CICERONIAN CONCILIARE AND ARISTOTELIAN ETHOS

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In the second book of *De Oratore* Cicero analyses the *ratio dicendi* in terms of three functions: (1) *ut probemus vera esse, quae defendimus*; (2) *ut conciliemus eos nobis, qui audiunt*; (3) *ut animos eorum, ad quemcumque causa postulabit motum, vocemus* (2.115). This paper is concerned with the second of these functions as presented by Cicero, and with the Aristotelian theory of πίστις . . . διὰ . . . τοῦ ἤθους (*Rhet.* 1.2.1356 a 5–13) from which he derived this second function.[1] I shall try to explain the modifications Cicero made, his motives in making them, and the difficulties arising from his choice of adaptation.

The theme of *conciliare* returns briefly in 2.121 among the ἔντεχνοι πίστεις, *illa quae tota ab oratore pariuntur*. There are *tres res quae ad fidem faciendam solae valent . . . ut et concilientur animi et doceantur et moveantur.* These receive further comment in 128:

> *tres sunt res, ut ante dixi:* una conciliandorum hominum, *altera docendorum, tertia concitandorum. Harum trium partium prima lenitatem orationis, secunda acumen, tertia vim desiderat, nam hoc necesse est, ut is, qui nobis causam adiudicaturus sit,* aut inclinatione voluntatis propendeat in nos *aut defensionis argumentis adducatur aut animi permotione cogatur.*

From these introductory remarks we derive the idea that (115) the jurors must be won over to us, the advocates[2] (114 has parenthetically included

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[1]The association of *conciliare* with the Aristotelian πίστις διὰ τοῦ ἤθους is not made explicit in the literary and exoteric *De Oratore*, which generally avoids Greek terms. Antonius acknowledges his debt to Aristotle for the analysis of logical proof in 2.160, but does not repeat the acknowledgment for the "ethical" or emotive proofs.

Cicero explicitly mentions ἠθικόν, and gives its motive as *ad benevolentiam conciliandam* in *Orator* 128: *duo sunt enim quae bene tractata ab oratore admirabilem eloquentiam faciant; quorum alterum est* quod Graeci ἠθικόν *vocant, ad naturas et mores et ad omnem vitae consuetudinem accommodatum; alterum quod eidem* παθητικόν *nominant, quo perturbantur animi et concitantur, in quo uno regnat oratio.* illud superius come, iucundum, ad benevolentiam conciliandam paratum.

It should be noted that if ἠθικόν and παθητικόν are here used as nouns, rather than adjectives, this is a Hellenistic extension of Aristotle's practice (see below, note 9). Cicero here defines ἠθικόν as speech adapted to *mores*, the natural translation of ἤθη. As J. E. Sandys comments (on *Orator, loc. cit.* [Cambridge 1885] p. 131), the *mores* are not clearly identified as those of the speaker, or the audience, whereas there can be no doubt that the *animi* affected by παθητικόν are those of the audience. We must therefore go back to the earlier and fuller account in *De Oratore* to see where Cicero places the emphasis of the genus *quod ad vitam et mores accommodatur* (*De Orat.* 2.213 = *Orator* 128 above). This is one of the problems which I attempt to solve in the following pages.

[2]See now George Kennedy, "The Rhetoric of Advocacy in Greece and Rome," *AJP* 89 (1968) 419–436. In this broad historical study he traces the principal effects of the

both advocate and client), and (128) this requires *lenitas* to make the jury inclined to favour us. There may also be a contrast intended between the conscious *inclinatio voluntatis* and the unwitting or unwilling *permotio animi*.

The concept of *lenitas* is important for Cicero's rhetorical theory because it enables him to bridge the gap between the ethical and aesthetic aspects of speech; in Cicero's theoretical writings it is most often associated with style; compare, e.g., *Leg.* 1.11, in which Atticus, remarking on Cicero's adaptation of his style to increasing age and his reduction of *contentio*, adds *ut iam oratio tua non multum ab philosophorum* lenitate *absit*. Historical writing is said in *De Orat.* 2.64 to require *genus orationis fusum atque tractum et* cum lenitate quadam aequabiliter profluens *sine hac iudiciali asperitate*; and for the combination with *aequabilis*, compare *Orator* 53, *elaborant alii in* lenitate et aequabilitate *et puro . . . et candido genere dicendi*. It is also applied to delivery and intonation, as in 2.184 below and *Orator* 56 (with Sandys' note *ad loc.*, p. 65 of his edition). But at the moral level *lenitas* is the quality of wise and merciful decision in the judge or jury, defined by Cicero in *Part. Or.* 78, in relation to justice: *ea (sc.iustitia) in moderatione animi advertendi lenitas nominatur*. Not only does this correspond closely to the Aristotelian account of ἐπιείκεια in *Rhet.* 1.13, 1374 a 30 following; but ἐπιείκεια and the ἐπιεικής in a more general sense are important elements in the ideal *ethos* which Aristotle sets up for his orator at *Rhet.* 1.2. 1356 a 7 and a 13, and 2.1.1378 a 15. While this wider sense of ἐπιεικής—"reasonable, moderate, gentlemanly"—extends beyond the range of *lenis*, Cicero's choice of *lenis* and *lenitas* enabled him to include, as I will show, aesthetic and stylistic connotations which ἐπιείκεια lacked.

