

ABSTRACT

Title of Document: ARGUING OVER TEXTS: THE RHETORIC OF INTERPRETATION

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This dissertation examines the nature of arguments over the meaning of texts. People often disagree about the meaning of texts, with arguments ranging from disagreements over individual words to disagreements over the text's overall sense. Over two thousand years ago, rhetoricians in ancient Greece and Rome classified recurring types of disagreement over the meaning of texts. This classification, known as the *legal stases*, served as a tool for inventing arguments in favor of the arguer's preferred interpretation.

My dissertation recovers and adapts the legal stases as a modern rhetorical method for generating and analyzing arguments over the meaning of texts. In the first chapter, I sketch the history of the legal stases from their origins in ancient Greco-Roman legal discourse to their slide into obscurity in the seventeenth century. I rename them the *interpretive stases* because scholars can use them to analyze debates revolving around texts from a variety of spheres, including not only law, but also politics, religion, literature, and history. I adopt six interpretive stases: *letter versus spirit*, *contradictory passages*, *ambiguity*, *definition*, *assimilation*, and *jurisdiction*. These six stases offer a

reasonably grained slicing of disputes over textual meaning at their roots: from a single word to how a text is applied in novel ways.

In the next six chapters, I examine each interpretive stasis in detail with case studies from debates over textual meaning in a variety of settings. Case studies range from a controversy in literary criticism over the racially subversive nature of Phillis Wheatley's poetry in the stasis of ambiguity to a debate in historical scholarship over Lincoln's sexuality as inferred from his correspondence with an alleged male lover in the stasis of assimilation. In my final chapter, I suggest ways that literature and composition teachers might use the interpretive stases to help students analyze and generate arguments about texts, and I discuss promising intersections between my research and contemporary language science.

Thus, my dissertation advances the ability of scholars to analyze the rhetorical dynamics of interpreting texts, trace the evolution of textual meaning, and examine how communities ground their beliefs and behaviors in texts.

ARGUING OVER TEXTS: THE RHETORIC OF INTERPRETATION

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Dedication

To my parents for fostering in me rigorous and free thought, love, and faith.

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There have been a number of people who have supported me throughout the process of completing this project whom I would like to thank. Undoubtedly, a list of all the people who have made this project possible, along with the ways they have supported me, would run longer than this dissertation.

Of my academic mentors, I am perhaps most indebted to Jeanne Fahnestock, the director of this dissertation. Jeanne was an inspiration before I even came to Maryland. When I read her article “Accommodating Science: The Rhetorical Life of Scientific Facts,” I thought to myself that I wanted to analyze language and texts with the same precision and insight that she did. I doubt I will ever attain that level of acumen, but any level I do attain is largely thanks to her and all that she has poured into me these past years.

It was in Vessela Valiavitcharska’s Classical Rhetorical Theory class where I first stumbled across the interpretive stases. Her breadth and depth of knowledge is intimidating, but she shares it so generously. Her constant encouragement was a welcome lift during the long days and nights of being a Ph.D. student. Michael Israel has been a champion of my interest to bring together linguistics and rhetoric from the moment I stepped onto Maryland’s campus. His responses to my work are always razor sharp, making me rethink my projects in ways that enriched them, and I am grateful for our many conversations about language over coffee and lunch. Shirley Logan was the first person with whom I took a rhetoric and composition class at Maryland, and she has been one of my biggest champions ever since. Her aspirations for me stir me to reach higher than I originally imagined. I met Robert Gaines as a student in his argumentation theory

class. I was taken with his deep knowledge of both classical and modern rhetorical theory as well as with his humor. Our conversations on campus and at conferences always leave me with much to ponder about issues in rhetoric or my future career.

I received feedback on multiple chapters in this dissertation from my friends and colleagues in my writing group: Andy Black, Maria Gigante, Lindsay Dunne Jacoby, Heather Lindenman, and Heather Blain Vorhies. Their comments shaped my thinking and writing on this subject in tremendous ways. They have my gratitude. I am also grateful for my conversations about rhetoric and life with Bill Fitzgerald, Jeremy Metz, Cameron Mozafari, Kari Tremeryn, and many others inside and outside the academy.

Although our time together has been relatively short, my partner Phil was one of my biggest supporters as I completed this project, cheering me on in the eleventh hour. I remain in awe of his deep intellect and genuine humility, and his sincere belief in both my work and me is a gift that cannot be repaid.

My family, especially my parents, have supported my aspirations and me from day one. I can never thank my mom, dad, sister, and brother enough for their constant and unending love and encouragement. They are largely responsible for the habits of mind and body that allow me to do this work, and my interest in argumentation in the various spheres explored in this work grows out of my upbringing. Education really does begin at home.

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Chapter 1: An Introduction to the Interpretive Stases

In November 2009, over one thousand e-mails and two thousand documents were stolen from East Anglia University's Climate Research Unit, located in the United Kingdom, and subsequently leaked online. The documents, dating from as early as 1996, were authored by dozens of leading climatologists who have argued that the average temperature of the earth has been rising at a potentially catastrophic rate as a result of human activity (Johnson). Critics argued that the leaked e-mails and documents revealed an effort by scientists to suppress evidence that the earth was indeed not warming. This scandal soon became known as "climategate" and several parties who had been active participants in the debate over global warming offered interpretations of the leaked texts in service of their own agendas.

One e-mail in particular received significant attention. Phil Jones, then head of the Climate Research Unit at East Anglia University, in a 1999 e-mail addressed to three of his colleagues, discusses how he treats data that would be published the following year. The following line from his e-mail received particular scrutiny: "I've just completed Mike's Nature trick of adding in the real temps to each series for the last 20 years (ie from 1981 onwards) and [sic] from 1961 for Keith's to hide the decline." According to one of the addressees, Michael Mann, Jones is explaining how he combined centuries of temperature-correlated data from tree rings, which are considered inaccurate after 1960, with more recent data from actual instruments (Grandia).¹ After 1960, the tree-ring data diverges from the data from these instruments, the former indicating a decline in

¹ Granted, Mann has a stake in this debate as well and is an interpreter like everyone else who reads these e-mails, however, it appears that his description of what Jones describes in his e-mail, "Mike's nature trick" is generally uncontroversial.

temperatures (Grandia). Jones replaced the divergent data with data from actual instruments, resulting in a graphical spike in global temperatures in the latter half of the 20th century, which is sometimes called a “hockey-stick” diagram.² Subsequently, controversy swirled around Jones’ technique of combining data from different sources.

Some skeptics of global warming seized on this line of text as an indication that climate scientists were exaggerating or even fabricating evidence for rising global temperatures. In one representative instance, Bradley Fikes, author of the North County Times *Brad’s Sci-Tech Blog*, noted, “The plain wording of this Climategate email suggests deceit, but Professor Jones, now taking a leave of absence from the CRU [Climate Research Unit], says he was just speaking colloquially about how to solve a problem.” Fikes, like many other critics, zeroed in on the word “trick” as a certain indicator of duplicity:

“The trick...was a deliberate deception to fool the science-ignorant. Had Jones not doctored the graph, that decline would have been on the front cover, where even science-illiterate reporters and policy makers (read: politicians) couldn’t miss it....

“It’s the same trick used in ads where the supposed product benefits are boldly proclaimed, and the problems mentioned in the fine print. It’s the same trick used by scummy con artists. It has nothing to do with science.”

For Fikes, the word “trick” was not a guileless colloquialism but a sign that Jones had purposefully fudged the data.

² For example, McIntyre.

Jones, however, was not without defenders. A post on the blog *Real Climate: Climate Science from Climate Scientists*, appearing soon after the stolen e-mails and documents were leaked, defends Jones' use of the word "trick," arguing, "...the 'trick' is just to plot the instrumental records along with reconstruction so that the context of the recent warming is clear. Scientists often use the term 'trick' to refer to a 'a [sic] good way to deal with a problem', rather than something that is 'secret', and so there is nothing problematic in this at all" (Schmidt).

One locus of the debate over the meaning of Jones' e-mail, then, hinged on whether the word "trick" was insidious or innocuous. This kind of *interpretive dispute* over the intended sense of a word in a particular context can be classified according to the system that is the subject of this dissertation. Indeed, this incident, as an illustration of disputes that can arise over the interpretation of a text, leads us to ask several questions: How do such divergent views of a widely available, accessible, and circulated text arise? What is it about the nature of texts and their relationship to human minds and communities that can give rise to these disputes? Are there any discernible patterns in these conflicts over interpretation? And if so, can they be classified? In other words, can we predict how people disagree over the interpretation of a text? How do rhetors then persuade audiences to accept their interpretation of a text when there are other competing interpretations? What specific tactics are at the rhetor's disposal in these conflicts or disputes? Do rhetoricians have any available methods to understand and analyze such disputes?

The answer to the last question, which can then help us begin to explore the others, is yes. As rhetoricians we do have a system available for understanding and

analyzing disputes over written texts and other kinds of recorded discourse, but this theoretical apparatus has been largely ignored by rhetorical scholarship in recent times. In antiquity, rhetoricians devised *stasis theory* as a way to help orators determine general, recurring points of disagreement that can arise in debates or disputes. These kinds of central points of disagreement are collectively called the *stases* (singular: *stasis*). As part of this doctrine, the ancients also outlined a series of general, recurring points of disagreement that can arise in disputes over the interpretation of a written document. This latter set of issues constitutes what have been traditionally called the *legal stases*. However, given the fact that they are not confined to legal documents, as originally conceived, I term them the *interpretive stases* or *stases of interpretation*. Giving them a robust, modern treatment, my dissertation presents the ancient and largely neglected interpretive stases as a theoretically rich, analytically viable, field-independent heuristic for the invention and analysis of interpretive arguments.³

Intersections and Interventions in the Field

Stasis Theory in the 20th Century (Revival)

Stasis theory, a major mode of invention from ancient times through the Early Modern period, has since the mid-20th century been at least in part recovered, revived, and reconfigured. Important scholarly energy has been expended tracing its origins and

³ The phrase “field-independent heuristic of invention” is consciously taken from Fahnestock and Secor (“Toward a Modern Version of Stasis” 217). They use this phrase to describe the rational stases, the legal stases’ sisters, in their rehabilitation of the same.

development,⁴ adapting the theory for modern rhetorical situations,⁵ and finding ways to make the theory relevant for the contemporary writing classroom.⁶ These efforts have been largely successful in partially resurrecting a once neglected theory for the purposes of historical insight, analysis, and pedagogy. Despite these gains, the recent project of rehabilitating stasis theory has been incomplete, for a significant part of the stasis system, the interpretive stases, has been largely neglected.

