the king acquits Mithridates and announces that he will hear the trial between Dionysius and Chaereas to determine who was Callirhoe's husband. The trial is delayed for five days for the sides to prepare their cases. Callirhoe is ordered to be under the care of the king's wife until the case is decided. Callirhoe, Chaereas and Dionysius were all in great distress. Chaereas is ready once again to commit suicide, but was stopped as before by his faithful friend Polycharmus. The king is smitten by Callirhoe's beauty and is not eager for her to rejoin one of her husbands. In order to keep her near as long as possible, the king ordered a month of religious festivals claiming that the gods had appeared to him in a dream demanding sacrifices.

It is uncertain who had the advantage in the trial. As with the trial between Dionysius and Mithridates, the public is divided. Chaereas had in his favor that he was the first husband lawfully with the blessing of Callirhoe's father. Their separation was against the will of both Chaereas and Callirhoe.

Against him was the argument that he had killed her. Although she was still living, the attack and apparent murder seemed to carry the weight of a true murder.

Dionysius had rescued Callirhoe from the pirates although the method was by purchasing her, a free woman, from them. It was assumed that Dionysius and Callirhoe had a child together even though the reader knows that Chaereas is the father of the child.

While Callirhoe and Dionysius languish waiting for the trial and Chaereas continually looking for a way to kill himself, the king becomes more in love with Callirhoe. The king's eunuch suggests diversions such as a hunt to help him stop thinking about Callirhoe, but they are no use. The eunuch then argues to the love-sick king that since the trial is pending to decide who is Callirhoe's husband, she could be considered unmarried at the moment. The king could approach her without the possibility of adultery. He sends the eunuch to tell Callirhoe of his interest in her. She rebuffs the eunuch assuring him that the king's feeling is not love but pity on an unfortunate woman.

As the king's eunuch plotted to win Callirhoe for the king and before the trial between Dionysius and Chaereas could be held, a revolt began in Egypt. The king takes Callirhoe with him along with his wife and her attendants, and Dionysius joins the king's army so that his bravery might win Callirhoe. Chaereas stays in Babylon. When he could not find Callirhoe, he looks for his rival. A housekeeper under orders from Dionysius tells Chaereas that Callirhoe had been given to Dionysius to ensure his faithful service. Chaereas is again cast into despair and remarks that he foolishly anticipated justice as he was carefully preparing his case. His opponent, however, won without a word (καὶ ἐγὼ μὲν ἐμμελετῶν τὴν δίκην καὶ πάνυ πεπείσμεν δίκαια ἐρεῖν· ἐρήμην δὲ κατεκρίθη καὶ Διονύσιος νενίκηκε σιγῶν (7.1.5).

Again, Chaereas is ready to commit suicide. His faithful friend, Polycharmus, has stopped him on previous occasions but this time considers suicide a wise choice and is willing to join Chaereas in death. His only suggestion is that they seek a death that will inflict some pain on the king who caused their despair. They make their way to Egypt and offer their services to the pharaoh. Chaereas by sea and Dionysius by land distinguished themselves in war although on differing sides. Dionysius was responsible for the death of the pharaoh, and as a result was given Callirhoe in absentia as the prize for his valor. The king remarked, "The war has pronounced the decision" (κέκρικε τὴν δίκην ὁ πόλεμος 7.5.15). Chaereas agrees that war has been the judge but differs on the judgment. He had taken control of Aradus where the king had left his wife, her attendants, and Callirhoe. He sends the queen back to her husband with a letter saying:

You were intending to decide the case, but I have already been declared the victor by the most impartial judge: for war is the best arbiter between stronger and weaker.

Σὺ μὲν ἔμελλες τὴν δίκην κρίνειν, ἐγὼ δὲ ἤδη νενίκηκα παρὰ τῷ δικαιωτάτῳ δικαστῇ· πόλεμος γὰρ ἄριστος κριτὴς τοῦ κρείττονος τε καὶ χείρονος. (8.4.2).

While the last half of the novel dealt with the question of who was Callirhoe's legal husband and two trials were planned, the complicated case is not decided based on the trial in a courtroom, but by the trial of war. According to the narrative, it is doubtful that there could have been a fair trial. Callirhoe's beauty clouded the judgment of all the men who beheld her. Chariton mapped out the arguments for each side, but paints the case as complicated beyond what the court could decide.

Of the four trials in *Callirhoe*, the first and second end in a just verdict although in the first Chaereas argues for his own punishment and only the

reader knows that the murder victim is still alive. The third trial ends justly with Mithridates acquitted, but the trial settles nothing else. It segues into the fourth trial which never occurs. Even though the king eventually awards Callirhoe to Dionysius as if he were still the judge of the case, the story ends with Chaereas and Callirhoe back together. The last two trials give suspense and interest to the story, but do not settle the issues at hand.

*Achilles Tatius' Leucippe and Clitophon*¹⁵

Achilles Tatius' Leucippe and Clitophon provides other examples of trial scenes. This second-century C.E. work¹⁶ like that of Chariton follows two young lovers whose union is beset by difficulties. Clitophon and Leucippe wish to be married, but Clitophon's father has arranged for another woman to be his bride. The two elope by sea in order to be together. Storms and pirates separate them. Clitophon watches as Leucippe is presumably killed twice. After the second apparent death of Leucippe, Clitophon receives word of their parents' blessing of the marriage. Clitophon then meets Melite, a wealthy young woman whose husband was lost at sea. Melite is immediately taken with Clitophon and wishes

¹⁵Greek texts include J.-P. Garnaud, ed., *Achille Tatius d'Alexandre, Le Roman de Leucippé et Clitophon* (Paris: Les Belles Lettres, 1991), Vilborg, Ebbe, ed. *Achilles Tatius: Leucippe and Clitophon* (Studia Graeca et Latina Gothoburgensia; Göteborg: Elanders Boktryckeri Aktiebolag, 1955). S. Gaselee, ed. and trans., *Achilles Tatius* (LCL; Cambridge: Harvard University Press, 1917). For a much freer English translation, see John J. Winkler, trans., "Achilles Tatius: Leucippe and Clitophon," in *Collected Ancient Greek Novels* (ed. Bryan P. Reardon; Berkeley: University of California Press, 1989), 170-284. For a more restrained translation, see Tim Whitmarsh, trans., *Achilles Tatius: Leucippe and Clitophon* (Oxford: Oxford University Press, 2001). Unless otherwise noted, the translations used here are from Whitmarsh.

¹⁶Exactly when in the second century is debated. It was routinely dated toward the end of the second century, e.g. John J. Winkler, trans., "Achilles Tatius: Leucippe and Clitophon," in *Collected Ancient Greek Novels* (ed. Bryan P. Reardon; Berkeley: University of California Press, 1989), 170. However, W. H. Willis, "The Robinson-Cologne Papyrus of Achilles Tatius," *GRBS* 31 (1990): 76, argues that the papyrus fragments support a date "no later than the middle of the second century."

for him to be her husband. He eventually agrees but refuses her sexual advances. It remains unclear whether the two were officially married.¹⁷ Upon reaching Ephesus, Clitophon learns that Leucippe is still alive and wishes to renege on his promise to Melite. Melite's husband, Thersander, who was also thought dead, also returns to Ephesus. Melite is resigned to Clitophon leaving her for Leucippe, but persuades Clitophon to one night of passion. Melite's husband learns of the affair and has Clitophon jailed on the charge of adultery. Thersander sees Leucippe and seeks to seduce her, but she is not willing. As his anger at Clitophon grows, Thersander plants one of his servants in jail to tell Clitophon the false story that Melite had Leucippe killed in jealousy. Upon hearing that Leucippe is dead, Clitophon wishes himself dead as well. He decides that rather than defend himself against the charge of adultery in the trial, he will plead guilty both to adultery and to conspiring with Melite to murder Leucippe. In this way, Clitophon hopes to die and have Melite also executed for the murder of Leucippe.

The adultery trial is set. Thersander with a group of ten rhetors present speeches against Melite and Clitophon. Melite's side offered well-prepared speeches in defense. Melite does not give a defense speech in court, she would have been forbidden to do so as a woman. However, earlier she gives what is essentially a full defense speech to Thersander (6.9.2-6.10.6).¹⁸ She begins with a short *exordium*: "I have but one request of you: be a fair jury, purge your ears of the slander, give up the anger in your heart, listen to me with pure reason as a judge." (ἐν οὖν δέομαι, γενοῦ μοι δικαστῆς ἴσος, καὶ καθήρας μὲν σου τὰ ὦτα τῆς

¹⁷Schwartz, "Courtroom Scenes," 169-73.

¹⁸Schwartz, "Courtroom Scenes," 179-84.

διαβολῆς, ἐκβαλὼν δὲ τῆς καρδίας τὴν ὀργήν, τὸν δὲ λογισμὸν ἐπιστήσας κριτὴν ἀκέραιον, ἄκουσον 6.9.2).

She then gives *narratio* (6.9.3-6) of her meeting Clitophon mentioning his noble birth. She had seen his shipwreck and offered him hospitality thinking all the while of Thersander, hoping if he were still alive someone would likewise show him kindness. She told that she had helped others as well; Clitophon only happened to be the latest recipient of her hospitality. She lyingly told him that they received word that Leucippe was alive and in Ephesus. Only for the love of Leucippe did Clitophon follow Melite. As a short *probatio* (6.9.7), she offers Sosthenes who discovered Leucippe as a witness though absent to confirm her story. Melite was sufficiently persuasive to convince Thersander.

The actual speeches in the trial are not given in the narrative, only mentioned. Then Clitophon demands a chance to speak. Foregoing the defense speech he had originally planned (7.6.3), Clitophon gives a speech of self accusation. In it he admits that he and Melite committed not only adultery but also murder.

His speech only seems to have an *exordium* and *narratio*. His *exordium* is short but effective; he tells the listeners that both sides have presented nothing but lies. He alone tells the truth. He proceeds to his *narratio* with a false account of the love he shared with Melite after he thought Leucippe was dead. When Melite found that Leucippe was alive, she schemed to get rid of Leucippe lest Clitophon be taken by his first love. Clitophon went along with her schemes in order to gain her wealth and position. He explained that after the crime he was stricken with remorse. In order to join his love in death, he alone was telling the truth. The courtroom is thrown into confusion. Thersander's advocates rejoiced at their apparent victory while those of Melite were at a loss as to how to defend her and began to suspect that she might be guilty.

In the commotion, Kleinias argues for a chance to speak on behalf of Clitophon. His speech is given and roughly follows the form suggested by Quintilian. His *exordium* centers on the case itself as he reminds the hearers of its severity and warns them not to sentence Clitophon to death too hastily (7.9.2). He quickly moves to the *narratio* saying the he will briefly relate his troubles (ἃ δὲ ἡτόχησε διὰ βραχέων ἐρῶ 7.9.3). Kleinias agrees with the account given by Clitophon until the confession of the murder. He admits that Leucippe disappeared, but reminds them that it is not clear if she has been murdered or kidnapped. He argues that Clitophon confessed because believing Leucippe to be dead wants to die as well. By providing this motive, Kleinias makes his account more plausible. Then he offers a series of rhetorical questions as artificial proofs in a *probatio* to bolster his case: “Think about it: does someone who has really killed someone what to join him in death, and find life too much to bear because of the pain? What murderer is so compassionate? What kind of hatred so loving?” (7.9.6). Clitophon claimed that he and Melite had hired someone to kill Leucippe.

If he himself plotted her death, as he says, let him tell us who the hireling was! Let him show us her corpse! But if there is no murderer and no corpse, well then, whoever heard of such a murder? “I was in love with Melite,” he says, “that is why I killed Leucippe.” Why then does he accuse Melite, the woman he loves, of murder? Is it for Leucippe’s sake that he now wishes to die—the woman he killed? Who on earth could show such hate for what he loves and such love for what he hates? Would he not be far more likely to have denied the murder under cross-examination, so as to save his beloved, and to avoid a pointless death on behalf of the slain woman?

Εἰ δὲ αὐτὸς ἐπεβούλευσεν, ὥς λέγει, τὸν φόνον, εἰπάτω τίς ἐστὶν ὁ μεμισθωμένος, δειξάτω τὴν ἀνηρημένην. εἰ δὲ μήτε ὁ ἀποκτείνας ἐστὶ, μήτε ἡ ἀνηρημένη, τίς ἤκουσε ποτε τοιοῦτον φόνον; “Ἡρώων, φησί, ‘Μελίττης· διὰ τοῦτο Λευκίππην ἀπέκτεινα.’ πῶς οὖν Μελίττης φόνον κατηγορεῖ ἢς ἦρα, διὰ Λευκίππην δὲ νῦν ἐθέλει ἀποθανεῖν ἣν ἀπέκτεινεν; οὕτω γὰρ ἂν τις καὶ μισοῖ τὸ φιλούμενον, καὶ φιλοῖ τὸ μισούμενον; ἄρ’ οὖν οὐ πολὺ μᾶλλον ἂν καὶ ἐλεγχόμενος ἡρνήσατο τὸν, ἵνα καὶ σώσῃ τὴν ἐρωμένην, καὶ ὑπὲρ τῆς ἀνηρημένης μὴ μάτην ἀποθάνῃ; (7.9.7-8)

Kleinias then begins a second *narratio* by calling on heaven as his witness that he does not seek to slander Melite, but to tell the truth. He offers an account of how Melite loved Clitophon but was not loved by him. Clitophon learned of Leucippe and wished to be reunited. In prison, Clitophon was told of how Melite had paid to have Leucippe killed apparently out of jealousy. Kleinias admits that he himself cannot substantiate the veracity of the account, but reminds the judges that they can. They could question the prisoner with Clitophon, the maids of Melite, and Sosthenes, who purchased Leucippe as a slave.

Kleinias ends with a brief but poignant *conclusio*: “Before you have each of these pieces of information (the testimony of various witnesses), it is unholy and impious to believe this poor young man’s raving words and put him to death. His madness is caused by grief” (πρὶν δὲ μάθητε τούτων ἕκαστον, οὔτε ὅσιον οὔτε εὐσεβές νεανίσκον ἄθλιον ἀνελεῖν, πιστεύσαντος μανίας λόγοις· μαίεται γὰρ ὑπὸ λύπης, 7.9.14).

While Kleinias’ speech seemed persuasive to most of the hearers, Thersander emerged to speak after sending word to Sosthenes to disappear. He began with an *exordium* by belittling his opponent: “This fellow, whoever he is, has blathered enough fictional accusations” (Ἰκανῶς μὲν οὗτος, ὅστις ποτέ ἐστι, κατελήρησε μυθολγῶν, 7.11.1). Next, he turns to the judges telling them that he is amazed that they are allowing discussion to continue after a murderer confessed his crime: “For my part, I am amazed at your obtuseness: you have caught this murderer in the act (and a confession counts more than having caught someone at it), but you do not summon the executioner, instead you sit listening to a charlatan with his oh-so-plausible theatricals and tears” (7.11.1).

In his *narratio* Thersander adds a charge of a second unsubstantiated murder. He alleges that Melite, Clitophon, and Kleinias killed Sosthenes as well. Their motive was revenge because it was Sosthenes who told Thersander of the adultery. Since Clitophon had confessed, Thersander argues that no further proof is needed. Since Melite denies the charge, her maids should be tortured in order to gain further proof. In addition, Clitophon had mentioned another prisoner who talked about the murder. Thersander offers him as another witness arguing that he spoke of the murder to Clitophon only because he recognized Clitophon as a part of the plot. Thersander ends rhetorically invoking the testimony of the gods: "Can you believe that this man accused himself without divine prompting?" (οἶσθε χωρὶς θεοῦ τοῦτον ἑαυτοῦ κατεπιεῖν, 7.11.8).

After Thersander's speech and an oath that he did not know what had become of Sosthenes, the president of the judges decided that Clitophon be executed based on a law that one who has confessed to murder must be executed. Since Melite had not confessed, a second trial would be held when the maids were tortured to extract their testimony. Clitophon was tied, and torture was about to begin when a priest of Artemis crowned with laurel approached. The laurel was a sign that a messenger of the goddess had arrived. When such a visitation occurs there was a moratorium on all torture and executions while sacrifices were made. Clitophon was let down and untied. The leader of the embassy was the father of Leucippe.

Meanwhile, Sosthenes had fled and with no one left to guard her, Leucippe escaped and took refuge in the temple of Artemis. Word of Leucippe's presence at the temple spread quickly, and she was joined by Clitophon and her father. The guards were unwilling to release Clitophon even in the presence of

the woman he was convicted of murdering. The priest of Artemis assured them that he would see that Clitophon appear in public at the appropriate time.

After a slight delay the trial begins anew with Thersander leading the prosecution. He begins with an *exordium*. Here he acts to gain the attention of the judges by stressing the absurd nature of the trial. According to Thersander, there are multiple crimes of great severity and multiple criminals such that he is at a loss for how best to proceed (8.8.1). He says that his emotions may get the better of him and that he fears that in such a complex case, his speech might be incomplete. He outlines the severity of the case with rhetorical flourish:

When adulterers murder the slaves of others, when murderers commit adultery with the wives of others, when pimps interrupt our sacred embassies, when whores pollute the most holy of our temples, when these whores fix the trial days for slave and master alike—what crimes are left to commit, when corruption is intermixed with adultery, impiety, and sacrilege? (8.8.3)

ὅταν μὲν γὰρ φονεύωσι τοὺς ἀλλοτρίους οἰκέτας οἱ μοιχοί, μοιχεύωσι δὲ τὰς ἀλλοτρίας γυναῖκας οἱ φονεῖς, λύωσι δὲ ἡμῖν τὰς θεωρίας οἱ πορνοβοσκοί, τὰ δὲ σεμνότατα τῶν ἱερῶν μαιίνωσιν αἱ πόρναι, τὰς ἡμέρας δὲ λογιζόμενος ἢ ταῖς δούλαις καὶ τοῖς δεσπόταις, τί δράσειέ τις ἔτι, τῆς ἀνομίας ὁμοῦ καὶ μοιχείας, καὶ ἀσεβείας καὶ μαιθονίας κεκερασμένης;

Next, Thersander offers not one *narratio* but three for three different defendants. First is Clitophon. Thersander reminds the judges that they have condemned Clitophon to death. Regardless of what the charge against him, Clitophon was condemned. No further evidence is needed. Thersander reprimands the judges for failing to carry out their own judgments. He then turns his invective against the priest. The priest disregards the law to such an extent that the priest seems to overrule the verdict of the president. Thersander suggests that the president should give up his seat to the priest. Thersander's speech is given to hyperbole as suggests that the priest seems to enjoy supernatural status releasing prisoners as not even Artemis dared. Thersander

presents the priest as putting himself above both human and divine law. He also accuses the priest of making the temple a brothel for Clitophon and Leucippe. He asks that Clitophon be executed as decreed and the priest be punished for his insolence.

Thersander then turns to the charge against Melite. Having previously given a *narratio* outlining her adultery, Thersander only asks that Melite's maids be tortured for testimony as decreed in the previous trial. If they testify to her adultery, Melite should repay her dowry, and Clitophon be sentenced to a second death penalty. Thersander announces his plan to prosecute Leucippe and her presumed father after Clitophon, the priest, and Melite are condemned.

The priest is the next to give a speech. He is described as one not incompetent to speak (ἤν δὲ εἰπεῖν οὐκ ἄδυνάτος, 8.9.1). He begins with an *exordium* attacking Thersander's character. Using insinuation and innuendo, the priest presents a picture of Thersander's lewd character from childhood. When the rest of his body lost its youthful bloom, Thersander concentrated on his tongue. He perfected the art of slander and blasphemy. The priest says that had the judges not known the past lifestyle of himself and Thersander, he might spend time on the various slanderous accusations against him. Since they knew the truth, he could focus only on the actual charges against him.

Thersander has called him a tyrant for overstepping the law in seeking the release of a condemned man. The priest argues that the tyrant is not the one who seeks to preserve the life of a innocent man, but rather the one who seeks to punish the innocent. It was Thersander who originally imprisoned Clitophon without a trial. The priest reversed the accusations of Thersander by saying that the president of the judges should vacate his seat since it is Thersander who from his own home orders men to be bound, tries cases, and doles out punishment.

As for Clitophon's conviction of murder, the priest reminds the judges that the murder victim is alive and well. The priest cannot be accused of releasing a convicted murderer since Clitophon is so obviously not guilty of such a crime.

The priest then turns the charges against Thersander. By the priest's reckoning, Thersander is accountable for two murders, Leucippe's by his words and Clitophon by his actions. With his own defense given, the priest ends so that foreigners may defend themselves.

As the advocate for Melite was about to begin, Sopater, an advocate for Thersander insists that he should speak against Clitophon. Thersander's speech had primarily been aimed at the priest. Now the case against Clitophon could be more fully outlined. Only afterwards should the defense be given a chance to rebut the charges.

Sopater, however, does not start with the charges against Clitophon. In his *exordium*, he seeks to discredit the priest. He alleges that the priest's *exordium* was filled with the most shameless accusations concerning Thersander's lifestyle possible. Even more astonishing, the priest ridiculed Thersander for binding an adulterer.

Sopater then presents a short *narratio*. Clitophon and Leucippe were young and beautiful. The priest was taken by them and wanted to share in their pleasures. The three drank and slept together without witnesses. In doing so, the priest defiled the temple of Artemis and should be considered unfit for the role of priest.

He contrasts the priest's sordid actions with those of the upright Thersander. Sopater presents Thersander as moral and honest from his youth. When he reached adulthood he took a wife. His only mistake was in the

estimation of his wife's character, which did not match her birth or position. She quietly began a series of adulterous affairs until the last one which she did not seek to conceal. She openly lived with Clitophon under the pretense that her husband had perished. If such were the case, she would not be an adulterous, but clearly Thersander is not dead.

While Sopater was still speaking, Thersander interrupts with the announcement, "There is no need of words" (Αλλ' οὐκ λόγων δεῖ, 8.11.1). Thersander challenges both Melite and Leucippe to be tested by ordeal. He challenges Melite to make an oath and enter the Styx. It was a shallow spring. When someone was accused of matters concerning Aphrodite, the accusation was written and placed around her neck. If the person was guilty of the accusation, the waters of the spring would rise to the person's neck. The oath Thersander offers Melite is that she did not commit adultery with Clitophon while Thersander was away. Since the two had intercourse after Thersander's return, Melite readily agrees on the condition that if her innocence is maintained, Thersander must be punished for his false charges.

The challenge given to Leucippe was to prove herself a virgin by entering the cave of Syrx. The cave was forbidden to all but virgins. When a virgin entered the cave, music from panpipes could be heard, and the virgin was permitted to leave unharmed. When one who was not a virgin entered, a scream rather than music was heard, and the woman was seen no more. Leucippe also readily agrees to the challenge. With the challenges accepted the court is dissolved.

The next day, both Leucippe and Melite passed their ordeals and were proven innocent before the whole populace. Thersander fled in disgrace. As in Chariton, the dramatic trial with its eloquent speeches ultimately settles nothing.

In Achilles Tatius, the legal trial is suddenly suspended, and ordeals decide the case. As in Chariton, the outcome of the legal trial was in doubt, but outside forces ensure that the matter is settled justly. For all the drama of the trial and the speeches, they do little to determine the issue at hand.

Books Seven and Eight are dominated by speeches in judicial settings. These speeches certainly are not lacking rhetorical character. They are filled with flamboyant language and extravagant claims. But for all this rhetoric, they are quite different from Chariton's speeches. Except for an occasional identifiable element such as an *exordium* or *narratio*, the speeches do not manifest the same level of reliance on the standard divisions given by Quintilian and the other rhetorical manuals. This difference can best be explained in terms of the distinction between pre-sophistic and sophistic novels. Chariton, the first century C.E. novelist, writes before the emergence of the Second Sophistic.¹⁹ He is more influenced by the restrained Attic oratory, which is preferred and practiced by Quintilian (*Inst.* 12.10.20). Achilles Tatius, writing in the second century, shows the influence of the Second Sophistic which was more closely aligned with Asiatic oratory. It is characterized by a much more showy, self-indulgent style.

*Xenophon's Ephesian Tale of Anthia and Habrocomes*²⁰

Likely dating from the second century C.E., Xenophon's work is usually considered the least sophisticated of the extant Greek novels. Bryan Reardon

¹⁹For an overview on the Second Sophistic, see Graham Anderson, *Second Sophistic*.

²⁰Critical texts include Antonios D. Papanikolaou, ed., *Xenophontis Ephesii Ephesiacorum Libri V de Amoribus Anthiae et Abrocomae* (Leipzig: Teubner, 1973). A recent English translation is Graham. Anderson, trans., "Xenophon of Ephesus: An Ephesian Tale," in *Collected Ancient Greek Novels* (ed. Bryan P. Reardon; Berkeley: University of California Press, 1989), 125-69.

characterizes Xenophon as “incompetent.”²¹ The narrative is uneven with diversity in the pace of the plot. A common explanation for its inadequacies is that the version preserved is an epitome of a longer novel which was a better specimen of the ancient novel.²² This epitomization theory is not without its critics.²³ Since no fuller version has been preserved, this paper will deal only with the current form of Xenophon’s novel and consider it to be a complete version.

Xenophon follows the same basic plot as the other novels. A young couple, Anthia and Habrocomes, fall in love. Each is astonishingly beautiful. Habrocomes’ appearance is such that even Eros is not considered his equal. The two are wed, and after an oracle tells of their future misfortune, their parents send them away. This action, rather than saving them from misfortune, propels them into it. They are captured by pirates, separated, sold as slaves, and are the unattainable lovers of many along their journeys.

In one episode (3.12), a married woman named Kyno becomes infatuated with Habrocomes, who has become the couple’s slave. She murders her husband so that she can be with Habrocomes. After the murder, Habrocomes refuses to

²¹Bryan P. Reardon, *The Form of Greek Romance* (Princeton: Princeton University Press, 1991), 127.

²²K. Bürger, “Zu Xenophon von Ephesos,” *Hermes* 27 (1892): 36-67. He is followed by H. Gärtner, “Xenophon von Ephesos,” *RE* 9 (1967): 2055-89.

²³Kathryn Chew, “Focalization in Xenophon of Ephesos’ *Ephesiaka*,” in *Ancient Fiction and Early Christian Narrative* (ed. Ronald F. Hock, J. Bradley Chance, and Judith Perkins; Atlanta: Scholars Press, 1998), 47-59, argues against epitomization as a convenient way of explaining whatever the reader may view as deficiencies. Also pessimistic about the epitomization argument is Tomas Hägg, “Die *Ephesiaka* Des Xenophon Ephesios—Original oder Epitome?” *Classica et Mediaevalia* 27 (1966): 118-61, although he concludes that the question will remain unanswered. Chris Shea, “Setting the Stage for Romances: Xenophon of Ephesus and the *Ecphrasis*,” in *Ancient Fiction and Early Christian Narrative* (ed. Ronald F. Hock, J. Bradley Chance, and Judith Perkins; Atlanta: Scholars Press, 1998), 61-76, argues that the work is better understood as a “performancial text” rather than novel (71).

return her affection, and Kyno turns against him. She accuses Habrocomes of the murder. Unlike the other Greek novels, Xenophon gives very little detail about the trial. It is narrated quickly, and no speeches are recorded. Xenophon only mentions that the Egyptian ruler received a report of the particulars of the case and gave orders that Habrocomes be crucified without hearing any defense or verifying the charges.

Although this brief legal trial does not match the dramatic effect of those in other novels, it proves equally ineffective in ultimately settling the case. As Habrocomes is taken to be crucified on the banks of the Nile, he prays that god not permit the body of an unjustly executed man pollute the great river. His prayer is heard. "The god took pity on his prayer" (αὐτὸν ὁ θεὸς οἰκτεῖρει, 4.2.6). A gust of wind blows the cross and Habrocomes into the river. He is unharmed. "Habrocomes fell into the torrent and was swept away; the water did him no harm; his fetters did not get in his way; nor did the river creatures do him any harm as he passed" (ἐμπίπτει δὲ ὁ Ἀβροκόμης τῷ ῥεύματι καὶ ἐφέρετο οὔτε ὕδατος αὐτὸν ἀδικοῦντος οὔτε τῶν δεσμῶν ἐμποδιζόντων οὔτε τῶν θηρίων παραβλαπτόντων, 4.2.6).

Habrocomes is taken again into custody and treated as a fugitive. The Egyptian ruler is angered and orders that Habrocomes be executed on a pyre. Again, Habrocomes prays, and again he is saved:

And so everything was made ready, the pyre was set up at the delta, Habrocomes was put on it, and the fire had been lit underneath. But just as the flames were about to engulf him, he again prayed the few words he could be saved from the perils that threatened. Then the Nile rose in spate, and the surge of water struck the pyre and put out the flames. To those who witnessed it the event seemed like a miracle. (4.2.8-9)

καὶ ἦν μὲν ἅπαντα παρεσκευσμένα, καὶ ἡ πυρὰ τὰς ἐκβολὰς τοῦ Νείλου, καὶ ἐπετίθετο μὲν Ἀβροκόμης καὶ τὸ πῦρ ὑπετέθειτο, ἄρτι τῆς φλογὸς μελλούσης ἅπτεσθαι τοῦ σώματος εὐχετο πάλιν ὀλίγα, ὅσα ἐδύνατο, σῶσαι αὐτὸν ἐκ τῶν καθεστώτων κακῶν. κἀνταῦθα κυματοῦται μὲν ὁ Νεῖλος, ἐπιπίπτει δὲ τῇ πυρᾷ τὸ ῥεῦμα καὶ κατασβέννυσι τὴν φλόγα· θαῦμα δὲ τὸ γεγόμενον τοῖς ἦν.

The Egyptian ruler keeps him in custody, but orders that Habrocomes be treated well as he tries to ascertain why the gods are protecting him. A little later, he interrogates Habrocomes and discovers the truth. He releases him and gives him money. Having realized Kyno's guilt in the murder, the prefect of Egypt sent for her and had her crucified (4.4).

The abbreviated trial in Xenophon does not yield any speeches to compare with the form given in the rhetorical manuals. It does, however, give another instance of justice being ultimately carried out apart from the machinations of the trial.

*Longus' Daphnis and Chloe*²⁴

Daphnis and Chloe is usually dated to the late second century.²⁵ It differs in setting from the other ancient Greek novels. It is a pastoral tale, and the couple does not travel. Several stock features are still present, however. There are pirates, wars, various love interests, and a trial.

The trial is of a more mundane nature than those in the other novels. There are no charges of murder or adultery. The trial involves some wealthy Methymnaeans. They were hunters who traveled by sea. One night while their boat was tied to the land, a local farmer had need of the rope anchoring the boat to land. He took the rope, and the men could not find the thief. Next, they land near where Daphnis is herding goats. The sea became rough, and they had not rope to moor the boat. They fashioned a rope out of a willow branch. Wanting

²⁴Greek text used is Michael D. Reeve, ed., *Daphnis et Chloe* (2nd ed.; Leipzig: Teubner, 1986). English translation used is Christopher Gill, trans., "Longus: Daphnis and Chloe," in *Collected Ancient Greek Novels* (ed. Bryan P. Reardon; Berkeley: University of California Press, 1989), 285-348.

²⁵For a general introduction to Longus including dating, see R.L. Hunter, *A Study Of Daphnis and Chloe* (New York: Cambridge University Press, 1983) and an updated version, R. L. Hunter, "Longus: Daphnis and Chloe," in *The Novel in the Ancient World* (ed. Gareth Schmeling; Leiden: Brill, 1996), 361-86.

to hunt for hares, they let their dogs loose. The dogs' barking frighten the goats who retreat to the beach. With no grass in the sand, the goats turn their attention to branches which hold the boat. The winds and the waves pick up, and before the Methymnaeans could reach it, the boat is carried to the sea. Having lost their boat, the Mehtymnaeans beat Daphnis. Friends of Daphnis intervene and demand a trial be held.

This is no official trial in a court of law. The two sides agreed to make an elder cowherd the judge over the case. While this case seems straightforward, it is not uncomplicated. The question of liability is a vexed one. Possible candidates are the farmer who stole the rope, the Methymnaeans for using branches as rope and for releasing their dogs who chase the goats to the sea, the goats for eating the rope, Daphnis for ineffectively herding his goats, and Daphnis' master who was ultimately responsible for the actions of Daphnis and the goats.²⁶

The Methymnaeans are from the city and have considerable wealth. Daphnis is poor, from the country, and a slave, or thought to be one at this point in the tale. In an irony suitable for a pastoral novel, Daphnis's speech is more sophisticated and rhetorical than that of the wealthy Methymnaeans.²⁷ His speaking skills have already been shown in Book One as he competes in a debate with a cowherd over which one was more handsome (1.16).

The Methymnaeans speak first with their accusation against Daphnis. Their speech was clear and brief (σαφῆ καὶ σύντομα, 2.15), two of the necessary

²⁶Saundra C. Schwartz, "Courtroom Scenes," 152.