Of the three functions Cicero discusses first the varieties of intellectual proof (*docere*) which are closest to the orthodox *inventio* theory of post-Aristotelian rhetoric, and leads up to a catalogue of the Aristotelian *topoi* in 163–173. After a conversational digression Antonius proceeds to consider the psychological functions, *conciliare* and *movere*: 182–184 deal

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separate identities of advocate and client found occasionally in Athens and almost universally in Rome. He discusses *De Orat.* 2.182–184, on pages 434–435, concluding that "most especially the possibility of effective contrast between patron and client is not recognised," and comments on the slowness of Roman rhetorical theory to assimilate the implications of the separate personalities of advocate and client. The whole article is full of valuable comments on many aspects of *Ethos*, and I offer my own discussion (written before I consulted Kennedy's work) in the hope that this analysis of the conflicts generated in Cicero's adaptation of Greek theory will provide a useful appendix to his paper. For further discussion see Kennedy's *The Art of Rhetoric at Rome* (Princeton 1972) 139 (on the treatment of *Ethos* in rhetorical theory), and 220–221 (on *De Orat.* 2.182–184).

specifically with the former. Since 182 is a difficult section, it seems wise to set it out in full before attempting an analysis.

Valet igitur multum ad vincendum probari mores et instituta et facta et vitam eorum, qui agent causas, et eorum, pro quibus, et item improbari adversariorum, animosque eorum, apud quos agetur, conciliari quam maxime ad benevolentiam cum erga oratorem tum erga illum, pro quo dicet orator. Conciliantur autem animi dignitate hominis, rebus gestis, existimatione vitae; quae facilius ornari possunt, si modo sunt, quam fingi, si nulla sunt. Sed haec adiuvant in oratore; lenitas vocis voltus pudor[is significatio], verborum comitas; si quid persequare acrius, ut invitus et coactus facere videare. Facilitatis, liberalitatis, mansuetudinis, pietatis, grati animi, non appetentis, non avidi signa proferre perutile est; eaque omnia, quae proborum, demissorum, non acrium, non pertinacium, non litigiosorum, non acerborum sunt, valde benevolentiam conciliant abalienantque ab eis, in quibus haec non sunt; itaque eadem sunt in adversarios ex contrario conferenda.

In the first sentence the aim is given as winning approval for the *mores et instituta . . .* etc. both of patrons (*eorum qui agent causas*) and clients (*eorum pro quibus*), with a corresponding discrediting of the adversaries. While the second sentence appears to be merely a rephrasing of the first, it brings into prominence the third party concerned, the *iudices* (*apud quos agetur*) and the theme verb *conciliare*, which is then expanded by what follows; such goodwill is won by a man's prestige, achievements, and reputation, but these may be lacking. What is the next connection of thought? *Sed* relates to the problem of the defendant without these merits. Certain qualities in the patron such as *lenitas* of delivery[3] and demeanour can compensate for these deficiencies. We are now discussing the character displayed by the speaker, and the next sentence, *facilitatis . . . signa proferre perutile est*, appears to continue this theme. "It is very advantageous to display the marks of good and amiable qualities." Only with the comment on bestowing the corresponding bad qualities on the adversaries, do we realise that *signa proferre* may refer to adducing evidence of the amiable qualities of the client rather than the speaker himself, as a means of *benevolentiam conciliare.*[4]

[3]The text here is damaged. The mss read *lenitas vocis voltus pudoris significatio verborum comitas*. Wilkins follows Kayser in bracketing *-is significatio*; Harnecker extends the brackets to *pudoris significatio verborum comitas*, reading *lenitas vocis et voltus*. The problem does not affect our interpretation as a whole, but I believe that the three elements of *vox, voltus,* and *verba* are all necessary, and would not extend the brackets beyond *pudoris significatio.*

[4]Antonius' reference here corresponds to the recommendations he will himself give for the *principium* in 2.320 ff. Similarly *populi benevolentiam mihi conciliaram* in 200 relates to the *captatio benevolentiae*, attributed by traditional rhetoric to the beginning of the speech. A comparison of Aristotle's comments on the *exordium* in the *Rhetorica* with the Roman texts reveals the tradition and its modifications. The starting point is *Rhet.* 3.14 1415 a 35 f.: λέγεται δὲ ταῦτα ἔκ τε τοῦ λέγοντος (1) καὶ τοῦ ἀκροατοῦ (2) καὶ τοῦ πράγματος (3) καὶ τοῦ ἐναντίου (4). Compare *Rhet. Her.* 1.5.8: *Benivolos auditores facere quattuor modis possumus; ab nostra* (1), *ab adversariorum nostrorum* (4), *ab auditorum persona* (2), *et ab rebus ipsis* (3). Cic. *Inv.* 1.16.22: *Benivolentia quattuor ex*

Section 183 adds in parenthesis that this style of speaking is most successful in cases where it is not possible to play on the audience's emotions; here gentle and mild[5] speech is most appropriate, and most recommends a client, and a definition is offered for the word *reus*, which is the link returning us to the main argument in 184. *Horum igitur exprimere mores oratione iustos, integros, religiosos, timidos, perferentis iniuriarum mirum quiddam valet* seems to recapitulate the last sentence of 182 above, but relates to the client. Antonius adds that if speakers do this, whether in the preamble, narrative, or conclusion, it will often be even more effective than the case proper. Further (*autem*), from the feeling and nature of the speech it can result that *quasi mores oratoris effingat oratio; genere enim quodam sententiarum et genere verborum, adhibita etiam actione leni facilitatemque significante, efficitur ut probi, ut bene morati, ut boni viri esse videamur.* In the last sentence *facilitatemque significante* appears to resume *facilitatis* ...