Today rhetoricians are most likely familiar with the ancient stases of conjecture, definition, quality, and jurisdiction, and probably the modern additions of cause/effect and action.⁷ Few, however, are familiar with the stases of letter and spirit, conflicting laws, ambiguity, or assimilation. While many rhetoricians may have encountered these terms in other contexts, most would not associate them with the classical stasis system. Yet in ancient times, and as late as the 16th century, these were all considered stases. In Greek and Roman rhetorical theory, the stases were in fact divided into two classes: the better-known “rational” stases—conjecture (or fact), definition, quality, jurisdiction—and the “legal” or interpretive stases—letter and spirit, conflicting laws, ambiguity, definition, assimilation, and jurisdiction (Nadeau, “Classical Systems of Stases in Greek” 70-71). Developed for legal oratory, these two classes of stases corresponded to two kinds of questions that could arise in a courtroom setting: those over the facts of the case and those that could arise over the interpretation of legal documents, such as wills, contracts,

⁴ For example, Heath, *Menander*; Heath, “The Substructure of Stasis-Theory;” Nadeau, “Classical Systems of Stases in Greek;” Nadeau, “Hermogenes on ‘Stock Issues’ in Deliberative Speaking;” Dieter.

⁵ For example, Fahnestock and Secor, “Toward a Modern Version of Stasis.”

⁶ Fahnestock and Secor, *A Rhetoric of Argument: Brief Edition*.

⁷ The stases of cause/effect and action were added by Fahnestock and Secor (“Toward a Modern Version of Stasis” 221-223).

and laws. The former set of issues was classified as the rational stases, which I call the *situational stases* because they are concerned with the contingencies of the situation in question. The latter set of issues was classified as the legal stases, here referred to as the interpretive stases, because they concern the interpretation of texts.

In surveying modern scholarship on stasis theory, the neglect of the stases of interpretation becomes glaringly apparent. Antoine Braet's 1987 article, "The Classical Doctrine of *status* and the Rhetorical Theory of Argumentation," for example, which attempts to explain what a theory of argumentation would look like with the concept of stasis at its core, only refers to the situational stases, making no mention of the legal stases. Wayne Thompson, in "*Stasis* in Aristotle's *Rhetoric*," searches for evidence of the theory, albeit in nascent form, in Aristotle's *Rhetoric*, but only looks for the situational stases, ignoring the appearance of the interpretive stases altogether.⁸ Michael Carter, looking to stasis theory as a rhetorical foundation for social constructionist views of discourse and knowledge, never refers to the interpretive stases, which would arguably greatly support his case. Only Kathy Eden studies the interpretive stases in any depth in recent scholarship, tracing their history and influence from ancient Roman law to 16th century Protestantism in *Hermeneutics and the Rhetorical Tradition: Chapters in the Ancient Legacy and Its Humanist Reception*. She does not, however, study their place within the rhetorical stasis system in depth. Hence, the work of these theorists represents the general neglect of the interpretive stases, even in scholarship that is devoted to stasis theory. In rehabilitating the interpretive stases for modern usage, then, this dissertation continues a larger scholarly project that began over half a century ago.

⁸ To my knowledge, no scholarship exists which recognizes the appearance of the legal stases albeit in nascent form in Aristotle's *Rhetoric*.

Rhetoric and Hermeneutics

This dissertation also stands at the intersection of rhetoric and hermeneutics, where rhetorical scholars have attempted to address the problem of analyzing interpretive arguments. In the final two decades of the last century, Steven Mailloux and Michael Leff devised two complementary conceptual frameworks for understanding the relationship between interpretation and persuasion. Mailloux offers *rhetorical hermeneutics* as “a rhetorical approach to specific historical acts of cultural interpretation” (Mailloux, “Rhetorical Hermeneutics Revisited” 233). In Mailloux’s rhetorical hermeneutics, “shared interpretive strategies...[are viewed] as historical sets of topics, arguments, tropes, ideologies, and so forth, that determine how texts are established as meaningful through rhetorical exchanges” (Mailloux, “Rhetorical Hermeneutics” 629). Leff, in response to Mailloux, presents *hermeneutical rhetoric* (196).⁹ Leff is especially concerned with rhetorical production, and thus hermeneutical rhetoric “focuses upon interpretation as a source of invention and suggests how traditions can be altered without destroying their identity” (203-204). Leff explains, “As the embodied utterances of the past are interpreted for current application, their ideas and modes of articulation are reembodyed, and old voices are recovered for use in new circumstances” (203). Leff seeks to understand how rhetors manage to use traditional texts in the service of contemporary persuasion, without destroying the value of those texts.

Both Mailloux and Leff illustrate how to work within their conceptual frameworks to analyze interpretive arguments, Mailloux with the reception of the novel

⁹ Leff considers hermeneutical rhetoric a counterpart to Mailloux’s rhetorical hermeneutics.

*Huckleberry Finn*¹⁰ and abolitionist versus pro-slavery interpretations of the Bible,¹¹ Leff with Abraham Lincoln's "Gettysburg Address."¹² Neither, however, outlines a detailed method for carrying out such an analysis. While conceptually it is important to understand how they connect hermeneutics and rhetoric, replicating their approach with other samples of discourse remains difficult. Mailloux's and Leff's concepts, although they frame interpretive arguments in important ways, do not provide analysts with a means of labeling and categorizing arguments. In other words, their concepts offer no defined way to perform fine-grained rhetorical analysis, which would deepen our understanding of interpretive arguments.

On the other hand, just as the situational stases have provided rhetoricians a standard, field-independent means of discussing and analyzing debates in general, the interpretive stases could likewise provide a standard, field-independent means of discussing and analyzing debates over textual interpretation. Equipped with the interpretive stases, scholars interested in debates over texts could recognize common rhetorical moves within and between particular debates, genres, media, communities, even individuals, enabling not only more in-depth analyses but also comparative studies that are more difficult to conduct without a standard set of terms.

Meaning Construction

This dissertation is also situated within linguistic scholarship on meaning construction that has developed over the latter half of the last century, maturing with

¹⁰ Mailloux, *Rhetorical Power* 100-129.

¹¹ Mailloux, "Rhetorical Hermeneutics Revisited" 246.

¹² Leff, "Hermenutical Rhetoric" 204-212.

intense vigor into the twenty-first. A growing number of language theorists believe that meaning is a consequence of a number of factors, including language use, linguistic context, extra-linguistic context, the language user's knowledge of the language, and the language user's previous experience.¹³ Meaning is not simply a function of linguistic form, but depends on how language users employ linguistic forms in any given context. Meaning is the result of dynamic social and cognitive processes.

Researchers interested in the processes and properties of meaning construction have studied how language users construct meaning in a variety of settings and circumstances: storytelling (Turner); courtroom discourse (Coulson); riddles, billboard advertisements, computer-human interaction, and rituals (Fauconnier and Turner). One setting or situation that has received relatively less investigative attention from these researchers is the public interpretation of shared texts, the situation of multiple readers dialogically *co*-constructing the meaning of a single text. In literate societies especially, where there is a proliferation of written or printed texts, such situations are rather common, and, as I attempted to illustrate with the introductory anecdote, can have significant consequences. They are of further interest to scholars of meaning construction because they offer discrete instances of humans *co*-constructing the meaning of perceptually shared objects and could potentially illuminate such processes as they involve non-textual objects.

Because the *co*-construction of meaning involves at least an attempt at reconciling multiple perspectives, the process necessarily involves persuasion. In the situations under discussion here, i.e. interpretive disputes, parties try to persuade each other to accept or

¹³ For example, Fauconnier; Coulson; Croft and Cruse; Evans.

reject certain interpretations. Because persuasion is involved in this process, a rhetorical approach that takes into account moves of persuasion is in order. The interpretive stasis system offers such an approach as it not only pinpoints the kinds of disagreements that arise in constructing the meaning of a text, but it also lists several possible means of persuasion, categorized according to the kind of interpretive dispute, that can be involved in the process.

By bringing the interpretive stases to bear on this particular situation of meaning construction, I demonstrate that rhetoric has an important but neglected¹⁴ role to play in research on meaning construction. The co-construction of meaning, in particular, requires that the parties involved harmonize their unique, subjective visions of the world. This process of harmonizing has traditionally been the purview of rhetoric. Persuasion is after all the process by which individuals attempt to align their worldviews. But contemporary language scholarship can enrich the rhetorical approach by offering theoretically grounded approaches to the social and cognitive forces that shape how people argue over texts. With rhetoric we can pinpoint the argumentative and persuasive dimensions of those forces.

To be sure, I am not delving into linguistic issues in detail in this dissertation, but am using contemporary language theory to help illuminate the cognitive and linguistic grounds for disagreements over texts and for the resolution of those disagreements. I thus put forward the interpretive stases and my elaboration of them as an extension of meaning construction in the context of textual interpretation. Contemporary language theorists whose work on meaning construction I build on include Herbert Clark, Gilles

¹⁴ Exceptions include Seana Coulson, Todd Oakley, and Mark Turner.

Fauconnier, J. L. Austin, H. P. Grice, and John Searle. Still we must recognize that the interpretive stases developed within the humanist tradition of rhetoric. It is to that development and history that I now turn.

A Brief History of the Interpretive Stases¹⁵

Classical Development and Continuity

The origins of the interpretive stases along with the interpretive topics, as they appear in their first attested form, are somewhat obscure. They are almost undoubtedly rooted in the classical judicial system. One possible and particularly striking source may be the 4th century B.C. Athenian trial-like procedure for revising the law code (Hansen 168).¹⁶ Once the Assembly decided that a law needed revision, any citizen could make a proposal for changing the law (Hansen 168). He would then go as an accuser of the law before a legislative body called the *nomothetai* (literally the law setters) who would act as jury (Hansen 169). Five representatives of the people nominated by the Assembly would also appear before the *nomothetai* to defend the existing law (Hansen 168-169). After both parties had made their cases, the *nomothetai* would vote on whether to change the law or maintain the status quo (Hansen 169). This process would encourage the identification of problematic points of interpretation in the legal text. Another, perhaps more likely, source for the interpretive stases and their topics is the ancient Athenian court system, the *dikasterion* or the “People’s Court,” in which parties in a lawsuit

¹⁵ Currently there exists no detailed account of the development of the interpretive stases from their origins to their present state. A detailed account is not attempted here but rather a brief sketch.

¹⁶ Walker suggests this procedure may have been the model for the law exercises found in later progymnasmata, and while I agree, I suggest this procedure may have had an even more profound legacy (Chapter 3, 48-49).

incorporated written laws and other legal documents into their speeches as evidence (Hansen 178, 200-201).

In any case, the formal interpretive stasis system probably began as a loose collection of generally recognized strategies for manipulating the written law and eventually other legal documents to suit one's case. Sophists who were formerly logographers or courtroom speechwriters, like Antiphon, Isocrates, and Lysias, probably began teaching their students these strategies in order to prepare them for civic life.¹⁷ Evidence of this kind of instruction can be found in later extant progymnasmata or preliminary exercises, in which we find law exercises.¹⁸ These law exercises contain strategies that are strikingly similar to those found in more systematic treatments of the interpretive stases.