²⁷Schwartz, "Courtroom Scenes," 158; Hunter, *Daphnis and Chloe*, 64. Hunter may overemphasize the contrast by taking the description of the Methymnaeans' speech as σαφῆ καὶ σύντομα (2.15) to be a remark about its deficiency rather than its merit.

attributes of the *narratio*.²⁸ Their speech is indeed brief. No *exordium* is given; most of the speech is the *narratio* followed by a short *probatio* and *conclusio*. Their account matches the one narrated earlier. As proof they only remind the judge that he saw their boat adrift in the sea. In their *conclusio*, they emphasize the magnitude of their loss, the boat, clothes, equipment for the dogs, and money. They also cast Daphnis in a very unflattering light: “This man is an incompetent goatherd” (ἀνθ’ ὧν ἀξιοῦμεν ἄγειν τοῦτον πονηρὸν ὄντα αἰπόλον, 2.15). They ask that he be given over to their custody.

Daphnis then gives his speech. It too is very short. He begins by answering their charge that he is a bad goatherd. The description of himself is fitting for an *exordium*: “I am a goatherd and a good one. Not one of the villagers has ever held me responsible because a goat of mine has been feeding on anyone’s garden or has broken down a young vine” (ἐγὼ νέμω τὰς αἴγας καλῶς. οὐδέποτε ἡτιάσατο κωμήτης οὐδὲ εἷς, ὥς ἢ κήπὸν τινος αἶξ ἐμὴ κατεβοσκήσατο ἢ ἄμπελον βλαστάνουσαν κατέλασεν, 2.16).

Daphnis argues that it is the hunters who are bad. “But these men are bad hunters and have dogs that are poorly trained” (οὗτοι δὲ εἰσι κυνηγέται πονηροὶ καὶ κύνες ἔχουσι κακῶς πεπαιδευμένους, 2.16). In his *narratio*, Daphnis does not seek to establish a different account, but rather simply place the blame elsewhere. His goats ate the branches, but the blame lies with the dogs for chasing them to the sandy beach where there was nothing else for them to eat. Another cause of their misfortune is the wind which is beyond any of their control. Finally, the Methymnaeans are also to blame for substituting the branches for the rope. They emphasized the severity of their loss. Daphnis uses this severity to stress their foolhardiness for putting the possessions at such a risk. “What man with any

²⁸Anon. Seg. uses the same terms , 63.

sense will believe that a boat holding so much stuff had a willow shoot for its mooring cable? (τίς πιστεύσει νοῦν ἔχων, ὅτι τοσαῦτα φέρουσα ναὸς πείσμα εἶχε λόγον; 2.16). This rhetorical question acts as a trap for the Methymnaeans. The prosecution's claim of valuables acts as proof of their own negligence.

Daphnis ends with an outburst of tears. Emotion is a condoned way of ending a speech. The villagers are moved with compassion toward Daphnis. The judge swears by Pan and the Nymphs that Daphnis had done nothing wrong. The wind is to blame, and it has higher judges than himself. The case seems to end justly with Daphnis's innocence. Yet the judge's verdict is not acceptable to the Methymnaeans. The urban prosecutors act in an unsophisticated way and take the law into their own hands. They rush Daphnis in an attempt to bind him. The villagers come to Daphnis's aid and drove the Methymnaeans away with clubs.

The dispute does not end, however. The Methymnaeans return to their home and report that they were attacked and their possessions stolen by the shepherds. They persuade their fellow citizens that the actions of the Mytileneans were paramount to war. They vote to retaliate and sent ten ships to attack Mytilene. Their attack was successful. They plundered Mytilene taking livestock, crops, and a number of people including Chloe. When Daphnis realized that his love had been taken, he was distraught and cried out in despair. He is visited in his sleep by Nymphs who assure him that they have interceded to Pan on Chloe's behalf.

That night many strange occurrences began to happen to the ships. Ivy sprouted on the goats. The rams howled like wolves. The anchors could not be lifted, and the oars broke as they were put in the water. Dolphins began to leap out of the water hitting the ships with their tails so that the ships began to break.

The sailors felt under attack although there were no human opponents. The general fell into a divinely induced sleep, and Pan appeared to him. The god berated the general and told him that unless Chloe was returned, the ships would sink. The general awakened and did as Pan had instructed him. Chloe and the spoils were returned to Mytilene.

As in the major trials in the other novels, the action or inaction of the judge does not ultimately settle the issue. Although this trial was decided justly by the human judge, divine action is required for the just outcome to be finalized.

The speeches in the rustic trial, though very brief and unpretentious, roughly fit the form given in the rhetorical manuals. Daphnis, the simple goatherd, gives a better crafted speech and proves superior to the Methymnaeans.

*Heliodorus' Ethiopian Story*²⁹

Heliodorus' novel is probably the latest of the ancient Greek novels originating either the third or fourth century B.C.E.³⁰ It is also the longest and most complicated. While its central story deals with two young lovers, Heliodorus introduces stories told by characters within the larger narrative. The mention of a trial is set within one of these side stories.

²⁹The Greek text used is R. M. Rattenbury and T. W. Lumb, eds., *Héliodore: Les Éthiopiennes* (Paris: Les Belles Lettres, 1960). The primary English translation consulted is J. R. Morgan, trans., "Heliodorus: An Ethiopian Story," in *Collected Ancient Greek Novels* (ed. Bryan P. Reardon; Berkeley: University of California Press, 1989), 349-588.

³⁰J. R. Morgan, "Heliodorus," in *The Novel in the Ancient World* (ed. Gareth Schmeling; Leiden: Brill, 1996), 417-21 favors a fourth century date while Tibor Szepessy, "Die Neudatierung Des Heliodorus und die Belagerung von Nisibis," in *Actes de la XIIe Conférence Internationale d'Études Classiques: Eirene, Cluj-Napoca, 2-7 Oct. 1972* (Budapest and Amsterdam: Hakkert, 1975), 279-87 argues for a third century date. There is at present no consensus on the dating.

Trials of Cnenom and Aristippos

The defendant in a trial that occurred in the past relates his story to the young couple. Cnenom's mother died and his father, Aristippos, married Demainete. She doted on his father and controlled him. As time went by, she made advances to Cnenom, who refused them. In retaliation she began to scheme against Cnenom. First, she pretended to be ill and refused to leave the bed. When Aristippos inquired concerning her condition, she told him that she had become pregnant and was waiting until she was certain before telling him. She claimed that somehow Cnenom discovered the pregnancy and had kicked her in the stomach. Aristippos immediately had Cnenom beaten without trying to ascertain the truth of her story.

Demainete was not satisfied by the beating and conspired to injure Cnenom even more. She instructed a slave girl named Thisbe to seduce Cnenom. After the seduction, Thisbe, by arrangement with Demainete, informed Cnenom that Demainete was having an affair. She promised to notify Cnenom during one of the trysts to prove her story. One night she assured Cnenom of the adulterous affair and led Cnenom to Demainete. Cnenom ran in sword in hand to avenge his father's honor. It was, however, his father who was with Demainete. Aristippos had Cnenom chained and charged with attempted patricide.

Aristippos gave the prosecutorial speech against his son. It is a short speech consisting of an *exordium* (1.13.1), *narratio* (1.13.2), and *peroratio* (1.13.2).³¹ In the *exordium*, he presents himself as a father who gave his son all that one could have wished: life as a free man, an excellent education, a place among his

³¹Schwartz, "Courtroom Scenes," 256, divides the speech slightly differently with a one sentence *exordium* (1.13.1), a two-part *narratio* (1.13.2), and *conclusio* (1.13.2).

kinsman, and citizenship. In contrast to his own generosity, his son shows no gratitude. His *narratio* briefly tells how Cnenom began insulting him and assaulting his wife. Only chance prevented him from killing his father upon whom he drew his sword during the night. Aristippos's speech provided no other details about the crime, nor did he provide any proof for his charges. In his *peroratio*, Aristippos states that he could lawfully execute his son himself, but prefers that a jury decide the case according to due process of the law. Aristippos wept as he spoke these words as fitting for the case.

Although Aristippos claimed to want a jury trial by due process, the defendant was not allowed to speak in his own defense. When Cnenom asked to speak, he was asked to answer the question of whether he had drawn his sword on his father. He gave an affirmative answer but was not allowed to explain. The jury was divided on the punishment. Eventually it was decided that Cnenom be exiled from the country.

Neither the trial nor its verdict was fair. As is often the case in the novels, however, justice tends to be done despite the trials. As Charias, a friend of Cnenom, argues:

"Justice," replied Charias, "has not altogether departed from this word as Hesiod says. Small transgressions she may sometimes overlook, delaying her reprisals long, but on the truly wicked her eye falls keen. So she pursued the sin of Demainete."

Οὐ παντάπασιν ἔφην ὁ Χαρίας ἐκλέλοιπεν ἡμᾶς ἡ δίκη καθ' Ἡσίοδον, ἀλλὰ μικρὸν μὲν ἂν τι καὶ παρίδοι ποτέ, τῷ χρόνῳ τὴν ἄμυναν παρέλκουσα, τοῖς δὲ οὕτως ἀθέστοις ὅξυν ἐπιβάλλει τὸν ὀφθαλμόν, ὥς δὴ καὶ τὴν ἀλιτήριον μετῆλθε Δημαινέτην, 1.14)

In this case justice does ultimately prevail. After Cnenom went into exile, both Aristippos and Demainete regretted his leaving. Demainete became all the more infatuated by Cnenom. Thisbe, Demainete's slave and accomplice, told her that Cnenom was not far away and promised to arrange a meeting for them

during which Demainete would act as Cnenom's new mistress. Thisbe then betrays Demainete and confesses to Arristippos her involvement in the plot against Cnenom. She also tells him that Demainete is involved in an adulterous affair and agrees to take him to the site of the affair. While Demainete was waiting for Cnenom, Aristippos and Thisbe bolt into the room. Aristippos apprehended her. On their return home, she got free and jumped into a sacrificial pit killing herself.

Although narrated only briefly without any speeches, Aristippos is brought to trial by the relatives of Demainete for her murder. They employed formidable speakers to argue their case claiming that Demainete was killed without a trial. They demanded that Aristippos name the adulterer and present Thisbe for torture. Thisbe, however, had foreseen the coming trouble and eloped. Aristippos was convicted not of murder, but of intrigue against Demainete and of wrongful banishment of Cnenom. Aristippos was exiled from the city and his property confiscated (2.9).

This second trial ends as the first with an unfair verdict. But, also as in the first trial, justice ultimately prevails. Thisbe, the accomplice to the initial intrigue that caused both trials was stabbed by a pirate who thought he was killing Charikleia (1.30, 2.9).³² Justice is done even apart from the unreliable court system.

There was one more accomplice to the various crimes who suffered his fate apart from any legal system. Thermouthis, the henchman who had locked Thisbe in the cave and was therefore at least partially culpable for her death, also met with an unnatural death. He assumed that Cnenom was Thisbe's murderer

³²The initial narration of the event in 1.30 does not make clear who the victim is. Not until later (2.9) is it clear that the victim is Thisbe rather than Charikleia.

and was lying in wait for him one night. When Cnenom did not appear, Thermouthis fell asleep.

Thermouthis lay down to sleep, but the sleep he slept was the final sleep, the brazen sleep of death, for he was bitten by a viper. Perhaps it was destiny's will that his life should end in a way so befitting his character.

Ὡς δὲ ὁ Κνήμων ἐφαινετο οὐδαμοῦ τῆς δὲ νυκτὸς ἐγίνετο ἄωρί, πρὸς ὕπνον τραπεῖς ὁ Θέρμουθις χάλκεόν τινα καὶ πόματον ὕπνον εἴλκυσεν ἀσπίδος δῆγματι, μοιρῶν τοῦ τρόπου τὸ τέλος καταστέψας (2.20.2).

Another trial occurs in Book Eight. This trial concerns the central couple in the tale. It takes place in Memphis. The satrap's wife, Arsake, becomes infatuated with the young Theagenes, whose love for Charikleia causes him to reject Arsake's advances. After torturing Theagenes to no avail, Arsake decides she must kill Charikleia. First, she considered executing her or trumping out charges so that the judicial system would execute her. Arsake's nurse, however, volunteers to poison Charikleia. At dinner the nurse mistakenly drinks the poison and while dying indicates through words and gestures that Charikleia is responsible. When Charikleia is asked whether she were guilty, she offers contradictory testimony. She says that if Theagenes is alive, she is innocent, but if he is dead, she confesses to the murder.

The trial begins the next day. Heliodorus narrates the trial succinctly. The speeches are given indirectly so that no division of them is possible. Arsake gave the prosecutorial speech outlining a false account of the poison. Weepingly she mentioned her great devotion to her nurse. She stressed the severity of the crime in that she and the victim had extended hospitality to Charikleia only to be rewarded in this manner. Heliodorus calls the speech "a damning case" against Charikleia (πικροτάτη κατήγορος, 8.9.7).

Charikleia offers no defense and confesses to the crime she did not commit so that she could be executed. She and Theagenes had made a pact the night before to accept any type of death that might be inflicted on them. In addition to the confession of the poisoning, she added other things that she would have liked to do to Arsake. She does all she can to provoke the judges into condemning her. She is quickly sentenced to death by fire.

A large bonfire is built and lit. Before being forced into it, Charikleia was granted a moment.

O Sun and Earth and you spirits above and beneath the earth who watch and punish the sins of men, bear me witness that I am innocent of the charges laid against me and that I gladly suffer death because of the unendurable agonies that fate inflicts on me. Receive me mercifully, but with all possible speed exact retribution for that she-devil, that evil adulteress—Arsake—who has contrived all this mob to rob me of my beloved.

Ἡλιε ἀνεβόησε καὶ Γῇ καὶ δαίμονες οἱ ἐπὶ γῆς τε καὶ ὑπο γῆν ἀνθρώπων ἀθεμίτων ἔφοροί τε καὶ τιμωοί, καθάραν μὲν εἶναι με τῶν ἐπιφερομένων ὑμεῖς ἔστε μάρτυρες ἐκοῦσαν δὲ ὑπομένουσιν τὸν θάνατον διὰ τὰς ἀφορήτους τῆς τύχης ἐπιηρείας· ἐμὲ μὲν οὖν εὐμενείᾳ προσδέξασθε τὴν δὲ ἀλάστορα καὶ ἀθεμιτουργὸν καὶ μοιχαλίδα ἐπ’ ἀποστερήσει νυμφίου τοῦ ἐμοῦ ταῦτα δρῶσαν Ἀρσάκην ὥς ὅτι τάχιστα τιμωρήσασθε (8.9.12).

With this prayer, some of the onlookers begin to clamor for a second trial. Before any such action could take place, Charikleia climbs upon the flames. She moves to the middle of the fire without sustaining any injury. As she moves toward the flames, they retreat from her. Despite the efforts of the executioners, Charikleia remains unscathed. The crowd becomes convinced of her innocence and attributes her deliverance to divine providence.³³ Realizing that the fire was unable to harm her, Charikleia jumps down from the pyre amid the cheers of the crowd. Arsake, claiming that Charikleia’s escape was the result of witchcraft,

³³It is not until later in the narrative that Heliodorus provides an alternative explanation for Charikleia’s miraculous escape. The heroine wears a ring which has the power to repel fire (8.11). This explanation, however, does not counter the influence of the divine providence. Charikleia surmises that she wears the ring “by the will of the gods” (συμβουλήσει θεῶν), 8.11.8.

forces Charikleia back in prison with a new charge of sorcery to be heard at a second trial. The second trial, however, never takes place. After being held in prison and tortured with Theagenes, the young couple is summoned to meet with the Egyptian satrap, Orodates. Before departing Theagenes voices his belief that Arsake will not go unpunished:

“My compliments to that she-devil Arsake!” exclaimed Theagenes. “She thinks to shroud her wicked deeds in the darkness of night. But the eye of Justice sees clear; it can detect and bring to light the most darkly kept wicked secrets.”

εὖ γε ἡ Ἀρσάκη ἀνεβόησεν ὅτι νυκτὶ καὶ ζόφῳ τὰς ἑαυτῆς ἀθεμίτους πράξεις ἐπικρύπτειν οἴεται. δεινὸς δὲ ὁ τῆς δίκης ὀφθαλμὸς ἐλέψχειν τὰ κρύφια καὶ τὰ ἀθέμιτα φωτίζειν. (8.13.4)

Theagenes’ belief is not unfounded. While traveling to meet Orodates, the couple receives word that Arsake has committed suicide, choosing death by her own hand rather than accept punishment from the hand of another (8.15.3). Although not directly the work of the gods, Theagenes and Charikleia attribute Arsake’s death to divine action by calling on the “great gods and justice” (θεοὺς τε μεγάλους καὶ δίκην, 8.15.5).³⁴

Trials of Hydaspes and Theagenes

There are two more short-lived trials in Heliodorus. As the work draws to a close, Theagenes and Charikleia are delivered to Hydaspes, the Ethiopian king, as a part of the spoils of war. Ethiopia’s victory in war required a human sacrifice. The beautiful couple are among those chosen for the sacrifice. Hydaspes and his wife, Persinna, are taken with Charikleia’s beauty and are reluctant to sacrifice her. They first decide that one so beautiful is likely not a virgin, and therefore unfit to be sacrificed. They command the prisoners to step

³⁴Schwartz, “Courtroom Scenes,” 317: “It is as if Heliodorus felt compelled to end this legal drama with a *deus ex machina*, despite the fact that he was not constrained to do so.”

on hot coals. Those who are pure can walk over them without injury. To their surprise, Charikleia is shown to be pure and fit for sacrifice. Without another alternative, Hydaspes readies for the sacrifice.

Charikleia unexpectedly pleads with the gymnosophists who counsel the king. She argues that she has a case to bring against the king and only they can hear such a case. Although the king is insulted by the demand, the gymnosophists argue that not even the king is above the law. Hydaspes reluctantly permits the trial to proceed. Charikleia does not give a usual speech. After invoking the gods to assist her, she asks a question of the king: Is he permitted to sacrifice aliens or those from his own country? When he answers that his power is over aliens, Charikleia unfolds the tale of how she is not only Ethiopian but also the daughter of the king himself. She had been abandoned at birth. She offered technical proofs in the form of tokens given to her at her birth and the witness of one who corroborated her story. After she proves her identity, the trial becomes unnecessary, and the king is transformed from defendant to long-lost father.

With this revelation, Charikleia is saved, but Theagenes is still slated to be sacrificed. Even after performing a few feats of strengths, Theagenes is not saved. Meanwhile, an embassy from Oroondates is presented to Hydaspes. They present a letter requesting that Hydaspes aid a father in his search for his daughter. Hydaspes asks for the father to come forward and pledges his support. An old man who is the adoptive father comes forward and accuses Theagenes of kidnapping his daughter. With the king's attention and pledge of support, the man's speech does not need an *exordium*. He begins with a *narratio* (10.36.2-5) outlining how his daughter was taken from him and how Theagenes had escaped him until now. He ends with a *peroratio* (10.36.5) pleading for Hydaspes' help in recovering his daughter.

Theagenes then has a chance to answer the charges. He answered that all the charges are true. When Hydaspes demands that the daughter be returned to the father, Theagenes reveals that Charikleia is the daughter in question. All can rejoice that the lost daughter is safe. Only Hydaspes is reluctant to celebrate since he continues to feel that Theagenes must be sacrificed. One of the gymnosophists argues that it should be obvious that the gods have no desire for the sacrifice planned. The gods had preserved the couple to this moment. No human sacrifice would be needed. Finally convinced, Hydaspes addresses the crowd:

My people, these things have been brought to pass by the gods will: we must not oppose them. So now, calling to witness both the gods who have spun the thread of this destiny, and you whose obedience to their decrees is amply proven, I declare that this couple has been joined by the laws of matrimony, and I give them leave to pass their lives together in accordance with god's ordinance for the bearing of children.

Οὐκοῦν, ὃ παρόντες ἔλεγε θεῶν νεύματι τούτων οὕτω διαπεπραγμένων τὸ ἀντιβαίνειν ἀθέμιτον· ὥστε ὑπὸ μάρτυσιν αὐτοῖς τε τοῖς ταῦτα ἐπικλώσασι καὶ ὑμῖν ἀκόλουθα ἐκείνοις φρονεῖν ἐνδεικνυμένοις ξυνωρίδα ταύτην γαμηλίοις νόμοις ἀναδείκνυμι καὶ συνεῖναι θεσμῷ παιδογονίας ἐφήμι.
(10.40.1-2)

Heliodorus does not give any special treatment to the speeches given in the trial settings. The ones he gives generally follow the guidelines in the handbooks although they do not always have all the necessary elements.

Heliodorus seems much more interested in making sure that the justice is done even with the undependable nature of the courts. More than any other novelist, Heliodorus makes explicit that divine providence guides the actions of the novel and ensures that the couple is saved from the various threats against them. Not only are they rescued, those who were responsible for their suffering are punished. As in the other novels justice comes by the hand of the gods rather than by the judgments of the courts.

Conclusion

Each of the novels present trial scenes. All but Xenophon give some version of speeches in those trials. The speeches in Chariton's central trial scene show a high level of dependence on Attic rhetorical tradition. Longus' speeches also show a basic reliance on such tradition although they do not consist of all the prescribed elements. The speeches in Heliodorus may also reveal some of the same tendencies, but the speeches are very short and various elements are missing. Achilles Tatius shows a tendency to a different form of rhetoric, a more flamboyant Asiatic style.

There is more uniformity in the how the trials function at a narrative level. The trials are complicated, if not contrived cases. In Chariton a man seemingly comes back from the dead. In Achilles Tatius there is a murder trial with a confessed killer but no victim. In Longus, the trial is of a more mundane nature, but nonetheless complicated. In one of the trials in Heliodorus, the revelation of the heroine's identity brings a twist to the trial.

The significant trials, with the exception of the trial of Hydaspes,³⁵ are ultimately ineffective at carrying out justice. No matter the ruling or nonruling of the court, justice comes by forces external to the court. Often these forces appear to be divinely ordained. The trial of Mithridates (Chariton) and trial of the various protagonists at the end of Achilles Tatius are unable to reach a verdict. War (in Chariton) or ordeals (in Achilles Tatius) settle the issue. In Xenophon and most of the trials in Heliodorus, the decisions of the court are unjust. However, justice prevails. When the legal system attempts to execute the innocent, it fails. Habrocomes (Xenophon) survives attempts at crucifixion and

³⁵This exception is not a true trial concerning the legality of past action, but rather a legal case to determine the legality of a possible future action. Since the action in question, sacrificing Charikleia, is halted, there is no need of external events righting a wrong action.

death by fire, and Charikleia (Heliodorus) escapes death by fire. In Longus, the decision by the impromptu court is correct. Yet, when the Methymnaeans are unsatisfied and attempt to take the law into their own hands, strange events and an appearance by Pan make sure that justice is preserved.

In the ninth century, Photius wrote a synopsis of another Greek novel otherwise unpreserved by Antonius Digenes. He remarks, "In this story in particular, as in fictional works of its kind, there are two especially useful things to observe: first, that he presents a wrong doer, even if he appears to escape countless times, paying the penalty just the same; second, that he shows many guiltless people, though on the brink of great danger, being saved many times in defiance of expectations" (Photius, *Bibliotheca* 166.112a).³⁶ This statement seems to hold true for the various Greek novels. Although the trials themselves are often ineffective or unjust, ultimately the unjust are punished and the just are saved.

³⁶Gerald N. Sandy, trans., "The Wonders Beyond Thule," in *Collected Ancient Greek Novels* (ed. Bryan P. Reardon; Berkeley: University of California Press, 1989), 782.

CHAPTER FOUR

Judicial Scenes with Speeches in Ancient Historiography

Introduction

Speeches are an integral part of Greco-Roman historiography.¹

Thucydides divided the enterprise of history into speeches and actions (τὰ λεχθέντα καὶ τὰ πραχθέντα, 1.22.1-2). He is followed by many others,² although not universally.³ Although most of these speeches are deliberative, the histories contain a few judicial speeches set within formal trial scenes.⁴ This chapter will examine these scenes analyzing the speeches included in terms of the divisions given by the rhetorical tradition and also consider how these scenes function within their larger narrative framework.⁵

¹For overview, see F.W. Walbank, *Speeches in Greek Historians* (J. L. Myres Memorial Lecture; Oxford: Blackwell, n.d.); N. P. Miller, "Dramatic Speech in the Roman Historians," *GR* 2nd Ser. 22 (April 1975): 45-57; and Charles William Fornara, *The Nature of History in Ancient Greece and Rome* (Berkeley: University of California Press, 1983), 142-68.

²E.g., Quintilian, *Inst.* 10.1.101; Dionysius of Halicarnassus, *Pomp.* 3; and Cicero, *De or.* 15.63. Glibert Murray, *A History of Ancient Greek Literature* (1897; Repr., New York: Frederick Unger, 1967), 186, writes that Thucydides' use of speeches "was a fatal legacy to two thousand years of history-writing after him."

³Diodorus Siculus, writing in the last half of the first century BCE cautioned against the overuse of speeches in history arguing that they "render asunder the continuity of the narrative" and interrupt the interest of those who are "eagerly pressing on toward a full knowledge of events" (20.1). For a discussion of this passage, see Fornara, *Nature of History*, 147-50.

⁴Helpful in the location of these speeches was Frederick Veltman, "The Defense Speeches of Paul in Acts: Gattungsforschung and Its Limitations," (Ph.D. diss., Graduate Theological Union, 1975).

⁵For a different method of linking rhetoric and judicial speeches to ancient historiography, see A. J. Woodman, *Rhetoric in Classical Historiography: Four Studies* (Portland: Areopagitica, 1988). His central thesis is that ancient

Thucydides

Thucydides dates from about 460-400 B.C.E. He was an Athenian aristocrat and once one of the Athenian generals. After being unable to defend the city of Amphipolis against the Spartans, Thucydides was banished and spent the rest of the war in Thrace preparing his history. His history gives the appearance of an accurate if not objective account.⁶ Although he precedes the writing of Acts by over five hundred years, Thucydides is important in that he provides clues concerning how he and presumably other historians used speeches in their histories. Concerning the speeches he writes:⁷

As to the speeches that were made by different men, either when they were about to begin the war or when they were already engaged therein, it has been difficult to recall with strict accuracy the words actually spoken, both for me as regards that which I myself heard, and for those who from various other sources have brought me reports. Therefore, the speeches are given in the language in which, as it seemed to me, the several speakers would express, on the subjects under consideration, the sentiments befitting the occasion, though at the same time I have adhered as closely as possible to the general sense of what was actually said.

καὶ ὅσα μὲν λόγῳ εἶπον ἕκαστοι ἢ μέλλοντες πολεμήσειν ἢ ἐν αὐτῷ ἤδη ὄντες, χαλεπὸν τὴν ἀκρίβειαν αὐτὴν τῶν λεχθέντων διαμνημονεῦσαι ἥς ἐμοὶ τε ὧν αὐτὸς ἤκουσα καὶ τοῖς ἄλλοθεν ποθεν ἐμοὶ ἀπαγγέλλουσιν· ὥς δ' ἂν ἐδόκουν μοι ἕκαστοι περὶ τῶν αἰεὶ παρόντων τὰ δέοντα μάλιστα εἰπεῖν, ἐχομένῳ ὅτι ἐγγύτατα τῆς συμπασῆς γνώμης τῶν ἀληθῶς λεχθέντων, οὕτως εἴρηται. (1.22.1)

This passage has generated much discussion often centered around the degree of historicity that can be assigned to the speeches. Some stress the

historiography is more akin to rhetoric and therefore to fiction than what moderns think of history. The basic guidelines for writing classical historiography was basically analogous to the guidelines for writing judicial speeches, see especially 83-95.

⁶Earlier generations have given Thucydides too much credit in this regard. See W.R. Connor, "A Post Modernist Thucydides?" *CJ* 72 (1977): 289-98.

⁷Text and translation are from Thucydides, *History of the Peloponnesian War* (trans. Charles Foster Smith; LCL; Cambridge: Harvard University Press, 1919-1923).

creativity of the historian over any claim of accuracy as far as a factual record of the spoken word.⁸ Others stress the limits that Thucydides placed on himself and maintain that the speeches are largely based on actual words spoken.⁹ Others admit that there is an inherent contradiction in Thucydides.¹⁰ This chapter focuses on the speeches on a rhetorical and narrative level and will not pursue the debate concerning their historicity. It will be assumed, however, that the ancient historians of necessity took some liberty with the speeches included in their histories.

Appropriateness more than accuracy was the standard by which ancient writers were judged. Each speech was to be appropriate for both the circumstance and for the speaker. Dionysius of Halicarnassus could then critique the Melian Dialogue in Thucydides for being neither appropriate for the Athenian generals nor for the circumstances (*On Thucydides* 41).

History of the Peloponnesian War 3.52-67

Of the more than forty speeches given in Thucydides, only two can be classified as forensic.¹¹ They are both set within the trial of the Plataeans. The

⁸E.g., F. E. Adcock, *Thucydides and His History* (Cambridge: Cambridge University Press, 1963), 27.

⁹E.g., A. W. Gomme, *A Historical Commentary on Thucydides* (Oxford: Clarendon, 1945), 140-41; Marc Cogan, *The Human Thing: the Speeches and Principles of Thucydides' History* (Chicago: University of Chicago Press, 1981), x-xiii.

¹⁰F.W. Walbank, *Speeches in Greek Historians* (J. L. Myres Memorial Lecture; Oxford: Blackwell, 1965), 4: "His theory contains a residual contradiction, never fully surmounted and an unfortunate legacy to his successors." For an discussion of the difficulties of the Thucydidean formula and how it relates to the speeches in Acts, see Stanley E. Porter, "Thucydides 1.22.1 and the Speeches in Acts: Is There a Thucydidean View?" *NovT* 32 (1990): 121-42.

¹¹Friedrich Blass, *Die attische Beredsamkeit* (Leipzig: Teubner, 1868), found forty-one speeches; Richard Claverhouse Jebb, "The Speeches of Thucydides," in

trial pits the inhabitants of the small city of Plataea against the Thebans. Plataea had been attacked and then put under siege. The Plataeans are told that if they surrender, they can expect fair treatment. They are told “the unjust will be punished but no one unjustly” (τούς τε ἀδίκους κολάσειν, παρὰ δίκην δὲ οὐδένα, 3. 52.2).

After the surrender of the city, the Plataeans are brought before Lacedaemonian judges by the Thebans. No formal charge is brought against the Plataeans; they are simply asked if they had provided any service to the Lacedaemonians and their allies (3.52.4). It appears to be an unusual case in which the Thebans assume that the Plataeans will be summarily executed without a full trial. The Plataeans fear that their faith in a fair trial was misplaced and beg to speak fully in presenting their case and selecting two spokesmen.

The speech given by them was highly regarded by Dionysius of Halicarnassus as the finest of the speeches of Thucydides (*On Thucydides* 42). Cicero credits Thucydides with being a good historian and praises his speeches, but claims that they bear little resemblance to the speeches that were given in actual trials and that they should not be imitated (*Brutus*, 187). Elsewhere Cicero is even harsher claiming that parts of the Thucydides’ speeches are obscure and largely unintelligible (*Orator*, 30). Although the judicial speeches do not

Hellenica: A Collection of Essays on Greek Poetry, Philosophy, History, and Religion (ed. Evelyn Abbott; London: Rivingstons, 1880), 279, also counts forty-one speeches and divides them according to the three branches of rhetoric. He categorizes thirty-eight as deliberative, one as epideictic and two “might possibly be called ‘forensic.’” William C. West, “The Speeches in Thucydides: A Description and Listing,” in *The Speeches in Thucydides: A Collection of Original Studies with a Bibliography* (ed. Philip A. Stadter; Chapel Hill: University of North Carolina Press, 1973), 3-15, includes speeches in indirect discourse and counts 141, but only two forensic.

reproduce the actual speeches used in a courtroom,¹² they do follow the guidelines laid out in early rhetorical manuals.¹³

The speech's structure manifests the rhetorical tradition.¹⁴ It is primarily an appeal to the sympathy of the judges. It begins with an *exordium* to win the favor of the judges.¹⁵ They tell of their original confidence in the impartiality of the judges when they submitted to the trial (3.53.1) and plead that any fears of partiality will be shown to be mistaken (3.53.2).¹⁶ Their *exordium* also solicits the pity of the judges as they express the magnitude and importance of the trial with their lives at stake (3.53.2) and the extreme difficulty of their case (3.53.3).

The Plataeans take up the question of whether they have provided aid to the Lacedaemonians in the *narratio*. Their answer is a tactful one. They do not answer the question explicitly. Instead, they argue that if the Lacedaemonians and Plataeans are enemies, no aid should have been expected. If, on the other hand, they are friends, the Lacedaemonians are at fault in attacking them. The Plataean spokesmen then rehearse a long history of cooperation on the part of Plataea on behalf of the Thebans. They aided them in times of war against the Persians and the Spartans.

¹²A. H. M. Jones, *Athenian Democracy* (Baltimore: Johns Hopkins University Press, 1986), 66.

¹³Walbank, *Speeches*, 3.

¹⁴For a discussion of both speeches in the trial including some interaction with the rhetorical tradition, see C. W. MacLeod, "Thucydides' Plataean Debate," *Greek, Roman and Byzantine Studies* 18, no. 3 (Autumn 1977): 227-46. See also, James C. Hogan, "Thucydides 3.52-68 and Euripides' Hecuba," *Phoenix* 26 (1972): 241-57.