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locis comparatur; ab nostra (1), *ab adversariorum* (4), *ab iudicum persona* (2), *ab ipsa causa* (3). Cic. *De Orat.* 2.321: *aut ex reo* (1) *aut ex adversario* (4) *aut ex re* (3) *aut ex eis apud quos agetur* (2) *sententias duci licebit.*

Rhet. Her. and *De Inv.* are clearly transcriptions of the same source, which altered the Aristotelian order to give greater prominence to the *adversarius*. *De Oratore* differs in two ways: by postponing the reference to the audience to fourth position it restores the emphasis on their role; also, just as Antonius in 2.80–82 had refused to accept the limitation of *captatio benevolentiae* to the *principium*, so in 322 he concludes his summary of the *sententiae*: *ex eis autem apud quos agetur* ut benevolos beneque existimantes efficiamus, *quod agendo efficitur melius quam rogando. est id quidem* in totam orationem confundendam nec minime in extremam, *sed tamen multa principia ex eo genere gignuntur.* Because of this belief in the diffusion of the *captatio* throughout the speech, Cicero has included his comments on this technique in the context of his discussion of *conciliare* (182–183) and *movere* (200; cf. 206–209) rather than under the heading of *dispositio*. Aristotle also, in his section on arrangement, mentions τὸ εὔνουν ποιῆσαι as a goal of the *exordium*, listed, as in *De Oratore*, under πρὸς τὸν ἀκροατήν. He too refers back (3.14.1415 b 29) to his previous discussion, that is to 2.1.1378 a 22–23, on εὔνοια as an ingredient in πίστις ἐν τῷ ἤθει and to 2.4, on the πάθος of φιλία.

[5]In Dionysius of Halicarnassus (see Lockwood, *CQ* 23 [1929] 183–184) and in Quintilian, 6.2, *Ethos* and ἠθική are identified with a quieter, milder level of speech than *Pathos* and παθητική. Grube, both in *The Greek and Roman Critics* (291–292) and in his notes to *Aristotle on Poetry and Style* (51, n. 2), suggests that Quintilian's words reflect the practice of Cicero and perhaps earlier critics; even in Aristotle the application of the adjective ἠθικός to the *Odyssey* in *Poetics* 24 may depend on associating ἦθος with a quieter emotional level. This distinction between *Ethos* and *Pathos* does not seem to occur in the *Rhetorica*; it is however present, without being used to define the terms, in Cicero as in Dionysius. Compare Dionysius *De Dem.* 8, in which ἠθική is the last of a parallel sequence ἱλαρά ... ἀνειμένη ... ἠδεῖα contrasted with παθητική; or *ib.*43: τὰ μὲν ἀποτραχύνει τε καὶ πικραίνει τὴν ἀκοήν, τὰ δὲ πραΰνει καὶ λεαίνει, καὶ τὰ μὲν εἰς πάθος ἐκτρέπει τοὺς ἀκούοντας, τὰ δ' εἰς ἦθος ὑπάγεται. From Cicero, compare the contrast made in *De Oratore* 2.200: ... *generi orationis vehementi atque atroci genus illud alterum ... lenitatis et mansuetudinis*, or 212: *in his duobus generibus quorum alterum lene, alterum vehemens esse volumus* ..., and the antithesis of *asperitas contentionis* with *remissio lenitatis*, or the comments in *Orator* 128 (above, note 1).

signa proferre of the end of 182, and, at the same time, clearly refers to the amiable qualities of the speaker himself.

There are several confusions latent here: is Antonius discussing the art of recommending the speaker, or the client? Is he commenting on style, or content? The end of 184 is clear in itself. *Conciliare* will involve portraying[6] by one's sentiments, style, and delivery, the excellence of the speaker's character, a straightforward piece of self-dramatisation by the orator as his own playwright and performer. More difficult is the sentence beginning *horum igitur exprimere mores*, both in its relation to the end of 182, and to the *placida, summissa, lenis oratio* recommended in 183. If we take *signa proferre* in 182 in the sense first proposed, displaying marks of the orator's own good qualities, this is consistent with the end of 184, and with the emphasis on style and manner implied by *placida, summissa, lenis oratio*. This then seems to be the sense required. But how can the orator express the excellent character of his client in his speech by *placida, summissa, lenis . . . oratio*? That is, by his style and delivery? This presupposes an amazing degree of identification between patron and client; without it the orator can express his client's merits only by explicit statements about them. In this difficulty both the double meaning of *lenis*, passing from morality to style, and Cicero's own intense faith in the effect of style, influence his statements; but it would seem that the initial distinction between commendation of the speaker himself, and of the client, has not been maintained, nor its implications consistently explored. In the latter part of this paper I shall argue that the distinction fails to be maintained because it was irrelevant to Cicero's Aristotelian source, and has been grafted by Cicero onto a presentation in quite different terms.

More problems arise from the later references to this function in Antonius' account of his great defence of Norbanus (200 ff.).

quod ubi sensi me in possessionem iudicii ac defensionis meae constitisse, quod et populi benevolentiam mihi conciliaram, . . . *et iudicum animos totos . . . ad causam nostram converteram, tum admiscere huic generi orationis vehementi atque atroci* genus illud alterum, de quo ante disputavi, lenitatis et mansuetudinis *coepi.*

Paradoxically in this passage the *conciliaram* clause is associated with the violent and emotive function, while the characteristic *lenitas* of technical *conciliare* comes second, associated with Antonius' vindication of his own role as defending counsel, and consists only of winning the goodwill of the audience for the *patronus*. This is confirmed by the later sentence (201) where the antithesis *commendatio: concitatio* corresponds to *ut mansue-*

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    [6]*Exprimere* and *effingere* both belong to the vocabulary of the plastic arts; cf. Austin on *Pro Caelio* 12, *non* expressa *sed adumbrata signa virtutum* (notes, p. 60); *Ac.* 1.27, *e qua omnia expressa atque efficta sint*; *N.D.* 1.47, *cum artificium effingitis fabricamque divinam*; *Off.* 3.69, *solidam atque expressam effigiem*, and *De Orat.* 3.15, *in quibus omnibus fere Socrates exprimitur*, of personal portrayal through language.

tissimus viderer and *ut et acerrimus in Caepionis invidia renovanda* (*viderer*). Thus in practice Antonius' technique does not conform to the theoretical role of *conciliare* as presenting the *mores* of the defendant in a favourable light, while the emotive defence of *seditio* is actually described by a contradictory, non-technical use of *conciliare*.