As these strategies were written down and taught, patterns no doubt emerged, and more systematic approaches to manipulating legal documents were developed. Although in all likelihood the interpretive stases developed separately from the situational stases, at some point, probably in the 3rd or 2nd century B.C.,¹⁹ and certainly by the time of

¹⁷ Lawyers did not exist in the ancient Athenian legal system. Adult male citizens were expected to represent themselves, or their female relatives, in court before large juries of other Athenian male citizens (Kennedy, *Classical Rhetoric* 20).

¹⁸ See Kennedy's *Progymnasmata* which includes English translations of the preliminary exercises of Aelius Theon, pseudo-Hermogenes, Aphthonius, and Nicolaus, all of which include law exercises. Although the earliest extant set of preliminary exercises, Aelius Theon's, only dates to the 1st century A.D., it is generally accepted that some form of such exercises were taught as early as the 4th century B.C. (Kennedy, *Classical Rhetoric* 26). Walker specifically argues that Isocrates may have assigned some kind of law exercise to his students (Chapter 3, 49).

¹⁹ According to Walker's reconstruction of his stasis system, Isocrates may have taught a sub-stasis of legality under the stasis of quality (Chapter 3, 69-70). If Walker were correct, the association and unification of the interpretive and situational stases would have taken place in the 4th century B.C., perhaps by Isocrates himself. While possible, the

Hermagoras of Temnos (2nd century B.C.), the similarities between these two classifications of arguments were recognized and rhetoricians began to teach and write about these two classifications together. Eventually this association would develop into a theoretical undergirding uniting both classifications. Earlier versions of stasis theory, however, even though they recognized the theoretical similarities between the two classifications, were in disagreement about the status of the interpretive stases as stases proper.

While there are certainly earlier examples of writers arguing in one interpretive stasis or another, which of course does not necessarily guarantee a theoretical understanding of interpretive disputes, the earliest plausible extant theoretical account of the interpretive stases, albeit in proto-form, can be found in Aristotle's *Rhetoric*. While previous scholarship has recognized the existence of the situational stases in Aristotle,²⁰ no scholarship exists, to my knowledge, which recognizes the existence of the interpretive stases in this text. To be sure, we do not have a coherent treatment of the interpretive stases in this text, but we do find evidence of a nascent form of a classification of interpretive disputes.

We find a proto-theory of the interpretive stases in two places in the *Rhetoric*: in Chapters 13 and 15 of Book I. Chapter 15 is probably the clearest articulation of a theory of the interpretive stases. Here Aristotle discusses the inartistic proofs, which include written laws. Aristotle frames his discussion of written laws by writing that he will explain "how they can be used in exhorting and dissuading and accusing and defending"

unsystematic nature of the proto-stasis theory found in Aristotle's *Rhetoric*, in which the two sets of stases are not integrated, places doubt on an earlier date.

²⁰ For example, Thomsson.

(I.15.3).²¹ What follows is a list of topics, or rhetorical strategies, for doing just that (I.15.3-12). In his discussion of these topics, Aristotle mentions two situations that rhetors use to their advantage: when a law contradicts another law or contradicts itself and when a law is ambiguous (I.15.9-10). It would be a stretch to argue that Aristotle recognizes these two situations as general points of disagreements in disputes over legal documents, but it is important to note their appearance for the sake of understanding the development of the theory.

In chapter 13, we find instances of two other proto-interpretive stases. The first is definition. Previous scholarship has already recognized the appearance of the situational stasis by the same name (Thompson 136). Intertwined with questions of determining the criminal category of an action are also questions of the meaning of legal terms (I.13.9). It is these latter questions that will eventually emerge as the interpretive stasis of definition. Although the conflation of situational and interpretive stases of definition is not uncommon in antiquity, there is clearer separation in later treatments of stasis theory.

In this same chapter, Aristotle discusses one of the major limitations of written law: written law cannot adequately address particular cases (I.13.12-14). As a solution to this limitation, Aristotle prescribes fairness or “justice that goes beyond the written law” (I.13.13). According to Aristotle, fairness, or going beyond the law, demands that jurors “look not to the law but to the legislator and *not to the word (logon) but to the intent (dianoian) of the legislator* (I.13.17; emphasis). In championing fairness, Aristotle distinguishes between the words of the law and the lawmaker’s intent. While Aristotle shows no cognizance of this division as a possible issue of contention, this division, along

²¹ All English translations of Aristotle’s *Rhetoric* are taken from Kennedy’s 2007 translation of the text, while the Greek is taken from Freese’s 1959 text.

with contradictory passages, ultimately has the most consistent appearance as a stasis in treatments of in the interpretive stases throughout the centuries.

Thus, while we find the proto-interpretive stases of contradictory passages, ambiguity, definition, and letter versus spirit (or rather, intent), Aristotle cannot be credited with the first coherent system of the interpretive stases. That distinction should be given to Hermagoras of Temnos, who is also credited with one of the most highly influential systematic treatments of stasis theory.²² By identifying the type of issues at the center of debates, he added an important layer to how ancient and subsequent rhetoricians conceptualized and carried out the invention of arguments. However, little is known specifically about Hermagoras' system, since his work has been lost, and his theory can only be reconstructed from later sources. It does appear that his system included four "legal questions" (*nomika xētēmata*), namely letter and spirit, or rather word and exception (*kata rhēton kai hupexairesin*), contrary laws (*antinomia*), ambiguity (*amphibolia*), and assimilation (*sylogismos*) (Nadeau 60-61). In Hermagoras, we have the earliest attested example of the close association of the situational and interpretive stases, although he did not, as far as we know, consider the latter stases proper (Nadeau, "Classical Systems of Stases in Greek" 60).

The earliest extant systematic treatment of the interpretive stases, then, is found in the later *Rhetorica ad Herennium*, an early 1st century B.C. handbook. The most inclusive of the ancient rhetorical treatises, it lists six perennial issues that can arise in disputes over the meaning of a text: written text and intent (*scriptum et sententiam*), conflicting laws (*contrarias leges*), ambiguity (*ambiguum*), definition (*definitionem*), jurisdiction

²² See Nadeau 53; Heath, "Prolegomena" 19; Heath, *Menander* 5; Kennedy, *Classical Rhetoric* 99-100.

(*translationem*), and assimilation (*ratiocinationem*) (I.XI.19).²³ Here, the six interpretive stases are integrated into the larger stasis system as subtypes of the second of three stases: conjectural, legal, and juridical²⁴ (I.XI.18). The author also includes a large list of topics, or strategies of persuasion, for each interpretive stasis (II.IX.13-II.XII.18). While the interpretive stases are still not fully systematized, the theory is at an advanced stage of development at this point.

The major rhetorical works of Cicero closely follow the *Rhetorica ad Herennium*, thus marking the beginning of three centuries of systematization of the theory. Cicero's treatment of the interpretive stases is inconsistent. His inconsistency, while certainly representing the fluidity of his own thought throughout the course of his life, probably also indicates that the theory had not yet solidified. His most inclusive account of the interpretive stases is found in his earliest work, *De Inventione*, where he lists five stases of interpretation: written text and intent (*de scripto et sententia*), conflicting laws (*ex contrariis legibus*), ambiguity (*ambiguum*), reasoning by analogy (*ratiocinativum*), and definition (*definitionavum nominamus*) (I.XIII.17).). In his later works, *Topica* and *De Oratore*, Cicero reduces the number to three: written word and intent, conflicting laws, and ambiguity (*Topica* XXV-XXVI.95-96 and *De Oratore* I.XXXI.140).²⁵ In contrast to the author of the *Rhetorica ad Herennium*, Cicero throughout his works consistently maintains a distinction between the stases proper and documentary disputes (*scrpiti*

²³ Although I am drawing from Caplan's text, which includes an English translation, I have made some modifications, so that the English better reflects the nuances of the Latin, and therefore the development of the theory.

²⁴ The juridical stasis most closely accords with the stasis of quality in other systems.

²⁵ See *Topica* XXV-XXVI.95-96 and *De Oratore* I.XXXI.140. In *Orator* XXXIV.121, Cicero reduces the number of documentary disputes to two, subsuming word and intent under the category of ambiguity. *Topica*, it should be noted, was written after *Orator*, and perhaps represents Cicero's more mature or seasoned views on the subject.

controversia), although he closely associates the two (*De Inventione* X.XIII.17) or “disputes about a law” (*legitimae disceptationes*) (*Topica* XXV.95). Cicero asserts that they are separate from the situational stases (*separata sunt a constitutionibus*) (*De Inventione* X.XIII.17) and calls them quasi-stases (*quasi status*) (*Topica* XXV.95). While Cicero gives more condensed treatments of the interpretive stases in his later work, his treatment in *De Inventione* is rather elaborate and like the *Rhetorica ad Herennium* includes a large list of topics for each stasis.

Notably, both Cicero and the anonymous author of the *Rhetorica ad Herennium* present the earliest extant examples of expanding the scope of the legal issues beyond disputes over laws to not only other legal documents but to any written document (*Rhetorica ad Herennium* II.IX.13; *Topica* XXVI.96). This expansion meant that the interpretive stases could be applied to non-judicial discourse. The term “legal,” the traditional name for these stases, then becomes somewhat of a misnomer, which is why I insist on the term interpretive instead.

In the next century, Quintilian’s *Institutio oratoria* represents an advancement in the theory and systematization of the interpretive stases. Incorporating the *interpretive stases*, as questions,²⁶ into the larger stasis system under the division of the legal stasis, Quintilian attempts to elucidate the relationship between the situational stases and the interpretive stases, along with how the interpretive stases themselves are interrelated amongst themselves (3.6.66-67; 3.6.88; 7.10.1-4). He officially lists five legal questions— letter and intent (*scripti et voluntatis*), conflict of laws (*legum contrariarum*),

²⁶ Quintilian declares that the interpretive stases are actually not stases but questions (3.6.67). Later, he writes that students may call them issues, questions, or minor headings (3.6.89).

inference/assimilation/"collection" (*collectivum*), ambiguity (*ambiguitatis*), and transference (*trahationis*)²⁷ (3.6.67)—and later states that definition, which he includes as a logical (situational) stasis also belongs to the legal questions, bringing his list to six (3.6.68). Like Cicero and the anonymous author of the *Rhetorica ad Herennium* before him, Quintilian provides a list of topics for each of the interpretive stases. Additionally, he includes a helpful survey of previous opinion on the subject, thus preserving what otherwise would have been lost.