¹⁵H. F. Harding, *The Speeches of Thucydides* (Lawrence, Kansas: Coronado Press, 1973), 96, states that this speech follows the divisions of taught by rhetors but does not outline these divisions in the text.

¹⁶This plea for impartiality becomes a refrain heard throughout the speech (3.56.3; 3.57.1).

The two became enemies not because of the actions of the Plataeans, but rather the Lacedaemonians who refused to come to their aid in times of need against the Thebans. The Plataeans were forced to seek the aid of the Athenians. This Athenian service could not be betrayed when the Lacedaemonians asked the Plataeans to revolt against Athens.

In contrast to the honorable past of the Plataeans, the spokesmen present a history in which the Thebans had inflicted many crimes on the Plataeans. The last attack was not only during a time of peace, but also in the midst of a holy season. The Plataeans had no choice but to defend themselves. The Plataean spokesmen plead that the Lacedaemonians will not let expediency override justice in this case.

The *peroratio* (3.57-59) brings a climactic close to the speech. The spokesmen remind their judges that an unfair verdict could have dire consequences for them. The main points are reiterated. The speakers then dramatically invoke the gods and the dead ancestors of the Lacedaemonians who fought for Plataea against the Persians:

And we as befits our condition and as our sore need demands, entreat you in the name of the common gods of the Hellenic race whom we invoke, gods worshipped by us all at the same altars, to listen to our prayers; and at the same time, appealing to the oaths wherein your fathers swore that they would never forget us, we become supplicants before your ancestral tombs and call upon the departed not to suffer us to come into the power of the Thebans or permit us, who were their dearest friends, to be delivered into the hands of their bitterest foes.

ἡμεῖς τε, ὥς πρέπος ἡμῖν καὶ ὥς ἡ χρεία προάγει, αἰτούμεθα ὑμᾶς, θεοὺς τοὺς ὁμοβωμίους καὶ κοινούς τῶν Ἑλλήνων ἐπιβοώμενοι, πείσαι τάδε, προφερόμενοί θ' ὅρκους οὓς οἱ πατέρες ὑμῶν ὥμοσαν μὴ ἀμνημονεῖν ἱκέται γιγνόμεθα ὑμῶν τῶν πατρῶν καὶ ἐπικαλούμεθα τοὺς κεκηκότες μὴ γενέσθαι ὑπὸ Θηβαίοις μηδὲ τοῖς ἐχθίστοις φίλτατοι ὄντες παραδοθῆναι, ἡμέρας τε ἀναμνησκομέν ἐκείνης ἢ τὰ λαμπρότατα μετ' αὐτῶν πράξαντες νῦν ἐν τῇδε τὰ δεινότερα κινδυνεύομες παθεῖν. (3.59.2)

In a reversal of the usual order, the accusers speak second. Since the Plataeans did not simply answer the question put before them, the Thebans ask for a chance to refute the prior speech. The speech begins with a short *exordium* which centers on the shortcomings of the Plataean speech. It did not answer the chief question, but rather gave a long and irrelevant defense. The actions that it defended were not the actions with which the Plataeans were charged. The Theban speech promises to answer the counter-accusations presented against them. The *exordium* ends with the assurance to the judge that now the truth will be told (3.61.1).

A very short *narratio* follows. The Thebans settled Boeotia and occupied Plataea. They drove out the mixed population. Then the Plataeans violated the original agreement forsaking the tradition of their ancestors. The Plataeans secured the aid of the Athenians and caused trouble for the Thebans who retaliated against them.

After this brief account, the Thebans counter the claims of the Plataeans in a *refutatio*. They outline the past actions of themselves and the Plataeans in terms of freedom and compulsion.¹⁷ The basic argument is that the honorable actions done by the Plataeans were done by compulsion while the detrimental actions were done freely. In the case of the Thebans, the reverse is true. The first example concerns the Persian invasion. Plataea resisted only because they were obligated to do so by the Athenians. The majority of the Thebans acquiesced only because Thebes was controlled by a powerful few (3.62). The Plataeans cannot be credited for their action, nor can the Thebans be blamed.

In response to the charge that the Thebans assailed Plataea at a time of peace, the speakers argue that they were invited to the city by some of its notable

¹⁷MacLeod, "Thucydides' Plataean Debate," 237.

citizens who sought to reform the city. They came in peace hoping to form a union with Plataea. The charge that this action came during a holy season is mentioned but not countered.

For the claim that they came without any hostility, the Thebans offer a short *probatio* (3.66). They did not harm anyone. Rather they invited all who wished to live under the Boeotian alliance to join them. The Plataeans at first agreed. But their agreements were short-lived. The Theban speakers alleged three additional crimes against the Plataeans: They 1) broke this agreement, 2) slaughtered the prisoners who were taken, and 3) ignored their promise to kill no one who had not done injury to their property.

The *peroratio* follows (3.67). The Theban speakers urge the judges to do justice rather than be softened by the Plataean's recounting of past virtues. These past virtues should not compensate for present evils. Instead, they should make the Plataeans all the more liable. They also urge the judges to ignore the pitiable tale of suffering presented by the Plataeans and turn their attention to the suffering which the Plataeans have caused to others. They also include the commonplace of beseeching the judges not to decide the case on the skill of the speakers but rather on deeds. They end the speech by urging the judges to make an example of the Plataeans so that others might not seek to cover foul actions with fair words.

The speech of the Plataeans is fitting for people whose lives hang in the balance. It seems to go around in circles grasping for anything that might help their case. Its strength lies in its ability to generate pathos. Yet, its arguments are, as the Thebans complain, largely irrelevant. The speech of the Thebans is more straightforward, yet it is hardly more pertinent to the case. Each speech, however, has a certain power rhetorically.

After the speeches were completed, the judges acted as if the speeches had never been made.¹⁸ They simply ask again the brief question that they earlier posed to the Plataeans, if they had rendered any service to Lacedaemonians and their allies. When the Plataeans answered in the negative, they were immediately led away and killed.

In terms of the narrative of the history, the actual trial procedures with its speeches merely slow the action, but do not perceptibly influence the action of the history. It is difficult to say to what extent justice was served in this case. The Plataeans do not deny their actions, but try to arouse pity. This attempt does not succeed, and Plataea is destroyed. This debate seems deliberately juxtaposed with the Mytilene debate given earlier.¹⁹ In it the Athenians consider a similar issue, but not within a trial setting. The Athenians unlike the Spartans decide to spare their helpless foes.

Xenophon

Xenophon (c. 431-366 B.C.E.) continues where Thucydides' history of the Greeks ended to 362 B.C.E. in *Hellenica*.²⁰ In this work, Xenophon records two trial scenes with at least some direct citation from the speeches. These speeches do not conform to the pattern laid out by the rhetoricians.

¹⁸David Cartwright, *A Historical Commentary on Thucydides* (Ann Arbor: University of Michigan Press, 1997), 462.

¹⁹Simon Hornblower, *A Commentary on Thucydides* (Oxford: Clarendon, 1991), 154.

²⁰Text and translation are from Xenophon, *Hellenica* (trans. Carleton L. Brownson; LCL; Cambridge: Harvard University Press, 1918-1921).

Hellenica 1.7.1-35

The first trial scene with a speech is found in *Hellenica* 1.7. The case involved accusations against several generals who had won a battle but did not recover other shipwrecked troops. In their defense, the generals claimed they had assigned the task of recovery to others under their command. The ultimate blame, however, was a storm which made the rescue impossible. The initial prosecutorial speech and the defense are given mostly in indirect discourse. The defendants were at a point of winning the case, but it was too late in the day to decide the case, and the vote was delayed.

A man named Theramenes came forward as the next session began with some who had been bribed to accuse the generals.²¹ After Theramenes gave a speech inviting the vote to be taken on the fate of the generals, Euryptolemus then gave a speech “partly to accuse, partly to defend, and partly to advise.” As a speech which seeks to accomplish all these objectives, it is not surprising that it does not fit the form given by the rhetorical manuals. After the speech, Euryptolemus made a resolution that the generals be tried not as a group but individually. His resolution passed.

Before such action was taken, however, an objection was voiced, and a second vote was taken. This vote decided that all the generals would be tried together. It is unclear from the narrative if another trial took place. On a narrative level, it appears that the generals were hastily condemned without a fair hearing. The generals who were in Athens were put to death. Not long afterward, the Athenians realized their error and brought complaints against those who led the executions. Before a trial could occur, a factional disturbance allowed the men a chance to escape. One of the them later returned, “but was

²¹Socrates objected to these proceeding on constitutional grounds (1.7.15).

hated by everybody and died of starvation” (μισούμενος ὑπὸ πάντων λιμῷ ἀπεθάνεν, 1.7.35).

Although this trial scene does not yield speeches that follow the form given by the manuals, it does function much like other trial scenes in other histories with the ultimate decision being made outside the formal trial. The case is almost decided correctly, but the verdict is delayed. After debate, the assembly is again ready to act justly and decide the fates of the generals individually. This action is subverted by an objection, and the generals were quickly and unfairly condemned as a group. At least one of the people responsible for the miscarriage dies because of the event but apart from any trial.

Hellenica 2.3.24-47

A second trial occurs in *Hellenica* 2.3.24-47. Theramenes, one of the accusers at the trial of the generals, is brought to trial. He was one of the Thirty who had come to power, but had become concerned that their power made them too eager to put people to death for their own advantage. Critias, a former friend of Theramenes, had plotted against him and accused him before the senate. This action seems to be an impromptu trial. Theramenes did not know the charges were going to be lodged, and presumably did not have a chance to compose a proper speech. The speech recorded does not fit the prescribed form. Most of the speech could be characterized as a *rebutatio* because it primarily refutes the claims given by Critias.

The senate responds to Theramenes with applause, and Critias realizes that the senate is ready to release him. He had men with daggers stationed around the area. He announced that it was his duty as leader not to let the senate be deceived. He further announced that the men with daggers would not

let Theramenes go free and condemned him to death. Fearing Critias' henchmen, the senate allowed Theramenes to be taken and executed.

The trial with its speeches did not settle the issue. Critias, who had called the trial, took matters into his own hands by force. Theramenes was unjustly killed. Critias, however, does not live to take much pleasure in his success. In the next chapter of book (2.4.20), Critias was one of two members of the ruling thirty who died in battle.

Dionysius of Halicarnassus

Dionysius wrote both a history of Rome and various other critical essays. His writing dates from approximately 30-8 B.C.E. George Kennedy credits him with knowing "the rhetorical system as a whole," but calls his rhetorical theory much more limited than that of Aristotle or Cicero.²² *Roman Antiquities* covers the legendary beginnings of Rome through the beginning of the First Punic War.²³ Only eleven of the twenty books exists in their entirety. Like other historians, Dionysius includes a number of speeches in direct discourse.²⁴ Only one of this speeches qualifies as judicial.²⁵

²²George Kennedy, *The Art of Rhetoric in the Roman World (300 B.C.—A.D. 300)* (Princeton: Princeton University Press, 1972).

²³The text and translation are from Dionysius of Halicarnassus, *Roman Antiquities* (trans. Earnest Cary; LCL; Cambridge: Harvard University Press, 1937-1950).

²⁴For a discussion of speeches in Dionysius, see Emilio Gabba, *Dionysius and The History of Archaic Rome* (Berkeley: University of California Press, 1991), 68-73.

²⁵Wayne N. Thompson, "Dionysius of Halicarnassus: A Reappraisal," *Quarterly Journal of Speech* 65, no. 3 (October 1979): 306, includes the speech of Tullius as a quasi-forensic speech, yet the issue of that speech is not his innocence or guilt but his right to be king and therefore will not be considered in this study.

Roman Antiquities 9.29-32

The speech is given in the trial of Servilius, who is charged for his actions as general in a battle in the war with the Tyrrhenians. He and another general, Verginius, faced the Tyrrhenian forces. After an initial skirmish, Servilius pursued the enemy only to come upon enemy reinforcements. Verginius came to his aid, and the Tyrrhenians were defeated but not without significant losses to the Roman army. Servilius was then brought to trial for his actions.

Dionysius gives the prosecution's speech only indirect speech. A tribune named Lucius Caedicius charges Servilius with leading his troops into sure defeat. Only the intervention of Verginius saved a remnant of the troops under Servilius' rule. Witnesses are produced. Dionysius reports that these witnesses were other soldiers involved in the battle who wished to clear their own names by placing the blame solely on Servilius.

Dionysius then gives the speech of Servilius in direct speech.²⁶ The speech begins with an *exordium* to gain a fair hearing from the judges. This task is particularly important for Servilius, a patrician on trial before plebians. Servilius asks if his will be a fair trial or if his fate has already been decided. If a fair trial, he will give his defense. Otherwise he will be silent so that it will not appear that he was punished justly. He pauses in order to offer the people a chance to signal whether they will give him a fair hearing. He is first greeted by silence, then the crowd cried out for him to be of good courage.

Servilius continued with a *narratio* recounting his selection as consul. Problems abounded with famine and enemies in the land. He and Verginius defeated the enemy in two battles and supplied the markets with goods to overcome the famine. He then asks rhetorically, "For what wrongdoing am I

²⁶For a brief discussion on rhetorical aspects of this speech but without divisions, see Thompson, "Dionysius of Halicarnassus," 308-09.

accountable to you, unless it to conquer your enemies is to wrong you?" (τίνος οὖν ἀδικήματος ὑπεύθυνός εἰμι ὑμῖν; εἰ μὴ τὸ νικᾶς τοὺς πολεμίους ἐστὶν ὑμᾶς ἀδικεῖν, 9.29.4-5).

Servilius then seeks to counter the charges against him in a *rebutatio*. The first charge concerns the loss of many soldiers. He argues that generals are not accountable for insuring that every soldier going into battle will survive. He reminds the audience that numerous generals have had similar fates losing many men and even losing battles without being tried on the basis of their luck. For the sake of his audience, Servilius declines to make a tiresome discussion of luck (9.30.4).

As for the charge that he undertook unnecessary risks in the battle, Servilius argues it is easy for his accusers to wage war in talk far from the field of battle after the conflict has taken place. He again recounts the actions of other generals who undertook daunting tasks in war. Generals are not expected only to engage in safe maneuvers. The only possible charge could be that he sent his troops into a desperate situation that he himself was unwilling to face. Such a charge would be false for he was in the battle with them and was the last to withdraw.

The speech ends with an impassioned aside concerning matters tangential to the case. It concerns the disdain in which the plebeians held the senate. A short *peroratio* is given in which Servilius expresses his preference to losing his life while freely speaking than to save it with flattery.

After the speech, Dionysius interjects that Servilius did not resort to lamentations about his predicament or groveling to win the favor of anyone. Others come forward to speak in his favor including the other general, Verginius, who argued that both generals should be praised or both should share

the same fate. Either both should be praised or both should be condemned. In the end not a single vote was cast against Servilius. Dionysius credits the acquittal in part to his words and in part to his life. Yet, Dionysius says that the greatest cause for the outcome was his look of compassion (σχῆμα συμπαθές, 9.33.3). While the speech certainly played a part in the trial's decision, it was not seen by Dionysius as the deciding factor.

As with the trial of the Plataeans in Thucydides, it is difficult to assess whether justice prevailed. The reader is not told whether Servilius was to blame for the casualties sustained. Yet, the verdict in favor of Servilius is vindicated shortly after the trial. In a battle against the Veientes, Servilius is regarded as bravest of the Romans.

Appian

Appian (c. 95-165 C.E.) was a Greek historian who wrote a history of Rome in twenty-four books of which eleven books remain complete. Appian records two trials with partial defense speeches in *Roman History*.²⁷ A third trial which is narrated more fully is found in a portion of the work known as *Civil Wars*.

Roman History 11.40-41

In the first case, two tribunes bring a charge of treason and corruption against Scipio (11.40). No prosecutorial speech is given or mentioned. The day of the trial happened to be the anniversary of Scipio's victory over Carthage. He did not dress in the attire of an accused man, but rather wore festive clothes. Appian only includes a small portion of the Scipio's speech, but does say that he did not mention the charges against him. He gave an extended *narratio*

²⁷Text and translation are from Appian, *Roman History* (trans. Horace White; LCL; Cambridge: Harvard University Press, 1912-1913).

recounting the many successes of his life. After he had recounted his victory at Carthage, he invited the listeners to join him at the Capitol for a sacrifice to mark the anniversary of the victory. The crowd including most of the judges went with him. The dismayed accusers were at a loss, but decided against further action.

Scipio's actions are contrasted with those of Epaminondas (11.41), who along with two other generals did not release the armies under them when they were recalled. Instead, they kept command for an additional six months until they accomplished their original intent. Epaminondas had compelled the other commanders to follow this course of action. Afterwards, they are brought to trial individually. The two other generals made long speeches that are not given by Appian and blamed Epaminondas who willingly accepted blame. When time to give his own defense, he did not use the standard form. He acknowledged his wrongdoing and said he accepted the punishment of death. His only request was that his tomb be inscribed:

Here lies the victor of Leuctra. Although his country had not dared to face this enemy, or even a stranger that wore the Laconian cap, he led his fellow-citizens to the very doors of Sparta. His country put him to death for breaking the laws for his country's good.

οὗτος ἐστὶν ὁ περὶ Λευκτρά νικήσας καὶ τὴν πατρίδα, τοὺς ἐχθροὺς οὐχ ὑπομένουσιν, οὐδ' εἴ τις ξένος ἔχοι Λακωνικὸν πῖλον, ἐπὶ τὴν Σπάρτην αὐτὴν προαγών. οὗτος ὑπὸ τῆς πατρίδος ἀνήρηται, παρανομήσας ἐπὶ συμφέροντι τῆς πατρίδος. (11.41)

The judges were so moved that they ran from the courtroom without taking a vote. As in the case with Scipio, the trial is simply aborted.

Civil Wars 3.51-61

A third trial with speeches from Appian occurs in *Civil Wars* 3.51-61. This case involves Antony, who is charged with being a public enemy. Cicero and his

friends had all but secured a declaration from the senate against Antony, who was absent, when the assembly was adjourned. The next day they reconvened for a more formal trial.

Cicero presents a speech against Antony. His speech begins with a *exordium* centered on the case (3.52). He seeks to win the advantage by arguing that the decision concerning the case had been made the previous day. By bestowing honors on the enemies of Antony, the senate had declared Antony guilty. Anyone who opposed such a verdict was acting out of preference of friendship with Antony over the public good.

Cicero then moves on to a *narratio* in which he recounts the many faults of Antony (3.52-53). He stole from the public funds at Caesar's death. Next, he seized the governorship of Cisalpine Gaul and took an army which was to be utilized against the Thracians and marched it into Italy. He intimidated and mistreated the troops. Any who questioned him were put to death. The remainder of the army followed in his wrongdoing out of fear. He used the army to march against other Roman armies. As he was still speaking, Cicero's friends rallied to his support with loud applause such that nothing else could be heard.

Cicero does not attempt to finish the speech. Instead, Lucius Piso came forward to speak on behalf of Antony. Piso's *exordium*, like Cicero's, deals with the case. He reminds the senators that the law requires the defendant be present to hear the charges. Since Cicero will not make the charge in Antony's presence, Piso will speak on behalf of Antony. Such an *exordium* may serve to win the sympathy of the hearers.

Piso then moves directly to the *refutatio*. Such is acceptable for the defense since in some sense all the defense is refutation (Quint., *Inst.* 5.13.1). Piso begins

with Cicero's first complaint that Antony had stolen public funds. Continuing the theme from the *exordium* that the trial is not being conducted in accordance with the law, Piso argues that such a crime merits only the charge of theft not of being a public enemy and that the punishment is limited in the case of theft. Even so, the lesser charge is also false. Antony is responsible for securing the public funds rather than stealing them. After Caesar's assassination, Brutus accused Caesar of robbing the treasury. In was Antony who proposed a decree to investigate the matters and safeguard the funds.

Next, Piso moved to the charge that Antony procured the governorship without authority (3.55). He did not deny that Antony became the governor of Gaul, but claimed that the people lawfully yielded the rule in the presence of Cicero. Anyone who accused Antony of misconduct was attacking not Antony but the authors of the law. Antony for his part was given authority to fight in the Gallic provinces if they did not submit.

Piso then moves to the final charge against Antony, putting certain soldiers to death (3.56). Again, he does not begin by denying the charge, but by making the case that commanders are freely given the right by the people to kill soldiers under him. The soldiers are answerable to the commander not the commander to the soldiers. No relatives of soldiers have complained against Antony of mistreatment. Once again, Piso interjected that even if the charge were true, Cicero has filed with wrong charge. The charge should be murder rather than being a public enemy.

In 3.57-58, Piso uses numerous rhetorical questions to further belittle the evidence against Antony:

"Whom has Antony put to death in a tyrannical manner without trial--he who is now in danger of being condemned himself without trial? Whom has he banished from the city? Whom has he slandered in our presence? Or, if innocent toward us individually, has he conspired against all of us

collectively? When, Cicero? Was it when he carried through the Senate the act of amnesty for the past? . . .”

Τίνα ἔκτεινεν ὥς τύραννος ἄκριτος ὁ νῦν κινδυνεύων ἀκρίτως; τίνα δ’ ἐξέβαλε τῆς πόλεως; τίνα δὲ ὑμῖν διέβαλεν; ἢ καθ’ ἓνα μὲν τοιόσδε ἦν, ἐπεβούλευε δὲ πᾶσιν ὁμοῦ; πότε, ὦ Κικέρων; ὅτε τὴν ἀμνησίαν ἐκύρου τῶν γεγονότων; . . .”

The speech ends with a *peroratio* with two exhortations (3.60-61). The first is to do injustice neither to the people or Antony, but rather protect them both by allowing Antony to maintain Cisalpine Gaul with sufficient troops to protect it. The second exhortation is not to consider the matter hastily or rashly based on those who wish to raise private strife to a public level. Antony has been a friend; declaring him a public enemy will force him to become their enemy, just as Caesar had become an enemy only after being declared one.

The senate followed Piso’s second exhortation but not the first. He was not declared a public enemy, but neither was he given rule of Gaul. He was given Macedonia instead. Since Antony was not present, the decree was sent by ambassadors to Antony. According to Appian, Cicero altered the decree to include other commands as well. Antony was infuriated by these demands and wrote to Cicero that he would not relinquish Gaul. With this word, the senate immediately voted Antony a public enemy.

The speeches in this third trial scene better fit the rhetorical form. Cicero’s speech has the first two elements, but his speech is interrupted before he has a chance to finish. Piso’s speech roughly matches although he omits the *narratio* and *probatio* in order to move quickly to refuting the charges. As in other cases the trial itself was rendered all but meaningless. The decision reached by those deciding the case was quickly overturned.

Livy

Titus Livius (59 B.C.E–17 C.E.) wrote a history of Rome entitled *Ab urbe condita* (*From the Founding of the City*)²⁸ in 142 book of which thirty five remain. In this history, Kohl counts 407 speeches.²⁹ The vast majority of these speeches are deliberative, with only a few being judicial in type.³⁰

Ab urbe condita 3.44-58

The first speech to appear in a judicial setting involves a young woman named Verginia who is the daughter of a prominent soldier, Verginius. She is engaged to a former tribune, Icilius. A patrician, Appius, who ruled among the ten decemvirs, attempted to seduce the Verginia. When seduction failed, Appius began to plot against her. He had one of his friends, Marcus, seize her and claim that she is his slave. According to the concocted story, Verginia had been taken by Verginius in infancy and raised as his own. She is brought before Appius to decide the case. Verginius is away on duty and so cannot argue his side. Supporters of Verginia ask that she be released until Verginius is present. Appius allowed Verginius to be summoned, but rules that as a slave, Verginia should remain with Marcus until the case is decided.

²⁸Text and translation are from Livy, *Ab urbe condita* (trans. B. O. Foster et al.; LCL; Cambridge: Harvard University Press, 1919-1959).

²⁹Otto Kohl, *Ueber Zweck und Bedeutung der livianischen Reden* (Barmen: N.p., 1872), 2.

³⁰H. V. Canter, "Rhetorical Elements in Livy's Direct Speeches," *AJP* 38, no. 2 (1917): 128; P. G. Walsh, *Livy: His Historical Aims and Methods* (London: Cambridge University Press, 1961), 226, find the only definite examples in the trial of Demetrius discussed below.

Icilius arrived late on the scene and offered a speech. While the speech is considered to be judicial speech since it is set within a trial,³¹ it bears little resemblance to either the prosecutorial or defense speech. It is more of a challenge issued to Appius to reconsider whether Verginia be released to the household of Verginius. Icilius promises to fight if such a decision is not made. After the short speech, Appius consented to ask Marcus that he waive his right to take Verginia until the next day when the matter would be settled. Although Appius had given the order for Verginius to be summoned, he also dispatched a letter telling those over Verginius to deny him leave. This letter arrived too late to be followed; Verginius had already begun his trip back.

The next day Verginius and Icilius rallied what support they could for Verginia's defense. Livy does not include any direct discourse saying only that while the speech may be represented in one of the older accounts, he had no way of ascertaining which account was correct (3.47.5). Unsurprisingly, Appius ruled in favor of Marcus and demands that Verginia be given to him as slave. Verginius then asked if he could question Verginia and her maid in private so that he could further determine the facts of the birth. Having been given permission, he took his daughter aside, grabbed a knife from a butcher's table, and stabbed his daughter claiming that only by so doing could he grant her freedom.

The people sided with Verginius making it impossible for Appius to prosecute him. This crime by Appius marked the beginning of the end of the rule of the ten decemvirs. Eventually, the tribunes took over power, and Appius was brought to trial by Verginius (3.56-57). In this trial only indirect discourse is

³¹P. G. Walsh, *Livy*, 1961), 225; Frederick Veltman, "The Defense Speeches of Paul in Acts: Gattungsforschung and Its Limitations," Ph. D. Diss. (Graduate Theological Union, 1975), 98.

given. The limited content of the speeches mentioned cannot be made to match the rhetorical standards. Appius appealed to the services his family had given the people. Verginius recounted the treatment of his daughter as a slave. Appius is imprisoned, but many of the plebs wondered if they were overstepping their bounds in their treatment of such a prominent citizen. The trial is never concluded. A date is set for the continuance of the trial. Before the date arrived, however, Appius gave up hope and committed suicide.

The two trials then do not settle the issues at hand. In the first, the trial is a farce. Although the case is decided, Verginius immediately acts to correct the flawed decision. For his part in the death of Verginia, Appius is eventually brought to trial. The trial is inconclusive, although Appius is imprisoned. The suicide of Appius halts the continuance of the trial.

Ab urbe condita 40.9.1-15.16

This trial contains the most important of the judicial speeches in Livy. The case concerns the two sons of Philip. Perseus was the older, and Demetrius was the younger. They were half brothers having different mothers. Demetrius had been sent to Rome as a hostage to assure peace. While there he gained considerable favor among the Romans. A rivalry emerged between the two sons concerning who should become king after their father. By virtue of being the elder son, Perseus considered himself the rightful heir, but became suspicious that Demetrius' connections with Rome and feared that his popularity might help him ascend to kingship. He began to corrupt his father's thoughts on the Romans so that Philip would also be suspicious of Demetrius.

Then came a ceremony for purifying the army in which the Macedonian army divided and engaged in a mock battle. The two sons of the king led the

two sides. The battle was fought with almost the severity of a real battle. Although the weapons were not those of a actual battle, many soldiers were wounded. The forces of Demetrius proved far superior. Perseus was angered, but then following the counsel of his friends planned to turn the defeat into a means of accusing his brother.

The brothers each gave a banquet on the night of the mock battle. Perseus refused Demetrius' invitation to his celebration. He did, however, have a spy sent to the banquet. The spy was discovered and beaten by some of those present, but Demetrius did not learn of his presence. Later that evening after much drinking, Demetrius suggested that a group go to Perseus and try to soothe his brother's anger. Those who had beaten the friend of Perseus feared some form of retaliation and secretly armed themselves. Another informant reached Perseus first with the news that Demetrius and four armed men were coming. Perseus bolted the door. When Demetrius and his men were denied admittance, they returned to the estate of Demetrius.

The next morning, Perseus went to his father claiming that Demetrius had tried to murder him the previous night. Demetrius was awakened and brought before his father as if on trial. Philip gave a lamentation concerning his situation of having to judge between his sons. He spoke of the rivalry between the sons and how had hoped that the two could be reconciled rather than further divided over the prospect of one of them becoming king.

Perseus begins a prosecutorial speech. The *exordium* (40.9.9) is long and addresses several topics suggested by the manuals. He implicitly notes the difficulty of his case saying that he should have welcomed the intruder and been murdered since such a crime is believed only if committed. He seeks to gain his father's pity by saying that he is treated like an illegitimate son. The father acts

enraged at both sons, rather than only the son who attempted murder. He asks that the father listen to his account as if he were awakened by the cries of his son as Demetrius and his men were seeking to kill him. Perseus briefly attacks Demetrius, admitting their relation was not a good one. He lays the blame squarely on Demetrius, whom he portrays as a would-be usurper to the throne against the rule of nations in general, Macedonia in particular, and the will of their father. By the time Perseus has finished, he has touched on all the topics of recommended for the *exordium*: the case, the accuser, the judge, and the accused.

The *narratio* follows (40.9.10-14) outlining not one but three attempts of murder. The first attempt was at the mock battle when Demetrius would have killed him if he had not permitted his troops to be defeated. Later, Demetrius invited him to dinner for a second murder attempt. When Perseus declined the invitation, Demetrius and his four armed men came in the night for the third murder attempt that day. Had Demetrius gained access to his home, there would be a funeral rather than a trial.

This third alleged attempt is the one Perseus had originally brought to his father's attention. Perseus seeks to provide evidence only for the last attempt in a short *probatio* (40.9.14). He uses a number of rhetorical questions to give the appearance of more evidence than he has. The basic evidence is that Demetrius and armed men came to his door late at night. Despite his rather paltry evidence, Perseus argues that unlike typical prosecutor's he does not have to deal with innuendos and debatable evidence.

Next, Perseus gives a short *rebutatio* (40.9.15) countering a possible defense of Demetrius. He asks, "Does he deny that he came to my door with a crowd or that there were armed men with him?" (*Negat venisse se cum multitudo ad ianunam meam, an ferro succinctos secum fuisse?*) Perseus has the names of men

who accompanied Demetrius. They can be summoned, and they will surely admit that they were armed when they sought entrance into his home.

Next, Perseus gives what appears to be a long and impassioned *peroratio* (40.10.1-10). He calls on his father to let his fury over a son's death be awakened and do justice while it is still possible. He argues that if Demetrius is not condemned, his own life is all but over. Demetrius, who attempted to murder him three times in the course of one day, will continue his attempts until successful. Perseus argues that he cannot appeal to the Romans who favor Demetrius. Macedonia will not be a sufficient hiding place for him. He presents the case that only Philip can save him from certain death.

Perseus then offers more evidence in a second *probatio* (40.11.1-4). While such an arrangement is not mentioned in the rhetorical manuals, this speech takes the form *exordium, narratio, probatio, rebutatio, peroratio* with the last three elements repeated in the same order. The second *probatio* centers on the inartistic evidence of a letter from Titus Quinctius, which urges that Demetrius be sent back to Rome with an increased number of ambassadors. Perseus argues that Philip's role as guide to Demetrius has been usurped by Titus, who plans on corrupting the ambassadors into considering Demetrius as their king while Philip is still living.

In the second *rebutatio* (40.11.4-9), Perseus seeks to counter the charge that he is the one who covets his father's throne. Perseus assures Philip that he wishes the king a long life. At Philip's death, he will receive the throne as inheritance. It is only Demetrius who covets the throne and must commit a criminal act in order to ascend to it. The speech ends with a second and shorter *peroratio* (40.11.10) warning Philip that he can avert the danger only if he acts quickly. Should the conspirators succeed, they will wield more power than Philip and would not be stopped.

Perseus presents a picture of Macedonia with Philip and Perseus under the dire threat of Demetrius and the Romans who will not be satisfied until both Philip and Perseus are out of power. Perseus advises his father that it would be a small thing to forfeit a son for the sake of the kingdom.

When it was Demetrius's turn to speak, he could not do so because he was overwhelmed with grief. Only after he was commanded to speak was Demetrius able to begin. Such a show of emotion was considered a helpful way to garner the favor of the judge according to the rhetorical manuals. When he is able to speak he gives an *exordium* (40.12.3-7) which attacks his accuser and attempts to garner sympathy for himself.³² According to Demetrius, Perseus has plotted against him and terrified their father concerning him. Demetrius presents himself as outnumbered by his foes. While he has support of the Romans, this support is a hindrance in the trial.

He moves from the *exordium* to the *rebutatio* (40.12.7-15.10). Such a tactic was allowed by Quintilian when the facts of the narrative are not in dispute. In this speech, Demetrius does not seek to give a different account of the actions of the previous night; he did go to Perseus with armed men, but he seeks to refute the motivations given by Perseus.