Similarly analysis of the emotions to be roused leads to a conflicting use of *conciliare* in the idiom *amorem conciliare* (206): in the discussion on arousing the affection of the judges in 206–208, the first section of the catalogue of emotions, Cicero is basically repeating the aims and methods included in the function of *conciliare* in 182–184.

Confronted by this overlap Cicero reveals his embarrassment in 212. He has ended the account of the emotive function in 206–211 with *invidia* (210) and *misericordia* (211), and his demands made upon the speaker enable him to reiterate in 211 the distinction made in 201 between the *commendatio probitatis*, which should be *lenis . . . atque summissa*, and the (*pars*) *quae suscipitur ab oratore ad commutandos animos atque omni ratione flectendos*, which should be *intenta ac vehemens*. But he has finally to admit the overlap of categories.

est quaedam in his duobus generibus, quorum alterum lene, *alterum vehemens esse volumus, difficilis ad distinguendum similitudo;* nam et *ex illa lenitate, qua conciliamur eis, qui* audiunt, *ad hanc vim acerrimam, qua eosdem excitamus, influat oportet aliquid . . . neque est ulla temperatior oratio quam illa, in qua asperitas contentionis oratoris ipsius humanitate conditur,* remissio autem lenitatis *quadam gravitate et contentione firmatur* (212).

The discussion is already taking another direction, as the reference to *humanitas* shows; and Cicero is leading off gradually towards Caesar Strabo's digression on wit, but before he leaves the psychological functions he makes one final comment (216).

illa autem, quae aut conciliationis causa leniter *aut permotionis vehementer aguntur, contrariis commotionibus auferenda sunt, ut odio* benevolentia, *ut misericordiā invidiā tollatur.*

Conciliatio has here become merely a label for one section of *movere;* that part whose business it is to stir up friendly or favourable emotions, and can be cancelled by arousing contrary emotions. What started as an apparently independent aspect of the orator's skill, with a different function from the emotive role of *movere*, has been transformed into the gentler sub-group included in the wider range of *movere*. The descriptive role of *conciliare*, its connection with characterisation by style and content of (*a*) the patron and (*b*) the client, has been blurred by the application of the same term to a category of the more important emotion-rousing function in the longer following section.

Why does Cicero choose the term *conciliare* to distinguish this separate characterising function? After all, the verb clearly implies a form of

acting upon the emotions, differing only in intensity of passion from other forms of *movere*. He does not seem to rely on any philosophical distinction, such as that *conciliare* acts upon the reason, *movere* upon the emotions; the only hint of such a distinction lies in the phrases *inclinatio voluntatis* as opposed to *permotio animi* in 129 above. If both functions are emotive, why keep them distinct? The only special quality of the *conciliare*-function is its descriptive content.

The choice of terminology becomes more meaningful if we turn to consider (*a*) the classification of Cicero's ultimate or direct source, Aristotle, in his analysis of rhetorical proofs, and (*b*) the different circumstances and values of oratory assumed by the Greek and Roman critics.

In his introduction to the *Rhetorica*, Aristotle distinguishes three kinds of ἔντεχνοι πίστεις (1.2.1356 a 1–4): (a') αἱ μὲν γάρ εἰσιν ἐν τῷ ἤθει τοῦ λέγοντος, (β') αἱ δὲ ἐν τῷ τὸν ἀκροατὴν διαθεῖναί πως, (γ') αἱ δὲ ἐν αὐτῷ τῷ λόγῳ, διὰ τοῦ δεικνύναι ἢ φαίνεσθαι δεικνύναι. He then comments on the πίστεις διὰ τοῦ ἤθους, describing them as ὅταν οὕτω λεχθῇ ὁ λόγος ὥστε ἀξιόπιστον ποιῆσαι τὸν λέγοντα. τοῖς γὰρ ἐπιεικέσι πιστεύομεν μᾶλλον καὶ θᾶττον . . . δεῖ δὲ καὶ τοῦτο συμβαίνειν διὰ τὸν λόγον, ἀλλὰ μὴ διὰ τὸ προδεδοξάσθαι ποιόν τινα εἶναι τὸν λέγοντα. . . . ἀλλὰ σχεδὸν ὡς εἰπεῖν κυριωτάτην ἔχει πίστιν τὸ ἦθος (1356 a 5–15).[7]

The speech must be uttered so as to make the orator ἀξιόπιστος (compare Cicero's *ad fidem faciendam*, 2.121). This element in the definition recurs in *Rhet.* 1.9.1366 a 34; 2.1.1378 a 19 f. There is emphasis on the need for ἐπιείκεια[8] (compare Cicero's use of *lenis*, *lenitas*, 2.128, 182, etc.); the problem is to make himself appear ποιόν τινα; this recurs in *Rhet.* 1.9.1366 a 30; 2.1.1378 a 22 (τοιοῦτον). A side reference in 1.8.1366 a 12 f. ties up this type of proof with the ἤθη of states and constitutions, making it clear that the orator should know the nature and aims of a state, so

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[7]On the use of ἦθος in Aristotle's *Rhetorica*, see E. M. Cope, *Introduction to Aristotle's Rhetoric* (London 1867) 110–113. He distinguishes three applications of the word. (1) the present reference, ἦθος ἐν τῷ λέγοντι. (2) "The character of constitutions or forms of government and of the different periods of life, youth, manhood . . . and so forth; (these) are to be studied for the purpose of accommodating our language to the tone and sentiments prevailing under certain forms of government, and characteristic of, or peculiar to, certain ages and conditions of life, and thereby conciliating the audience, when it happens to be composed of members of one or other of these classes." (3) ἦθος belonging to style; this appears only in Book 3 (see pp. 271–272 below).