While Quintilian's work certainly represents an advancement, the culmination of the theory's development is found in the work of Hermogenes of Temnos. Hermogenes' version of stasis theory, as presented in his work *On Stases*, remained canonical for centuries as a standard school textbook in both the West into the Middle Ages and Renaissance and the Byzantine East (Heath, *Menander* 10, 43; Nadeau, "Classical Systems of Stases in Greek" 66, 71). Hermogenes presents a thirteen-stasis system in which the legal stases are, with one exception, fully-fledged stases, completely integrated into the stasis system. In Hermogenes' system, the stasis of quality is divided into two: logical and legal. The interpretive stases constitute the legal branch, which consists of four stases: letter and intent (*rhēton kai dianoian*), assimilation (*syllogismos*), ambiguity (*amphibolia*), and conflict of law (*antinomia*) (40-41).²⁸

Hermogenes' system also represents a further progression in the systematization of the legal stases as they, along with all the stases, are each presented with an ordered, step-by-step, argumentative outline for effective courtroom strategy. When rhetors

²⁷ Later, he uses the term *praescriptione* (7.5).

²⁸ Although Heath's English translation was primarily consulted, the Greek is taken from Rabe's text.

recognize that a current debate is in one of the stases, they can turn to these particularized outlines for rhetorical guidance. While each stasis has its own unique outline consisting of heads or divisions, argumentative moves the rhetor should make in ideal cases, there are shared heads between the stases. Essentially, Hermogenes' system represents a more structured version of the stases' various topics.

Subsequent tradition followed models constructed in the classical period with little additional innovation or deviation. Table 1 offers a chart denoting self-declared lists of interpretive stases as found in several major rhetorical treatises. After Hermogenes, many treatises offer a four or five interpretive stasis system. Jurisdiction is the most frequently omitted interpretive stasis followed by definition, most likely because they are included among the situational stases. Many treatises often include the interpretive form of these stases within their situational designations. There are exceptions to these common systems, but they are not typical. We also see later rhetoricians applying the legal stases to realms outside of law, like religious discourse, but even in these cases they were building on a system already constructed by the ancients.

Stases/ Rhetorics	Letter versus Spirit	Conflict of Laws	Ambiguity	Definition	Assimilation	Jurisdiction
Aristotle's <i>Rhetorica</i> (c. 300s B.C.)	(X)	(X)	(X)	(X)		
<i>Rhetorica ad Herennium</i> (c. 84)	X	X	X	X	X	X
Cicero's <i>De Inventione</i> (c. 91)	X	X	X	X	X	
Quintilian's <i>Institutio Oratoria</i> (95 A.D.)	X	X	X	X	X	

Hermogenes' <i>On Issues</i> (c. 100s)	X	X	X		X	X
Gaius Julius Victor's <i>Ars rhetorica</i> (c. 300s)	X	X	X		X	
[Augustine]'s <i>De rhetorica</i> (c. 300s)	X	X	X		X	
Capella's <i>The Marriage of Philology and Mercury</i> (c. 410-439)	X	X	X	X	X	
Boethius' <i>De Topiciis</i> (c. 523)	X	X	X	X	X	
Cassiodorus' <i>Institutiones</i> (c. 551)	X	X	X	X	X	
Isidore's <i>Etymologies</i> (c.615-636)	X	X	X	X	X	
Alcuin's <i>Rhetoric</i> (794)	X	X	X	X		
Melanchthon's <i>Elementorum Rhetorices Libri Duo</i> (1531)	X	X	X	X	X	X
Erasmus' <i>Ecclesiastes</i> (1535)	X	X		X	X	
Farnaby's <i>Index Rhetoricus</i> (1625)	X	X	X		X	X

Table 1. The interpretive stases through the ages.

Discontinuity and Obscurity

Yet, after centuries of continuity in the rhetorical tradition, the interpretive stases appear to fall into obscurity sometime in the late seventeenth century. While a full investigation into the causes for this lapse in the tradition remains outside the scope of this dissertation, I suggest that this discontinuity is related to larger noted shifts in the rhetorical tradition at the time, a shift towards logic and what were believed to be sound methods of proof with a disregard for traditional methods of rhetoric which were believed to be untrustworthy (Kennedy, *Classical Rhetoric* 261).

While the abandonment of the interpretive stases and their respective topics in the rhetorical tradition then is not surprising given this shift, we might expect their survival in the various branches of hermeneutics that had begun to develop over the centuries, which they undoubtedly influenced: philosophical, theological, and juridical.²⁹ However, we do not find a wholesale survival of the interpretive stasis system in these intellectual areas either. In the cases of the first two, the absence of the interpretive stases is due, at least in part, to similar intellectual shifts during roughly the same period of time.

We see in the work of Friedrich Schleiermacher, for example, who stood in the line of both philosophical and theological hermeneutics in the 19th century, a more general art of hermeneutics in contrast to what he saw as “various specialized hermeneutics” (1). Although he was steeped in the rhetorical tradition, and his theory is greatly influenced by it, the interpretive stases would no doubt be included as one of the “special methods” of the “specialized hermeneutics” that Schleiermacher was attempting to construct a theory in contrast to (15.2). Their exclusion as a system to explain

²⁹ I take this division from Grondin (1).

interpretive disputes no doubt nailed the coffin shut on the interpretive stases as a feature of Western philosophical hermeneutics, as theorists from Schleiermacher forward attempted to theorize a more general theory of human interpretation that sought to explain how humans interact with the world, not just written texts.

In theological hermeneutics, in contrast to earlier works on preaching and biblical interpretation by figures like Erasmus and Melancthon, we see that the interpretive stases are absent in major hermeneutic and homiletic treatises in the seventeenth centuries forward, such as François Fénelon's *Dialogues concerning Eloquence in General and Particularly that Kind which Is Fit for the Pulpit* (1718), David Fordyce's *Theodorus: A Dialogue concerning the Art of Preaching* (1752), George Campbell's *Lectures on Pulpit Eloquence* (1807), and Austin Phelps' *The Theory of Preaching: Lectures on Homiletics* (1895). At most we find a collection of topics for expounding on the meaning of the Scriptures or answering the objections of an imagined adversary regarding Scriptural interpretation (e.g. Campbell X), which bear little and at best incidental resemblance to the traditional topics of the interpretive stases. A theorized classification of interpretive disputes seems to have virtually disappeared, and thus the interpretive stases were no longer taught as part of hermeneutical or homiletic education in the Christian Church.

Lastly, we might expect to find the interpretive stasis system in juridical hermeneutics, that is the realm of law. However, while rhetoric and law had at the very least a cross-pollinating relationship through the sixteenth century, that relationship began to fray in the seventeenth and eighteenth centuries, especially in Britain, where developments in legal system procedures and rules of evidence diminished "opportunities for legal oratory" (Frost 11). This general disconnect has persisted into our time, and it

has only been in recent years that a growing number of lawyers, judges, and legal academics have begun applying classical rhetorical principles to the analysis of legal discourse (Frost 14). However, while legal theorists are deeply interested in interpretation theory, to my knowledge the interpretive stases have neither survived nor been resurrected as part of any modern theory of statutory interpretation or courtroom strategy for argumentation. Certainly, particular words and phrases, like letter versus spirit, persist, but they only vaguely index the same conceptual system of interpretive disputes that can be traced back to the ancient Greco-Roman tradition.

So the question remains: how might this now dormant theory be resurrected for modern use? In the following section I introduce and outline a viable version of the interpretive stases for modern purposes, along with its theoretical underpinnings. The model is further elaborated throughout the rest of the dissertation.

Toward a Modern Version of the Interpretive Stases

The Six Stases of Interpretation

What follows is my proposed model of the interpretive stases, six in all. These six stases offer a reasonably grained slicing of disputes over textual meaning at their roots: from a single word to how a text is applied in novel ways or situations. The definitions I give are informed by a wide view of the treatment they receive in rhetorical treatises over the centuries adapted for modern analytical purposes.

1) **Letter and spirit**: disputes in which the exact verbal formulation of a text is construed as being opposed to the author's likely intention or another source of meaning that animates the text

- 2) **Conflicting passages:** when two parts of a text are construed as apparently contradictory
- 3) **Ambiguity:** when the text is construed as evoking more than one possible meaning due to its form
- 4) **Definition:** when there is disagreement over the limits of a term, that term being found either in a text or determined by a text
- 5) **Assimilation:** when a text is applied to a situation apparently not envisioned by the author
- 6) **Jurisdiction:** when there is disagreement over who can interpret the text in dispute or whether a text is applicable in the situation in question

Disagreement

The interpretive stases, as part of stasis theory, depend on a principle of disagreement. These stases locate recurring points of conflict that arise as hermeneut-rhetors attempt to coordinate their interpretations of a text. Given this principle of disagreement, the interpretation of texts in these rhetorical situations can be viewed as a dialogic process. Furthermore, that dialogic process involves persuasion. The theory implies that participants act under the assumption of agreement, in regards to their interpretation of a text, until there is a dispute. These disputes, or public discrepancies in interpretation, become loci of interpretive and rhetorical energy. Stasis theory gives us a means of classifying those disputes.

Usually, hermeneut-rhetors are not content to merely disagree. They attempt to resolve their disagreements, and often there are *stakes* that pressure them to do so (e.g.

the need adjudicate a court case). Many discussions of the system in the rhetorical tradition include a set of topics for each interpretive stasis. These topics identify specific persuasive strategies that rhetors can employ in each stasis to persuade other parties in the dispute that their interpretation is correct, to resolve interpretive discrepancies. Through this push and pull, hermeneut-rhetors may arrive at shared constructions of meaning, although success is not guaranteed.

A Heuristic for Interpretive Arguments in General

The interpretive stases classify *arguments* concerning texts, not mere claims about the meaning of texts. Claims about texts made in response to other claims or claims about texts that arguers justify (using strategies which in many instances were identified in the traditional treatises as topics) can be classified according to this scheme. But general statements about textual meaning without either of these conditions cannot be classified with the interpretive stases because they are not arguments, and therefore do not presuppose a point of disagreement, though they may certainly invite contention.³⁰

That said, the interpretive stases can be used as a heuristic not just for obvious interpretive disputes, where two parties clearly mark themselves as having opposed positions, but for interpretive arguments where the oppositional parties are either implied, imagined, anticipated, or otherwise unobvious.³¹ Useful here is Bakhtin's concept of "the dialogic orientation of discourse," in which all discourse is a response to what has already

³⁰ For example, the situation of *new* texts can present an initial interpretive situation where arguers can make uncontested claims about textual meaning without justification.

³¹ Fahnestock and Secor argue similarly that all arguments, even when there is no obvious opposition, can be analyzed within the framework of the (rational) stases ("Toward a Modern Version of Stasis" 224).

been uttered or common opinion, and is itself directed toward a response (279-280).³²

Many interpretive arguments have a similar relationship with other interpretive arguments: they are made in response to and/or in anticipation of previous and/or future interpretations. However, sometimes arguers may erase or refuse to acknowledge opposing interpretations. Such erasures or refusals are themselves rhetorical moves, and, according to the heuristic of the interpretive stases, fall under the stasis of *jurisdiction*.