He finds a number of contradictory aspects of Perseus' arguments. Perseus presents Demetrius as scheming with the Romans about overthrowing his father for some time, and yet, Perseus brings no charge of treason until now. Also, by Perseus' account Demetrius' alliance with the Romans has considerable power, such that Macedonia can do little to stop it. Yet, he also presents Demetrius so desperate that he seeks to kill his own brother. If his ties with the

³²H. Mae Thickstun, "A Rhetorical Study of the Speeches in Livy" (Masters thesis, Northwestern University, 1908), 260.

powerful Romans were so strong, surely he would not have to resort to taking matters into his own hands.

Demetrius then moves on to the charge that he was involved in three attempts of murder. He argues that the mock battle with a host of witnesses was an ill-fitting time for murder. If he had planned to murder Perseus at dinner, he would have not made him angry at the battle but tried to appease him so no suspicions would have arisen. The evidence is not sufficient for murder.

Demetrius admits that he might have indulged in too much wine thereby following the manuals' instruction for admitting that which is not detrimental for one's case. He uses his drunkenness as evidence against the murder attempt. One who was planning a murder would be careful to remain sober. He also admits that his men visited Perseus' home at night, but not for the purpose of murder. If they were plotting murder, they would have all been armed and had some plan for escape after the murder was committed.

Demetrius closes with a *peroratio* (40.15.10) welcoming any punishment that he deserved, but urging his father to do his duty by interceding on the behalf of the younger son. He also outlines his difficulty in being forced to give a defense without sufficient time to prepare and arrange the speech (*meditandum et componendum*). Perseus who initiated the procedure had long been preparing and rehearsing his speech. Were not his father hearing the case, Demetrius fears he would have no chance.

Philip then sends his sons away unwilling to decide the case on the basis of the impromptu trial:

Philip, sending them away, after conferring for some time with his friends, gave judgment that he would not decide their case on the basis of words nor the discussion of a single hour, but after inquiring into the life and manners of each and observing their words and actions in matters great and small, so that it was clear to all that the accusations regarding the preceding night had been easily refuted, but that Demetrius was suspected by reason of his excessive popularity with the Romans.

Philippus summotis iis paulisper colloctus cum amicis pronuntiavit, non verbis se nec unius horae disceptatione causam eorum diiudicaturum, sed inquirendo in utriusque vitam ac mores, et dicta factaque in magnis parvisque rebus observando, ut omnibus appareret noctis proximae crimen facile revictum, suspectam nimiam cum vivo Philippo velut semina iacta sunt Macedonici belli, quod cum Perseo gerendum erat. (40.16.1-3)

The trial proves ineffective in settling the question at hand. It is stopped abruptly, and Philip makes his judgment based on evidence external to the trial. His judgment is correct, and justice is served for a while.

The ultimate fate of Demetrius stays unresolved. Eventually, Demetrius plans to flee to Rome. Perseus discovers these plans and alerts Philip. Demetrius is watched closely. Perseus then produces a forged letter and again accuses Demetrius. There is no trial however. Philip reportedly gave instructions for killing his younger son. Demetrius is poisoned (40.23). Later, Philip regrets the death of Demetrius and learns that the letter was a forgery. Indignant at Perseus, Philip chooses Antigonos to succeed him rather than Perseus. At Philip's death, however, Perseus claims the throne and has Antigonos killed.

Other scenes in Ab urbe condita

There are other speeches that may appear to be quasi-judicial. The debate concerning whether Gnaeus Manlius deserved a triumph has certain attributes of a judicial scene (38.45-50). Furius and Aemilius gave a speech against Manlius, who then gave a speech defending the accusations made against him. These speeches should be seen as deliberative rather than judicial since the issue was not concerning guilt of innocence, but whether or not a triumph should be given. After the speeches, Manlius is found deserving of the triumph. Another speech of Perseus may be classified as a defense speech. It can be divided as *Exordium*: 42.41.1.2; *Refutatio*: 42.41.3-7; *Peroratio*: 42.41.8-9. This speech was given before Roman envoys so that they might plead his cause before the Roman senate. The

speech did not take place in a judicial setting and no verdict was expected. Another possible defense speech is given by a representative of the Rhodians. The issue is whether Rome should declare war on the Rhodians. As such the setting is more deliberative than judicial. There is no prosecutorial speech. However, in the speech the Rhodians answer certain charges. The text is corrupt; some of the speech is lost. What is left may be classified as *Refutatio*: 45.22.1-24.8; *Peroratio*: 45.24.9-14. The reply to the Rhodians was ambiguous. They were neither declared enemies nor continued to be allies (45.25.4).

There are other trials recorded in Livy that do not include any direct discourse. One notable trial is that of Manlius, who is tried for sedition (6.17-20). Livy includes two speeches in direct discourse concerning whether a trial should be held, but only includes indirect discourse of the defense speech.³³ Livy praises the speech as magnificent (6.20.8) and says that the crowds were persuaded by it. In order to make sure that Manlius is convicted, the tribunes adjourn the trial and appoint a council to decide the verdict. Manlius is condemned and is thrown to his death from the Tarpeian Rock. Shortly after his execution, the people began to remember only his virtues and regretted his death. A pestilence came upon the people with a high mortality rate. Many people assumed that the pestilence was divine punishment for the execution of Manlius.

In Livy, the trial of Demetrius is the most regular judicial scene. Its speeches approximate the form given in the manuals. The trial of Verginia is contrived, and the speech given does not fit the form. In both cases, the trial fails to resolve the issue at hand. Verginius takes the life of his daughter rather than

³³Gary Forsythe, *Livy and Early Rome: A Study in Historical Method and Judgment* (Stuttgart: Franz Steiner, 1999), 86, surmises that "having set up the confrontation by using historical speeches in the preceding two chapters, Livy wishes to bring the clash to a speedy resolution" without further speeches.

let her submit to treachery. In the case against Demetrius, Philip refuses to make a decision based on the proceedings of a trial. Later, he succumbs to the machinations of Perseus and allows Demetrius to be poisoned. Although both situations end tragically, there is a move to justice in both cases. Appius, who is ultimately responsible for the death of Verginia commits suicide while awaiting trial. Philip acts to ensure that Perseus would not gain power, although his plan eventually fails.

In the trial of Manlius, reported without direct speech, there are similarities with the other two trials. The trial itself does not settle the issue. The people were ready to acquit Manlius, when the tribunes adjourned the trial. The execution seems to have occurred outside the regular trial. The decision is questionable, and there is a presumably divine consequence to balance the possible injustice in the form of pestilence.

Q. Curtius Rufus

Little is known for certain concerning this Roman historian. His writings probably date to the first century C.E., but further specificity is difficult.³⁴ His identity also remains a mystery, although he was perhaps the rhetorician mentioned in Suetonius' index to *De Rhetoribus et Grammaticis*.³⁵ His work has not always been appreciated by scholars,³⁶ although more recent commentators

³⁴For a discussion of issues concerning date and identity, see Elizabeth Baynham, *Alexander the Great: The Unique History of Quintus Curtius* (Ann Arbor: University of Michigan Press, 1998), 201-19. She argues for the likelihood of the writing of Curtius during the reign of Vespasian (69-79 C.E.).

³⁵Baynham, *Alexander the Great*, 217-19.

³⁶E.g., W. W. Tarn, *Alexander the Great* (2 vols.; Cambridge: Cambridge University Press, 1948), 2:91-92 characterizes him as a "gifted amateur" who lacked "historical principle."

have viewed him more favorably.³⁷ He wrote *History of Alexander* in ten books, although the first two books have been lost.³⁸

History of Alexander 6.9.2-24

Here Alexander brings Philotas before his soldiers on the charge of conspiracy.³⁹ Alexander gives a prosecutorial speech. Before he begins, Alexander pauses silently showing his sorrow. Such an action is an appropriate beginning for a speech. The silent show of emotion seems to have the effect of an *exordium* by winning the favor and pity of the audience. He then begins his speech with an *exordium* (6.9.2-4) by further arousing the pity of his listeners by telling them that he was almost killed.⁴⁰ It proved effective with the cries and lamentations of the soldiers interrupting the speech.

Alexander then begins his *narratio* (6.9.4-5) by mentioning the names of those involved in the conspiracy. When he names Philotas and others, the army again interrupts Alexander with laments and cries of indignation. Some of those named as conspirators had already been tortured and killed. None of them, however, testified against Philotas.

Alexander moves into his *probatio* arguing that Philotas received word of the conspiracy, but took no action to stop it or report it to the king. Such silence

³⁷E.g., Baynham, *Alexander the Great*.

³⁸Text and translation are from Quintus Curtius, *History of Alexander* (trans. John C. Rolfe; LCL; Cambridge: Harvard University Press, 1946).

³⁹For the discussions of the speeches in the scene, see Fritz Helmreich, *Die Reden bei Curtius* (Rhetorische Studien; Paderborn: Ferdinand Schöningh, 1927), 131-64; J. E. Atkinson, *A Commentary on Q. Curtius Rufus' Historiae Alexandri Magni* Books 5 to 7,2 (Acta Classica; Amsterdam: Adolf M. Hakkert, 1994), 229-44; and Jon A. P. Gissel, "The Philotas Affair in Curtius' Account of Alexander (VI.7-11): A Rhetorical Analysis," *Classica et Mediaevalia* 46 (1995): 215-36.

⁴⁰Atkinson, *Commentary*, 229, gives the same divisions of this speech as are

Alexander alleges reveals Philotas' participation in the plot. Philotas' father ruled Media, and Philotas became eager for power. Alexander provides a second proof for his accusations. This proof is inartistic. He reveals a letter which had been intercepted from Philotas' father to Philotas and his brother. The letter only contained a cryptic message, "First, look out for yourselves, then for yours; for thus we shall accomplish what we have planned" (*Primum vestri curam agite, deinde vestorum; sic enim quae destinavimus efficiemus*; 6.9.14). Alexander argued that the ambiguity of the message was evidence of involvement in the plot. It was written so that if the letter were intercepted, the plot would not be revealed.

Alexander moves then to the *rebutatio* (6.9.16-19) in which he anticipates a possible argument of Philotas. Dymnus, one of the conspirators, when discovered revealed the other participants but did not mention Philotas. Alexander argues that Dymnus' reticence in mentioning Philotas indicates not the innocence of Philotas, but rather his authority in the conspiracy. Those under him feared him to such an extent that they would not give evidence against him.

The speech of Alexander ends with an impassioned *peroratio* (6.9.19-24). Alexander says that he refused to accept Philotas' crimes as long as he could. Alexander makes a dramatic show of having no one to trust. The one who was in charge of his own cavalry who was responsible for protecting his life has arisen against him. He knew to look for danger in his enemies but not his friends. The army which had asked that Alexander be careful with his life, now had the opportunity to condemn the conspirator and allow Alexander to continue his life without fear.

The speech follows closely the prescribed form showing each of the five major heads of a judicial speech. The proof, however, is slim. All the evidence is

given in this paper. Helmreich, *Reden*, 131-142 and Gissel, "Philotas Affair," give slightly different divisions.

ambiguous at best. The lack of witnesses against Philotas is a considerable weakness, although Alexander claims it to be a strength.

After two more speeches which are not recorded, Philotas is ordered to speak. Before he does, Alexander leaves the assembly. After many tears, Philotas is able to gain enough composure to speak.⁴¹ He begins his *exordium* by lamenting that the best judge of the case, Alexander, is not present. He will, nevertheless, make his defense apologizing for it may seem that he not only informs his judges but also accuses them.

Philotas seems to transpose the order of the *refutatio* (6.10.5-10) as first he counters the claim that the silence of the conspirators is because he is the leader of the conspiracy. Philotas argues that the silence even under torture proves his innocence. Then he moves on to the *narratio* (6.10.11-20) and recounts the events in question.⁴² The news of the conspiracy was brought by a mere boy with no evidence for the validity of his claim. Philotas could not be accused only on the basis of one such report.

As his *probatio*, Philotas argues that if he were involved in the conspiracy, that he would have immediately warned the others when he learned that the plot was suspected. In addition, Philotas recounts an opportunity when he went in to the king's chamber armed, but did not harm the king. While those who are charged with a capital offense usually bring their relatives before the judge, Philotas seeks to arouse sympathy in that he cannot bring his relatives because he had recently lost two brothers and his father is also accused in the conspiracy.

⁴¹Tarn, *Alexander*, 94, remarks that Philotas' defense "is rhetoric of the worst school type."

⁴²Helmreich, *Reden*, 144, finds the narration missing. He attributes the lack of narration to the narration of the events already given by Curtius before the speeches begin.

Before he completes the speech, he is interrupted by some of the bystanders and ends with a short *peroratio*: "If I have so plotted, I do not beg for immunity from punishment, and I make an end of speaking, since my last words have seemed to displease your ears" (*Itaque si insidiatus sum, poenam non deprecor et finem facio dicendi, quoniam ultima verba gravia sunt visa auribus*, 6.10.37).

The fate of Philotas, however, was not to be decided on the basis of the speeches or standard court procedure. The judges were dismissed, and Philotas was tortured until he confessed and then was stoned to death. Curtius suggests that Alexander could not have executed Philotas without a confession because the army would be incited. It is not clear whether Curtius considered Philotas guilty of the crime.

Another trial is mentioned in connection to a conspiracy against Alexander. Lyncestes Alexander had been imprisoned for three years for conspiring against the king. With the trial of Philotas complete, new attention turned to Lyncestes. He was brought out of prison to defend himself. Curtius says that although Lyncestes had spent the three years preparing his defense, when Lyncestes was called, his memory failed him. He could only say a few words. Those watching assumed that the hesitation was indicative of a guilty conscience and killed him with lances as he attempted to make his speech. As in many of the trials recorded by Greco-Roman historians, the judges of the trial do not pronounce a verdict. In this case, the onlookers took the matter into their own hands.

History of Alexander 7.1.10-40

A third trial follows on the heels of the last two. This one involves a friend of Philotas named Amyntas and his brothers. He had been recommended

to the king by Philotas, and later Alexander presumed that Amyntas was in league with Philotas. No speech is recorded against Amyntas, although some of the evidence against him is given. On the day before the conspiracy was discovered, Amyntas refused to give some of his horses to Antiphanes for the cavalry to replace horses which had been lost. Not only had Amyntas refused, he had done so arrogantly and spoken harshly of Alexander.

When given a chance to speak, Amyntas first asks that he be freed from his chains.⁴³ When unfettered, he asks to wear the uniform of a guard and is allowed to do so. This action can be seen as serving the same purpose as an *exordium*. While being in the garb of a prisoner, Amyntas looked guilty. By taking on a soldier's uniform, he could more easily be presumed innocent of the charges. In his *exordium* (7.1.19-20), Amyntas expresses confidence in Alexander. He says that if the outcome is favorable, it is due to Alexander, and if not, it is due to ill fortune.

Amyntas then turns immediately to *refutatio* (7.1.21-40) countering the charges against him.⁴⁴ He begins with the accusation that he had spoken harshly against Alexander. Amyntas denies any such speech, but quickly argues that words are harmless. In times of stress, harsh words are often spoken, but without actions. He remarks that the king is above being threatened by such words.

Next, Amyntas considers the charge that he was a friend of Philotas. Amyntas does not deny this charge. He argues that indeed Alexander himself was a friend of Philotas. It was because of the friendship with the king that Amyntas was also a friend of Philotas. All soldiers were to consider the king's

⁴³Tarn, *Alexander*, 94-95, is much more appreciative the speech of Amyntas than that of Philotas.

⁴⁴Helmreich, *Reden*, 170, gives a similar division of the speech.

friends as their own friends and his enemies their enemies. As to the evidence that Amyntas and Philotas met shortly before the conspiracy was uncovered, Amyntas simply states that the two of them were acting out of habit. They regularly met together, and that day was no different.

The *refutatio* then turns to his reluctance to give up his horses to Antiphanes. This complaint, Amyntas argues, is a matter between him and Antiphanes. The crime lay with Antiphanes for demanding the horses rather than Amyntas in his refusal to surrender them. Antiphanes had already taken eight of the ten horses held by Amyntas. If he had surrendered the other two, Amyntas himself would have been without a horse.

In response to the evidence that Alexander's mother had written a letter calling Amyntas an enemy of Alexander, Amyntas argues that she was angry at him because he had called forth for military service many men who were hidden at her estate at the direction of Alexander. Amyntas would have been punished had he not obeyed the command of Alexander, and yet, now he was on trial for obeying the command.

Amyntas was interrupted by soldiers bringing in Polemon, one of Amyntas' brothers who had earlier fled. Amyntas has no chance to end his speech with a *peroratio*. The assembly reacted violently to Polemon almost to the point of stoning him immediately. Before they could do so, however, Polemon speaks on behalf of his brothers. He asks for no mercy for himself, but that his flight not be counted against his brothers. If his flight was taken as a sign of his own guilt, then the fact that his brothers did not flee should be taken as an indication of their innocence. Somehow, the crowd, which had been ready to stone him only moments earlier suddenly sympathized with Polemon. The whole assembly began to cry, as did Polemon for endangering his brothers.

Even Alexander was affected. Amyntas alone was not won over by his brother and blamed Polemon for his being on trial. Polemon agreed only to win greater sympathy from the crowd which cried out for the pardon of both men.

Alexander then followed the request of the assembly and pardoned them.

It is unclear from the narrative if Amyntas and his brothers were a part of the conspiracy. Yet again, however, the final judgment was not determined by the trial's actual proceedings. The speeches for and against Amyntas did very little to influence the final outcome. The verdict rested on the interruption and contrition of Polemon.

P. Cornelius Tacitus

P. Cornelius Tacitus (c. 55–120 C.E.) was one of the great historians of the Roman empire and a noted orator. His view of oratory differed substantially from that of Quintilian, however. Tacitus did not share Quintilian's optimism for oratory. Instead, he saw rhetoric as a tool of propaganda rather than truth.⁴⁵ His style of historiography is rather austere. Whereas Curtius Rufus exemplified a rhetorical style of historiography, Tacitus represents another style one "averse to speechifying."⁴⁶ Tacitus' *Annals* chronicle the history of Rome from the accession of Tiberius to the death of Nero (14–68 C.E.).⁴⁷

The *Annals* contain three defense speeches. None of them is paired with a prosecutorial speech. Whereas other historians seem to give a summary representation of the entire speech, Tacitus gives only a summary of part of the speech. None of the speeches is presented in a form given by the rhetorical

⁴⁵George Kennedy, *Art of Rhetoric in the Roman World*, 523. .

⁴⁶Fornara, *The Nature of History*, 152.

⁴⁷Text and translation are from Tacitus, *The Histories and The Annals* (trans. C. H. Moore and J. Jackson; LCL; Cambridge: Harvard University Press, 1937).

manuals. In each of the defense speeches, there seems only to be a *rebutatio* recorded. Interestingly, Tacitus makes an authorial aside before discussing the circumstances of the first speech, "I realize that many writers omit numerous trials and condemnations, bored by repetition or afraid that catalogues they themselves have found over-long and dismal may equally depress their readers" (6.7). Tacitus appears apologetic for the possibility that he includes too much material and compensates by being reticent to give a detailed account of trials or full speeches.⁴⁸ When compared to the writings of Livy, Tacitus has significantly less of his histories devoted to speech, and the speeches included are on the average shorter.⁴⁹

Annals 6.8

The first case involves accusations against various people concerning their friendship with the conspirator Sejanus. Tacitus mentions Marcus Terentius who alone is willing to admit the friendship. Some of the speech of Terentius is given, but it does not fit the form given by the rhetorical manuals. To some extent the majority of what is given seems to be a *rebutatio*. He refutes not the claim of friendship, but the charge that such friendship was wrong. He argues that his friendship with Sejanus was based on the emperor's judgment which had resulted in Sejanus' exalted status. The courage of his speech persuades the hearers to sentence the accusers of Terentius to banishment or death.

Annals 13.21

⁴⁸The trial of Sejanus, who was convicted of conspiracy against Tiberius may have been an exception. Only a portion of book five, which must have contained this account, has been preserved.

⁴⁹N. P. Miller, "Dramatic Speech in Tacitus," *AJP* 85, no. 3 (1964): 295-96. The percentage of speech in Livy is 27.5 compared to 16.5 in Tacitus.

A second case involves Agrippina. She was the second wife of Claudius and responsible for various intrigues and murders, including the poisoning of Claudius (12.67). The death of Claudius enabled Agrippina's son by a previous marriage and Claudius' adopted son, Nero, to rise to power before Claudius's natural son, Britannicus, was of age to rule. Agrippina was unable to control her son as she expected and began plotting for Britannicus to rule. Nero, however, realized such machinations were underway and had Britannicus poisoned (13.15-16). A former friend of Agrippina whose marriage had been stopped by Agrippina sought revenge on the mother of the emperor. Agrippina was accused of encouraging one of her relatives to begin revolution against Nero. When told of the charges, Nero is ready to kill his mother, but is counseled to let his mother at least defend herself. A group goes to Agrippina to announce the charges and hear her defense. All that is given of her speech (13.21) seems to be a *rebutatio* in which she does not so much deny the charges as accuse her accusers. Then she demands an interview with Nero. Nothing of the speech to Nero is given. Tacitus only tells that she did not speak in support of her innocence, but was able to gain vengeance on her accusers and recognition for her friends.

The trial does not settle the animosity between Agrippina and Nero. Book Fourteen begins with Nero's murderous plans against his mother (14.3-4). After an unsuccessful attempt to kill Agrippina at sea (14.4-5), Nero has her killed by the blade. Although she is responsible for the deaths of Claudius (12.67), Lucius Silanus, and Junius Silanus (13.1), her death comes not from being found guilty of these crimes, but by the hand of her son who fears her power.

Annals 16.31

A third trial scene with a defense speech has Servilia as the defendant. This trial scene is a confused one, and it is difficult to ascertain the specifics of the case.⁵⁰ Servilia's father is apparently charged with plotting against Nero. No speech is given in reference to the charge against him. Servilia is charged with giving money to astrologers. Some of her speech is recorded in direct discourse. As in the other defense speeches given by Tacitus, a *rebutatio* is all that is given. Servilia denies any impious acts. Before she finishes her speech, her father interrupts her and denies any wrongdoing on her account. No official resolution is given to the trial except that the accused were granted the choice of how to be executed.

The trial scenes with speeches in Tacitus are shorter, and the speeches do not clearly manifest the rhetorical tradition. In two of the cases, the issue is settled by the trial. In the case of Agrippina, the trial accomplishes little. Agrippina's death is secured by other means.

Flavius Josephus

Flavius Josephus (c. 37–100 C.E.) was a Jewish soldier, politician, and historian. He wrote *The Jewish War* around 79 C.E. A decade or so later, Josephus produced *Jewish Antiquities*, which traced the history of the Jews from their biblical beginnings through the Jewish War.⁵¹ Although the scholarship on

⁵⁰Robert Samuel Rogers, "A Tacitean Pattern in Narrating Treason-Trials," *TAPA* 83 (1952): 279-311, has found that Tacitus often omits significant information concerning trials. For his comments on this case, see 294-96.

⁵¹Text and translation are from Josephus, *The Jewish War* and *Jewish Antiquities* (H. St. J. Thackeray et al.; LCL; Cambridge: Harvard University Press, 1930-1965).

Josephus is vast,⁵² little attention has been directed at the speeches, even less to the judicial speeches.⁵³

Jewish Antiquities 16.91-126⁵⁴

In this trial scene, Herod brings charges of conspiracy against his sons, Alexander and Aristobulus. He brings them to testify before Caesar rather than simply execute them himself. He feared that such action by a father would be viewed unfavorably. Herod's accusation is given in indirect speech. He claims that his sons have hated him and conspire to put him to death and take his throne. Such a crime is all the greater when directed at a father who lavished gifts upon them and arranged marriages for them.

⁵²See e.g., Louis Feldman, *Josephus and Modern Scholarship, 1937-1980* (Berlin: Walter de Gruyter, 1984) and *Josephus: A Supplementary Bibliography* (New York: Garland, 1986). Neither of these include any entries on the passages treated below. The entries relating to speeches primarily deal with the question of historicity of the speeches. The 1984 volume lists studies relating Josephus to rhetoric among the desiderata, 892.

⁵³Donna R. Runnalls, "The Rhetoric of Josephus," in *Rhetoric in the Hellenistic Period 330 B.C.-A.D. 400* (ed. Stanley E. Porter; Leiden: Brill, 1997), 737-54, considers the major speeches looking primarily at the deliberative speeches and finds that "they were composed in conformity to the general rules of rhetoric and grammar which were widely taught at the time of Josephus (738). She finds three forensic speeches in Josephus: *Ant.* 16:31-57 (Nicolas to Agrippa); 17:110-20 (Nicolas indicting Antipater); *J.W.* 6.328-50 (Titus to Zealot leaders). The first of these is an appeal to Agrippa to stop the violence against the Jews and is better seen as deliberative deciding on what course Agrippa should take. Josephus makes the point that this is not set in a court of law (16.58). The third speech mentioned is Titus' appeal for Jewish surrender and should also be seen as deliberative. The second speech is set within a courtroom scene but it begins in indirect discourse and is addressed to Antipater, the accused, rather than the judge and will not be considered below. Instead, the speeches by Herod and Antipater from the same scene as recorded in *J.W.* 617-640 will be considered. Josephus omits their direct discourse in the version found in *Jewish Antiquities*. Denis Saddington, "Some Aspects of Rhetoric in Josephus" (paper presented at the annual congress of the New Testament Society of South Africa, 29 March 2000), deals with judicial speeches, but was not available for use in this present study.

⁵⁴The trials will be treated following the chronology of the events in the narrative rather than the chronology of Josephus' writings.

The sons are confused and dismayed by the charges. They are overcome with tears, and do not know how to proceed since defending themselves against the charges would show their father to be in error. Caesar realizes that their silence is not an indication of guilt. He and the bystanders are moved with pity towards the sons.

Although they clearly had already gained the sympathy of the crowd, Alexander begins his speech with an *exordium* (16.105-108) in the form of an apostrophe directed at Herod including flattery for both their father and for Caesar who acts as judge in the case:

Father your goodwill toward us is evident even in this trial. For if you had intended to take severe action against us, you would not have brought us before the savior of all mankind.

πάτερ, εἶπεν, ἥ μὲν σὴ πρὸς ἡμᾶς εὖνοια δῆλη καὶ παρ' αὐτὴν τὴν κρίσιν· οὐκ ἂν γάρ, εἴ τι δυσχερὲς ἐνενόις ἐφ' ἡμῖν, ἐπὶ τὸν πάντας σῶζοντα προήγαγες. 16.105

The *exordium* next turns to the defendants themselves. Alexander mentions their pitiable situation. Apart from any verdict in this trial, the sons could not bear to live if it were believed that they could have committed such actions against their father.

Next, Alexander moves to a *rebutatio* (16.109-112). While he admits the plausibility of a charge of wanting the throne against young men, he nonetheless denies it. Their mother was put to death for plotting against Herod. It was natural that he might also suspect them of conspiracy. Yet, his suspicion did not rise to the level of proof. There has been no proof offered in this case. Alexander asks a series of rhetorical questions to show that no proof has been given: Has anyone seen them prepare poison, bribe servants, or written letters against Herod? The implication is that there is simply no proof for the charge.

Inverting the usual order as is sometimes done for a defense speech, the *probatio* (6.113-118) follows the *rebutatio*. Alexander gives a series of artistic proofs for his claims of innocence. They did not lament the death of their mother, and if they lament it was her sins rather than her death which caused grief. They had little incentive to kill Herod since they already enjoyed royal honors. As Herod's sons, they were not foolish enough to think that the people would allow those guilty of parricide to rule over them nor to suppose that they could escape the punishment while Caesar reigned. The death of their mother would have been a lesson to show that they could not hope to plot against Herod.

Alexander ends the speech with a *peroratio* (6.119-120). Although more might be said in defense, it is difficult to defend acts which have not been committed. Alexander proposes that Herod return to an attitude free of suspicion. If fears linger with him, the sons will willingly give up their lives rather than wronging the one who gave them life.

All were persuaded by Alexander, even Herod. Caesar dismissed the charges and faulted them only for behaving in such a way that Herod could believe such charges. Herod was admonished to put away suspicion, and the father and sons were reunited presumably reconciled.

The reconciliation is short-lived, however. Antipater undermines his brothers and causes Herod to harbor fears concerning Alexander and Aristobulus. Herod receives authority from Augustus to take action against them, but advised bringing them before a Roman council (6.356-372). Herod obliges but uses the opportunity to accuse them in dramatic fashion although with little evidence. The sons are not given the opportunity to defend themselves. Those on the council agreed on condemning the sons, but not on

the punishment that should be given them. Eventually, Herod orders that the two sons be strangled to death (16.394).

The speech of Alexander follows the form given in the rhetorical manuals with the change in order of *probatio* and *rebutatio* as has been seen in other defense speeches. Since no specific actions were given in the charge against them, there was no need for a *narratio*. The trial ends justly with the acquittal of Alexander and Aristobulus. It does not ultimately settle the issue at hand. Herod will not rest until the sons are dead.

Jewish War 1.617-640

In the version of the trial of Antipater in *Jewish War*, Josephus includes a prosecution speech by Herod and Antipater's defense. Both show a basic reliance on the rhetorical tradition. Antipater has the opening words as he cries out to his father that he might not be condemned in advance and asks for a chance to show his innocence (1.621). Such would be expected as an *exordium*.

Herod silences his son and begins his speech nudging Varus toward the conclusion that the case is obvious and that the only honest judgment is against Antipater. He also seeks to elicit the pity of Varus:

That you, Varus, and every honest judge will condemn Antipater as an abandoned criminal, I am fully persuaded. What I fear is that my fate may also appear hateful to you and that you may judge me deserving of every calamity for having begotten such sons. And yet you ought rather to pity me for having been the most devoted of fathers to such abominable wretches.

ἀλλ' ὅτι μὲν καὶ σύ, Οὐάρε, καὶ πᾶς δικαστὴς ὅσιος Ἀντίπατρον ἐξώλη κρινεῖ, πέπεισμαι. δέδοικα δὲ μὴ κάμοῦ μισησῆς τὴν τύχην, καμὲ κρίνης πάσης ἄξιον συμφορᾶς τοιοῦτους υἱοὺς γεγεννηκότα. χρὴ δὲ διὰ τοῦτο ἐλεεῖσθαι πλέον, ὅτι πρὸς οὕτω μιανοῦς καὶ φιλοστοργότατος πατὴρ ἐγενόμην. (1.622)

Next, Herod moves to the *narratio* outlining his sad situation. His sons have all been against him. He gave Alexander and Aristubolus an expensive education in Rome and friendship with Caesar, but they conspired against him. Now Antipater, who was heir to the throne did not have the patience to wait for the throne, but plotted to kill his own father. Despite all the riches lavished on him, Antipater was determined to take the throne by force.

Herod's speech provides little proof for his accusations. Instead of a full *probatio* he asks a rhetorical question which camouflages the lack of evidence asking "what proof was brought against (my other sons) so convincing as that which establishes this traitor's guilt?" (ἢ τίς ἔλεγχος ἠνέχθη κατ' αὐτῶν, ἡλικὸς ἀποδείκνυσιν τοῦτον ἐπιβουλον; 1.626). Although he provides no evidence, his statement suggests that the evidence is obvious.

Next, Herod moves on the *rebutatio* (1.627-628). Here he anticipates the arguments of Antipater and warns Varus of his son's lying ways: "Varus, you must be on you guard. I know the creature and foresee the plausible pleading, the hypocritical lamentations that are to follow" (1.627). He then moves to how he trusted Antipater with his life only to have his son plot against him.

As Herod completes his speech, his emotion grows. His *peroratio* (1.628) expresses his amazement that he is still alive with Antipater scheming against him. He then assures all that no one who tries to kill him will escape even if he must convict all of his children. He is then overcome with emotion and cannot say more. He signals Nicolas to give the evidence. At this point, Antipater begins speaking.

His *exordium* was given before Herod began (1.621). He proceeds to his *rebutatio* (1.629-633) in which he does not so much refute everything that Herod has said, but uses Herod's testimony to plead his innocence. How could he, who

was Herod's protector, be accused of parricide? He knew the fate of his brothers and would not have attempted such a plan. Furthermore, he had no motive. He already had the throne, he had ample money, and he had no cause to fear or hate his father.

The *probatio* (1.633-634) follows the *rebutatio*. Antipater calls Rome and Caesar as witnesses to his love of his father: "Rome is witness to my filial piety and Caesar, the lord of the universe, who has often called me 'Philopater'" (Ρώμη μοι μάρτυς τῆς εὐσεβείας καὶ ὁ τῆς οἰκουμένης προστάτης Καῖσαρ, ὁ θιλοπάτορα πολλάκις με εἰπών, 1.633). He also produces letters that show his love of his father.

He ends the speech with an emotional *peroratio* asking that he not be condemned on the basis of testimony extracted by torture from others. Instead, Antipater asks that the instrument of torture be used on him, since if he is guilty of parricide he should not die without due torture. All are moved except Herod.⁵⁵ Nicolas then addressed the assembly on behalf of Herod. Josephus does not give this speech in *Jewish War* as he does in *Jewish Antiquities*. Nicolas included many accusations supported by proofs. Varus called on Antipater to answer Nicolas' charge, but he only replied: "God is witness to my innocence" (θεὸς ἐστὶν μοι τοῦ μηδὲν ἀδικεῖν μάρτυς, 1.639).