[8]Aristotle's discussion of ἐπιείκεια in 1.13.1374 a 30 f. starts from this definition: ἔστι δὲ ἐπιεικὲς τὸ παρὰ τὸν γεγραμμένον νόμον δίκαιον (see Cope, *op. cit.* [above, note 7] 190–193). This is very close to his definition of the ἐπιεικής in *Eth. Nic.* 1137 b 34 f.: ὁ μὴ ἀκριβοδίκαιος ἐπὶ τὸ χεῖρον. But the adjective (and noun) had a wider sense in general Greek usage, as a basic word of social recommendation, like gentlemanly, respectable; so Socrates in *Apol.* 22 a 5, 36 c 1 opposes it to φαῦλος (see Burnet *ad loc.*). In Aristotle too, where ἐπιεικής explains ἀξιόπιστος in *Rhet.* 1.2.1356 a 7, it is generalised. On its range, and relationship with *lenis* see p. 263 above.

as to be able to assume similar ἤθη himself: τὸ μὲν γὰρ ἑκάστης ἦθος πιθανώτατον ἀνάγκη πρὸς ἑκάστην εἶναι. His analysis of virtue in 1.9. leads to a comment on the value of this analysis for the δευτέρα πίστις: συμβήσεται γὰρ ἅμα περὶ τούτων λέγοντας κἀκεῖνα δηλοῦν ἐξ ὧν ποιοί τινες ὑποληφθησόμεθα κατὰ τὸ ἦθος, ἥπερ ἦν δευτέρα πίστις. ἐκ τῶν αὐτῶν γὰρ ἡμᾶς τε καὶ ἄλλον ἀξιόπιστον δυνησόμεθα ποιεῖν πρὸς ἀρετήν (1366 a 29–33).

Facts about virtue, basically useful for praising others (τῷ ἐπαινοῦντι, 1366 a 29), will enable the orator to represent himself as virtuous. Aristotle subsequently concentrates on the logical proofs, leaving the δευτέρα πίστις until Book 2. This begins (2.1) by distinguishing intellectual from moral proofs. Then he repeats the important elements of his original definition of the πίστις ἐν τῷ ἤθει:

ἀνάγκη . . . καὶ αὐτὸν ποιόν τινα καὶ τὸν κριτὴν κατασκευάζειν· πολὺ γὰρ διαφέρει πρὸς πίστιν, μάλιστα μὲν ἐν ταῖς συμβουλαῖς, εἶτα καὶ ἐν ταῖς δίκαις τὸ ποιόν τινα φαίνεσθαι τὸν λέγοντα καὶ τὸ πρὸς αὐτοὺς ὑπολαμβάνειν ἔχειν πως αὐτόν (2.1.1377 b 24–29).

This type of proof, then, depends on two things: the character which the orator presents in his speech, and the attitude towards the audience with which he represents himself. These are elaborated in 2.1.1378a7f.: τοῦ μὲν οὖν αὐτοὺς εἶναι πιστοὺς τοὺς λέγοντας τρία ἐστὶ τὰ αἴτια . . . ἔστι δὲ ταῦτα φρόνησις καὶ ἀρετὴ καὶ εὔνοια. Following this, in 1378 a 19, Aristotle refers the reader back to 1.9 for the means by which orators can make themselves appear φρόνιμοι καὶ σπουδαῖοι. The question of presenting one's εὔνοια is to be studied in the section on πάθη. This is generally agreed to refer the reader forward to the section on φιλία, in 2.4 (1380 b 43–1381 b, end). The whole nature of this proof consists in portrayal or description; presenting the speaker in a certain light; the εὔνοια at issue is the speaker's own (real or supposed) goodwill to the audience, not theirs towards him. Specific concern with winning their εὔνοια, the equivalent of Ciceronian *conciliare*, although this is the underlying motive of the πίστις διὰ τοῦ ἤθους, is not discussed here.

When Aristotle comes to discuss φιλία in 2.4., he does so analytically, without stating a motive or application; it is merely one of the πάθη which the orator must know how to rouse. In one sense a sizable proportion of this chapter reflects the issue of εὔνοια underlying the second proof, for his emphasis is repeatedly on the φιλία men feel for those whose attitude to themselves and their loyalties is favourable. He has included this chapter to satisfy two needs of the orator: (*a*) according to its classification, to show by what persons and causes the πάθος of φιλία is roused: hence how can the speaker arouse it in the audience, towards others or towards himself? (*b*) to satisfy the reference from 2.1.1378 a 22–3: what is φιλία like? Hence how can the speaker portray himself to show that he feels it towards the audience? Yet it should be noted that the words εὔνους, εὔνοια

do not occur even once. That is, although Aristotle has referred the readers to this section for the technique of making oneself appear εὔνους, he has formulated the chapter to illustrate a πάθος, and has not adapted it to the needs of the πίστις διὰ τοῦ ἤθους.

The later sections 2.12–17, on the characteristics associated with age, class, and fortune, are designed to continue the analysis of emotions in the audience so that the speaker may know how to appeal to the type of audience he is dealing with. It is a discussion of ἤθη, in one sense, but is aimed at the third, emotive category of proof. Yet Médéric Dufour (*Aristote: Rhétorique Livre 2* [Paris 1960] introduction 29) is too absolute in denying its relevance to the πίστις διὰ τοῦ ἤθους. Cope (*Introduction to Aristotle's Rhetoric*, 110) points to the directions in 2.13.1390 a 29–33, ὥστε ἐπεὶ ἀποδέχονται πάντες τοὺς τῷ σφετέρῳ ἤθει λεγομένους λόγους καὶ τοὺς ὁμοίους οὐκ ἄδηλον πῶς χρώμενοι τοῖς λόγοις τοιοῦτοι φανοῦνται καὶ αὐτοί καὶ οἱ λόγοι.