In each of the following six chapters, I examine one stasis in detail. I survey a sample of the particular topics of each stasis, giving examples of each, usually one longer example with shorter ones, to demonstrate how the stases can be employed analytically as well as explore the unique characteristics of each stasis. The examples will be taken from real discourse from a variety of contexts—e.g. religious, legal, political, literary—genres—e.g. sermons, pamphlets, essays, debates—and media—e.g. oral, written, televised, online—to demonstrate that the interpretive stases, a flexible and versatile apparatus, can be applied to any dispute over a text, broadly construed to include recordings of oral discourse, irrespective of context, genre, or medium. The interpretive stases were a part of a standard set of tools for rhetoricians for almost two millennia, and it is high time that they return to the modern rhetorician's toolkit.

³² More recently, Clark considers all language use joint action between participants, closely matching Bakhtin's concept of language's dialogism.

Chapter 2: Letter versus Spirit

In early 2008, Barack Obama was in a heated contest with Hillary Rodham Clinton for the Democratic nomination for U.S. president. A junior Illinois senator, Obama's rise to household name status was nothing short of spectacular. With his noted eloquence and campaign slogans, "Change is now" and "Yes we can," he energized a growing number of voters, who had become disillusioned with President George W. Bush and saw in Obama the promise of a new era of governance. Obama also came to embody the possibility of a post-racial society. He was the son of a white woman from Kansas and a black man from Kenya, and he self-identified as African American. Many hoped that his election to the oval office would signal a new and hopeful chapter in America's bloody and tortured racial history.

But in March of that same year a series of short videos were released that threatened to destroy Obama's post-racial identity. That month ABC News showed video excerpts of sermons preached by Obama's then pastor, Reverend Jeremiah Wright of Trinity United Church of Christ. These sound bites painted Wright as a radical, anti-American, black separatist, and by association cast doubt on Obama's own patriotism and his ability to lead a multi-racial society. One sound bite, from a sermon Wright had preached in April 2003, was particularly controversial because in it Wright appears to be asking God to damn America:

The government gives them the drugs, builds bigger prisons, passes a three-strike law, and then wants us to sing God bless America? No, no, no. Not God bless America. God damn America! That's in the Bible for killing innocent people. God

damn America for treating her citizens as less than human! God damn America as long as she [?] tries to act like she is God and she is supreme! (Wright)³³

This sound bite, which lasted about thirty seconds, along with excerpts from other sermons Wright had preached, was played and re-played on major media outlets for weeks, posted on blogs, and viewed on YouTube. As it was circulated, it became the center of a heated interpretive dispute with potentially disastrous consequences for Obama's candidacy.³⁴

Critics claimed that the clip was an example of "racial warfare" (Lopez), an "anti-American attitude" (Sowell), and "reverse racism" (Feldhahn). Others, however, defended Wright, arguing that his words were taken out of context, and that they were not anti-American, but an expression of deeply-felt sentiments shared by many African Americans in the United States, born out of their experience as a marginalized group in American society.³⁵

Strikingly, Wright's critics generally pointed to the exact wording of the sound bite as a clear indication of Wright's racist and anti-American beliefs, while Wright's defenders generally went beyond the words of the sound bite in order to argue that his intentions were grossly misunderstood. Though they were unconscious of it, Wright's

³³ Transcription presented here adapted from the transcript provided of the sermon excerpt on the *Bill Moyers Journal* website. In the original broadcasted clip, the last sentence is faded out and the last dozen words cannot be heard ("Is Obama's Pastor a Liability?").

³⁴ Obama denounced Wright's controversial statements and claimed he had not personally been in attendance when Wright had made the comments in question (Powell). Obama and his family revoked their membership from Trinity United Church of Christ and Wright was removed from Obama's spiritual advisory committee (Johnson). It seems that critical interpretations of this sound clip (and others) were so pernicious to his campaign that Obama decided to sever all public ties with Wright rather than continue to provide his own defenses of them or his relationship with Wright.

³⁵ For example, Buchanan; Kamiya; and Norman.

critics and defenders were arguing in the interpretive stasis of *letter versus spirit*: critics argued for an interpretation based on the *letter* of the sound bite, while defenders supported an interpretation oriented to the sound bite's *spirit*.

What exactly marks a dispute in the stasis of *letter versus spirit*? What differentiates an argument for letter versus an argument for spirit? How can the meaning of a single text be divided in such oppositional ways? And finally, how do disputants try to persuade each other to cross this interpretive divide?

The Rhetorical History of *Letter versus Spirit*

A division between the wording of the text and other appeals to textual meaning has a long history in the Western rhetorical tradition. Although his rhetoric predates the systematization of stasis theory, Aristotle's thoughts on the subject, nonetheless, represent an early and influential view: "And [it is also fair] to look not to the law but to the legislator and not to the word (*λόγον*) but to the intent (*διάνοιαν*) of the legislator..." (1.13.17). Aristotle argues that fair jurors should consider the mind of the law's author, rather than strictly follow what's written. In separating what is written from what the author intended, Aristotle suggests that the words of a text may not necessarily reflect the intentions of the author, thus creating a potentially antithetical relationship between what the author has written and what the author meant.

Once stasis theory had been given a more systematic frame, the split was given a more theoretical articulation without valuing one term over the other and was broadened to include written texts in general. As Cicero writes, "A controversy over the letter and the intent (*scripto et sententia*) occurs when one party follows the exact words (*verbis*

ipsis) that are written, and the other directs his whole pleading to what he says the writer meant (*sensisse*)” (*De Inventione* 2.42.121). Cicero’s definition is fairly representative of how this stasis was viewed throughout the legacy of the stasis system for the next sixteen hundred years. Importantly, the constructed nature of this split was not lost on the ancients or their successors. The anonymous author of the *Rhetorica ad Herennium* observes for example that, “A controversy from Letter and Spirit (*scripto et sententia*) arises when the framer’s intention *appears* (*videtur*) to be at variance with the letter of the text...” ([Cicero] 1.11.19; emphasis mine). An awareness of the constructed nature of the antithesis between the written formulation of a text and authorial intention also persisted through the centuries.

However, there is an important distinction to be noted between later formulations of this antithesis, *letter versus spirit*, which is the antithesis used in the system outlined in this dissertation, and the antitheses found in earlier rhetorical tradition. That distinction is found primarily in the second term of the antithesis, which in the present system denotes not simply authorial intent, as is the case in many of the traditional rhetorical treatises, but any source of meaning not grounded in the text itself.

Indeed, the opposition between letter and spirit is not original to the Greco-Roman stasis system and cannot be found therein. Instead we find, for example, λόγος versus διάνοια in Aristotle’s rhetoric, *scriptus et sententia* in the *Rhetorica ad Herennium* and Cicero’s *De Inventione*, *scriptus et voluntas* in Quintilian’s *Institutio oratoria*, and ῥητος καὶ διανοία in Hermoegenes’ *On Issues*. The antitheses expressed by these writers and found throughout the tradition is probably best translated as *word or written text and intent*.

The first known instance of the slightly different antithesis *letter versus spirit* in Western culture is found in one of the biblical letters of Paul of Tarsus, the apostle of Jesus.³⁶

[Y]ou show that you are a letter of Christ, prepared by us [Paul and his spiritual son Timothy], written not with ink but with the Spirit of the living God, not on tablets of stone but on tablets of human hearts.

Such is the confidence that we have through Christ toward God. Not that we are competent of ourselves to claim anything is coming from us; our competence is from God, who has made us competent to be ministers of a new covenant, *not of letter (γράμματος) but of spirit (πνεύματος); for the letter (γράμμα) kills, but the Spirit (πνεῦμα) gives life.* (2 Corinthians 3:3-6; emphasis mine)³⁷

Paul constructs an antithesis between the written law that was a central part of Jewish religious tradition and the “new covenant” of Christ that is given to Christians by the Holy Spirit.³⁸ As he does not expressly advocate a particular hermeneutic for approaching the Scriptures here, it remains unclear whether Paul was reformulating the rhetorical antithesis of written word and intent, with which he may have been familiar.³⁹

³⁶ For more information see Cohen, “Letter and Spirit in Jewish and Roman Law,” and Cohen, “Note on Letter and Spirit in the New Testament.”

³⁷ All English quotations from the Bible are taken from *The New Oxford Annotated Bible*. The Greek is taken from *The Greek New Testament*.

³⁸ Cf. Romans 7:6 “But now we have been delivered from the law, having died to what we were held by, so that we should serve in the newness of the Spirit (πνεύματος) and not in the oldness of the letter (γράμματος).”

³⁹ Boaz Cohen argues that Paul dressed the Greek rhetorical antithesis of word and intent (ῥητος καὶ διανοία) in Jewish terms to create his antithesis letter and spirit (γράμμα καὶ πνεῦμα) (“Letter and Spirit in Jewish and Roman Law” 115-116).

While the line between Paul's invention and antecedent stasis theory remains uncertain, we might expect Paul's influence on conceptions of this stasis to be more traceable, especially since the antithesis *letter versus spirit* seems to have more cultural currency than *word versus intent* does today. One potential point of consolidation between Pauline thought and Greco-Roman rhetorical theory may have occurred in the work of Augustine of Hippo, who in the fourth and fifth centuries AD worked to incorporate classical rhetoric into early Christian hermeneutics and homiletics. Augustine in fact devoted an entire book to Paul's antithesis: *The Spirit and the Letter (De Spiritu et Littera)*. Augustine takes Paul's words and extrapolates from them a hermeneutic for interpreting figurative language in the Bible: "That text—'The letter killeth, but the spirit giveth life'—is naturally taken to mean that we are not to understand the figurative sayings of Scripture in their literal sense, which may be irrational, but to look for their deeper significance, and find nourishment for the inward man in a spiritual understanding of them..." (*The Spirit and the Letter* 6.4). Augustine goes on to demonstrate and apply this hermeneutic throughout the rest of the book, and indeed it represents his hermeneutic of choice in his other works.

While Augustine's work represents a further development of the antithesis *letter versus spirit* as a hermeneutic concept, it does not represent an incorporation of Paul's antithesis into the stasis system. In *De doctrina christiana*, the work scholars generally hold up as Augustine's major contribution to the rhetorical tradition, no coherent system of the interpretive stases or stasis theory in general exists. Reference to his separate

treatise *The Spirit and the Letter* is made, and we see this hermeneutic at work in the text, but we do not find the integration of Pauline thought and stasis theory here.⁴⁰

Indeed, the antitheses naming this stasis found in the Latin rhetorical treatises that follow Augustine over the next eleven hundred years retain the terms found in the classical texts. After that time, stasis theory, and the interpretive stases in particular, begin to disappear from treatments of rhetoric. Thus, translations or readings of the Greek and Latin rhetorical texts that render the name of this stasis “letter versus spirit” are anachronistic, insofar as they enlarge the second term of the antitheses to suggest something beyond what the original languages generally denote as “authorial intent.”