Another prisoner, whose presence has not been mentioned before, is poisoned to death, but no such action is taken in regards to Antipater. Varus and Herod meet in private and draft a report to Caesar. Antipater is imprisoned apparently to await Caesar's response. Subsequently, a plot of Antipater against Salome was discovered, and Herod is ready to execute Antipater. Herod's declining health and other crises delay any action against Antipater. Eventually,

⁵⁵In the version in *Jewish Antiquities*, even Herod is moved (*Ant.* 17.106).

Herod receives word from Caesar that Antipater is condemned to death, but may be banished depending on Herod's desire. Before taking any action, Herod attempts suicide, but is unsuccessful. Rumor spread that Herod was dead, and Antipater attempted to use this rumor to secure his release from prison. When the jailers reported this action to the king, he had Antipater immediately executed.

The speeches by Herod and Antipater both fit the rhetorical form expected in judicial speeches. Antipater's defense, like other defense speeches, omits the *narratio* and reverses the order of *probatio* and *rebutatio*. The trial does not quickly bring the matter to an end. There is a delay while Antipater is left in prison. When Antipater is executed, it is unclear if his death results from the proceedings of the trial or whether Antipater's attempt to escape is the ultimate cause for his death.

Conclusion

The histories show a basic reliance on the rhetorical tradition. With the exception of Xenophon and Tacitus, ancient historians who gave full treatments of trials recording speeches in direct speech follow the form to at least some extent. The variance in Tacitus may be explained by his tendency to shorten speeches by including a summary of only one portion of the speech rather than give an epitome of all of the speech.

Some of the standard divisions may be omitted and still reflect standard rhetorical practice. In most cases the defense speech omitted the *narratio*. This tendency is permissible if the actions are not in question but rather the criminality of such actions. The defense speeches uniformly place the *rebutatio* before the *probatio* or omit the *probatio* completely. The practice is

understandable since the *rebutatio* is seen by Quintilian as the central task of the defense (*Inst.* 5.13.1).

In terms of function, the majority of the trials do not settle the issues at hand in the trial. They provide a heightened drama and often a significant slowing of the narrative movement of the histories. Often the events that necessitate the trial have already been narrated earlier in the history, and sometimes the auditor knows what would be the just outcome. It is not uncommon for something or someone to intervene before the judgment is given. Sometimes the trial is simply aborted.

Either by an intervening event or official judgment, the outcome is sometimes unjust. In such cases, the events that follow have a way of righting the wrong judgment. The tendency is seen in both trials in Xenophon where at least some of those responsible for the condemnation of innocent people die shortly after, one of starvation and one killed in battle. In Livy, Appius commits suicide in prison after his wrongdoing in the trial concerning Verginia. Also the condemnation of Manlius, presumably brings pestilence. In Tacitus, Agrippina, who has caused various murders, is not condemned in the trial, but is killed. In Josephus, Antipater is responsible for the deaths of his brothers and is finally brought to justice. Occasionally, a correct verdict is seemingly verified after the trial. In Dionysius of Halicarnassus, Servilius proves triumphant in battle after he is found innocent.

CHAPTER FIVE

Paul on Trial

Introduction

Like the ancient novels and histories, Acts features many speeches. In fact, direct speech occurs in Acts with higher frequency than in most other ancient narratives.¹ There are speeches representing all three species of speeches in Acts: deliberative, epideictic, and forensic.² Many of the speeches in Acts are deliberative in nature. This category includes the so-called missionary speeches.³ Much of the early scholarly attention focused on these speeches in Acts.⁴ There

¹G. H. R. Horsley, "Speeches and Dialogue in Acts," *NTS* 2 (1986): 612-13, analyzes the frequency of speeches in Acts in comparison with a sampling of other ancient writers and finds that Acts gives almost twice as many examples of direct speech as Tacitus's *Annals*, and little over twice as much as Livy, Books 1-5 (although Horsley does not note this tendency, the frequency of direct speech escalates with later books), and almost four times as much as Josephus' *Jewish War*. This estimate may overstate the disparity, however. N. P. Miller, "Dramatic Speech in Tacitus," *AJP* 85, no. 3 (1964): 295-96, gives the percentage of histories given in direct speech. Of the historians considered in the preceding chapter of this study, Livy's percentage is 27.5, Curtius' is 28.5, and Tacitus' is 16.5. Using the estimates of Marion L. Soards, *The Speeches in Acts Their Content, Context, and Concerns* (Louisville: Westminster/John Knox, 1994), 1, 365 verses of approximately 1000 verses of Acts are given in direct speech (36.5 percent). The major speeches make up about 29.5 percent of Acts.

²C. F. Evans, "'Speeches' in Acts," in *Mélanges Bibliques en Hommage au R. P. Béda Rigaux* (ed. Albert Deschamps and André Halleux; Gembloux: Duculot, 1970), 293, notes that all the speeches in Acts are in some sense defensive speeches, countering various attacks against early Christianity.

³This statement is not a judgment concerning how well the speeches follow the form of deliberative speech as shown in the rhetorical handbooks. It only recognizes that these speeches are deliberative in the sense that they seek to persuade the hearers concerning future actions.

⁴Jacob Jervell, *The Theology of the Acts of the Apostles* (New Testament Theology; Cambridge: Cambridge University Press, 1996), 85-86 n. 159 remarks that the defense speeches have received "second-rate treatment" compared to the those which occur in Acts 1-17.

is at least one example of a speech that may be classified as epideictic in Acts (20:17-38).⁵ There are three scenes with judicial speeches in the last quarter of Acts involving Paul: (1) Paul before the Jewish mob (22:1, 3-23), (2) Tertullus and Paul before Felix (24:1-23), and Paul before Festus and Herod Agrippa (26:1-32).⁶ While there is also direct speech given when he is before the Sanhedrin (23:1-10) and before Felix (25:7-12), these exchanges do not constitute defense speeches. There is disagreement concerning which of these appearances should be considered trial scenes and which are essentially pretrial proceedings.⁷ Witherington correctly points out that there are not any true trial scenes before Acts 24.⁸ That which occurs in Acts 21-23 is part of the legal process, but not an official part of the trial. No one assumes the role of plaintiff until Acts 24.

This chapter will examine these trial scenes and speeches given in these scenes in Acts analyzing them in light of the instructions in the rhetorical manuals and in comparison with judicial scenes in the ancient novels and historiographies. It will also consider whether the scenes have similarities to those in the comparative literature in regard to their capacity to settle the issue in the case and adjudicate justice.

⁵Duane F. Watson, "Paul's Speech to the Ephesians Elders (Acts 20.17-38): Epideictic Rhetoric of Farewell," in *Persuasive Artistry: Studies in Honor of George A. Kennedy* (ed. Duane F. Watson; Sheffield: Sheffield Academic Press, 1991), 184.

⁶Gerhard Schneider, *Die Apostelgeschichte* (HTKNT; Freiburg: Herder, 1980-82), 1.95-103, includes Paul's speech before Jewish leaders in Rome (28:17-20) as a possible defense speech. Acts 7 also presents the speech of Stephen which may also be classified as defensive speech. The chapter will focus on the speeches given by and against Paul.

⁷Martin Dibelius, *Studies in the Acts of the Apostles*. (New York: Scribner's, 1956), 212, speaks of five hearings; Veltman, "Speeches," 206, also counts five but counts Paul before the Jewish crowd and omits Paul before Felix and Drusilla.

⁸Ben Witherington, *The Acts of the Apostles: A Socio-Rhetorical Commentary* (Grand Rapids: Eerdmans, 1998), 684.

Movement Towards Trial

The author of Acts has given signs of foreboding and a sense of what awaits Paul in Jerusalem. In making his farewell address to the Ephesian elders, Paul mentions that he does not know what will befall him in Jerusalem “except that the Holy Spirit testifies to me in every city that imprisonment and afflictions await me” (πλὴν ὅτι τὸ πνεῦμα τὸ ἅγιον κατὰ πόλιν διαμαρτύρεται μοι λέγον ὅτι δεσμά καὶ θλίψεις με μένουσιν, 20:23). He anticipates that they will not see him again (20:25). When Paul meets with the Christians in Tyre, they by the urging of the Spirit try to convince him not to go to Jerusalem (οἵτινες τῷ Παύλῳ ἔλεγον διὰ τοῦ πνεύματος μὴ ἐπιβαίνειν εἰς Ἱεροσόλυμα, 21:5). Next, when staying with Philip the evangelist in Caesarea, the prophet Agabus comes to Paul (21:10-14). He takes Paul’s belt and binds his own hands and feet saying the Holy Spirit says that the owner of the belt will thus be bound by the Jews in Jerusalem and be handed over to the Gentiles. With this announcement “we” and the people plead with Paul not to go to Jerusalem. Like the Lukan Jesus (Luke 9:53), Paul seems to have set his face toward Jerusalem and will not be deterred.

When he reaches Jerusalem, Paul meets with James and the leaders of the church. They too anticipate trouble for Paul. They report a rumor that Paul teaches Jews to abandon the law of Moses and tells them not to circumcise their children. James is eager for Paul to make a good impression and suggests that Paul purify himself along with four men who have taken a Nazirite vow and pay for their expenses.⁹ It is not altogether clear why Paul should go through the

⁹A. J. Mattill, “The Purpose of Acts: Schneckenburger Reconsidered,” in *Apostolic History and the Gospel: Biblical and Historical Essays Presented to F. F. Bruce* (ed. W. Ward Gasque and Ralph P. Martin; Exeter: Paternoster, 1970), 115-16, maintains the possibility that the church in Jerusalem had questions concerning Paul’s attitude towards the law and “had drawn Paul into an ambush by luring him to the Temple” (116).

purification process.¹⁰ The intent, however, seems clear enough. The church in Jerusalem wished to counter the rumors that Paul was teaching contrary to the law.

Ironically, Paul's action had the opposite effect. While he was in the process of the purification in the Temple, Jews from Asia stirred up the crowd shouting, "Fellow Israelites, help! This is the man who is teaching everyone everywhere against our people, our law, and this place, more than that he has actually brought Greeks into the temple and has defiled this holy place" (ἄνδρες Ἰσραηλῖται, βοηθεῖτε· οὗτός ἐστιν ὁ ἄνθρωπος ὁ κατὰ τοῦ λαοῦ καὶ τοῦ νόμου καὶ τοῦ τόπου τούτου πάντας πανταχῇ διδάσκων, ἔτι τε καὶ Ἑλληνας εἰσήγαγεν εἰς τὸ ἱερόν καὶ κεκοίνωκεν τὸν ἅγιον τόπον τούτον, 21:28). Having seen an Ephesian named Trophimus with Paul, they presume that Paul has taken him into the temple. While this information that the accusation has to do with Trophimus is shared with the auditor of the text, Paul is not told why the accusation is made.

Quickly the response escalates until Paul is dragged out of the temple, and a mob is ready to kill Paul. Word quickly spread to Lysias, the tribune of the military cohort. He sent soldiers to take command of the situation.¹¹ Paul is arrested, and Lysias seeks to ascertain the charges against him. The crowd was not united in their accusations against Paul. To quell the violence, Paul is taken from the crowd to the barracks. Before entering the barracks, Paul asks for

¹⁰Ernst Haenchen, *The Acts of the Apostles a Commentary*. (Philadelphia: Westminster Press, 1971), 612, argues that Paul's travels had rendered him unclean. C. K. Barrett, *A Critical and Exegetical Commentary on The Acts of the Apostles* (ICC; Edinburgh: T & T Clark, 1994), 2:1011 considers the other possibilities, but ultimately decides that the details are less important than the attempt to make sure that Paul's reputation is cleared.

¹¹Witherington, *Acts*, 657, notes that Lysias' actions had more to do with preventing riots than with any special concern he had for Paul.

permission to speak directly to the crowd. While it was a Jewish crowd which began the complaints against Paul, he is quickly taken into Roman custody.

Paul Before the Jewish Crowd

The speech given by Paul to the Jewish crowd has received several rhetorical treatments. In an often-cited essay, Jerome Neyrey provides an analysis and argument for this speech and those in chapters 23, 24, and 26 “are formally structured according to the profile of forensic defense speeches according to the models presented in the rhetorical manuals.”¹² His summary of findings has the speech outlined as follows: (1) 22:4-5, *exordium*, (2) 22:10, 14-15, statement of facts (*narratio*), and (3) proof (*probatio*): 22:6-15. His discussion is problematic on several counts. First, he examines all three speeches together finding elements of the various divisions strewn throughout the speeches rather than looking at each speech with its own integrity. Some of the verses he gives as part of multiple divisions and some verses are not included at all. Second, he is not consistent. When he concludes his discussion, he gives a chart which does not match his preceding discussion. For example, he finds elements of the *exordium* in 21:38-39, 22:3, 22:4, 22:5, 22:6-11, 22:7-8, 22:11, and 22:15, but limits the *exordium* to 22:4-5 in his chart. Third, his use of the rhetorical manuals is suspect. In his discussion of *exordia*, Neyrey relies heavily on a passage from Cicero’s *De Inventione* (1.24.34-25.36). This passage deals with the ethos of a person but does not come from Cicero’s discussion of *exordia*, but proofs. Although Neyrey seeks to show this speech to be a fine example of judicial

¹²Jerome H. Neyrey, “The Forensic Defense Speech and Paul’s Trial Speeches in Acts 22-26: Form and Function,” in *Luke-Acts: New Perspectives from the Society of Biblical Literature* (ed. Charles H. Talbert; New York: Crossroad, 1984), 210. A revision of this essay can be found in Bruce J. Malina and Jerome H. Neyrey, *Portraits of Paul an Archaeology of Ancient Personality* (Louisville: Westminster John Knox Press, 1996), 64-99.

rhetoric, he is not convincing. If his analysis is correct, the speech is a particularly poor example with the *narratio* and *probatio* intermingled in a way not given by the rhetorical manuals and elements from the *probatio* in the *exordium*.

William Long also argues that the speech fits the guidelines given by ancient rhetoricians, but offers a different division.¹³ According to Long, the speech is best divided: (1) 22:1-2, *exordium*, (2) 22:3, narrative, and (3) 22:4-21, proofs. This structure is not without problems. As Ben Witherington points out, there are no formal proofs in 22:4-21, "rather there are hints or elements of what could be later used as proofs."¹⁴ There are allusions to signs and witnesses but these elements should not be viewed as part of the *probatio*.

Several commentators recognize that the speech is mostly taken up in the *narratio*. George Kennedy notes that it is a judicial speech and "entirely a narration of Paul's former activities against the Christians and his subsequent conversion and commission to the gentiles."¹⁵ Marion Soards seems to make a similar judgment claiming that "the speech simply narrates Paul's past."¹⁶ It is not clear, however, that Soards is claiming that the speech is formally a *narratio*. Witherington divides the speech similarly with 22:1-2 as *exordium*, and 22:3-21 as

¹³William R. Long, "The Trial of Paul in the Book of Acts: Historical, Literary, and Theological Considerations," (Ph.D. diss., Brown University, 1982), 219.

¹⁴Ben Witherington, *The Acts of the Apostles: A Socio-Rhetorical Commentary* (Grand Rapids: Eerdmans, 1998), 667.

¹⁵George A. Kennedy, *New Testament Interpretation Through Rhetorical Criticism* (Chapel Hill: University of North Carolina Press, 1984), 134.

¹⁶Marion L. Soards, *The Speeches in Acts Their Content, Context, and Concerns* (Louisville: Westminster/John Knox, 1994), 111.

narratio. Charles Talbert gives a slightly different division: (1) 22:3-5, *exordium* and (2) 22:6-21, incomplete *narratio*.¹⁷

These attempts to view the majority of the speech as *narratio* are more in line with the guidelines given by the rhetorical manuals. The question which remains is where the *exordium* ends. Another possibility not given by the commentators is that the *exordium* runs from 22:1-3. While 22:2 is a narrative aside, it has to do with the effect attempted by the *exordium*. The *exordium* continues in 22:3. Then the speech moves to *narratio* from 22:4-21. Such a division seems to be in line with the guidelines suggested in the rhetorical manuals.

The primary aim of the *exordium* is to gain the favorable attention of the hearers. The author of *Rhetorica ad Herennium* mentions one of the ways of securing attention is directly asking for it (*Rhet. Her.* 1.7). In 22:1, Paul appeals for the attention of the crowd: “Brothers and fathers, listen to the defense that I now make before you” (Ἀνδρες ἀδελφοὶ καὶ πατέρες, ἀκουσατέ μου τῆς πρὸς ὑμᾶς νυνὶ ἀπολογίας).¹⁸ By making this speech in the Jewish language, Paul further gains the attention of the crowd, and they become more quiet.

For primary topics of the *exordium*, the speaker could speak about himself, the opponent, the hearers, or the case (Quintilian, *Inst.* 4.1.6-11). In 22:3, Paul continues the *exordium* making a statement about himself and connecting his own virtues with those of his hearers. “I am a Jew, born in Tarsus in Cilicia, but brought up in this city at the feet of Gamaliel, educated strictly according to our ancestral law, being zealous for God, just as all of you are today” (ἐγὼ εἰμι ἄνθρωπος

¹⁷Charles H. Talbert, *Reading Acts: A Literary and Theological Commentary on the Acts of the Apostles* (Rev. ed.; Reading the New Testament Series; Macon, GA: Smyth & Helwys, 2005), 192.

¹⁸Translations given throughout this chapter are from the NRSV.

Ἰουδαῖος, γεγεννημένος ἐν ταρσῷ τῆς κλικίας, ἀνατεθραμμένος δὲ ἐν τῇ πόλει ταύτῃ, παρὰ τοὺς πόδας Γαμαλιὴλ πεπαιδευμένος κατὰ ἀκρίβειαν τοῦ πατρῷου νόμου, ζηλωτὴς ὑπάρχων τοῦ θεοῦ καθὼς πάντες ὑμεῖς ἐστε σήμερον). Paul is able to both flatter his hearers for their zealousness for God and claim to be their equal in this regard in an effort to gain a hearing from them.

Beginning in 22:4, Paul moves to the *narratio*. This transition may be signaled by the move from present to aorist tense in the main verb. Paul is in the awkward position of defending himself to his accusers. Although what amounts to two charges were given to incite the crowd against him earlier (teaching people contrary to the law and defiling the temple), the crowd is not agreed upon what charges (21:34). Further complicating the issue is the problem that Paul does not know that the charge of defiling the temple is related to Trophimus. Since there was no evidence given that Paul had done such things, Paul is unable to concentrate on a *rebutatio* as most of the defense speeches in ancient narrative do.¹⁹ Instead, he begins to tell them of the dramatic change that occurred as he ceased being a persecutor of Christianity.

This account of Paul's experience on the Damascus road differs in several ways from the account given in Acts 9.²⁰ Some of the differences may be explained by the fact that here Paul himself narrates the events rather than the omniscient narrator.²¹ This explanation could explain omission of the astonishment of Paul's fellow travelers. Other differences may come by Paul's attempt to make this story as appealing as possible to the Jewish crowd. For

¹⁹Especially those defense speeches found in ancient histories, see preceding chapter.

²⁰For one treatment of the differences, see Ronald D. Witherup, "Functional Redundancy in the Acts of the Apostles," *JSNT* 48 (1992): 67-86.

²¹Witherington, *Acts*, 670.

example, Ananias is introduced as a disciple (μαθητής) in Acts 9:10. While in Acts 22:12, he is said to be a “devout man according to the law and well spoken of by all the Jews living there” (ἀνὴρ εὐλαβῆς κατὰ τὸν νόμον, μαρτυρούμενος ὑπὸ πάντων τῶν κατοικούντων Ἰουδαίων). Likewise, the retelling in the speech in chapter 22 gives words from Ananias not recorded in the earlier account: “The God of our ancestors has chosen you to know his will, to see the Righteous One and to hear his own voice” (ὁ θεὸς τῶν πατέρων ἡμῶν προεχειρίσατό σε γνῶαι τὸ θέλημα αὐτοῦ καὶ ἰδεῖν τὸν δίκαιον καὶ ἀκοῦσαι φωνὴν ἐκ τοῦ στόματος αὐοῦ, 22:14). Not mentioned in the earlier account is the appearance of Paul praying in the Temple. This addition also shows Paul’s devotion to Judaism and the temple. Omitted in this version is the conflict with Jews in Damascus which led to Paul’s departure (9:23-25).

Talbert²² following John Bligh²³ finds a chiastic structure to the speech from 22:3-21:

- A Paul comes from the Gentile world to Jerusalem (22:3)
- B Paul persecuted the Christians (22:4-5a)
- C Paul’s journey from Jerusalem to Damascus (22:5b)
- D Paul’s vision on the road to Damascus (22:6-11)
- E Ananias restores Paul’s sight (22:12-13)
- F Ananias tells Paul of his mission (22:14-15)
- E’ Ananias urges Paul to receive baptism (22:16)
- D’ Paul’s vision in Jerusalem (22:17-18a)
- C’ Paul is commanded to leave Jerusalem (22:18b)

²²Talbert, *Reading Acts*, 191-92.

²³John Bligh, *Galatians: A Discussion of St Paul’s Epistle* (Householder Commentaries; London: St Paul Publications, 1969), 97.

B' Paul speaks of his days as a persecutor (22:19-20)

A' Paul is sent from Jerusalem to the Gentiles (22:21)

In the structure, the parallel between A and A' seems to be unnecessarily subtle. There is no mention of "Gentiles" in 22:3, only that Paul is from Tarsus. The point of emphasis is that he is an observant Jew, not that he was born in a Gentile city. If the divisions given here are correct, the chiasm falls in two different divisions. While such is certainly possible, it might be better to recognize the chiastic structure but without A and A'. The resulting chiasm would occur completely within Paul's *narratio*.

Before Paul can finish his speech he is interrupted by the crowd at the mention of Gentiles. Such a violent reaction is understandable at a time of growing Jewish nationalism.²⁴ Dibelius noted the frequency of interrupted speech in Acts and claims that it is a literary technique used by the author.²⁵ He argues that "the speech is always allowed to reach just that point which is important to the author."²⁶ Neither Dibelius nor those who follow him explain how such a claim can be substantiated. Dibelius further claims that this technique was peculiar to the author of Acts. This claim will not stand up to close scrutiny. Four of the speeches from the histories considered in previous chapter of this study were interrupted (Cicero's speech in Appian, *Civil Wars* 3.51-61; Philotas' speech in Curtius, *History of Alexander* 6.9.2-24; Amyntas' speech in Curtius, *History of Alexander*, 7.1.10-40; and Servilia's speech in Tacitus,

²⁴Talbert, *Reading Acts*, 193; Witherington, *Acts*, 675.

²⁵Martin Dibelius, *Studies in the Acts of the Apostles*. (New York: Scribner's, 1956), 160-61.

²⁶Dibelius, *Studies*, 160. He is followed by Haenchen, *Acts*, 628 and Luke Timothy Johnson, *The Acts of the Apostles* (ed. Daniel J. Harrington; Sacra Pagina Series; Collegeville, MN: Liturgical Press, 1992), 391, although Johnson does not cite Dibelius.

Annals 16.31). During Cicero's speech, the crowd erupts in favor of his speech so that he does not continue. The crowd responds against Philotas, who manages to end with a short *peroratio*, but clearly does not finish the speech as he intended. The speeches of Amyntas and Servilia are interrupted by one person rather than a crowd. In both cases a family member comes forward to speak on behalf of the defendant.

G. H. R. Horsley has also noted the tendency in Acts to leave speeches unfinished. He finds that eight of the ten longest speeches in Acts are "either interrupted or concluded with a statement from the author that the speaker had more to say in a similar vein."²⁷ He claims that this tendency is the author's attempt "to veil the unreal brevity of space which he could afford to allocate to the speeches."²⁸ Horsley finds this practice evidence of the author's care in striking a pleasing balance between narrative and discourse.

Paul's first judicial speech is given to the Jewish crowd. Although it is not a part of an official trial, it appears to have the first two elements of a proper judicial speech. The interruption of the crowd does not allow Paul a chance to complete the speech. The cries recall the crowd's reaction to Jesus in Luke 23:18.

As the crowd reacts violently against Paul, the tribune again seeks to learn the cause of the commotion against Paul²⁹ and orders that he be flogged. Such torture is found in both the novels and in the histories (e.g. Chariton, *Callirhoe* 1.5.2; 3.4; Curtius Rufus, *History of Alexander* 6.11.13-20). What makes Paul's case unusual is that the information sought from Paul is not a confession but the charge against him. Brian Rapske finds that torture was not an option unless the

²⁷Horsley, *Speeches*, 610.

²⁸Horsley, *Speeches*, 610.

²⁹As Witherington points out it is not clear if the tribune knew Aramaic and so may not have understood the speech, *Acts*, 677.

person is suspected of serious wrong-doing.³⁰ When it is learned that Paul is a Roman citizen, the plans for torture are quickly aborted. Paul is released and Lysias calls the chief priests with the Sanhedrin to meet the next day.

Again the scene seems odd. The tribune is ostensibly trying to uncover the charges against Paul. Instead of having the Sanhedrin present the case against Paul, Paul is made to stand before them. Without a specific charge for Paul to counter, Paul does not here produce so much a defense as a simple statement of his innocence: “Brothers, up to this day I have lived my life with a clear conscience before God” (ἄνδρες ἀδελφοί, ἐγὼ πάσῃ συνειδήσει ἀγαθῇ πεπολίτευμαι τῷ θεῷ ἄχρι ταύτης τῆς ἡμέρας, 23:1). This statement is met with a slap on the face by order of the high priest.³¹ After a heated exchange, it is clear that a fair hearing is unlikely.

Given such conditions, Paul takes a “diversionary tactic.”³² Recognizing that the Sanhedrin is composed of both Sadducees and Pharisees, he makes a statement which he knows might divide them: “Brothers, I am a Pharisee, a son of Pharisees. I am on trial concerning the hope of the resurrection of the dead” (ἄνδρες ἀδελφοί, ἐγὼ Φαρισαῖός εἰμι, υἱὸς Φαρισαίων, περὶ ἐλπίδος καὶ ἀναστάσεως νεκρῶν [ἐγὼ] κρίνομαι, 23:7).³³ Not only is this statement useful in providing an occasion for division among the members of the Sanhedrin, it does so without providing Lysias any evidence of wrongdoing on Paul’s part. The

³⁰Brian Rapske, *The Book of Acts and Paul in Roman Custody* (Book of Acts in Its First Century Setting; Grand Rapids: Eerdmans, 1994), 139.

³¹Cf. Achilles Tatius, *Leucippe and Clitophon* 8.1.4.

³²Kennedy, *New Testament Interpretation*, 135. This statement should not be taken only as a diversion, Paul Schubert, “The Final Cycle of Speeches in the Book of Acts,” *JBL* 87 (1968): 6, notes that this short speech is “centrally important” since it gives the issue that will be seen throughout the rest of Acts.

³³The NRSV translation treats ἐλπίδος καὶ ἀναστάσεως as a hendiadys.

Sadducees and the Pharisees are caught arguing as the Pharisees claim that they find nothing wrong with Paul. Again there is a commotion, and again Lysias acts to protect Paul by removing him from the turmoil without a clear indication of the charges against Paul.

That night Paul has a vision in which the Lord stands before him with the message, “Keep up your courage! For just as you have testified for me in Jerusalem, so you must bear witness also in Rome” (θάρσει ὡς γάρ διεμαρτύρω τὰ περὶ ἐμοῦ εἰς Ἱερουσαλήμ, οὕτω σε δεῖ καὶ εἰς Ῥώμην μαρτυρῆσαι, 23:11). Given how the narrative of Acts has been guided by visions and prophecies earlier, the auditor is assured that somehow Paul will make his way to Rome.³⁴

Not unlike what happened in some of the ancient novels and histories (Longus, *Daphnis and Chloe*, 2.20; Xenophon, *Hellenica* 2.3.50; Curtius, *History of Alexander*, 7.1.8; Livy, *Ab urbe condita* 3.44-58), certain people decide to take matters into their own hands, and in this case try to kill Paul apart from the legal procedure developing. More than forty people conspired by oath not to eat again until they have killed Paul. They meet with the chief priests and elders and advise them to request a second hearing of Paul before them. The conspirators will lie in wait for Paul, and murder him on his way to the hearing.

The plan was thwarted when Paul’s nephew learns of it and is able to alert the tribune. Lysias sends Paul with a surprisingly large number of soldiers to Felix, the governor. Lysias also sends a letter explaining the situation and why Paul is sent to him. In the letter, he puts himself in as favorable a light as possible. He states that upon hearing that Paul was a Roman citizen he intervened although that is not the order of events as recorded earlier.

³⁴Talbert, *Reading Acts*, 198.

The letter also hides what appears to be Lysias' inability to uncover the charges against Paul. The narrative nowhere gives an indication that Lysias managed to uncover these charges. All three of his attempts failed: (1) he asked the crowd for the charges, but the crowd could not agree; (2) he was about to have Paul tortured in a effort to find the charges when he learned of Paul's Roman citizenship; and (3) he ordered the Sanhedrin to meet with Paul before them to learn of the charges only to see the council divided over other issues. Instead of admitting this problem to Felix, Lysias generically claims that Paul is "accused concerning questions of their law" (ἐγκαλούμενον περὶ ζητημάτων τοῦ νόμου αὐτῶν), but does not name any specific law that has been broken. Lysias does add that Paul was "charged with nothing deserving death or imprisonment" (μηδὲν δὲ ἄξιον θανάτου ἢ δεσμῶν ἔχοντα ἔγκλημα, 23:29).

It seems that his accusers are as much under scrutiny as Paul is since they were about to kill a Roman citizen, and then plotted against him when the first attempt failed. Lysias orders both Paul and his accusers to stand before Felix. Five days later, Ananias, the high priest came with elders and a professional orator to make their case to Felix.

Paul Before Felix

Acts 24 narrates the trial of Paul before Felix. The case against Paul is given by Tertullus, who is called a ῥήτωρ. This term, used only here in Luke-Acts, can mean simply "speaker," but here probably carries the sense of professional legal advocate (cf. Josephus, *Ant.* 17.226).

Tertullus' speech has been analyzed with some variation in the divisions found. Often commentators simply state the divisions without clearly giving reasons for the divisions. Kennedy seems to claim that the entire speech given is

exordium.³⁵ Winter gives two analyses which give slightly different divisions. In the earlier work he divides the speech as follows: (1) 24:2b-3, *exordium*, (2) 24:4-5, *narratio*, (3) 24:6ff, *confirmatio*, (4) 24:8, *peroratio*.³⁶ In a later piece, he includes 24:4 as a part of the *exordium* rather than *narratio*.³⁷ Brian Rapske gives similar divisions: (1) 24:2-4, *exordium*, (2) 24:5, *narratio*, (3) 24:6-8, *peroratio*.³⁸ Witherington maintains the following divisions: (1) 24:2-4, *exordium*, (2) 24:5-6, *narratio*, and (3) 24:8, *peroratio*.³⁹ Others have noted the *exordium* used by Tertullus but without outlining further divisions.⁴⁰ Soards does not divide the speech according to the rhetorical categories but as flattering introduction (24:2b-4), charges (24:5-6) and appeal (8).⁴¹

Tertullus' speech begins with an *exordium* as expected. Like those given by Dionysius and Mithridates in Chariton (*Callirhoe* 5.6.5; 5.7.1) and Alexander in Josephus (*Ant.* 16.105-108), this *exordium* begins with flattery of the judge: "Since through you we enjoy much peace, and since by your provision, most excellent Felix, reforms are introduced on behalf of this nation, in every way and

³⁵Kennedy, *New Testament Interpretation*, 135: "In a conventional classical proem he flatters the governor (24:2-4), alleges that Paul is a Nazarene agitator who has profaned the temple, and asks the governor to interrogate him."

³⁶Bruce W. Winter, "The Importance of The *Captatio Benevolentiae* in the Speeches of Tertullus and Paul in Acts 24:1-24," *JTS* 42 (1991): 515-17. It is unclear why he uses 24:6ff as the *confirmatio* since verse 7 is a reading from the Western text not usually considered the original reading and verse 8 is given as *peroratio*.

³⁷Bruce W. Winter, "Official Proceedings and the Forensic Speeches in Acts 24-26," in *The Book of Acts in Its Ancient Literary Setting* (ed. Bruce W. Winter and Andrew D. Clarke; Grand Rapids: Eerdmans, 1993), 305-36.

³⁸Rapske, *Book of Acts*, 160.

³⁹Witherington, *Acts*, 704.

⁴⁰E.g. Long, "Trial of Paul," 230; Johnson, *Acts*, 416.