This makes the same connection with "ethical" proof as in 1.8.1366 a 12 (above, page 268). Thus when in 2.18.1391 b 34 Aristotle states ἔτι δ' ἐξ ὧν ἠθικοὺς τοὺς λόγους ἐνδέχεται ποιεῖν, καὶ περὶ τούτων διώρισται, it is reasonable to take ἠθικούς[9] as covering both the πίστεις διὰ τοῦ ἤθους and those ἐν τοῖς πάθεσι; for he has used the analytical material of 2.4. and 2.12–17 to equip the speaker with both categories of proof.

[9]On the range of meaning of ἠθικός in Aristotle's *Rhetorica*, see Lockwood in *CQ* 23 (1929) 180–181. He analyses three passages included in this discussion, and suggests three separate usages for the word, which do not, however correspond to the three distinct uses of ἤθος listed in note 7. (1) In 3.7.1408 a 22 f., the adjective is applied to speech in character *morata oratio* (the third use of ἤθος). (2) In 2.18.1391 b 29, it is rather "adapted to the character of the audience to whom it is addressed" (the second use of ἤθος). He does not discuss the use of ἠθικός in 2.18.1391 b 34. (3) In 2.21.1395 b 17, it is connected with προαίρεσις, and related to a man's τέλος. Here it is "moral," "of moral value," or "to mark a particular moral character." (This is equally the case in 3.16.1417 a 20, on ἠθικὴ διήγησις, not considered by Lockwood, whereas in 1417 a 27 ἠθικά are utterances in character, as at 3.7.1408 a 22 above.)

Some additional comments are needed. Lockwood ignores 1.8.1366 a 12: ἐπεὶ δ' οὐ μόνον αἱ πίστεις γίνονται δι' ἀποδεικτικοῦ λόγου ἀλλὰ καὶ δι' ἠθικοῦ (τῷ γὰρ ποιόν τινα φαίνεσθαι τὸν λέγοντα πιστεύομεν, τοῦτο δ' ἐστιν ἂν ἀγαθὸς φαίνηται ἢ εὔνους ἢ ἄμφω), δέοι ἂν τὰ ἤθη τῶν πολιτειῶν ἑκάστης ἔχειν ἡμᾶς. Here the adjective is specifically applied to the ἤθος of the speaker, the first usage of ἤθος listed by Cope. This appears to be the only instance in the *Rhetorica*, and the use is adjectival, and has not yet taken on an independent life as a noun, which may be the case in *Orator* 128 (above, note 1). Lockwood points out that ἠθικός is not recorded in Ast, and apparently not used by Plato. Aristotle seems to use it as an innovation, despite previous occurrences in, e.g., the *Poetics* (ch. 24), and is careful to associate it with its root noun ἤθος. In 2.21.1359 b 17 and 3.7.1408 a 22 f., and 16, 1417 a 20 and 27, although different uses of ἠθικός are involved, it is supported by references to ἤθος ἔχειν, or ποιεῖν. It seems that whatever ἤθος ποιεῖ makes speech ἠθικόν; whatever ἤθος ἔχει is itself ἠθικόν. Thus in 1.8.1366 a 12 and 2.18.1391 b 34 ἠθικὸς λόγος reflects the ἤθος of either speaker or audience.

Unlike the recommendations of Cicero, Aristotle's account is entirely in terms of representation: description of the orator's character and attitude. The Ciceronian emphasis on the act of *conciliare*, of winning benevolence, has converted the unstressed motive of Aristotle's proof into its actual method. At the same time, the Aristotelian discussion of content has been largely displaced by Cicero's emphasis on style and manner of delivery.

There is another major difference. Aristotle generally speaks as though the orator is acting on his own behalf, and excludes the client element. In deliberative oratory, in which as Aristotle says (2.1.1356 a 15) the speaker's ἦθος is most important, there is no client, and normally no other party to defend or support. In forensic oratory in Greece, the speech was normally delivered by the defendant, so that if the orator was not himself the defendant Aristotle's remarks would have to be applied to the defendant as speaker of the orator's words. K. J. Dover, in *Lysias and the Corpus Lysiacum* (Berkeley 1968), Chapter 8, pp. 149–150, discusses the circumstances governing a consultant's decision whether to speak in his own person for the defendant, or to write a speech wholly or in part for the client to perform. Aristotle takes no notice of this issue in Books 1 and 2 of the *Rhetorica*, in connection with ἦθος. The sole references to a client-figure are ἐκ τῶν αὐτῶν γὰρ ἡμᾶς τε καὶ ἄλλον ἀξιόπιστον δυνησόμεθα ποιεῖν πρὸς ἀρετήν (1.9.1366 a 32), and (in a reference back to 1.9) ἐκ τῶν αὐτῶν γὰρ κἂν ἕτερόν τις κἂν ἑαυτὸν κατασκευάσειε τοιοῦτον (2.1.1378 a 21–22). He does not regard the client, either as subject or performer of the speech, as a significant element in his discussion.[10]