At the same time, rhetoricians in the tradition did not define the stasis as narrowly as the terminology *word versus intent* would suggest and there were even some variations. From what we know of Hermagoras’ system, the homologous proto-stasis, a question in Hermagoras’ system, was named *word and exception* (κατὰ ῥητὸν καὶ ὑπεξαίρεσιν) (Nadeau, “Classical Systems of Stases” 60). Hermagoras’ formulation suggests that the interpreter may either choose to follow the text or make an exception for any number of reasons. We find this conceptualization of the stasis echoed in Gaius Julius Victor’s late antique rhetoric, when he writes that the rhetor in favor of intent “interprets the meaning or takes an exception (*excipit*) to some one thing” (3.14).⁴¹

Victor goes on to enumerate intent in three ways:

⁴⁰ This is not to say that Augustine was not influenced by stasis theory or the interpretive stases and that we cannot find evidence of such influence in *DDC*. Augustine knew Cicero’s rhetorical works, including *De Inventione*, quite well. It appears that the rhetorical tradition’s hermeneutics may have influenced Augustine, but this influence may have only worked in one direction. Subsequent rhetorical treatises do not pick up on Augustine’s terminology à la Paul or thought but continue with previous opposition.

⁴¹ The English translation is taken from Ostler’s text, while the Latin is taken from Halm.

Now we interpret the [intent]⁴² (*sententiam*) of the written law itself in three ways: if it is plain by itself that it cannot always be observed...or when examples are drawn from other laws by which it is proven that laws cannot always be observed; or when from the very words of the law we prove that the lawmaker did not intend (*voluisse*) literally that which the law states... (3.14)

Here we see that Victor does not limit intent to authorial intent. Rather, intent is a kind of interpretation that takes into account the congruity between the written law and the particulars of the situation in question.

A slightly narrower but still not exclusive view of intent appears in Hermogenes' 2nd century AD *On Issues*. While Hermogenes defines intent (*διανοία*) as that of the legislator's in his introductory synopsis of the stases (2.14), in the section specifically dedicated to the stasis of word and intent, he expands the concept of intent to include not only the legislator's intent but also the defendant's intent in the situation being adjudicated (9.54-55). This expansion mirrors Aristotle's advice to jurors regarding fairness: "And [it is also fair] to look not to the law but to the legislator and not to the word (*λόγον*) but to the intent (*διάνοιαν*) of the legislator *and not to the action but to the deliberate purpose* (*προαίρεσιν*)..." (1.13.17; emphasis mine). For both Aristotle and Hermogenes, a juror may take into account both the legislator's and the defendant's intent in interpreting and applying the law.

While expansions of the term intent exist in the rhetorical tradition, they are still too limiting for modern analytical purposes. This fact does not necessitate a wholesale

⁴² Ostler translates the Latin word *sententiam* as "spirit," but, as I argue, such a translation is anachronistic. The word "intent," which I insert instead, is much more accurate.

rejection of previous rhetorical theory in regards to this stasis. To the contrary, previous tradition was especially attuned to the many strategies used by disputants in this stasis, and knowledge of these is a crucial aid for the modern rhetorician. But for a more complete and deeper theoretical understanding of this long-standing category of interpretive of disputes, we can turn to the insights of more recent theories in the fields of linguistics and rhetoric.

From *Letter versus Intent* to *Letter versus Spirit*: A Modern Rhetorical Understanding

In essence, interpretive disputes in the stasis of what we will going forward call *letter versus spirit* are those disputes in which the primary means of constructing the meaning of a text are divided in a mutually exclusive way. The first basic way involves the *letter* of the text, which all parties to the dispute agree is the apparent meaning of the text. The second basic way involves the *spirit* of the text, which goes against the apparent meaning. The *letter* of a text is in part derived from a text's signifiers—its words, phrases, sentences, punctuation, etc.—while the spirit of a text is derived from “facts relevant to making sense” of the text that fall outside of this linguistically encoded information (Bach 74).

This split closely mirrors the contemporary linguistic division between semantics and pragmatics. However, a strict equivalence here is too facile as what constitutes the *letter* of a text versus its *spirit* is grounded in agreement among disputants. The *letter* of a text consists of a text's semantics plus any pragmatic information that disputants take for

granted in constructing the apparent meaning of the text.⁴³ The *spirit* of a text is derived from pragmatic clues (including clues from surrounding or other texts), but these clues, rather than being taken for granted, are visible to participants and in dispute. One could say that *letter versus spirit* debates parallel the semantic/pragmatic divide with an important distinction—in the former a certain amount of assumed pragmatic information is joined with the text’s semantics.

Regarding this divide between the *letter* and *spirit*, rhetoricians and linguists alike might consider: When is certain pragmatic information assumed in the construction of a text’s apparent meaning and when is it considered a means of construing other meanings of a text that go beyond this obvious meaning? Is there any consistency in what kind of pragmatic information is generally assumed on the side of the *letter*? What factors determine on which side of the divide certain pragmatic information falls? How do arguers move pragmatic information from one side of this divide to the other? In response to this last question, one way arguers can move pragmatic information from the side of *letter* to the side of *spirit* is to highlight it, to bring it from the background to the foreground. Once a piece of pragmatic information has been brought to the surface, any interpretation derived from it in the context of a *letter/spirit* split falls on the side of *spirit*. Less clear is how to argumentatively background pragmatic information, moving it from the side of *spirit* to the side of *letter*.

⁴³ My discussion of *letter* as a combination of semantics and taken for granted or “background” pragmatic information on the part of disputants is based on Searle’s argument that “the notion of the literal meaning of a sentence only has application relative to a set of contextual or background assumptions” (*Expression and Meaning* 117, 117-136).

While opposing interpretations are not at all unusual, *letter versus spirit* disputes involve opposing interpretations derived from different sets of clues. All parties agree on the “apparent” meaning of the text.⁴⁴ If they do not agree on this point, then the dispute moves to either the stasis of ambiguity or definition.⁴⁵ But disputants in favor of *letter* argue that the text’s “apparent” meaning is final, the text’s *only* meaning. For these disputants, their sufficient evidence for the text’s meaning rests in the text’s semantic, or linguistically encoded clues, with non-assumed pragmatic information playing a confirmatory role only. Disputants in favor of *spirit* argue that the text’s “apparent” meaning negates the true meaning of the text and that this true meaning is best discovered in necessary and relevant evidence found outside of the text. These disputants interpret what they see as insufficient semantic information in light these other pragmatic clues.

By valuing one set of clues over the other, both types of disputants *dissociate* the means of constructing textual meaning. I consciously employ the term *dissociation* according to its sense as presented in Chaim Perelman and Lucie Olbrechts-Tyteca’s work *The New Rhetoric*. According to Perelman and Olbrechts-Tyteca, “Dissociation...assumes the original unity of elements comprised within a single

⁴⁴ As cognitive linguist Michael Israel puts it, the literal meaning or interpretation “is always an idea about where meaning begins” (10). Or put another way, “the ‘literal meaning’ of an expression is...its interpretation prior to re-interpretation” (Israel 7). The difference between defenders of letter and defenders of spirit is that the former takes the literal meaning as the final meaning, while the latter does not.

⁴⁵ Such a disagreement can be a result of one of the parties refusing to accept the dissociation of semantic and pragmatic information. As with any dissociation, the invocation of a letter/spirit split can result in an opponent rejecting the perspective that permits such a dissociation (Perelman and Olbrechts-Tyteca 436). Also note that when a *letter versus spirit* dispute resolves to an issue of *ambiguity* or *definition*, it resolves to a “lower-order” stasis. In other words, the dispute moves to one centered on the *letter* of the text, which serves as the basic point of agreement in a *letter versus spirit* dispute. See Chapter 8 for a more detailed discussion of the hierarchical relationship of the interpretive stases.

conception and designated by a single notion. The dissociation of notions brings about a more or less profound change in the conceptual data that are used as the basis of argument” (411-412). Furthermore, dissociation always involves a valuation of one concept, term, notion, etc., over the other (Perelman and Olbrechts-Tyteca 417). They label the less valued concept, that which represents the “apparent, the “actual,” the “immediate,” “what is known directly,” as term I (Perelman and Olbrechts-Tyteca 416). The more valued concept, that which “provides a criterion, a norm which allows us to distinguish those aspects of term I which are of value from those which are not,” is labeled term II (Perelman and Olbrechts-Tyteca 416). Terms I and II are represented visually like so: term I/term II (Perelman and Olbrechts-Tyteca 416).

In the stasis of *letter versus spirit*, we obtain the following basic dissociations: interpretation/letter and letter/spirit (Perelman and Olbrechts-Tyteca 428). For our purposes, these dissociations represent the argumentative stances that disputants take up in this stasis. The dissociation interpretation/letter represents the stance of the disputant in favor of letter who privileges the text’s semantics over less grounded interpretations, while the dissociation letter/spirit represents the stance of the disputant in favor of spirit who privileges a pragmatic construal of the text’s meaning over the dead (a la Paul) letter. Observe that the two dissociations are not perfect reversals of one another. As terms change their relative value in relation to one another, they often undergo a change in terminology (Perelman and Olbrechts-Tyteca 427). As we see in these two dissociation pairs, letter remains the same, reflecting the uncontested nature of the text’s semantics in a *letter versus spirit* dispute. But in the position of term I, spirit changes to interpretation. In these cases, letter is the valued term and “mere” interpretation is seen as a dubious

manipulation of the text in this approach to textual meaning. When in the position of term II, spirit becomes a criterion for evaluating the semantics of the text and for determining the text's meaning. As such, it cannot be a loose collection of pragmatic clues, at least not persuasively, but must be organized around a central point. Traditionally, that point has been authorial intent, but other possible points include the original audience's interpretation, or an overriding principle of textual construal or of the people or institutions that hold that text in esteem.

After a dissociation has been effected between a text's letter and spirit, further dissociations are possible on either side of the divide. These further dissociations can be framed within what Perelman and Olbrechts-Tyteca call fan-type dissociations in which term II undergoes subdivisions: term I/term II < term I (a)/term II (b) (431). For example: letter/spirit < authorial intent/divine intent or letter/spirit < authorial intent/overriding principle. The following passage from Augustine's *De doctrina christiana* demonstrates such a further dissociation of spirit:

Whoever, therefore, thinks that he understands the divine Scriptures or any part of them so that it does not build the double love of God and of our neighbor does not understand it at all. Whoever finds a lesson there useful to the building of charity, even though he has not said what the author may be shown to have intended in that place, has not been deceived, nor is he lying in any way. (1.36.40)

Here Augustine articulates the ultimate end or overriding principle of the Christian Scriptures, love, which can then work as a guiding hermeneutic. If one interprets a passage of Scripture and believes that the author's meaning, which otherwise might be

authoritative, goes against love, then, according to Augustine, one must re-evaluate one's interpretation.