⁴¹Soards, *Speeches*, 117.

everywhere we accept this with all gratitude” (πολλῆς εἰρήνης τυγχάνοντες διὰ σοῦ καὶ διορθωμάτων γινομένων τῷ ἔθνει τούτῳ διὰ τῆς σῆς προνοίας, πάντῃ τε καὶ πανταχοῦ ἀποδεχόμεθα, κράτιστε Φήλιξ, μετὰ πάσης εὐχαριστίας 24:2). As Quintilian advises, the flattery is linked to the furtherance of the case at hand (*Inst.* 4.1.16). It deals with the peaceful order enjoyed through Felix. Later, Tertullus will accuse Paul of being an agitator throughout the world. The charges against the accused are set at odds with the role of the judge. It should be noted that according to Josephus and Tacitus the procuratorship of Felix was hardly marked by peace. Instead it was an era of chaos and cruelty (Josephus, *J.W.* 13.2-7; Tacitus *Hist.* 5.9).

Tertullus also mentions reforms introduced by Felix. διορθωμάτα refer to revision of legal ordinances.⁴² This flattery then highlights Felix’s competence in judicial matters such as the case now before him. Tertullus further follows the advice of Quintilian (*Inst.* 4.1.34) by seeking the attention of the judge in his assurance of brevity (24:4).

The *narratio* follows: “We have found this man a pestilent fellow, and an agitator among all the Jews throughout the world and a ringleader of the sect of the Nazarene. He even tried to profane the temple, but we seized him” (εὐρόντες γὰρ τὸν ἄνδρα τοῦτον λοιμὸν καὶ κινοῦντα στάσεις πᾶσιν τοῖς Ἰουδαίοις τοῖς κατὰ τὴν οἰκουμένην πρωτοστάτην τε τῆς τῶν Ναζωραίων αἵρεσεως, ὃς καὶ τὸ ἱερὸν ἐπείρασεν βεβηλῶσαι ὃν καὶ ἐκρατήσαμεν, 24:5-6). Winter argues that the *narratio* is only verse five with the *probatio* in verse six.⁴³ This division would make the general accusation of being an agitator the only charge against Paul and the proof of the charge is that he tried to profane the Temple. Verse six,

⁴²Winter, “Official Proceedings,” 319.

⁴³Winter, “Official Proceedings,” 320.

however, is a continuation of the thought in verse five and is better viewed as part of the *narratio*. In this case there are two charges against Paul, the general charge of disruption and the specific charge of profaning the temple.⁴⁴

The speech ends with what is probably correctly called the *peroratio* (24:8). Felix is invited to interrogate the accused himself in order to learn the truth. The Jews also join and affirm Tertullus' accusation.

Several manuscripts offer a fuller reading (E Ψ 33 36 181 307 *Byz^{Pt} al*) which changes the thrust of the speech: "and we would have judged him according to our law. But the chief captain Lysias came and with great violence took him out of our hands commanding his accusers to come before you" (καὶ ἐκατήσαμεν καὶ κατὰ τὸν ἡμέτερον νόμον ἠθελήσαμεν κρίναι. Παρελθὼν δὲ Λυσίας ὁ χιλίαρχος μετὰ πολλῆς βίας ἐκ τῶν χειρῶν ἡμῶν ἀπήγαγε, κελεύσας τοὺς κατηγοροὺς αὐτοῦ ἔρχεσθαι ἐπὶ σέ). If this reading is taken as a part of the text, Tertullus explains why the Jewish leaders did not take care of the matter on their own. Lysias interrupted the proceedings and took Paul by force. This reading also changes the understanding of verse eight. If preceded by the longer reading, verse eight invites Felix to interrogate not Paul but Lysias for an explanation of why he interrupted the proceedings.⁴⁵ The shorter reading given by the UBS⁴/NA²⁷ is supported by ℘⁷⁴ ⋈ A B 81 1175 *Byz^{Pt} pc* and will be considered the original reading here.

In verse 4, Tertullus assures Felix that he will be brief. This promise of brevity is certainly kept. The *exordium*, though short, is the longest portion of the speech, a feature that Quintilian likens to a head being too large for the body

⁴⁴Witherington, *Acts*, 707.

⁴⁵For an argument in favor of the longer reading, see Dean P. Béchard, "The Disputed Case Against Paul: A Redaction-Critical Analysis of Acts 21:27-22:29," *CBQ* 65, no. 2 (2004): 237-40.

(*Inst.* 4.1.62). F. F. Bruce suggests a “striking contrast between the very lame and impotent conclusion and the rhetorical flourish of the *exordium*.”⁴⁶ Tertullus’ speech has been diversely characterized as either “a very weak, ill-constructed speech”⁴⁷ or a “masterpiece . . . of rhetorical artistry.”⁴⁸ Long feels that it is “irrelevant flattery” (emphasis his) failing to see how the flattery is related to the case.⁴⁹ Winter is particularly impressed with the *exordium* and sees Tertullus as an “able professional rhetor.”

While the *exordium* does manifest the rhetorical technique, the unevenness of the rest of the speech is unexpected. What is most surprising about the speech is that it is missing the *probatio*. This omission is usually explained by claiming that this case is an example of the *extra ordinem* procedure, in which charges are alleged without evidence or witnesses.⁵⁰ The responsibility for ascertaining the proof of the charges lies with the official hearing the case. Yet, Quintilian, who betrays no knowledge of such procedure, insists that the *probatio* is the one essential part of any forensic speech (*Inst.* 5.pr.5).

For a reader who knows anything about the rules of rhetoric, the lack of a *probatio* is a very telling sign. In this construction of Tertullus’ speech, the writer of Acts may be signaling the weakness of the case against Paul. Tertullus would not omit proof unless he absolutely could not provide any. He seems unable

⁴⁶F. F. Bruce, *Commentary on the Book of the Acts* (Grand Rapids: Eerdmans, 1954), 467.

⁴⁷I. Howard. Marshall, *The Acts of the Apostles* (The Tyndale New Testament Commentaries; Grand Rapids: Eerdmans, 1980), 374.

⁴⁸Stephan Lösch, “Die Dankesrede Des Tertullus: Apg 24, 1-4,” *TQ* 112 (1931): 317.

⁴⁹Long, “Trial of Paul,” 230.

⁵⁰A. N. Sherwin-White, *Roman Society and Roman Law in the New Testament* (Oxford: Clarendon, 1963), 49.

even to fabricate any plausible evidence. He is not above lying or at least dealing in half-truths. For instance, his untruthful flattery of Felix and his framing Paul's arrest in a much more legal way than the actual mob action, which occurred. The writer of Acts presents Tertullus as a capable rhetor who has undertaken an impossible case. Later, unnamed Jews will have the same trouble when they make serious charges, but can offer no proof (25:7).

Paul then makes his defense. Recently several scholars have analyzed this speech in terms of judicial speech. Kennedy's divisions are: (1) 24:10b, *exordium*, (2) 24:11, *narratio*, and (3) 24:12-21, *probatio*.⁵¹ Neyrey gives the entire speech as *narratio* (24:10-21).⁵² Long gives the following divisions: (1) 24:10b, *exordium*, (2) 24:11-20, *probatio*, and (3) 24:21, *peroratio*.⁵³ Rapske's divisions omit both *narratio* and *probatio*: (1) 24:10b, *exordium*, (2) 24:14-18, *rebutatio*, and (3) 24:19-21, *peroratio*.⁵⁴ Winter alone finds all five elements: (1) 24:10b, *exordium*, (2) 24:11, *narratio*, (3) 24:12-13, *probatio* (4) 24:14-18a, *refutatio*, and (5) 24:18b-21, *peroratio*.⁵⁵ Witherington finds all but a *probatio*: (1) 24:10b, *exordium*, (2) 24:11, *narratio*, (3) 24:12-20, *rebutatio*, and (4) 24:21, *peroratio*.⁵⁶ Soards divides the speech into seven parts that do not equate to the rhetorical divisions.⁵⁷

⁵¹Kennedy, *New Testament Interpretation*, 136. Kennedy labels verse twelve "*propositio*." Since Quintilian included *propositio* as a part of *probatio*, it is included in the *probatio*.

⁵²Neyrey, "Forensic Defense Speech," 221.

⁵³Long, "Trial of Paul," 231.

⁵⁴Rapske, *Book of Acts*, 161-63.

⁵⁵Winter, "Official Proceedings," 322-27.

⁵⁶Witherington, *Acts*, 709-710. Witherington does not label these verses *refutatio* but calls them "Paul's actual response to the charges."

⁵⁷Soards, *Speeches*, 118.

Such diversity exists because Paul's speech does not exactly fit the rhetorical pattern. Nevertheless, certain elements are present. The speech begins, as expected, with an *exordium*, "Realizing that for many years you have been judge over this nation, I cheerfully make my defense" (10b). Paul does not use as much flattery as Tertullus, but he expresses his confidence in Felix's ability to judge the case.

Next comes the *narratio*. As shown above, Kennedy, Winter, and Witherington limit this to only verse eleven: "As you may ascertain, it is not more than twelve days since I went to worship at Jerusalem." Winter cites Quintilian, who says that in some cases only a brief summary is required (*Inst.* 4.2.4).⁵⁸ Yet, Quintilian's examples are different from Paul's case. The brief summary is given when the facts of the case are commonly known by all or are admitted by both sides. The question in such cases has to do with a point of law not a disagreement in what actually occurred in the case. In Paul's case, there is disagreement concerning the facts, and the short statement in verse eleven is insufficient to show the disagreement concerning past events. While Paul's *narratio* is given summarily by the writer of Acts, it should not be construed as a kind of brief summary mentioned by Quintilian.

Verse twelve mentions that "they did not find me disputing with any one or stirring up a crowd, either in the temple or in the synagogue, or in the city." This reference to people seeing him does not equate to proof. Paul has not produced witnesses, but only narrated that he not disrupting the peace. Verse twelve cannot be considered proof.

It is better to see Paul's *narratio* running from verse eleven to 18a. This *narratio* takes a chiastic structure:

A (11-12) Temporal marker followed by "they did not find"

⁵⁸Winter, "Official Proceedings," 323.

"It was not more than twelve days since I went up to worship in Jerusalem. They did not find me disputing with anyone in the temple or stirring up a crowd either in the synagogues or throughout the city."

B (13) Indication of innocence
 "Neither can they prove to you the charge that they now bring against me."

C (14-15) Admission
 "But this I admit to you, that according to the Way, which they call a sect, I worship the God of our ancestors, believing everything laid down according to the law or written in the prophets. I have hope in God—a hope that they themselves also accept—that there will be a resurrection of both the righteous and the unrighteous."

B' (16) Indication of innocence
 "Therefore I do my best always to have a clear conscience toward God and all people."

A' (17-18a) Temporal marker followed by "they found"
 Now after some years I came to bring alms to my nation and to offer sacrifices. While I was doing this, they found me in the temple, completing the rite of purification, without any crowd or disturbance.

In the structure, A (11-12) reflects the narration that counters the first charge of disrupting the peace. A' (17-18a) counters the second charge of profaning the temple. These statements make Paul's case more plausible by giving motives for his actions as recommended by Quintilian (*Inst.* 4.2.52). These motives also extol Paul as a virtuous man. He came to Jerusalem to worship, and he went to the temple to bring alms and offerings to his nation. B and B' do not rise to the level of proof, but do point toward the truth of Paul's statement: no one saw him causing trouble and he has a clear conscience. C is a *concessio* by which Paul admits something that may first seem unfavorable to him but actually does not hurt his case (Quintilian, *Inst.* 9.2.51; *Rhet. Her.* 2.16; Cicero, *Inv.* 2.31).

After Paul's skillful *narratio*, he proceeds to the *probatio* (18b-21). It seems that neither side produced witnesses to substantiate its claims. Paul uses the prosecution's lack of witnesses as an artificial proof. If he had done anything

wrong before a crowd of people, the prosecution would be able to bring forward witnesses. There are no witnesses. Therefore, there must be no wrongdoing.

Before Paul can make his *peroratio*, Felix interrupts Paul. As in the speech before the Jewish crowd and in many of the major speeches in Acts, the speech is cut short before the speaker can finish.

The trial scene ends without a judgment given by Felix. He postpones the decision until he has contact with Lysias, the tribune. Paul is kept in custody, but given some leniency. Two years pass without a decision although Felix remains in contact with Paul and hears him on several occasions. No direct speech is recorded from these meetings.

Paul before Festus

Felix is then succeeded by Festus. The Jewish leaders seek to have Paul sent to Jerusalem planning an ambush along the way. Festus decides to hear the case himself and goes to Caesarea. This trial scene is narrated with even more brevity than the one before Felix. No prosecution speech is given. Luke only writes that the Jews brought against Paul “many serious charges which they could not prove (πολλὰ καὶ βαρέα αἰτιώματα καταφέροντες ἃ οὐκ ἴσχυον ἀποδείξαι, 25:7). A full speech by Paul is not given, but only a statement of denial. When Festus, who was seeking to do a favor for the Jews, asks if Paul wishes to go up to Jerusalem and be tried there, Paul appeals to Caesar. Festus accepts this appeal.⁵⁹

⁵⁹G. H. R. Horsley, “Speeches and Dialogue,” 612-13, analyzes the frequency of speeches in Acts in comparison with a sampling of other ancient writers and finds that Acts gives almost twice as many examples of direct speech as Tacitus’ *Annals*, and little a over twice as much as Livy, Books 1-5 (although Horsley does not note this tendency, the frequency of direct speech escalates with later books), and almost four times as much as Josephus’ *Jewish War*. This estimate may overstate the disparity, however. N. P. Miller, “Dramatic Speech in Tacitus,” *AJP* 85, no. 3 (1964): 295-96, gives the percentage of histories given in

Later, Agrippa and Bernice come to Caesarea to welcome Festus. He consults with them concerning Paul's case. Festus mentions that he heard the accusations brought by the Jews, but that "they did not charge him with any of the crimes I was expecting" (οἱ κατήγοροι οὐδεμίαν αἰτίαν ἔφερον ὧν ἐγὼ ὑπενόουν πονηρῶν, 25:18). Knowing only that the accusations are related to Jesus, Festus does know how to proceed with the case or what charges should be made against Paul. This situation is an awkward one for Festus since he must send the charges with Paul in the appeal process.⁶⁰ Upon hearing of the situation, Agrippa wishes to hear from Paul himself.

Paul Before Agrippa

The next day amid great pomp and a large crowd not unlike those reported in the novels and histories (e.g. Chariton, *Chaereas*, 1.5; 5.4.), Paul is brought forward. This scene, however, is not a usual trial scene. No prosecution accuses Paul. Instead, Festus admits that he does not know what charges to bring against Paul. As before the Sanhedrin, Paul is made to defend himself when there are no clear charges for him to refute. The primary audience for this speech is Agrippa rather than Festus (26:2, 19). It is therefore aimed at a Jewish

direct speech. Of the historians considered in the preceding chapter of this study, Livy's percentage is 27.5, Curtius' is 28.5, and Tacitus' is 16.5. Using the estimates of Marion L. Soards, *The Speeches in Acts Their Content, Context, and Concerns* (Louisville: Westminster/John Knox, 1994), 1, 365 verses of approximately 1000 verses of Acts are given in direct speech (36.5 percent). The major speeches make up about 29.5 percent of Acts.

⁶⁰Although according to the narrative, Festus finds it unreasonable to send a prisoner without charges, Conzelmann finds evidence that a report was required, Hans Conzelmann, *Acts of the Apostles a Commentary on the Acts of the Apostles* (trans. James Limburg, A. Thomas Kraabel, and Donald H. Juel; ed. Eldon Jay Epp; Hermeneia; Philadelphia: Fortress Press, 1987), 207.

audience and bears similarity in content with the initial defense speech given by Paul before the Jewish crowd in Acts 22.⁶¹

While the content is much the same, the style of the speech in Acts 26 is more elegant. Kennedy attributes this difference to the fact Paul speaks without any preparation in Acts 22 while here he presumably has had the opportunity to prepare.⁶² Long finds several indications of more literary style in this speech, such as the classical use of the perfect ἤγημαι as a present in 26:2, use of the classical ἴσασι (26:4) and ἀκριβεστάτην (26:5), the addition of the Greek proverb (26:19), and the use of the classical phrasing οὐδὲν . . . λέγων (26:22).⁶³

Paul's speech has received several treatments and has been divided various ways. Kennedy: (1) 26:2-3, *exordium*, (2) 26:4-18, *narratio*, and (3) 26:19-23, *peroratio*.⁶⁴ Neyrey: (1) 26:2-5, *exordium*, (2) 26:6-8, 16-20, *narratio*, and (3) 26:12-18, *probatio*.⁶⁵ Long: (1) 26:2-3, *exordium*, (2) 26:4-11, *narratio*, (3) 26:12-18, *probatio*, and (4) 26:19-23, *rebutatio*.⁶⁶ Winter: (1) 26:2-3, *exordium*, (2) 26:4-18, *narratio*, (3) 26:19-20, *probatio*, (4) 26:21, *rebutatio*, and (5) 26:22, *peroratio*.⁶⁷ Witherington: (1)

⁶¹For a discussion of matters related to this appeal, see Harry W. Tajra, *The Trial of St. Paul: A Juridical Exegesis of the Second Half of the Acts of the Apostles* (WUNT; Tübingen: Mohr, 1989), 146-51.

⁶²Kennedy, *New Testament Interpretation*, 137.

⁶³Long, "Trial of Paul," 238-39.

⁶⁴Kennedy, *New Testament Interpretation*, 334.

⁶⁵Neyrey, "Forensic Defense Speech," 221.

⁶⁶Long, "Trial of Paul," 238-39.

⁶⁷Frank Crouch, "The Persuasive Moment: Rhetorical Resolutions in Paul's Defense Before Agrippa," *SBL Seminar Papers* (Atlanta: Scholars Press, 1996), 334.

26: 2-3, *exordium*, (2) 26:4-21, *narratio*, (3) 26:22-23, *propositio*, (4) 26:25-26, *rebutatio*, and (5) 26:27-29 *peroratio*.⁶⁸

All of the commentators recognize that Paul's speech begins with an *exordium*. Paul expresses his pleasure to present his case before Agrippa. Since the case pertains to Jewish matters, Paul links his flattery of Agrippa to his knowledge of Jewish customs and controversies (26:3) in keeping with the advice of Quintilian (*Inst.* 4.1.52). With the exception of Neyrey, the commentators see the *narratio* beginning in verse four. Neyrey includes also verses four and five in the *exordium*.

It seems better, however, to see the *exordium* extending through verse 8. After dealing with the topic of the judge in verses two and three, Paul moves on to other topics of the *exordium* in four through eight. Verses four and five deal with both the topic of Paul himself and his opponents. He speaks of his virtues from his childhood and as a member of the sect of Judaism that was the most strict in matters of the law. With more subtlety, Paul also shows the character of his opponents: they know of Paul's virtues and yet attack him anyway. Rather than overtly claiming his opponents are liars, Paul insinuates their dishonesty (cf. Quintilian, *Inst.* 4.1.42-50). Paul then moves to the final topic of the *exordium*, the case itself: "And now I stand here on trial on account of my hope in the promise made by God to our ancestors, a promise that our twelve tribes hope to attain, as they earnestly worship day and night. It is for this hope, your Excellency, that I am accused by the Jews! Why is it thought incredible by any of you that God raises the dead?" (εἰς ἣν τὸ δωδεκάφυλον ἡμῶν ἐν ἐκτενείᾳ νύκτα καὶ ἡμέραν λατρεῦον ἐλπίζει καταντῆσαι, περὶ ἧς ἐλπίδος ἐγκαλοῦμαι ὑπο Ἰουδαίων, βασιλεῦ. τί ἄπιστον κρίνεται παρ' ὑμῖν εἰ ὁ θεὸς νεκροὺς ἐγείρει; 26:7-8). Here

⁶⁸Witherington, *Acts*, 737-38.

Paul presents this case as a scandalous one but not in the sense that the crime alleged is scandalous, but rather that it is scandalous for his opponents to accuse him of believing in something that all the Jews believe, that is God is able to raise the dead. Like Perseus' *exordium* before Philip (Livy, *Ab urbe condita* 40.9.9), Paul is able to touch all the possible topics suitable for *exordia* (the judge, the speaker, the opponent, and case itself, Quintilian, *Inst.* 4.1.6-11).

One of the difficulties in analyzing this scene according to judicial rhetorical categories is that it is not a formal trial. The charges made by the Jewish leaders are thought insufficient for trying Paul in Caesarea. After Paul's appeal to Caesar, Festus is trying to find a charge sufficiently serious to merit sending him to Caesar. Although Paul begins his speech by saying that he will make his defense against all the accusations of the Jews, Festus has already decided that those accusations do not merit a Roman trial. Paul's speech, then, is not a usual defense speech in which he can refute the charges against him since those hearing the case are unsure how he should be charged. This fact is often overlooked. For example, Luke Timothy Johnson finds it "startling" that the speech does not deal with the legal charges against Paul.⁶⁹ Others seem to find this lack of refutation a deficiency in the speech rather than a necessity. Cassidy comments, "in a speech twenty two verses long (26.2-23) only the last five constitute anything close to an explicit defense and even these latter verses stand more as a general statement concerning Paul's uprightness than they do as a specific refutation of the charges that have previously been made against him."⁷⁰ Harry Tajra notes that this speech does not deal with any specific charges and is

⁶⁹Johnson, *Acts*, 441.

⁷⁰Cassidy, *Society and Politics*, 113.

therefore “irrelevant in a Roman court of law.”⁷¹ Because of the unusual nature of this interrogation, one should not be overzealous in trying to find all the parts of a forensic speech. It is best to view 26:9-23 as a long *narratio*. Paul simply narrates his past to show that he has a virtuous character and is guilty of no crime.

The central event of the *narratio* is the divine commissioning. As Paul tells this story he uses all the elements listed by Theon as necessary for a complete narrative (*Progymnasmata*, 5.5-38, Butts).⁷² First, character: Paul himself. He mentions his Pharisaic training and his zealousness in persecution of those who connected with Jesus. Second, action: seeing a light and hearing a voice. Third, place: on the road to Damascus. Fourth, time: at midday. Fifth, manner: a light brighter than the sun. Sixth, reason: to appoint Paul “to serve and bear witness . . . to open their eyes” (26:16-18).

In the process of retelling the commissioning account Paul uses language which shows a basic continuity between his calling and that of the prophets before him.⁷³ “The direction, ‘rise and stand upon your feet,’ is reminiscent of Ezekiel 2:1, 3; ‘deliverance’ corresponds to the divine protection promised in Jeremiah 1:7f; to ‘open their eyes’ recalls the commission given to the Servant in Deutero-Isaiah (Is. 42:7, 16).”⁷⁴ Paul presents himself as one sent out as a new prophet.⁷⁵ Paul is not against the law and the prophets, but stands as their

⁷¹Harry W. Tajra, *Trial of St. Paul*, 163.

⁷²Crouch, “Persuasive Moment,” 337.

⁷³Gustav Stählin, *Die Apostelgeschichte* (NTD; Göttingen: Vandenhoeck & Ruprecht, 1968), 281.

⁷⁴Long, “Trial of Paul,” 242-43.

⁷⁵Hans Windisch, *Paulus und Christus: Ein biblisch-religionsgeschichtlicher Vergleich* (UNT; Leipzig: J. C. Hindrichs, 1934), 137.

necessary continuation. Paul's testimony says "nothing but what the prophets and Moses said would take place (26:22). Paul is ultimately transferring the responsibility for his actions from himself to God.⁷⁶

As before, Paul is interrupted before finishing his speech and at about the same place in the plot of the *narratio* as in the speech in Acts 22 as Paul speaks of the mission to the Gentiles.⁷⁷ This interruption comes before Paul gives any proof. The writer of Acts may have inserted such an interruption here since it appears uncertain what evidence Paul might have produced. The interaction with Festus and Agrippa is not a part of the speech.

Despite Paul's eloquence, his speech did not get the reception that he might have hoped. Festus interrupts Paul with the exclamation: "You are out of your mind, Paul! Too much learning is driving you insane!" (μαῖνη, Παῦλε· τὰ πολλά σε γράμματ' αἰς μανίαν περιτρέπει, 26:25). While this criticism is severe, there is a sense in which it may also be taken as a compliment to Paul's great learning.⁷⁸ This learning has taken Paul out of the realm of common sense. Paul refutes the claim and complements Agrippa on his prowess in understanding such matters. In essence, Paul is claiming that Festus may not understand such matters, but Agrippa will. Paul is setting himself and Agrippa against Festus. All Paul claims is what is written in the prophets, which Agrippa believes. Agrippa resists being drawn into the debate, but clearly finds no fault in Paul (26:32).

In the ancient novels and histories, the punishment or deliverance of the person on trial often came about outside the legal proceedings. In Acts 21-26

⁷⁶Kennedy, *New Testament Interpretation*, 137.

⁷⁷Kennedy, *New Testament Interpretation*, 137.

⁷⁸Witherington, *Acts*, 749.

there are numerous attempts to do away with Paul through non-legal means. The crowd is ready to kill Paul at the beginning of the conflict, but Lysias intervenes (21:31). A second attempt to kill Paul by force is thwarted as Paul's nephew discovers the plot and reports it to Lysias (23:12-23). A third plan was to request that Paul be sent back to Jerusalem and then ambush Paul as he makes the trip (25:3-4). Paul's appeal to Caesar makes his trip unnecessary and potential ambush impossible. Despite these various attempts, Paul remains safe though imprisoned.

Journey to Rome

Paul's speech in Acts 26 is the last of the defense speeches given as a part of the judicial process involving Paul.⁷⁹ Paul is again declared innocent; this time by Agrippa, Festus, and those with them (28:30-32). Yet, due to Paul's earlier appeal, he cannot simply be released. He travels to Rome because of his appeal and as he does he experiences various difficulties: a storm at sea, shipwreck, and snake-bite.

As in many of the ancient novels and histories, the trials and legal procedures do not resolve the issue although much narrative interest is devoted to them. What is most striking in the case of Acts is that they are never ultimately resolved. With most of the trials narrated with one or more speeches in the other ancient literature, something outside the legal procedure determines the case. Especially in the novels, some action by the gods or other people render the trial unnecessary.

⁷⁹Schneider, *Apostelgeschichte*, 1.103, considers the possibility that Paul's speech to Jewish leaders in Rome (Acts 28:17-20) be understood as a defense speech. Although there is something of an apologetic tone to the speech, it is more a way for Paul to introduce himself than a proper defense speech.

In a comparative essay concerning the trial scenes in the Greek novels and Acts, Saundra Schwartz comments about this point in the narrative of Acts:

On one level, Agrippa's verdict brings closure to the trials—he is the first official to declare that Paul has done nothing wrong—but Paul's own actions have made it impossible for Agrippa to bring the legal proceedings to an end. In the Greek novels, this would have been the place for a *deus ex machina*. The resolution of a case so complex—a narrative so compelling—calls for a spectacular scene.

She ends her essay with the claim that readers of the novels and Acts expect “the villains will pay the penalty and the heroes will be vindicated, if not in the temporal courtroom then certainly on the higher plane of poetic justice.”⁸⁰ She does not develop the idea of a *deus ex machina* in Acts or whether the expectations of early auditors concerning justice were fulfilled in Acts.

Yet, it is possible to see divine intervention in the Acts 27:1-28:16 that shows Paul's innocence and possibly resolves the question of Paul's guilt or innocence.⁸¹ The “spectacular scene” that Schwartz believes is needed occurs not as she suggests with Paul's presence in Rome, the center of the empire,⁸² but on the journey to Rome.

Such a way of thinking has been suggested by Gary B. Miles and Garry Trompf.⁸³ They examine a defense speech in Antiphon (*De caed. Herod* 82-83) in which the defendant argues his innocence partly on the basis of his safe travels by sea. He claims that such voyages prove that he is falsely accused. Shipwrecks

⁸⁰Schwartz, “Trial Scene,” 133.

⁸¹Talbert, *Reading Acts*, 210-221.

⁸²Schwartz, “Trial Scene,” 131.

⁸³Gary B. Miles and Garry Trompf, “Luke and Antiphon: The Theology of Acts 27-28 in Light of Pagan Beliefs About Divine Retribution, Pollution, and Shipwreck,” *HTR* 69 (1976): 259-67.

were seen as the consequence of divine retribution, and their absence was seen as the divine vindication.⁸⁴

David Ladouceur points to fragments of speeches in Andocides (*De myst.* 137-39) which make similar connections.⁸⁵ The prosecutor argues that the defendant had been preserved through many travels by sea in order that he might stand trial for his crimes. The defendant counters:

I for one cannot believe that if the gods considered me guilty of an offence against them, they would have been disposed to spare me when they had me in situation of the utmost peril—for when is man in greater peril than on a winter sea-passage? Are we to suppose that the gods had my person at their mercy on just such a voyage, that they had my life and my goods in their power, and that in spite of it they kept me safe? Why could they not have caused even my corpse to be denied due burial?

Talbert and John Hayes have uncovered many more examples of sea storms in comparative material.⁸⁶ They find that the divine functions of sea narratives fall into four categories: (1) a storm caused by gods or God//the outcome is due also to gods or God, whether deliverance or death, (2) a storm is caused by gods or God//outcome is due to mortals on the ship, (3) a storm is due to natural causes//the outcome is due to gods or God, and (4) a storm is due to natural causes//the outcome is due to natural or human agents. They show that the storm in Acts clearly fits the third category. The storm is not due to divine judgment but to natural causes, more specifically, the time of year. The deliverance of Paul and those with him is clearly not due to their human abilities but to divine deliverance. These two aspects of the difficulties by sea show that

⁸⁴Miles and Trompf, "Luke and Antiphon," 263.

⁸⁵David Ladouceur, "Hellenistic Preconceptions of Shipwreck and Pollution as a Context for Acts 27-28," *Harvard Theological Review* 73, no. 435-449 (1980).

⁸⁶Charles H. Talbert and J. H. Hayes, "A Theology of Sea Storms in Luke-Acts," in *Jesus and the Heritage of Israel: Luke's Narrative Claim Upon Israel's Legacy* (ed. David P. Moessner; Harrisburg: Trinity Press International, 1999), 268-72.

the storm and shipwreck are not due to Paul's guilt and that the deliverance "is part of the divine plan to carry the gospel to Rome by means of this innocent man."⁸⁷

Paul's innocence is further evidenced by his preservation in spite of being bitten by a snake. When he is first bitten, the natives of Malta are quick to assume that this is divine retribution: "When the natives saw the creature hanging from his hand, they said to one another, "This man must be a murderer; though he has escaped from the sea, justice has not allowed him to live" (πάντως φνεύς ἐστὶν ὁ ἄνθρωπος οὗτος ὃν διασωθέντα ἐκ τῆς θαλάσσης ἡ δίκη ζῆν οὐκ εἴσεν, 28:4). When he does not die, they mistakenly jump to the conclusion that he is a god. The auditor of Acts, however, would not likely make such a mistake. More likely a first century auditor would have taken the preservation of Paul's life as a sign of his innocence.

Further bolstering this view is the fact that the novels yield examples of guilty persons being punished by the sea and by snake-bite. In Longus' *Daphnis and Chloe* (2.25-27), the Methymnaeans refuse the verdict against them and attack the Mytileneans and plunder them. That night strange occurrences began happening at sea. Although not a typical storm, the experience at sea convinced the Methymnaeans of their wrong-doing and they returned the spoils. In Heliodorus' *Ethiopian Story* (2.20.2), Thermouthis, who was at least partially responsible for a death, falls asleep while lying in wait for someone, is bitten by a snake and dies. Given the background of the ancient novels and histories, it would not be unexpected if the legal proceedings could not settle the issue or less frequently if they settle the issue incorrectly. However, in almost all the cases, justice is ultimately done.

⁸⁷Talbert and Hayes, *Theology of Sea Storms*, 272.

Conclusion

The speeches in Acts manifest some reliance on the rhetorical tradition given by Quintilian. They are not perfect specimens, however. Tertullus' speech begins promisingly but falls flat. His omission of the *probatio* exhibits the weakness of the case against the apostle. From a narrative standpoint, this failure to follow the guidelines of the rhetorical manuals should not be seen as a deficiency on the part of the speech or speaker, but rather as a deficiency in the case itself. There was no proof for the allegations against Paul.

Paul's speeches show a basic dependence on the rhetorical tradition. The *exordia* given by Paul are close to what the handbooks advise. The *exordium* in the final speech is particularly close, dealing with every topic advised by the handbooks. The *narratio* in each speech also shows the basic influence as it recounts the actions of Paul in a plausible manner with hints of what Paul might have used as proofs later in the speeches.

It is true that the speeches do not contain all the divisions expected. There are two principle reasons why they do not exhibit the pattern more fully. The first and primary reason is that they are interrupted. All the judicial speeches of Paul end prematurely before Paul has a chance to properly finish the speech. Were these speeches not interrupted, they might have contained other elements.

The second reason is that in two of the three cases, it is not completely clear what the charges are against Paul. In Acts 22:28, there is the accusation of teaching against the law and defiling the temple, but by the time Paul has a chance to defend himself, there is no agreement among the crowd as to what Paul had done wrong. In Acts 26 when Paul is before Festus, Agrippa, and Bernice, Festus admits that he has no charges against Paul to send with his appeal to Caesar. Paul again defends himself while there are no definite charges

against him. While most defense speeches focus on refuting the charges, Paul has to defend himself without being able to refute charges. Even in the one scene where charges are relatively clear, the plaintiff offers no proof for Paul to refute. The lack of material to refute makes Paul's defense speeches a bit unusual. Nonetheless, the portion of the speech given is sufficiently close to the rhetorical tradition to merit the claim that this tradition has influenced the crafting of these speeches.