In his earlier book *The Art of Persuasion in Greece* (Princeton 1963), pp. 91–92, Kennedy saw a reference to this type of composition for a client-speaker in *Rhet.* 3.7. Ἠθοποιία, the stylistic characterisation of a client-speaker, was practised by Lysias long before the composition of the *Rhetorica*, and is described by Dionysius of Halicarnassus in *Lys.* 8 ff. What Aristotle says in 3.7.1408 a 24 is: πιθανοῖ δὲ τὸ πρᾶγμα καὶ ἡ οἰκεία λέξις . . . (6) καὶ ἠθικὴ δὲ αὕτη ἡ ἐκ τῶν σημείων δεῖξις, ὅτι ἀκολουθεῖ ἡ ἁρμόττουσα ἑκάστῳ γένει καὶ ἕξει, such as the language appropriate to a Spartan, or Thessalian, or a woman. He adds (1408 a 30) ἐὰν οὖν καὶ τὰ ὀνόματα οἰκεῖα λέγῃ τῇ ἕξει, ποιήσει τὸ ἦθος. οὐ γὰρ ταὐτὰ οὐδ' ὡσαύτως ἀγροῖκος ἂν καὶ πεπαιδευμένος εἴπειεν. There need be no reference here to language as designed to characterise the speaker, as there was in the account of λέξις παθητική in the preceding section (1408 a 20–24). Instead Aristotle is

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[10]Compare Kennedy, "The Rhetoric of Advocacy," 420–421. He shows that although Aristotle twice in the *Rhetorica* refers to anecdotes in which a specific advocate spoke himself for his client (1.13.1374 b 36; 2.20.1393 b 22–23) he "never discusses the varied possibilities which advocacy might open" . . . "in rhetorical theory the litigant is assumed to speak for himself, presumably because this is the basic situation in a Greek court."

discussing how to make language fitting to a Spartan, Thessalian, or a woman. But women and foreigners could not plead their own cases, so Aristotle cannot be discussing how to characterise a client, but rather how to include narrative quotations in the style of those quoted. This is apparent in Kennedy's second reference (3.16.1417 a 27), ἀλλὰ ἠθικὰ τὰ ἐπόμενα ἐκάστῳ ἤθει, οἷον ὅτι ἅμα λέγων ἐβάδιζεν: this technique of characterisation is for use in narrative, when a third party has to be portrayed. This was seen quite clearly by Cope (*Introduction to Aristotle's Rhetoric*, 112): "The third variety of ἦθος ... belongs to style, and accordingly appears only in book 3 .... It occurs usually, and is most appropriate in the second division of the speech, διήγησις or narrative."

It would seem then that in the *Rhetorica* Aristotle does not discuss the implications of the orator-client relationship, neither assuming the client as possible speaker, nor giving more than minimal attention to the type of oratory which involves defence of another. The double role of depicting the character and attitude of both speaker and client would be more rare in Greek courts, and is not therefore an issue in the *Rhetorica*. Whether or not his interests are primarily in deliberative oratory, Aristotle makes it clear that this type of oratory is the main field of the πίστις διὰ τοῦ ἤθους, so that the ἦθος to be represented is that of one man, the orator.

Comparing the Ciceronian with the Aristotelian presentation, we can see that Cicero's difficulties have arisen for four reasons. (1) Since Cicero sets his comments in the context of forensic, not deliberative oratory, he has to accommodate them to Roman forensic practice. Unless the defendant was himself an orator (such as Caelius Rufus, who spoke in his own defence *de vi*, 56 B.C.), this always entailed a distinction between the *patronus*, speaking in his own person, and the client; hence *conciliare* involved a double function, of creating credit for the character and attitudes of both parties. (2) Cicero's choice of the verb *conciliare*, appropriate to the purpose of this, as also of other categories of proof, is too general, and prevents him from distinguishing between the descriptive role of the "ethical" proof, with its emphasis on ποιόν τινα φαίνεσθαι τὸν λέγοντα (*Rhet*. 2.1.137 b 27) and the emotive role of the πίστις διὰ τῶν ἀκροατῶν (*Rhet*. 1.2.1356 a 15). It is probably awareness of this convergence of the two proofs in *conciliare benevolentiam* which leads him to put *Amor* first in his list of emotions, whereas Aristotle had begun with ὀργή (2.2), passing on through πραΰνεσθαι to φιλία, as the opposite (2.3 and 4). Nevertheless the Aristotelian descriptive principle is brought out in the phrases *exprimere mores*, and *ut quasi mores oratoris effingat oratio* (2.184), and the expressed aim *ut probi, ut bene morati, ut boni viri esse* videamur. *Videri* is used again in 201, *ut ... mansuetissimus* viderer, but the real counterpart to ποιόν τινα φαίνεσθαι comes in two earlier passages not explicitly associated with the verb *conciliare*, at 1.89, *ut et ipse eis apud*

quos ageret talis qualem se esse optaret videretur, *et ut ei qui audirent sic adficerentur animis ut eos adfici vellet,* and (virtually repeated) at 2.176, in the transition from *docere* to the other functions: *si vero adsequetur, ut talis videatur qualem se videri velit, et animos eorum ita adficiat, apud quos aget, ut eos quocumque velit vel trahere vel rapere possit, nihil profecto ad dicendum requiret.* (3) Aristotle himself makes it difficult to discuss the question of ἠθικόν clearly, since he uses the same chapter (2.4.) as raw material for the two aims of (*a*) creating φιλία/εὔνοια in the audience and (*b*) representing the εὔνοια of the orator[12]. This has a psychological justification, since εὔνοια in the orator begets εὔνοια in the audience, but it may explain why Cicero's presentation of the two aims in Antonius' trial narrative, using the same key-word, *conciliare*, for both ἠθικόν and part of παθητικόν, has become inextricably confused, and it contributes to the overlap of functions which causes him evident difficulty in 211–212. (4) Finally, Cicero's professional love of, and faith in, style, means that he sees style and delivery as a primary element in the representation of the orator's *lenitas* (intended to translate ἐπιείκεια). Now *lenitas* of style can indeed *effingere mores oratoris*, but barely *exprimere mores* of the client, as he seems to maintain in 2.184. This difficulty has however nothing to do with ἠθοποιία to suit the client, which as we have seen is absent from Aristotle and irrelevant to Roman practice. Roman taste admitted only one form of *Ethos* in this sense; that of the wise, good, and benevolent statesman (Aristotle's φρόνιμοι, σπουδαῖοι, and εὔνοι of 2.1.1378 a 6 f.). For Cicero a mild and virtuous style portrayed the *Ethos* of the orator, and would reflect its excellence upon the client described and defended.