A fan-type dissociation with letter is even possible:
interpretation/letter⁴⁶<apparent letter/real letter (Perelman and Olbrechts-Tyteca 432).
Consider the following example from a magazine article published in 1910 in *The Outlook* on the question of whether Jesus condemned the accumulation of wealth:

...Jesus taught in Aramaic. All the other words of Jesus we have translated into the Greek and most of us have that Greek translated into English; that is to say, instead of having the very words of Jesus, we have the translation of a translation of his teaching. This of itself is a sufficient and conclusive reason why we should not literalize in our interpretation of the words of Jesus. But if we are going to literalize, let us literalize consistently and not inconsistently. My radical friend declares that the teachings of Jesus are not practicable, that we cannot carry them out, and that we do not pretend to do so. Jesus, he reminds us, said, "Lay not up for yourselves treasure upon earth;" and Christians do universally lay up for themselves treasures upon earth, every man that owns a house and lot, or a share of stock in a corporation, or a life insurance policy, or money in a savings bank, has laid up for himself treasure upon earth. But Jesus did not say, "Lay not up for yourselves treasures upon earth." He said, "Lay not up for yourselves treasures upon earth *where moth and rust doth corrupt and where thieves break through and steal.*" And no sensible American does. Moth and rust do not get at Mr.

⁴⁶ In Perelman and Olbrechts-Tyteca, where this example is taken, the terminology for the original term II is "text" (432). The difference between "text" and "letter" amounts to the former being an umbrella term for the dissociated apparent-real letter pair.

Rockefeller's oil wells, nor at the Sugar Trust's sugar, and thieves do not often break through and steal a railway or an insurance company or a savings bank.

What Jesus condemned was hoarding; he never condemned possessing it or using it for the benefit of society. (Abbott 577; emphasis original)

In this example, before giving his interpretation of Matthew 6:19, the author of the article, Lyman Abbott, argues that a literal approach (letter) to Jesus' teachings is inappropriate, because his original words have been translated from Aramaic to Greek, and then from Greek to English, implicitly advocating a spirit approach to Jesus' teachings. But Abbott concedes a literal (letter) approach only if we do so "consistently" (real letter). He follows with an example from a "radical friend" whose interpretation of Matthew 6:19 is presumably "inconsistent" (apparent letter). While the friend interprets Jesus' words as an admonition to not accumulate wealth and possessions, Abbott demonstrates that this inconsistent literal interpretation (apparent letter) misses a crucial detail—Jesus' critique is aimed at treasure that is vulnerable to moth, rust, and thieves, which Abbott highlights in italics. Therefore, according to Abbott's consistent literal interpretation (real letter), Jesus was really warning his followers against inactive, unused wealth.

As with any interpretive dispute, the impetus for the dissociation of a text's letter and spirit always rests in an exigence: "The dissociation of concepts, as we understand it, involves a more profound change that is always prompted by the desire to remove an incompatibility arising out of the confrontation of one proposition with others, whether one is dealing with norms, facts, or truths" (Perelman and Olbrechts-Tyteca 413). Martin Luther, the great Protestant Reformer, faced an incompatibility between the

“righteousness of God,” described in Romans 1:17, and his sense of his utter depravity (qtd. in Hillerbrand 29). Luther explains that he had been taught to understand the term *righteousness* “philosophically” (spirit) such that God’s righteousness required an individual to obey God’s law to avoid eternal damnation (qtd. in Hillerbrand 29). Perceiving that such obedience was impossible, Luther “beat importunately upon Paul at that place [Romans 1:17], most ardently desiring to know what St. Paul wanted” until he “gave heed to context of the words” (the letter) (qtd. in Hillerbrand 29-30). Having dissociated the philosophical understanding from an understanding based on the semantics of the co-text surrounding the phrase, he realized that “the righteousness of God is that by which the righteous lives by a gift of God, namely by faith.” (qtd. in Hillerbrand 30). The dissociation of the text’s semantic and pragmatic information represented for Luther a “practical solution” to incompatibilities found in the rhetorical situation.⁴⁷

At this point one might ask why a disputant in favor of spirit would not reject, or argue for the rejection of, the text in question. This argumentative move, however, would place the dispute in the stasis of *jurisdiction*. While the advantages and disadvantages of arguments in the stasis of *jurisdiction* will be explored further in Chapter 7, a brief treatment will suffice here. The burden of proof for disqualifying a text is great and in

⁴⁷ “There are practical solutions enabling the difficulty to be resolved exclusively on the plane of action; they can prevent the incompatibility from occurring, or dilute it in time, or sacrifice one or even both of the conflicting values. At this practical level, the dissociation of notions amounts to a compromise, but, on the theoretical level, it leads to a solution that will also be valid for the future, because, by remodeling our conception of reality, it prevents the reappearance of the same incompatibility. It preserves, at least partially, the incompatible elements. The operation, though bringing about the disappearance of the object, is nonetheless carried out at a minimum cost, because the thing that is valued is given its rightful place in thought, and the latter is given a coherence that is beyond the range of difficulties” (Perelman and Olbrechts-Tyteca 413).

many cases requires substantial suatory power. Disputants in favor of spirit may believe that the chances of persuading their audiences to their interpretations of a text are greater than the chances of successfully arguing for the disqualification of that text. Further, when disputants disqualify a text they duly circumscribe their authority⁴⁸ to interpret that text. Meanwhile, other members of the disputant's interpretive community, who have not made the interpretive move of disqualification, remain free to persuade others to interpretations of the text that the disputant may find unacceptable. It is therefore often to a disputant's advantage to retain close interpretive proximity to the text by remaining in the stasis of *letter versus spirit*. We see then that the disputant defending spirit is under pressure from various factors in the interpretive-rhetorical situation to not reject the text but to instead appeal to non-granted pragmatic clues concerning the text's meaning in contradistinction to its semantic or granted pragmatic information in support of his or her interpretation of the text.

Persuasion within Letter versus Spirit

While modern rhetorical theory and linguistics provides a firm theoretical ground for understanding the basic structure of *letter versus spirit* disputes—how disputants align themselves to each other and the disputed text—pre-modern rhetorical theory aids us in cataloguing the strategies that are then at the disputant's disposal for persuading the audience of a particular interpretation. Below is a sample of topics for the stasis of *letter versus spirit* from a range of rhetorical treatises from the pre-modern tradition. These

⁴⁸ I use the word authority because it is not the case that disputants who disqualify a text may no longer interpret the text at all. But the reception of their interpretations by those who have also witnessed their disqualification of that text will be duly affected.

topics represent options that rhetors could review to see what best fit the particulars of the situation. Since they are ultimately derived from observations of these situations, untrained rhetors inevitably use them, too.

In favor of letter:

- Eulogize the writer of the text ([Cicero] 2.9.13)
- Read the text aloud ([Cicero] 2.9.13)
- Compare the text with the admitted act of the opponent or the situation in question ([Cicero] 2.9.13)
- Emphasize the distinction between the “carefully crafted” text and a “cunningly invented” interpretation ([Cicero] 2.9.13)
- Rhetorically question the writer’s motive for not including a more explicit rendition of the interpretation offered by the opposition ([Cicero] 2.9.13; Cf. Hermogenes 9.55)
- “Ascertain the writer’s intention and present the reason why he had in mind what he wrote” ([Cicero] 2.9.13)
- Show that the “text is clear, concise, apt, complete, and planned with precision” ([Cicero] 2.9.13)
- “Cite examples of judgments rendered in favor of the text” ([Cicero] 2.9.13)
- “Show the danger of departing from the letter of the text” ([Cicero] 2.9.13)
- Argue that the writer thought the text should be observed or followed in all circumstances (Hermogenes 9.55)

- Argue that the text is clear and further distinctions (e.g. definitions) do not change the text's meaning (Hermogenes 9.55)
- Argue that the text does not need to be violated in order to accomplish good (Hermogenes 9.55)

In favor of spirit:

- Praise the framer for “conciseness having written only what was necessary,” not believing it was “necessary to write what could be understood without a text” ([Cicero] 2.10.14; Cf. Hermogenes 83.5)
- Argue that “to follow the words literally and neglect the intention is the method of a [bad interpreter]” ([Cicero] 2.10.14; Cf. Melanchthon 159)
- Show that “the letter...cannot be carried out” ([Cicero] 2.10.14; Cf. Quintilian 7.6.5)
- Show that “the letter...cannot be carried out...at least not without violating Statute Law, Legal Custom, the Law of Nature, or Equity; all of these, no one will deny, the writer wished to be most strictly observed” ([Cicero] 2.10.14; Cf. Quintilian 7.6.7)
- Argue that “the interpretation of [the opponent] is either no interpretation, or is unreasonable, unjust, impracticable, or inconsistent with past or subsequent interpretations; or disagrees with common law, other generally binding rules of law, or with previous decisions” ([Cicero] 2.10.14; Cf. Aristotle 1.15.4)
- “Cite instances of decisions rendered in favor of intention and contrary to letter” ([Cicero] 2.10.14)

- “Read and explain laws or contracts [or other texts] which had been written down in concise form yet the intention of the framer is understood” ([Cicero] 2.10.14)
- “Sometimes show that the writer always had the same end in view and always desired the same result” regardless of how the text and the particulars of the situation align (Cicero, *De Inventione* 2.42.122)
- “At other times...show that the writer’s purpose has to be modified to fit the occasion as a result of some act or event” (Cicero, *De Inventione* 2.42.122;⁴⁹ Cf. Quintilian 7.6.6-7)
- “Find something in the actual words of the text...which...can prove that the intent of [the writer] was different” from what is put forward by the opponent (Quintilian 7.6.8; Cf. Hermogenes 9.55; Cf. Melanchthon 159: “Definition reveals the hidden meaning; division clarifies the ambiguous”)⁵⁰

Strategies common to both:

- Ask and answer “whether we should stand by the Letter or the Spirit, and what was the intention of the writer” (Quintilian 7.6.12)⁵¹
- Weigh the benefits of following the letter/spirit against the benefits of the action in question crime (Hermogenes 9.55-56)
- Use definition that “reveals the hidden meaning” (Melanchthon 159)
- Use “division [to] clarif[y] the ambiguous” (Melanchthon 159)

⁴⁹ Cicero points the reader to the topics of the assumptive branch under the issue of equity as further support for this line of argument. These topics are listed and explained in great detail in *De Inventione* 2.24.71-36.109.

⁵⁰ This strategy could lead to a dispute in the stases of ambiguity or definition.

⁵¹ Quintilian explains that these questions are treated (i.e. supporting topics) under the issues of quality and conjecture.