In the ancient novels and histories, the punishment or deliverance of the person on the trial often came about outside the legal proceedings. In Acts 21-26 there are numerous attempts to do away with Paul through non-legal means. The crowd is ready to kill Paul at the beginning of the conflict, but Lysias intervenes (21:31). A second attempt to kill Paul by force is thwarted as Paul's nephew discovers the plot and reports it to Lysias (23:12-23). A third plan was to request that Paul be sent back to Jerusalem and then ambush Paul as he makes the trip (25:3-4). Paul's appeal to Caesar makes his trip unnecessary and potential ambush impossible. In Acts 27-28, there are also natural forces which put Paul's life in danger. He survives the storm at sea and the snake-bite. Despite these dangers both by people and nature, Paul arrives in Rome unhindered in his mission to preach the gospel.

The trial scenes in Acts are comparable to those elsewhere in that they do not ultimately resolve the issues at hand. The case against Paul is never officially decided. Felix, although knowledgeable about such matters, postpones his decision and leaves Paul in custody for two years. Festus, his successor, does not rule on the case although convinced of Paul's innocence. Acts ends without giving a verdict to this trial that received so much attention.

Yet, even without an official verdict which settles the case, the author of Acts makes it clear that Paul is innocent. It is clear that he is considered innocent by Lysius (23:29), Festus (25:25; 26:31), and Agrippa (26:32). It is also clear that Felix keeps Paul in custody for reasons other than supposing Paul was guilty (24:25). Yet it is likely that the ultimate evidence of Paul's innocence does not come from the unofficial judgments of Roman rulers, but from Paul's deliverance from all threats from people and the natural world confirm his innocence. The ancient audience of the book of Acts would have expected any of these dangers to have killed Paul were he guilty of severe wrongdoing. Instead, he survives to preach in Rome unhindered. The legal proceedings drop from the narrative. With all Paul's innocence confirmed by his safe deliverance from all threats, there is little need to recount the final verdict of Paul's appeal.⁸⁸

⁸⁸Miles and Trompf, "Luke and Antiphon," 265.

CHAPTER SIX

Conclusion

This study has sought to understand better the form of the judicial speeches in Acts 22-26 and the function of the speeches and trial scenes within the narrative. The conclusions reached will be outlined according to these two categories.

Form of the Judicial Speeches of Paul in Acts

The majority of judicial speeches in both the ancient novels and histories can be evaluated positively from the standpoint of the rhetorical manuals. Although these specimens are not full speeches, they show a basic reliance on the rhetorical tradition. They are not textbook examples which imitate all points. Yet, imitation is clearly not what is advised in the manuals. Quintilian allows for significant adaptation depending on the case (e.g., *Inst.* 4.1.72; 4.2.5; 5.pr.5).

Despite their brevity, most of the speeches give what appears to be a summary of the complete speech with the various divisions advised by the handbooks. The speeches in Tacitus and Xenophon (the historian) are exceptions (Tacitus, *Annals*, 6.8, 13.21, 16.31; Xenophon, *Hell.* 2.3.35-49). The defense speeches given by them are not complete summaries, but summaries of only one division of the speeches, namely the *rebutatio*. Not all the speeches have all five divisions. It is not uncommon for a defense speech to omit the *probatio* and to be focused on the *rebutatio*. The *narratio* is sometimes omitted if the facts of the case are not in question, but rather the lawfulness of the actions. Such variations are permitted by the handbooks. Other speeches do not have as many divisions as

expected because they are interrupted within the narrative. Such is the case with the defense speeches made by Paul. Despite Dibelius' claims,¹ which continue to be repeated, the interruptions are not unique to Acts.

The previous attempts to uncover the rhetorical structures were found insufficient. Some of the attempts have been found to be flawed by faulty readings of the rhetorical tradition.² Some seem overly zealous to find all the divisions of the speeches and are willing to look for them beyond the speech proper.³

There are two other complicating factors in regard to the rhetorical analysis of Paul's speeches. First, they are interrupted so that Paul does not have a chance to complete his speeches. Second, unlike most of the trial scenes in which the defendant has the explicit charges against him given and usually a prosecutor's evidence which he can refute, Paul is given the explicit charges and a prosecutor's speech only in the speech in Acts 24. Even here, Tertullus gives no evidence for Paul to refute (Acts 24:2-8). Paul's case finds some parallel in the speech of the Plataeans (Thucydides, 3.53-59). No formal charges are stated and no speech is given against them. They are simply asked if they had given aid to the Lacedaemonians. Their speech looks much like Paul's. Without much to refute the majority of their speech is taken up in the *narratio*. They give an *exordium*, *narratio*, and *peroratio*. Since Paul is interrupted during his *narratio* in

¹Martin Dibelius, *Studies in the Acts of the Apostles*. (New York: Scribner's, 1956), 160-61.

²Particularly Jerome H. Neyrey, "The Forensic Defense Speech and Paul's Trial Speeches in Acts 22-26: Form and Function," in *Luke-Acts: New Perspectives from the Society of Biblical Literature* (ed. Charles H. Talbert; New York: Crossroad, 1984), 210-24.

³E.g., Ben Witherington, *The Acts of the Apostles: A Socio-Rhetorical Commentary* (Grand Rapids: Eerdmans, 1998), 737-38, in his treatment of Paul's speech in Acts 26.

all the speeches, Paul does not have a chance to give a *peroratio* or other parts of the speech.

That the speeches do not all follow the form advised completely is not surprising. The rhetorical manuals provided variation in the structure as required by the particulars of the case. Various parts could be moved or omitted as deemed necessary or helpful to one's case. Given the restraints of the narrative, Paul's speeches show the same basic reliance on the rhetorical tradition as speeches in other ancient narratives.

Function of the Judicial Speeches of Paul and the Trial Scenes

There has been a tendency in scholarship to view the speeches not so much as defense speeches of Paul but as apologia regarding some aspect of early Christianity. They and the trials scenes have been viewed as a part of an effort to show Christianity as being compatible with Rome's authority⁴ or Roman authority being compatible with Christianity.⁵ Others have viewed them as a means of giving assurance to Christians concerning Christianity's relationship to Judaism⁶ or as vehicles for Lukan theology.⁷ Another attempt sees them as a part

⁴E.g., Harry W. Tajra, *The Trial of St. Paul: A Juridical Exegesis of the Second Half of the Acts of the Apostles* (WUNT; Tübingen: Mohr, 1989).

⁵Paul W. Walaskay, *"And So We Came to Rome": The Political Perspective of St. Luke* (Cambridge: Cambridge University Press, 1983).

⁶Martin Dibelius, "Paul in the Acts of the Apostles," in *Studies in the Acts of the Apostles* (New York: Charles Scribner's Sons, 1956), 207-14; idem, "The Speeches in Acts and Ancient Historiography," in *Studies in the Acts of the Apostles* (New York: Charles Scribner's Sons, 1956), 138-85; Jacob Jervell, "Paul: The Teacher of Israel: The Apologetic Speeches of Paul in Acts," in *Luke and the People of God: A New Look at Luke-Acts* (Minneapolis: Augsburg, 1972), 153-83; William R. Long, "The Trial of Paul in the Book of Acts: Historical, Literary, and Theological Considerations," (Ph.D. diss., Brown University, 1982).

⁷Robert F. O'Toole, *The Christological Climax of Paul's Defense: Acts 22:1-26:32* (Analecta Biblica; Rome: Biblical Institute Press, 1978).

of a more generic defense of the Gospel.⁸ While one or more of these points may be a part of the Lukan presentation of Paul's trial, their proponents ultimately read the trials and speeches on the basis of a hypothetical reconstruction of the Lukan audience and not on the basis of the narrative itself.

Each of these attempts to some extent read the speeches as directed not to the listeners within the narrative but directly to the Lukan audience.⁹ Within the narrative setting the speeches are viewed as "irrelevant"¹⁰ or "forced"¹¹ into an unsuitable context. All those who treat Paul's speeches as irrelevant or inappropriate are making a particularly disparaging comment against Luke's abilities or either must acknowledge that Luke purposely portrayed Paul making inappropriate speeches. Appropriateness was considered paramount to speeches (Quint., *Inst.* 11.1). It was particularly important for one writing speeches in history (Lucian, *Hist.* 58).

In this study, I have suggested an alternate way of viewing the function of the defense speeches in Acts from within the narrative which does not seek their function as it relates to a hypothetical construction of the original audience of Acts. The author of Acts has used a technique widespread in ancient narrative to outline a judicial issue in a trial setting in order for it ultimately to be resolved outside the trial process.

The judicial speeches given by Paul are suitable for the occasions given. The same problems that cause misappropriation of the divisions of the speeches

⁸Alexandru Neagoe, *The Trial of the Gospel: An Apologetic Reading of Luke's Trial Narratives* (Cambridge: Cambridge University Press, 2002).

⁹E.g., Dibelius, "Paul in Acts," 149; O'Toole, "Christological Climax," 19.

¹⁰Tajra, *Trial of St. Paul*, 163; Neagoe, *Trial of the Gospel*, 213.

¹¹Walaskay, *And So We Came to Rome*, 58.

also cause the misunderstanding that what Paul says is irrelevant: the lack of charges to refute (except in Acts 24) and the interruptions. Since Paul is called upon to defend himself when there is no charge, it is not inappropriate that Paul speak of himself in a general way outlining his past actions and conversion experience.

While it might strike twenty-first century readers as odd that skillful speeches do not result in Paul's release, the study of speeches and trials in other ancient narratives has indicated that a first-century audience may not have felt such unease. Repeatedly in the trials, speeches—no matter how rhetorically pleasing—were not the motivating force in settling the case at hand. This tendency is especially seen in complicated cases (virtually all the major trials in the novels), or cases which persons or persons were working behind the scenes to determine the outcome (e.g., Xenophon, *Hell.* 2.3.24-47; Appian, *Civil Wars*, 3.51-61; Livy, *Ab urbe condita* 3.44-58). Paul's case has both of these characteristics. The case of Paul is a complicated case with Roman authorities trying to decide matters of Jewish law with insufficient charges against him. There is also the factor of the Jewish leaders working to do away with Paul sometimes behind the scenes. With most of the cases that feature speeches in other ancient narrative decided on the basis of something other than the speeches, it is no surprise that the speeches of Paul do not effect his release.

For trials of this kind, a first-century, Mediterranean audience might likely suspect that forces beyond those in the trial would intervene and signal the truth of the case. In Paul's case in Acts, the deliverance from the shipwreck and snake-bite provide a kind of resolution to the case (Acts 27:1-28:10). Although this finding has similarities with the judgments of Miles and Trompf,¹²

¹²Gary B. Miles and Garry Trompf, "Luke and Antiphon: The Theology of

Ladouceur,¹³ and Talbert and Hayes,¹⁴ there is some variation. They all start with the literary convention of using shipwrecks or storms as potential means of divine retribution. This study begins with what may now be considered the literary convention of showing the verdict of major cases from outside the trial itself. It is not that Paul's deliverance in Acts 26-27 shows Paul's innocence on another level than does the preceding chapters; it is that his deliverance is the true indication of Paul's innocence. Courts could not always be trusted to adjudicate justice. External events were much better at ensuring justice was carried out. While an official verdict from the court is never declared, the legal proceedings against Paul are dropped from the narrative. Paul reaches Rome to preach unhindered. The unease felt by modern readers at the lack of resolution was not felt by an ancient Mediterranean audience.

This finding may hint at why Acts ends as it does. The question has often been raised as to why the author of Acts does not narrate the resolution of the trial despite all the space devoted to it. This incompleteness may frustrate the expectations of auditors of Acts. Daniel Marguerat argues that the author purposely uses "narrative suspension" by making the narrative "voluntarily ambivalent" and unresolved concerning Paul's trial, his evangelizing Rome, and

Acts 27-28 in Light of Pagan Beliefs About Divine Retribution, Pollution, and Shipwreck," *HTR* 69 (1976): 259-67.

¹³David Ladouceur, "Hellenistic Preconceptions of Shipwreck and Pollution as a Context for Acts 27-28," *HTR* 73 (1980): 435-449.

¹⁴Charles H. Talbert and J. H. Hayes, "A Theology of Sea Storms in Luke-Acts," in *Jesus and the Heritage of Israel: Luke's Narrative Claim Upon Israel's Legacy* (ed. David P. Moessner; Harrisburg, Pa.: Trinity Press International, 1999), 267-75; see also Charles H. Talbert, *Reading Acts: A Literary and Theological Commentary on the Acts of the Apostles* (Rev. ed.; Reading the New Testament Series; Macon, GA: Smyth & Helwys, 2005), 210-21.

the future relationship between the church and the synagogue.¹⁵ He assumes that the readers of Acts know of Paul's execution and use the narrative of Acts to interpret his death as a faithful witness.

The reading proposed here, however, argues that the author of Acts does not intend to leave the issue unresolved. The resolution simply occurs outside the legal proceedings. An ancient auditor familiar with the novels and histories would not have been frustrated by Acts' apparent incompleteness.

Further Areas of Research

While the use of rhetorical criticism which is based in Greco-Roman rhetoric¹⁶ continues to expand, it is surprising that there are no other full-scale rhetorical studies of other types of speeches in Acts. Ancient rhetoric has been more widely employed in the study of Pauline letters although there continue to be questions about the applicability of the categories of speech on epistolary literature.¹⁷ The speeches of Acts, even if only summaries of speeches, are clearly better suited for such rhetorical analysis than are the letters.

Potentially helpful work could be done on the deliberative and epideictic speeches in Acts. Studies may be difficult, however, because of the number of speeches in other ancient narrative. In the case of deliberative speeches, the large number of these speeches may preclude an exhaustive study; in the case of epideictic speeches, there may be too few to yield a helpful comparison.

¹⁵Daniel Marguerat, "The Enigma of the Silent Closing of Acts (28:16-31)," in *Jesus and the Heritage of Israel: Luke's Narrative Claim Upon Israel's Legacy* (ed. David P. Moessner; Harrisburg, PA: Trinity Press International, 1999), 284-304.

¹⁶Another branch of rhetorical criticism is based primarily on modern rhetorical conventions. See Duane F. Watson, "Notes on History and Method," in *Rhetorical Criticism of the Bible: A Comprehensive Bibliography with Notes and Method* (ed. Duane F. Watson and Alan J. Hauser; Leiden: Brill, 1994), 109-15.

¹⁷E.g., R. Dean Anderson, *Ancient Rhetorical Theory and Paul* (CBET; Kampen: Kok Pharos, 1996).

This work has questioned various attempts to find the function of defense speeches of Paul in speaking directly to some occasion or crisis by the first audience. While such an approach to interpret the Gospels in light of a particular situation is being reconsidered,¹⁸ this approach should also be reconsidered in the case of Acts. The various attempts to find *the* occasion for Acts, whether to deal with some of the apologetic purposes outlined above or others such as dealing with the problem of the delayed Parousia¹⁹ or Gnosticism,²⁰ reduce the richness and complexity of the narrative unnecessarily.²¹ A more systematic extension of the unease related to the occasion of the Gospels should be made for the book of Acts.

¹⁸See the various essays in Richard Bauckham, ed., *The Gospel for All Christians: Rethinking Gospel Audiences* (Grand Rapids: Eerdmans, 1998).

¹⁹Hans Conzelmann, *The Theology of St. Luke* (2nd ed.; London: Faber and Faber, 1960).

²⁰Charles H. Talbert, *Luke and the Gnostics: An Examination of the Lucan Purpose* (Nashville: Abingdon, 1966).

²¹Robert L. Maddox, *The Purpose of Luke-Acts* (Edinburgh: T. & T. Clark, 1982).

BIBLIOGRAPHY

Primary Sources

Achille Tatius d'Alexandre, Le Roman de Leucippé et Clitophon. Edited by J. -P. Garnaud. Paris: Les Belles Lettres, 1991.

Achilles Tatius. Translated by S. Gaselee. Loeb Classical Library. Cambridge: Harvard University Press, 1917.

"Achilles Tatius: Leucippe and Clitophon." Translated by John J. Winkler. Pages 170-284 in *Collected Ancient Greek Novels*. Edited by Bryan P. Reardon. Berkeley: University of California Press, 1989.

Achilles Tatius: Leucippe and Clitophon. Translated by Tim Whitmarsh. Oxford: Oxford University Press, 2001.

Appian. *Roman History.* Translated by Horace White et al. 4 vols. Loeb Classical Library, 1912-1913.

Aristotle. *The Art of Rhetoric.* Translated by John Henry Freese. Loeb Classical Library. Cambridge: Harvard University Press, 1926.

Chariton. *Charitonis Aphrodisiensis De Chaerea et Callirhoe Amatoriarum Narrationum Libri Octo.* Edited by Warren E. Blake. Oxford: Clarendon, 1938.

_____. *Kallirhoe.* Edited and translated by Karl Plepelits. Stuttgart: Hiersmann, 1976.

_____. *Chariton, Le Roman de Chairéas et Callirhoé.* Edited by Georges Molinié. Budé. Paris: Belles Lettres, 1979.

_____. *Callirhoe.* Translated by G. P. Goold. Loeb Classical Library. Cambridge: Harvard University Press, 1995.

"Chariton: Chaereas and Callirhoe." Translated by Bryan P. Reardon. Pages 17-124 in *Collected Ancient Greek Novels*. Edited by Bryan P. Reardon. Berkeley: University of California Press, 1989.

Cicero. *De Oratore*. Translated by H. Rackham. 2 vols. Loeb Classical Library. Cambridge: Harvard University Press, 1942.

Die Attische Beredsamkeit. Edited by Friedrich Blass. Leipzig: Teubner, 1868.

Diodorus of Sicily. Translated by C. H. Oldfather et al. 12 vols. Loeb Classical Library, 1933-1967.

Dionysius of Halicarnassus. *Roman Antiquities*. Translated by Earnest Cary. 7 vols. Loeb Classical Library. Cambridge: Harvard University Press, 1937-1950.

_____. *The Critical Essays*. Translated by Stephen Usher. 2 vols. Loeb Classical Library. Cambridge: Harvard University Press, 1974-1985.

Héliodore: Les Éthiopiennes. Edited by R. M. Rattenbury and T. W. Lumb. Paris: Belles lettres, 1960.

"Heliodorus: An Ethiopian Story." Translated by J. R. Morgan. Pages 349-588 in *Collected Ancient Greek Novels*. Edited by Bryan P. Reardon. Berkeley: University of California Press, 1989.

Josephus. Translated by H. St. J. Thackeray et al. 10 vols. Loeb Classical Library. Cambridge: Harvard University Press, 1926-1965.

Livy. Translated by B. O. Foster et al. 14 vols. Loeb Classical Library. Cambridge: Harvard University Press, 1919-1959.

Longus. *Daphnis et Chloe*. Edited by Michael D. Reeve. Leipzig: Teubner, 1983.

_____. *Daphnis and Chloe*. Translated by Ronald McCail. New York: Oxford University Press, 2002.

"Longus: Daphnis and Chloe." Translated by Christopher Gill. Pages 285-348 in *Collected Ancient Greek Novels*. Edited by Bryan P. Reardon. Berkeley: University of California Press, 1989.

Lucian. Translated by A. M. Harmon et al. 8 vols. Loeb Classical Library. Cambridge: Harvard University Press, 1913-1967.

Prolegomena Sylloge. Edited by Hugo Rabe. Leipzig: Teubner, 1931.

Quintilian. *The Orator's Education*. Translated by Donald A. Russell. Loeb Classical Library. Cambridge: Harvard University Press, 2001.

Quintus Curtius. Translated by John C. Rolfe. 2 vols. Loeb Classical Library. Cambridge: Harvard University Press, 1946.

Rhetorica ad Alexandrum. Translated by H. Rackham. Loeb Classical Library. Cambridge: Harvard University Press, 1937.

Tacitus. *The Histories and the Annals*. Translated by C. H. Moore and J. Jackson. 4 vols. Loeb Classical Library. Cambridge: Harvard University Press, 1937.

Thucydides. Translated by Charles Forster Smith. 4 vols. Loeb Classical Library. Cambridge: Harvard University Press, 1919-1923.

Xenophon. Translated by Carleton L. Brownson et al. 4 vols. Loeb Classical Library. Cambridge: Harvard University Press, 1918-1968.

Xenophontis Ephesii Ephesiacorum Libri V de Amoribus Anthiae et Abrocomae. Edited by Antonios D. Papanikolaou. Leipzig: Teubner, 1973.

"Xenophon of Ephesus: An Ephesian Tale." Translated by Graham Anderson. Pages 125-69 in *The Novel in the Ancient World*. Edited by Bryan P. Reardon. Leiden: Brill, 1996.

Secondary Sources

Adcock, F. E. *Thucydides and His History*. Cambridge: Cambridge University Press, 1963.

Alexander, Loveday. *The Preface to Luke's Gospel Literary Convention and Social Context in Luke 1.1-4 and Acts 1.1*. Monograph Series Society for New Testament Studies. Cambridge: Cambridge University Press, 1993.

Anderson, Graham. *The Second Sophistic: A Cultural Phenomenon in the Roman Empire*. New York: Routledge, 1993.

Anderson, R. Dean. *Ancient Rhetorical Theory and Paul*. Contributions to Biblical Exegesis and Theology. Kampen: Kok Pharos, 1996.

_____. *Glossary of Greek Rhetorical Terms Connected to Methods of Argumentation, Figures and Tropes from Anaximenes to Quintilian*. Leuven: Peeters, 2000.

Arnold, Paula E. "The Persuasive Style of Debate in Direct Speeches in Thucydides." *Hermes* 20 (1992): 44-57.

Atkinson, J.E. *A Commentary on Q. Curtius Rufus' Historiae Alexandri Magni* Books 5 to 7.2. Acta Classica. Amsterdam: Adolf M. Hakkert, 1994.

Backes, James G. "Aristotle's Theory of Stasis in Forensic and Deliberative Speech in the *Rhetoric*." *Central States Speech Journal* 12 (1960): 6-8.

Balch, David L. "The Genre of Luke-Acts: Individual Biography, Adventure Novel, or Political History?" *Southwestern Journal of Theology* 33 (1990-91): 5-19.

_____. "ἄκριβως... γράψαι (Luke 1:3): To Write the Full History of God's Receiving All Nations." Pp. 229-50 in. *In Jesus and the Heritage of Israel: Luke's Narrative Claim Upon Israel's Legacy*. Harrisburg, PA: Trinity Press International, 1999.

Barnes, T. D. "An Apostle on Trial." *Journal of Theological Studies* 20 (1969): 407-19.

Barrett, C. K. "Apostle in Council and Conflict." *Australian Biblical Review* 31 (1983): 14-32.

_____. *A Critical and Exegetical Commentary on The Acts of the Apostles*. 2 Vols. International Critical Commentary. Edinburgh: T & T Clark, 1994.

_____. "How History Should be Written." Pp. 33-57 in *History, Literature and Society in the Book of Acts*. Cambridge: Cambridge University Press, 1996.

Bauckham, Richard, ed. *The Book of Acts in Its Palestinian Setting*. Vol. 3 of *Book of Acts in Its First Century Setting*. Edited by Bruce W. Winter. Grand Rapids: Eerdmans, 1995.

_____, ed. *The Gospel for All Christians: Rethinking Gospel Audiences*. Grand Rapids: Eerdmans, 1998.

_____. "For Whom Were the Gospels Written?" Pp. 13-26 in *The Gospel for All Christians: Rethinking Gospel Audiences*. Grand Rapids: Eerdmans, 1998.

Baynham, Elizabeth. *Alexander the Great: The Unique History of Quintus Curtius*. Ann Arbor: University of Michigan Press, 1998.

Beck, Roger. "Mystery Religions, Aretalogy, and the Ancient Novel." Pp. 131-50 in *The Novel in the Ancient World*. Edited by Gareth L. Schmeling. Leiden: Brill, 1996.

- Benko, Stephen, and John J. O'Rourke. *The Catacombs and the Colosseum the Roman Empire as the Setting of Primitive Christianity*. Valley Forge: Judson Press, 1971.
- Berger, Klaus. "Hellenistische Gattungen Im Neuen Testament." *Aufstieg und Niedergang der römischen Welt: Geschichte und Kultur Roms im Spiegel der neueren Forschung* 25.2:1031-1432. Part 2, Principat, 25.2. New York: de Gruyter, 1984.
- Béchar, Dean P. "The Disputed Case Against Paul: A Redaction-Critical Analysis of Acts 21:27-22:29." *Catholic Biblical Quarterly* 65, no. 2 (2004): 232-50.
- Black, C. Clifton. *The Rhetoric of the Gospel Theological Artistry in the Gospels and Acts*. St. Louis: Chalice Press, 2001.
- Black, Mark. "Paul and Roman Law in Acts." *Restoration Quarterly* 24, no. 4 (1981): 209-18.
- Bligh, John. *Galatians: A Discussion of St Paul's Epistle*. Householder Commentaries. London: St Paul Publications, 1969.
- Bonner, Stanley F. *Education in Ancient Rome from the Elder Cato to the Younger Pliny*. Berkeley: University of California Press, 1977.
- Bonz, Marianne Palmer. *The Past as Legacy Luke-Acts and Ancient Epic*. Minneapolis: Fortress Press, 2000.
- Bowie, E. L., and S. J. Harrison. "The Romance of the Novel." *Journal of Roman Studies* 83 (1993): 159-78.
- Bowker, J. W. "Speeches in Acts: A Study in Proem and Yelammedenu Form." *New Testament Studies* 14 (1967-68): 96-111.
- Bowman, Alan K., and Greg. Woolf. *Literacy and Power in the Ancient World*. Cambridge: Cambridge University Press, 1994.
- Brant, Jo-Ann A., Charles W. Hedrick, and Chris Shea, eds. *Ancient Fiction: The Matrix of Early Christian and Jewish Narrative*. Atlanta: Society of Biblical Literature, 2005.
- Brawley, Robert L. "Paul in Acts: Lucan Apology and Conciliation." Pages 129-47 in *Luke-Acts: New Perspectives from the Society of Biblical Literature Seminar*. Edited by Charles H. Talbert. New York: Crossroad, 1984.

_____. *Text to Text Pours Forth Speech: Voices of Scripture in Luke-Acts*. Indiana Studies in Biblical Literature. Bloomington: Indiana University Press, 1995.

Brown, H. Stephen. "Paul's Hearing at Caesarea: A Preliminary Comparison with Legal Literature of the Roman Period." Pages 319-32 in *SBL Seminar Papers*. Atlanta: Scholars Press, 1996.

Bruce, F. F. *The Acts of the Apostles the Greek Text with Introduction and Commentary*. London: Tyndale, 1952.

_____. *Commentary on the Book of the Acts*. Grand Rapids: Eerdmans, 1954.

_____. "Speeches of Acts—Thirty Years Later." Pages 53-68 in *Reconciliation and Hope: New Testament Essays on Atonement and Eschatology Presented to L. Morris on His 60th Birthday*. Grand Rapids: Eerdmans, 1974.

_____. *The Book of the Acts*. New International Commentary on the New Testament. Grand Rapids, Mich.: Eerdmans, 1988.

_____. *The Acts of the Apostles the Greek Text with Introduction and Commentary*. Grand Rapids, Mich.: W.B. Eerdmans, 1990.

_____. "The Significance of the Speeches for Interpreting Acts." *Southwestern Journal of Theology* 33 (1990-91): 20-28.

Burnyeat, M. F. "Enthymeme: Aristotle on the Logic of Persuasion." Pages 3-55 in *Aristotle's Rhetoric: Philosophical Essays*. Edited by David J. Furley and Alexander Nehamas. Princeton: Princeton University Press, 1994.

Bürger, K. "Zu Xenophon von Ephesos." *Hermes* 27 (1892): 36-67.

Cadbury, Henry J. *The Making of Luke-Acts*. New York: Macmillan, 1927.

_____. "Roman Law and the Trial of Paul." Pages 297-355 in *The Beginnings of Christianity: The Acts of the Apostles*. Edited by F. J. Foakes Jackson and Kirsopp Lake. Vol. 5. London: Macmillan, 1933.

_____. "Note 32: Speeches in Acts." Pages 402-27 in *The Beginnings of Christianity: The Acts of the Apostles*. Edited by F. J. Foakes Jackson and Kirsopp Lake. Vol. 5. London: Macmillan, 1933.

Canter, H. V. "Rhetorical Elements in Livy's Direct Speeches." *American Journal of Philology* 38 (1917): 125-51.

- Cartwright, David. *A Historical Commentary on Thucydides*. Ann Arbor: University of Michigan Press, 1997.
- Cassidy, Richard J. *Society and Politics in the Acts of the Apostles*. Maryknoll, N.Y.: Orbis Books, 1987.
- Cassidy, Richard J. and Philip J. Scharper. *Political Issues in Luke-Acts*. Maryknoll, N.Y.: Orbis Books, 1983.
- Chew, Kathryn. "Focalization in Xenophon of Ephesos' *Ephesiaka*." Pages 47-59 in *Ancient Fiction and Early Christian Narrative*. Edited by Ronald F. Hock, J. Bradley Chance, and Judith Perkins. Atlanta: Scholars Press, 1998.
- Clark, Donald Lemen. *Rhetoric in Greco-Roman Education*. New York: Columbia University Press, 1957.
- Clarke, M. L., and D. H. Berry. *Rhetoric at Rome a Historical Survey*. London New York: Routledge, 1996.
- Cogan, Marc. *The Human Thing the Speeches and Principles of Thucydides' History*. Chicago: University of Chicago Press, 1981.
- Cole, Thomas. *The Origins of Rhetoric in Ancient Greece*. Baltimore: Johns Hopkins University Press, 1991.
- Connor, W.R. "A Post Modernist Thucydides?" *Classical Journal* 72 (1977): 289-98.
- Conzelmann, Hans. *The Theology of St. Luke*. 2nd ed. London: Faber and Faber, 1960.
- _____. *Acts of the Apostles a Commentary on the Acts of the Apostles*. Translated by James Limburg, A. Thomas Kraabel, and Donald H. Juel. Hermeneia. Philadelphia: Fortress Press, 1987.
- Cribiore, Raffaella. *Writing, Teachers, and Students in Graeco-Roman Egypt*. *America Studies in Papyrology* 36. Atlanta: Scholars Press, 1996.
- _____. *Education in Greek and Roman Antiquity*. Leiden: Brill, 2001.
- _____. *Gymnastics of the Mind: Greek Education in Hellenistic and Roman Egypt*. Princeton: Princeton University Press, 2001.

- Crouch, Frank. "The Persuasive Moment: Rhetorical Resolutions in Paul's Defense Before Agrippa." Pages 333-42 in *Society of Biblical Literature*. Atlanta: Scholars Press, 1996.
- Cunningham, Scott Smith. *'Through Many Tribulations' the Theology of Persecution in Luke-Acts*. Journal for the Study of the New Testament Supplement Series 142. Sheffield: Sheffield Academic Press, 1997.
- Darr, John A. *On Character Building the Reader and the Rhetoric of Characterization in Luke-Acts*. Literary Currents in Biblical Interpretation. Louisville: Westminster/John Knox Press, 1992.
- Denova, Rebecca I. *The Things Accomplished Among Us Prophetic Tradition in the Structural Pattern of Luke-Acts*. Journal for the Study of the New Testament Supplement Series 141. Sheffield: Sheffield Academic Press, 1997.
- Dibelius, Martin. "Paul in the Acts of the Apostles." Pages 207-14 in *Studies in the Acts of the Apostles*. New York: Charles Scribner's Sons, 1956.
- _____. "The Speeches in Acts and Ancient Historiography." Pages 138-85 in *Studies in the Acts of the Apostles*. New York: Charles Scribner's Sons, 1956.
- _____. *Studies in the Acts of the Apostles*. New York: Scribner's, 1956.
- Dodd, C. H. *The Apostolic Preaching and Its Developments*. London: Hodder & Stoughton, 1936.
- Dunn, James D. G. *The Acts of the Apostles*. Narrative Commentaries. Valley Forge, Pa.: Trinity Press International, 1996.
- Evans, C. F. "'Speeches' in Acts." Pages 287-302 in *Mélanges Bibliques en Hommage au R. P. Béda Rigaux*. Edited by André Halleux. Gembloux: Duculot, 1970.
- Feldman, Louis. *Josephus and Modern Scholarship, 1937-1980*. Berlin: Walter de Gruyter, 1984.
- _____. *Josephus: A Supplementary Bibliography*. New York: Garland, 1986.
- Fitzmyer, Joseph A. *The Acts of the Apostles: A New Translation with Introduction and Commentary*. Anchor Bible Commentary 31. New York: Doubleday, 1998.
- Fornara, Charles William. *The Nature of History in Ancient Greece and Rome*. Berkeley: University of California Press, 1983.