The last two points require further comment in the light of Cicero's later practice. He obviously valued the implications of the verb *conciliare* when he chose it to represent the Aristotelian use of *Ethos*. Yet he uses it only once[11] after *De Oratore* in connection with this theme of the three functions. In *Brutus*, *delectare*[12] performs this role in 185, 187–188, 197, 276 (and compare 322, where it is associated with the conciliatory effect of humour). Combined with *delectare* are *fidem facere*, 187, 197, and *animos a severitate traducere*, 197 (cf. 322 again), *animos devincire volup-*

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[11]At *Orator* 128, quoted in note 1 above. The index to Cicero's *Rhetorica* lists seven uses of the verb subsequent to *De Oratore*; of these three are in the idiom *conciliare benevolentiam*: *Part. Or.* 15.2; 28.7; *Orator* 128.7 above. Add *Part. Or.* 53.2, *c. fidem*; *Brut.* 156.11, *c. gratiam* (social, not rhetorical); *Orator* 122.7, *c. auditorem* (in the exordium); and 162.10, *c. voluptatem aurium* (on *compositio*). The noun *conciliatio* occurs only in *De Oratore*: 2.216 and 2.292 allude to this use of *Ethos* and mark the end of the topic of psychological proofs (216) and Antonius' recapitulation after the digression on humour; 3.205 is general, in a long list of emotional devices.

[12]A. E. Douglas, *Cicero: Brutus* (Oxford 1968) Intr. xxxv, no. 28, is misleading; *conciliare* occurs in none of these passages.

tate, 276. The different emphasis in the set-piece describing Crassus' famous speech in the civil *causa Curiana* at 197 f., the counterpart of Antonius' great speech for Norbanus described in *De Orat.* 2.197 f., may account for the choice of *delectare*, since the issue in court was more academic, and less provocative; *conciliare* was not an urgent need. However, the absence of the verb from the other references to the three functions does suggest deliberate avoidance of *conciliare* as a term. In *De Optimo Genere* and in *Orator* also, when Cicero distinguishes the three functions, he uses *delectare* for the second, most explicitly and repeatedly at *Orator* 69, where he elaborates this in the process of reconciling the three functions with the three *genera*: *subtile in probando*, modicum in delectando, *vehemens in flectendo*.[13] *Conciliare* remains absent from the ensuing discussion, although it occurs casually in 122 as one of the three requirements of the exordium. The exception associated with *Ethos* is a brief allusion in 128, where one paragraph covers Aristotle's second and third proofs in a summary of miscellaneous theory (121–128), opening the transition from the first theme of *Orator* to the second section on *compositio*.

This is already the pattern in the earlier *Partitiones Oratoriae*. When Cicero discusses the element of *Ethos* in oratory in 22, the key word is delectat ... *oratio* ... *quae significat oratoris ipsius amabilis mores*. *Conciliare* is reserved for the specific *benevolentiam conciliare* of the *exordium* (15, 28) and for the *amplificatio* in the peroration which (53) *motu animorum conciliet in dicendo fidem*—surely a case of *movere*, the third function! Thus this special use of *conciliare* lapses after *De Oratore*, which would suggest that Cicero became dissatisfied with the term some time before he took the further step of modifying the three functions to fit the three styles in *Orator*. We may then be justified in explaining the substitution of *delectare* with or without *fidem facere* by the difficulties he experienced in the application of *conciliare* in *De Oratore*, as at 211–212 above. Certainly Sandys is right to note on *Orator* 69 that *delectare* has no connection with the Aristotelian πίστις διὰ τοῦ ἤθους and "in Aristotle's view is strictly speaking superfluous," but mistaken in denying an original connection between the Ciceronian functions and Aristotelian *Pisteis*; the original term *conciliare*, as used in *De Oratore*, was chosen to

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[13]See A. E. Douglas, "A Ciceronian contribution to Rhetorical Theory," *Eranos* 55 (1957) 18–26, whose account I follow in the chronology of Cicero's changing approach to the three functions. He does not, however, comment on the replacement of *conciliare* by *delectare*; as in the reference quoted in note 12, he treats the two verbs as equivalent. This article seems to have been neglected by recent scholarship (e.g., Kennedy, *The Art of Rhetoric at Rome*, 255, sees no change in the three functions from *De Oratore* to *Orator*), and is a valuable corrective to the scepticism which explains all discrepancies between one work of Cicero and the next in terms of his acquiescence in the structure and principles of his different sources.

reflect an aspect of Aristotle's presentation of *Ethos*; it was in discarding it, and adopting *delectare*, that Cicero severed the connection.

To return to Cicero's high valuation of style; in this he did not change. In *Orator* 50 f. he prefaces his discussion with a categorical assertion of its primacy and domination of the court situation: *cum autem et quid et quo loco dicat invenerit, illud est longe maximum, videre quonam modo.* If this is true even in philosophy, how much more so in *causis . . . quibus totis moderatur oratio?* Its importance lay in its power to persuade, which Cicero saw as equal to, if not greater than, that of truth or logic, because it appealed like music to the uncritical senses, and persuaded, as it were, subliminally. This emerges from the major digression at *Brutus* 187–200, ending in the portrayal of the perfect orator in absolute control of his audience like a virtuoso instrumentalist—it has become his instrument. If Cicero claimed for style more than Aristotle would have thought either possible or desirable, this too may explain why he moved from the partial representation of Aristotle's second proof by *conciliare*, to a term which had nothing in common with Aristotle, but carried richer aesthetic and stylistic associations.

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