- Forsythe, Gary. *Livy and Early Rome: A Study in Historical Method and Judgment*. Stuttgart: Franz Steiner, 1999.
- Gabba, Emilio. *Dionysius and The History of Archaic Rome*. Berkeley: University of California Press, 1991.
- Gardner, P. "The Speeches of St Paul in Acts." Pages 379-414 in *Essays on Some Biblical Questions of the Day*. Edited by Henry B. Swete. London: Macmillan, 1909.
- Garnsey, Peter. "The Criminal Jurisdiction of Governors." *Journal of Roman Studies* 58 (1968): 51-59.
- Gasque, W. W. "The Speeches of Acts: Dibelius Reconsidered." Pages 232-50 in *New Dimensions in New Testament Study*. Grand Rapids: Zondervan, 1974.
- Gasque, W. Ward. *A History of the Criticism of the Acts of the Apostles*. Beiträge Zur Geschichte der Biblischen Exegese. Grand Rapids: Eerdmans, 1975.
- Gaventa, Beverly Roberts. "The Overthrown Enemy: Luke's Portrait of Paul." Pages 439-49 in *SBL Seminar Papers*, 1985. Society of Biblical Literature Papers 23. Atlanta: Scholars Press, 1985.
- Gärtner, H. "Xenophon von Ephesos." *RE* 9 (1967): 2055-89.
- Gempf, Conrad H. "Public Speaking and Published Accounts: The Rhetoric of Ancient Historiography and Acts." Pages 259-303 in *Book of Acts in Its First Century Setting*, vol. 1. Grand Rapids: Eerdmans, 1993.
- Gill, Christopher., trans. "Longus: Daphnis and Chloe." Pages 285-348 in *Collected Ancient Greek Novels*. Berkeley: University of California Press, 1989.
- Gill, David W. J., and Conrad H. Gempf. *The Book of Acts in Its Graeco-Roman Setting*. Book of Acts in Its First Century Setting. Grand Rapids, Mich. Carlisle, U.K.: Eerdmans Paternoster Press, 1994.
- Gissel, Jon A. P. "The Philotas Affair in Curtius' Account of Alexander (VI.7-11): A Rhetorical Analysis." *Classica et Mediaevalia* 46 (1995): 215-36.
- Glasson, T. F. "The Speeches in Acts and Thucydides." *Expository Times* 76 (1964-65): 165.
- Gomme, A. W. *A Historical Commentary on Thucydides*. Oxford: Clarendon, 1945.

- Haenchen, Ernst. *Die Apostelgeschichte*. Göttingen: Vandenhoeck & Ruprecht, 1956.
- _____. *The Acts of the Apostles a Commentary*. Philadelphia: Westminster Press, 1971.
- Haines-Eitzen, Kim. *Guardians of Letters Literacy, Power, and the Transmitters of Early Christian Literature*. Oxford: Oxford University Press, 2000.
- Harding, H. F. *The Speeches of Thucydides*. Lawrence, Kansas: Coronado Press, 1973.
- Harris, William V. *Ancient Literacy*. Cambridge: Harvard University Press, 1989.
- Hägg, Tomas. "Die Ephesiaka Des Xenophon Ephesios—Original oder Epitome?" *Classica et Mediaevalia* 27 (1966): 118-61.
- Helmreich, Fritz. *Die Reden bei Curtius*. Rhetorische Studien 14. Paderborn: Ferdinand Schöningh, 1927.
- Hemer, Colin J., and Conrad H. Gempf. *The Book of Acts in the Setting of Hellenistic History*. Wissenschaftliche Untersuchungen Zum Neuen Testament 49. Tübingen: Mohr, 1989.
- Hengel, Martin. *Acts and the History of Earliest Christianity*. Philadelphia: Fortress Press, 1980.
- Heusler, Erika. *Kapitalprozesse im lukanischen Doppelwerk: die Verfahren gegen Jesus und Paulus in exegetischer und rechthistorischer Analyse*. Neutestamentliche Abhandlungen 38. Munster: Aschendorff, 2000.
- Hilgert, Earle. "Speeches in Acts, and Hellenistic Canons of Historiography and Rhetoric." Pages 83-109 in *Good News in History: Essays in Honor of Bo Reicke*. Edited by Ed. L. Miller. Atlanta: Scholars Press, 1993.
- Hock, Ronald F. "The Rhetoric of Romace." Pages 445-65 in *Handbook of Classical Rhetoric in the Hellenistic Period (330 B.C.-A.D. 400)*. Edited by Stanley E. Porter. Leiden: Brill, 1997.
- _____. "Why New Testament Scholars Should Read Ancient Novels." Pages 121-38 in *Ancient Fiction and Early Christian Narrative*. Edited by Ronald F. Hock, J. Bradley Chance, and Judith Perkins. Atlanta: Scholars Press, 1998.

- _____. "The Educational Curriculum in Chariton's *Callirhoe*." Pages 15-36 in *Ancient Fiction: The Matrix of Early Christian and Jewish Narrative*. Edited by Jo-Ann A. Brant, Charles Hedrick, and Chris Shea. Atlanta: Society of Biblical Literature, 2005.
- Hock, Ronald F., J. Bradley Chance, and Judith Perkins, eds. *Ancient Fiction and Early Christian Narrative*. Atlanta: Scholars Press, 1998.
- Hogan, Derek. "Paul's Defense: A Comparison of the Forensic Speeches in Acts, *Callirhoe*, and *Leucippe and Clitophon*." *Perspectives in Religious Studies* 29 (2002): 73-88.
- Hogan, James C. "Thucydides 3.52-68 and Euripides' Hecuba." *Phoenix* 26 (1972): 241-57.
- Hornblower, Simon. *A Commentary on Thucydides*. Oxford: Clarendon, 1991.
- Horsley, G. H. R. "Speeches and Dialogue in Acts." *New Testament Studies* 32 (1986): 609-14.
- Hunter, R. L. *A Study Of Daphnis and Chloe*. New York: Cambridge University Press, 1983.
- Jebb, Richard Claverhouse. "The Speeches of Thucydides." In *Hellenica: A Collection of Essays on Greek Poetry, Philosophy, History, and Religion*. Edited by Evelyn Abbott. London: Rivingstons, 1880.
- Jervell, Jacob. *Luke and the People of God: A New Look at Luke-Acts*. Minneapolis: Augsburg, 1972.
- _____. "Paul: The Teacher of Israel: The Apologetic Speeches of Paul in Acts." Pages 153-83 in *Luke and the People of God: A New Look at Luke-Acts*. Minneapolis: Augsburg, 1972.
- _____. *The Unknown Paul Essays on Luke-Acts and Early Christian History*. Minneapolis: Augsburg, 1984.
- _____. *The Theology of the Acts of the Apostles*. New Testament Theology. Cambridge: Cambridge University Press, 1996.
- Johnson, Luke Timothy. *The Acts of the Apostles*. Sacra Pagina Series 5. Collegeville, Minn.: Liturgical Press, 1992.

- _____. *Septuagintal Midrash in the Speeches of Acts*. Milwaukee: Marquette University Press, 2002.
- Jones, A. H. M. *Athenian Democracy*. Baltimore: Johns Hopkins University Press, 1986.
- Juel, Donald. *Luke-Acts the Promise of History*. Atlanta: John Knox Press, 1983.
- Kennedy, George A. "The Earliest Rhetorical Handbooks." *American Journal of Philology* 80, no. 2 (1959): 169-78.
- _____. *The Art of Persuasion in Ancient Greece*. Princeton: Princeton University Press, 1963.
- _____. *The Art of Rhetoric in the Roman World (300 B.C.-A.D. 300)*. Princeton: Princeton University Press, 1972.
- _____. *New Testament Interpretation Through Rhetorical Criticism*. Chapel Hill: University of North Carolina Press, 1984.
- _____. *A New History of Classical Rhetoric*. Princeton: Princeton University Press, 1994.
- Kilgallen, John J. *The Stephen Speech: A Literary and Redactional Study of Acts 7, 2-53*. Analecta Biblica 67. Rome: Biblical Institute Press, 1976.
- Kohl, Otto. *Ueber Zweck und Bedeutung der Livianischen Reden*. Barmen: N.p., 1872.
- Kurz, William S. "Hellenistic Rhetoric in the Christological Proof of Luke-Acts." *Catholic Biblical Quarterly* 42 (1980): 171-95.
- _____. "Luke-Acts and Historiography in the Greek Bible." Pages 283-300 in *SBL Seminar Papers*, 1980. Society of Biblical Literature Papers 18. Chico, Calif.: Scholars Press, 1980.
- Ladouceur, David. "Hellenistic Preconceptions of Shipwreck and Pollution as a Context for Acts 27-28." *Harvard Theological Review* 73 (1980): 435-449.
- Lausberg, Heinrich. *Handbook of Literary Rhetoric: A Foundation for Literary Study*. Translated by Matthew T. Bliss, Annemiek Jansen, and David E. Orton. Leiden: Brill, 1998.
- Lentz, John Clayton. *Luke's Portrait of Paul*. Cambridge: Cambridge University Press, 1993.

- Levinskaya, Irina. *The Book of Acts in Its Diaspora Setting*. Vol. 1 of *Book of Acts in Its First Century Setting*. Grand Rapids: Eerdmans, 1996.
- Long, William R. "The Trial of Paul in the Book of Acts: Historical, Literary, and Theological Considerations." Ph. D. diss., Brown University, 1982.
- _____. "The Paulusbild in the Trial of Paul in Acts: 21:17-26-32." Pages 87-105 in *SBL Seminar Papers*, 1983. Society of Biblical Literature Papers 21. Chico, Calif.: Scholars Press, 1983.
- Lösch, Stephan. "Die Dankesrede Des Tertullus: Apg 24, 1-4." *Theologische Quartalschrift* 112 (1931): 295-319.
- MacLeod, C. W. "Thucydides' Plataean Debate." *Greek, Roman and Byzantine Studies* 18 (1977): 227-46.
- MacQueen, Bruce D. *Myth, Rhetoric, and Fiction: A Reading of Longus's Daphnis and Chloe*. Lincoln: University of Nebraska Press, 1990.
- Maddox, Robert. *The Purpose of Luke-Acts*. Göttingen: Vandenhoeck & Ruprecht, 1982.
- Malherbe, A. J. *Social Aspects of Early Christianity*. Baton Rouge: Louisiana State University, 1977.
- Malina, Bruce J., and Jerome H. Neyrey. *Portraits of Paul an Archaeology of Ancient Personality*. Louisville: Westminster John Knox Press, 1996.
- Marguerat, Daniel. "The Enigma of the Silent Closing of Acts (28:16-31)." Pages 284-304 in *Jesus and the Heritage of Israel: Luke's Narrative Claim Upon Israel's Legacy*. Edited by David Moessner. Harrisburg, Pa.: Trinity Press International, 1999.
- Marrou, Henri Irénée. *A History of Education in Antiquity*. New York: Sheed and Ward, 1956.
- Marshall, I. Howard. *The Acts of the Apostles*. The Tyndale New Testament Commentaries. Grand Rapids: Eerdmans, 1980.
- _____. *The Acts of the Apostles*. New Testament Guides. Sheffield: JSOT Press, 1992.
- Marshall, I. Howard., and David Peterson. *Witness to the Gospel the Theology of Acts*. Grand Rapids: Eerdmans, 1998.

- Martín-Asensio, Gustavo. *Transitivity-Based Foregrounding in the Acts of the Apostles a Functional-Grammatical Approach to the Lukan Perspective*. Sheffield: Sheffield Academic Press, 2000.
- Martyn, J. Louis. *History and Theology in the Fourth Gospel*. Rev. ed. Nashville: Abingdon, 1979.
- Mattill, A. J. "The Purpose of Acts: Schneckenburger Reconsidered." Pages 108-22 in *Apostolic History and the Gospel: Biblical and Historical Essays Presented to F. F. Bruce*. Edited by W. Ward Gasque and Ralph P. Martin. Exeter: Paternoster, 1970.
- McCoy, W. J. "In the Shadow of Thucydides." Pages 3-32 in *History, Literature and Society in the Book of Acts*. Edited by Ben Witherington. Cambridge: Cambridge University Press, 1996.
- Mealand, D. L. "Hellenistic Historians and the Style of Acts." *Zeitschrift für die neutestamentliche Wissenschaft und die Kunde der älteren Kirche* 82 (1991): 42-66.
- Miles, Gary B., and Garry Trompf. "Luke and Antiphon: The Theology of Acts 27-28 in Light of Pagan Beliefs About Divine Retribution, Pollution, and Shipwreck." *Harvard Theological Review* 69 (1976): 259-67.
- Miller, N. P. "Dramatic Speech in Tacitus." *American Journal of Philology* 85 (1964): 279-96.
- . "Dramatic Speech in the Roman Historians." *Greece & Rome* 2nd Ser. 22 (1975): 45-57.
- Mills, Watson E. *A Bibliography of the Periodical Literature on the Acts of the Apostles, 1962-1984*. Supplements to Novum Testamentum. Leiden: Brill, 1986.
- Morgan, J. R. "Heliodorus." Pages 417-56 in *The Novel in the Ancient World*. Edited by Gareth L. Schmeling. Leiden: Brill, 1996.
- Morgan, J. R. and Richard. Stoneman. *Greek Fiction the Greek Novel in Context*. New York: Routledge, 1994.
- Morgan, Teresa. *Literate Education in the Hellenistic and Roman Worlds*. Cambridge Classical Studies. Cambridge: Cambridge University Press, 1998.
- Morgenthaler, Robert. *Lukas und Quintilian*. Zürich: Gotthelf, 1993.

- Mount, Christopher. *Pauline Christianity: Luke-Acts and the Legacy of Paul*. Leiden: Brill, 2002.
- Murray, Glibert. *A History of Ancient Greek Literature*. New York: Frederick Unger, 1967.
- Neagoe, Alexandru. *The Trial of the Gospel: An Apologetic Reading of Luke's Trial Narratives*. Cambridge: Cambridge University Press, 2002.
- Neyrey, Jerome H. "The Forensic Defense Speech and Paul's Trial Speeches in Acts 22-26: Form and Function." Pages 210-24 in *Luke-Acts: New Perspectives from the Society of Biblical Literature*. New York: Crossroad, 1984.
- _____. "Luke's Social Location of Paul: Cultural Anthropology and the Status of Paul in Acts." Pages 251-79 in *History, Literature and Society in the Book of Acts*. Edited by Ben Witherington. Cambridge: Cambridge University Press, 1996.
- Obermeier, Klaus. *Die Gestalt Des Paulus in der Lukanischer Verkündigung das Paulusbild der Apostelgeschichte*. Bonn: Friedrich Wilhelms Universität, 1975.
- O'Sullivan, James N. *Xenophon of Ephesus: His Compositional Technique and the Birth of the Novel*. Untersuchungen Zur Antiken Literatur und Geschichte. Berlin: Walter de Gruyter, 1995.
- O'Toole, Robert F. *The Christological Climax of Paul's Defense: Acts 22:1-26:32*. Analecta Biblica 78. Rome: Biblical Institute Press, 1978.
- Palmer, D. W. "Acts and the Historical Monograph." *Tyndale Bulletin* 43 (1992): 373-88.
- Papanikolaou, Antonios D. *Chariton-Studien: Untersuchungen Zur Sprache und Chronologie der Griechischen Romane*. Hypomnemata. Göttingen: Vandenhoeck & Ruprecht, 1973.
- Parsons, Mikeal Carl, and Martin M. Culy. *Acts: A Handbook on the Greek Text*. Waco: Baylor University Press, 2003.
- Parsons, Mikeal Carl, and Joseph B. Tyson. *Cadbury, Knox, and Talbert American Contributions to the Study of Acts*. Biblical Scholarship in North America. Atlanta: Scholars Press, 1992.

Parsons, Mikeal Carl, and Richard I. Pervo. *Rethinking the Unity of Luke and Acts*. Minneapolis: Fortress Press, 1993.

Pernot, Laurent. *Rhetoric in Antiquity*. Translated by W. E. Higgins. Washington, D.C.: Catholic University of America Press, 2005.

Pervo, Richard I. *Profit with Delight the Literary Genre of the Acts of the Apostles*. Philadelphia: Fortress Press, 1987.

_____. *Luke's Story of Paul*. Minneapolis: Fortress, 1990.

Plescia, Joseph. *The Oath and Perjury in Ancient Greece*. Tallahassee: Florida State University Press, 1970.

Plümacher, E. *Lukas Als Hellenistischer Schriftsteller*. Göttingen: Vandenhoeck & Ruprecht, 1972.

Plümacher, Eckhard. "The Mission Speeches in Acts and Dionysius of Halicarnassus." Pages 251-66 in *Jesus and the Heritage of Israel: Luke's Narrative Claim Upon Israel's Legacy*. Edited by David Moessner. Harrisburg, Pa: Trinity Press International, 1999.

Porter, Stanley E. "Thucydides 1.22.1 and the Speeches in Acts: Is There a Thucydidean View?" *Novum Testamentum* 32 (1990): 121-42.

_____. *Handbook of Classical Rhetoric in the Hellenistic Period (330 B.C.-A.D. 400)*. Leiden: Brill, 1997.

_____. "Paul of Tarsus and His Letters." Pages 533-85 in *Handbook of Classical Rhetoric in the Hellenistic Period (330 B.C.-A.D. 400)*. Edited by Stanley E. Porter. Leiden: Brill, 1997.

_____. *The Paul of Acts Essays in Literary Criticism, Rhetoric, and Theology*. Wissenschaftliche Untersuchungen Zum Neuen Testament. Tübingen: Mohr Siebeck, 1999.

_____. "Paul as Epistolographer and Rhetorician?" Pages 98-125 in *Paul in Acts*. Library of Pauline Studies. Peabody, Mass.: Hendrickson, 2001.

Porter, Stanley E., and Thomas H. Olbricht. *Rhetoric and the New Testament Essays from the 1992 Heidelberg Conference*. Journal for the Study of the New Testament. Sheffield: JSOT Press, 1993.

- _____. *The Rhetorical Analysis of Scripture Essays from the 1995 London Conference*. Journal for the Study of the New Testament. Sheffield: Sheffield Academic Press, 1997.
- Praeder, Susan Marie. "Luke-Acts and the Ancient Novel." Pages 269-92 in *SBL Seminar Papers*, 1981. Society of Biblical Literature Papers 19. Chico, Calif.: Scholars Press, 1981.
- Rabinowitz, Peter J. "Truth in Fiction: A Reexamination of Audiences." *Critical Inquiry* 4 (1977): 121-41.
- _____. *Before Reading: Narrative Conventions and the Politics of Interpretation*. Ithaca, N.Y.: Cornell University Press, 1987.
- _____. "Whirl Without End: Audience Oriented Criticism." Pages 81-100 in *Contemporary Literary Theory*. Edited by G. Douglas Atkins and Laura Morrow. Amherst: University of Massachusetts Press, 1989.
- Rapske, Brian. *The Book of Acts and Paul in Roman Custody*. Vol. 3 of *Book of Acts in Its First Century Setting*. Edited by Bruce W. Winter. Grand Rapids: Eerdmans, 1994.
- Rattenbury, R. M., and T. W. Lumb, eds. *Héliodore: Les Éthiopiennes*. Paris: Les Belles Lettres, 1960.
- Reardon, Bryan P., trans. "Chariton: Chaereas and Callirhoe." Pages 17-124 in *Collected Ancient Greek Novels*. Berkeley: University of California Press, 1989.
- Reardon, Bryan P., ed. *Collected Ancient Greek Novels*. Berkeley: University of California Press, 1989.
- _____. *The Form of Greek Romance*. Princeton: Princeton University Press, 1991.
- _____. "Chariton." Pages 309-35 in *The Novel in the Ancient World*. Edited by Gareth L. Schmeling. Leiden: Brill, 1996.
- Robbins, Vernon K. "Narrative in Ancient Rhetoric and Rhetoric in Ancient Narrative: Lk, Acts, and the Writings of Contemporary Rhetoricians." Pages 368-84 in *SBL Seminar Papers*, 1996. Society of Biblical Literature Papers 34. Atlanta: Scholars Press, 1996.

- Rogers, Robert Samuel. "A Tacitean Pattern in Narrating Treason-Trials." *Transactions and Proceedings of the American Philological Association* 83 (1952): 279-311.
- Roloff, Jürgen. "Die Paulus-Darstellung Des Lukas: Ihre Geschichtlichen Voraussetzungen und Ihre Theologisches Ziel." *Evangelische Theologie* 39 (1979): 510-31.
- Rosenblatt, Marie-Eloise. "Under Interrogation: Paul as Witness in Juridical Contexts in Acts and the Implied Spirituality for Luke's Community." Ph. D. diss., Iliff School of Theology, 1987.
- Rosenblatt, Marie-Eloise. *Paul the Accused His Portrait in the Acts of the Apostles*. Zacchaeus Studies. Collegeville, Minn.: Liturgical Press, 1995.
- Ruiz-Montero, C. "Xenophon von Ephesos: Ein Überblick." *Aufstieg und Niedergang der römischen Welt: Geschichte und Kultur Roms im Spiegel der neueren Forschung* 24.2:1006-54. Part 2, Principat, 24.2. New York: de Gruyter, 1994.
- Runnalls, Donna R. "The Rhetoric of Josephus." Pages 737-54 in *Rhetoric in the Hellenistic Period (330 B.C.-A.D. 400)*. Edited by Stanley E. Porter. Leiden: Brill, 1997.
- Russell, D. A. *Greek Declamation*. Cambridge: Cambridge University Press, 1983.
- Sandy, Gerald N., trans. "The Wonders Beyond Thule." In *Collected Ancient Greek Novels*. Berkeley: University of California Press, 1989.
- Satterthwaite, Philip. "Acts Against the Background of Classical Rhetoric." Pages 337-79 in *The Book of Acts in Its Ancient Literary Setting*. Edited by Bruce W. Winter and Andrew D. Clarke. Vol. 1 of *The Book of Acts in Its First Century Setting*. Edited by Bruce W. Winter. Grand Rapids: Eerdmans, 1993.
- Scarcella, Antonio M. "The Social and Economic Structures of the Ancient Novels." Pages 221-76 in *The Novel in the Ancient World*. Edited by Gareth L. Schmeling. Leiden: Brill, 1996.
- Schiappa, Edward. *The Beginnings of Rhetorical Theory in Classical Greece*. New Haven: Yale University Press, 1999.
- Schindel, Ulrich. *Die Rezeption der Hellenistischen Theorie der Rhetorischen Figuren bei Den Römern*. Göttingen: Vandenhoeck & Ruprecht, 2001.

- Schmeling, Gareth L., ed. *The Novel in the Ancient World*. Leiden: Brill, 1996.
- _____. *Chariton*. New York: Twayne Publishers, 1974.
- Schneider, Gerhard. *Die Apostelgeschichte*. Herders Theologischer Kommentar Zum Neuen Testament. Freiburg: Herder, 1980-82.
- Schubert, Paul. "The Final Cycle of Speeches in the Book of Acts." *Journal of Biblical Literature* 87 (1968): 1-16.
- Schwartz, Sandra C. "Courtroom Scenes in the Ancient Greek Novels." Ph. D. diss., Columbia University, 1998.
- _____. "Clitophon the *Moichos*: Achilles Tatius and the Trial Scene in the Greek Novel." *Ancient Narrative* 1 (2000-01): 93-113.
- _____. "The Trial Scene in the Greek Novels and in Acts." Pages 105-33 in *Contextualizing Acts: Lukan Narrative and Greco-Roman Discourse*. Atlanta: Society of Biblical Literature, 2003.
- Shea, Chris. "Setting the Stage for Romances: Xenophon of Ephesus and the Ecphrasis." Pages 61-76 in *Ancient Fiction and Early Christian Narrative*. Atlanta: Scholars Press, 1998.
- Sherwin-White, A. N. *Roman Society and Roman Law in the New Testament*. Oxford: Clarendon, 1963.
- Shiner, Whitney. "Creating Plot in Episodic Narratives: *The Life of Aesop* and the Gospel of Mark." In *Ancient Fiction and Early Christian Narrative*. Atlanta: Scholars Press, 1998.
- _____. *The Speeches in Acts Their Content, Context, and Concerns*. Louisville: Westminster/John Knox, 1994.
- Spencer, F. Scott. *Acts. Readings, a New Biblical Commentary*. Sheffield, England: Sheffield Academic Press, 1997.
- Stadter, Philip A. *The Speeches in Thucydides: A Collection of Original Studies with a Bibliography*. Chapel Hill: University of North Carolina Press, 1973.
- Stamps, Dennis L. and Stanley E. Porter, eds. *The Rhetorical Interpretation of Scripture: Essays from the 1996 Malibu Conference*. Journal for the Study of the New Testament Supplement Series 180. Sheffield: Sheffield Academic, 1999.

Stählin, Gustav. *Die Apostelgeschichte*. Das Neue Testament Deutsch. Göttingen: Vandenhoeck & Ruprecht, 1968.

Sterling, Gregory E. "Luke-Acts and Apologetic Historiography." Pages 326-42 in *SBL Seminar Papers*, 1989. Society of Biblical Literature Papers 27. Atlanta: Scholars Press, 1989.

_____. *Historiography and Self-Definition Josephos, Luke-Acts, and Apologetic Historiography*. Supplements to Novum Testamentum 64. Leiden: Brill, 1992.

Stowers, S. K. "Social Status, Public Speaking and Private Teaching: The Circumstances of Paul's Preaching Activity." *Novum Testamentum* 26 (1984): 59-82.

Strelan, Rick. *Strange Acts: Studies in the Cultural World of Acts of the Apostles*. Beihefte Zur Zeitschrift Für die neutestamentliche Wissenschaft und die Kunde der älteren Kirche 126. Berlin: Walter de Gruyter, 2004.

Szepessy, Tibor. "Die Neudatierung Des Heliodoros und die Belagerung von Nisibis." Pages 279-87 in *Actes de la XIIe Conférence Internationale d'Études Classiques: Eirene, Cluj-Napoca, 2-7 Oct. 1972*. Budapest and Amsterdam: Hakkert, 1975.

Tajra, Harry W. *The Trial of St. Paul: A Juridical Exegesis of the Second Half of the Acts of the Apostles*. Wissenschaftliche Untersuchungen Zum Neuen Testament. Tübingen: Mohr, 1989.

Talbert, Charles H. *Luke and the Gnostics: An Examination of the Lucan Purpose*. Nashville: Abingdon, 1966.

_____. *Literary Patterns, Theological Themes, and the Genre of Luke-Acts*. Missoula, Mont.: Society of Biblical Literature distributed by Scholars' Press, 1975.

_____. *Perspectives on Luke-Acts*. Perspectives in Religious Studies : Special Studies Series. Danville, VA: Association of Baptist Professors of Religion, 1978.

_____. *Reading Luke a Literary and Theological Commentary on the Third Gospel*. Reading the New Testament Series. New York: Crossroad, 1982.

_____. *Acts*. Knox Preaching Guides. Atlanta: J. Knox Press, 1984.

- _____. *Reading John: A Literary and Theological Commentary on the Fourth Gospel and the Johannine Epistles*. New York: Crossroad, 1992.
- _____. "The Acts of the Apostles: Monograph or *Bios*." Pages 58-72 in *History, Literature and Society in the Book of Acts*. Cambridge: Cambridge University Press, 1996.
- _____. "On Reading Luke and Acts." Pages 1-18 in *Reading Luke-Acts in Its Mediterranean Milieu*, vol. 108. Supplements to Novum Testamentum. Leiden: Brill, 2003.
- _____. *Reading Acts: A Literary and Theological Commentary on the Acts of the Apostles*. Rev. ed. Reading the New Testament Series. Macon, GA: Smyth & Helwys, 2005.
- Talbert, Charles H., and J. H. Hayes. "A Theology of Sea Storms in Luke-Acts." Pages 267-83 in *Jesus and the Heritage of Israel: Luke's Narrative Claim Upon Israel's Legacy*. Edited by David Moessner. Harrisburg, PA: Trinity Press International, 1999.
- Tannehill, Robert C. *The Narrative Unity of Luke-Acts a Literary Interpretation*. Philadelphia: Fortress Press, 1986.
- Tarn, W. W. *Alexander the Great*. Cambridge: Cambridge University Press, 1948.
- Thickstun, H. Mae. "A Rhetorical Study of the Speeches in Livy." Masters thesis, Northwestern University, 1908.
- Thompson, Wayne N. "Dionysius of Halicarnassus: A Reappraisal." *Quarterly Journal of Speech* 65 (October 1979): 303-10.
- Trites, Allison A. "The Importance of Legal Scenes and Language in the Book of Acts." *Novum Testamentum* 16 (1974): 278-84.
- Tyson, Joseph B. *Luke, Judaism, and the Scholars Critical Approaches to Luke-Acts*. Columbia: University of South Carolina Press, 1999.
- Tyson, Joseph B., Richard P. Thompson, and Thomas E. Phillips. *Literary Studies in Luke-Acts Essays in Honor of Joseph B. Tyson*. Macon, Ga.: Mercer University Press, 1998.
- Usher, Stephen. *Greek Oratory Tradition and Originality*. Oxford: Oxford University Press, 1999.

- Veltman, Frederick. "The Defense Speeches of Paul in Acts: Gattungsforschung and Its Limitations." Ph. D. diss., Graduate Theological Union, 1975.
- Verheyden, Jozef. *The Unity of Luke-Acts*. Bibliotheca Ephemeridum Theologicarum Lovaniensium. Leuven: Peeters, 1999.
- Walaskay, Paul W. *"And So We Came to Rome" the Political Perspective of St. Luke*. Cambridge: Cambridge University Press, 1983.
- Walbank, F. W. *Speeches in Greek Historians*. J. L. Myres Memorial Lecture. Oxford: Blackwell, n.d.
- Walsh, P. G. *Livy: His Historical Aims and Methods*. London: Cambridge University Press, 1961.
- Watson, Duane F. "Paul's Speech to the Ephesians Elders (Acts 20.17-38): Epideictic Rhetoric of Farewell." Pages 184-208 in *Persuasive Artistry: Studies in Honor of George A. Kennedy*. Edited by Duane F. Watson. Journal for the Study of the New Testament Supplement Series 50. Sheffield: Sheffield Academic Press, 1991.
- _____. "Notes on History and Method." Pages 101-25 in *Rhetorical Criticism of the Bible: A Comprehensive Bibliography with Notes and Method*. Edited by Duane F. Watson and Alan J. Hauser. Biblical Interpretation Series 4. Leiden: Brill, 1994.
- West, William C. "The Speeches in Thucydides: A Description and Listing." Pages 3-15 in *The Speeches in Thucydides: A Collection of Original Studies with a Bibliography*. Edited by Philip A. Stadter. Chapel Hill: University of North Carolina Press, 1973.
- Wilcox, M. "A Foreword to the Study of the Speeches in Acts." Pages 206-25 in *Christianity, Judaism and Other Greco-Roman Cults: Studies for Morton Smith at Sixty*, vol. 1. Studies in Judaism in Late Antiquity 12. Leiden: Brill, 1975.
- Willis, W. H. "The Robinson-Cologne Papyrus of Achilles Tatius." *Greek, Roman, and Byzantine Studies* 31 (1990): 73-102.
- Windisch, Hans. *Paulus und Christus: Ein Biblisch-Religionsgeschichtlicher Vergleich*. Untersuchungen Zum Neuen Testament 24. Leipzig: J. C. Hinrichs, 1934.
- Winter, Bruce W. "The Importance of The *Captatio Benevolentiae* in the Speeches of Tertullus and Paul in Acts 24:1-24." *Journal of Theological Studies* 42 (1991): 505-31.

_____. "Official Proceedings and the Forensic Speeches in Acts 24-26." Pages 305-36 in *The Book of Acts in Its Ancient Literary Setting*. Edited by Bruce W. Winter and Andrew D. Clarke. Vol. 1 of *The Book of Acts in Its First Century Setting*. Edited by Bruce W. Winter. Grand Rapids: Eerdmans, 1993.

Winter, Bruce W. and Andrew D. Clarke, eds. *The Book of Acts in Its Ancient Literary Setting*. Vol. 1 of *The Book of Acts in Its First Century Setting*. Edited by Bruce W. Winter. Grand Rapids: Eerdmans, 1993.

Witherington, Ben. *History, Literature, and Society in the Book of Acts*. Cambridge: Cambridge University Press, 1996.

_____. *The Acts of the Apostles: A Socio-Rhetorical Commentary*. Grand Rapids: Eerdmans, 1998.

Witherup, Ronald D. "Functional Redundancy in the Acts of the Apostles." *Journal for the Study of the New Testament* 48 (1992): 67-86.

Wolff, Hans Julius. *Roman Law: An Historical Introduction*. Norman, Okla.: University of Oklahoma Press, 1951.

Woodman, A. J. *Rhetoric in Classical Historiography Four Studies*. Portland, Oreg.: Croom Helm Areopagitica Press, 1988.

Youtie, Herbert C. "Βραδέως γράφων: Between Literacy and Illiteracy." *Greek, Roman, and Byzantine Studies* 12 (1971): 239-61.

Zmijewski, Josef. *Die Apostelgeschichte*. Regensburger Neues Testament. Regensburg: F. Pustet, 1994.