- Use the commonplaces of cause, effect, circumstances, contraries (Melanchthon 159)
- If the text in question is part of a larger text, or part of a larger web of texts, draw on “clearer” passages that support your interpretation (Melanchthon 160)⁵²

Certain patterns or common features emerge from these strategies. The strategies used by disputants in favor of letter generally involve either elevating the status of the text, arguing for the text as a representation of the writer’s mind, citing the hazards of interpretation based on inference, or emphasizing the consequences of violating the text’s semantics. The strategies used by disputants in favor of spirit generally involve either stressing the necessity of inferential interpretation, calling attention to other binding principles that must be taken into account, considering the negative consequences of taking the text literally, or emphasizing the situation in question over the text. Both sides appeal to co-textual and contextual evidence to support their claims and refer to the consequences of going against the kind of interpretation they put forward. In short, these strategies amount to various means of constructing and maintaining, in the audience’s mind, the relationships between the text, situation, and various human participants in order to support the interpretation offered by the disputant.

A Letter versus Spirit Dispute over a Politically Charged Sound Bite

⁵² Bringing in other texts introduces the possibility of a new dispute. To avoid this, disputants should draw on texts that already have agreed upon interpretations or that disputants believe have little interpretive wiggle room.

We now return to the example that opened the chapter to illustrate in extended form a letter versus spirit dispute and the various persuasive techniques inevitably used by the participants. In the subsequent controversy surrounding Wright's "God damn America" sound bite, multiple parties weighed in on how to interpret Wright's words, but we will only focus on two interpretive responses: one from Wright himself, a defense, and one from online magazine *Salon* opinion writer Joan Walsh, written in response to Wright's defense.

In April 2008, about a month and a half after the sound bite was first aired, Wright was interviewed on the television show *Bill Moyers Journal*. The show played the controversial sound bite but included about two minutes of the sermon before the inflammatory segment for context. After the excerpt was played, Bill Moyers asked Wright what he had meant. In his response, Wright interpreted his words using many of the strategies that previous rhetoricians have classified as topics for defending the spirit of a text against its letter.

In the first place, Wright argues that his sermon was addressing a larger socio-political, historical context:

When you start confusing God and government, your allegiances to government—a particular government and not to God—that you're in serious trouble because governments fail people. And governments change. And governments lie. And those three points of the sermon. And that was the context

in which I was illustrating how the governments biblically and the governments since biblical times, up to our time, change, how they fail, and how they lie.⁵³

Note that Wright makes no particular reference to the United States or the U.S. government, therefore avoiding the specifics of his words that initially elicited criticism. Instead his interpretation implicitly places the United States and its government within a genus of governments that have failed over time, a move that potentially de-emphasizes his particular condemnation of the United States, though it is also potentially offensive because it denies American exceptionalism.

In the second place, Wright shifts the focus away from the particular words of his sermon and the controversial sound bite to the situation of government injustice, invoking God as the ultimate arbitrator of justice: “And when we start talking about my government right or wrong, I don’t think that goes, that is consistent with what the will of God says or the word of God says, that governments don’t say right or wrong. That governments that want to kill innocents are not consistent with the will of God.” With this statement, Wright shifts attention to government action and how these actions are unaligned with God’s will. Wright’s controversial words by implication become less a direct attack or invocation to God to damn America than a description of a state that any government puts itself in through its own actions. Wright also underlines his ethos as a preacher, as someone who speaks the word of God. Therefore, anyone who attacks what he has argued is attacking God’s word.

Third, Wright uses an etymological argument to soften the blow of the word “damn” to give it a more palatable and agreeable connotation: “I also think people don’t

⁵³ Excerpts from Wright’s interview adapted from transcript provided on the *Bill Moyers Journal* website.

understand condemn, D-E-M-N, D-A-M-N. They don't understand the root, the etymology of the word in terms of God condemning the practices that are against God's people. But again, what is happening is I talk a truth." By arguing that *condemn* and *damn* have the same etymological roots, Wright ties *damnation* to *condemnation*, specifically God's *condemnation* of injustice. While his audience may easily criticize him for asking God to *damn* America, it is harder to criticize Wright for describing or invoking God's *condemnation* against injustice. Through etymology, Wright reveals a non-obvious meaning in his words.

Two days after his appearance on the *Bill Moyers Journal*, Joan Walsh responded to Wright's interpretation of his own words in an opinion piece in *Salon*. Unpersuaded by Wright's defense, Walsh maintains a letter-interpretation of his "God damn America" sound bite.

To begin with, Walsh denies possible suggestions that the sound bite would be less inflammatory if it were given proper context. Oppositely, Walsh finds the verbal context of his words, specifically their co-text and other sermons Wright preached, more incriminating: "But the whole idea that Wright has been attacked over 'sound bites,' and if Americans saw his entire sermons, in context, they'd feel differently, now seems ludicrous. The long clips Moyers played only confirm what was broadcast in the snippets (and the longer excerpts out today are even more troubling)."

Walsh goes on to reference specific phrases from other sermons Wright preached to support her literal interpretation of his words, relying on the premise of consistency of authorial intention from message to message:

My conclusion Friday night was bolstered by new tapes of Wright that came out this weekend, including one that captures him saying the Iraq war is the ‘the same thing al-Qaida is doing under a different color flag,’ and a much longer excerpt from the ‘God damn America’ sermon that denounces ‘Condoskeezer Rice’ [referring to George W. Bush’s Secretary of State Condoleezza Rice].

The argument seems to be that if there was any uncertainty about the meaning of the “God damn America” sound bite, then these other quotes from Wright should make that meaning clearer. Walsh even uses Wright’s interview with Moyers as supporting evidence for a literal interpretation of his controversial words, disregarding Wright’s own interpretation of his words in the same interview:

Note that, in his defense, Wright didn’t say: “Hey, I’m a guy who also talks a lot about the promise of American democracy, and the way Americans of every race have worked together to try to make the country live up to that promise. Here’s a sermon about the heroes of the civil rights movement! Even some who weren’t black!” ... He used his hour with Moyers to argue that his thoroughgoing critique of American evil is, well, true.

Walsh then moves on to suggest alternative phrases that Wright might have said if indeed he was just condemning government actions and invoking God’s condemnation against government injustice, in order to beg the question of why he *didn’t* say those things if that was his intention. She writes,

Wright could probably have gotten away with “God damn Bush” for the bloody Iraq war if he wanted to, or “God damn Truman” for bombing the Japanese at the end of World War II, or even “God damn the American government!” for its

many mistakes. But “God damn America”—that’s sweeping. It sounds like it’s the idea of America, its fundamental principles he’s rejecting. (Walsh)

Her conclusion is that if Wright meant what he said he meant during his interview with Moyers, his words would have been different, and they would have been excusable, even justifiable. But what he actually said reflects a different intention that cannot easily be explained away. His words suggest a deeper indictment of the United States than simply its government’s injustices.

Further, unlike Wright, who in his interpretation stays away from the words of the sound bite, Walsh is sure to point to and reiterate them. In her 1,595-word article, she repeats the phrase “God damn America” four times, always in quotes. This tactic increases the presence of the most incriminating phrase from Wright’s sound bite in the audience’s mind.

Lastly, another tactic available for the defense of letter is a eulogy. The purpose of the eulogy in an interpretive argument is to construct the ethos of the text’s author such that the character of the author and the interpretation of the text put forward are congruent, so that the author’s constructed character supports the interpretation. (Sometimes, the goal is to construct a trustworthy or admirable ethos as well, although that is not the goal here.) Walsh’s eulogy is more of a dys-logy as it paints a negative picture of Wright:

I felt like he was trying to make the point that organizations that preach black separatism and focus on the real (as well as imagined) evils of white America are uniquely successful in strengthening the black community—and further, that he’s created another one at Trinity, one that is less deadly and delusional than the

Nation of Islam, but still seems to think it's therapeutic to school its members in an extreme critique of American society and its thoroughgoing, ongoing racism. Walsh depicts Wright as a black separatist who has used his church to institutionalize his version of radicalism. Given this fact, the audience should not be surprised that he would reject American principles or even ask God to damn America as this has been known to be part of the doctrine of black separatist groups like the Nation of Islam.

Theoretical Implications

The dispute between Wright and Walsh offers an apt illustration of an interpretive dispute in the stasis of letter versus spirit. It also provokes important theoretical questions. First, why was there a letter and spirit split in this controversy? Most likely for many of Wright's unintended national audience, the words "Not God bless America. God damn America!" were sacrilege against their civil religion. No doubt many interpreted these words as an unambiguous negation of a standard exhortation made popular in the song "God Bless America." For Wright's critics, this fact was an obvious advantage. Even Wright's defenders who did not share this interpretation would recognize that there would be little room to argue against how most Americans understood the explicit meaning of the words. This reduces the efficacy of disputing in the stases of ambiguity and definition.⁵⁴ The stasis of jurisdiction would require Wright to say he didn't mean what he had said, thereby decoupling his intention from his words, but he never seemed willing to make this move. Assimilation also does not make sense in this case. While disputants have choices in how they construe the texts they argue over and interpret,

⁵⁴ Wright does make use of etymology to the effect of a definitional argument in his defense, but it never becomes the hinge or focus of the dispute.

those choices are affected by factors in the rhetorical situation such as the audience's understanding of the text in question.

Second, what is the role of authorial intention in letter and spirit disputes? As this example demonstrates, Wright's explanations of the text in dispute were dismissed even though he was its author. Although he alone had access to the motives that produced the disputed words in the first place, Walsh did not grant him privileged status as an authority on the meaning of his words, but instead treated him more or less like any other interpreter. Of course, Wright may not have been telling the truth in his interview with Moyers. His reputation, as well as Obama's, was on the line, so he had good reason to lie about his original intentions, if they were as Walsh and others made them out to be.

But such is the nature of interpretation and the construction of authorial intent. The author has never been dead or alive, but has always been constructed according to the purposes of the interpreter, even when the interpreter is the author him or herself. Hermeneut-rhetors include statements from the author regarding their intention and other facts about the author's life when it supports their interpretation of the text in question, but exclude them when they do not. As we see in this example, hermeneut-rhetors may even adhere to the letter of the text when the author protests against their interpretation. This case is a lesson for rhetoricians, interpreters, and audiences alike that both letter- and spirit-interpretations are just that—interpretations. Our access to authorial intention is always limited and indirect. Neither hermeneutic approach, neither letter nor spirit, guarantees a sure grasp of a text's meaning. Each approach subordinates or denies a crucial set of elements necessary for constructing textual meaning.

Chapter 3: Contradictory Passages

Frances Willard's 1889 *Woman in the Pulpit* stands in a long line of Protestant Christian defenses of women's preaching that stretches back to the seventeenth century and continues today (Donawerth 73). Motivated by her own experience of being barred from becoming a preacher in the Methodist church because of her gender, Willard compiles not only her own arguments in support of women's preaching, but also supporting testimonies from various men and women on the subject (Willard 62). The final two chapters include Henry J. Van Dyke's attack on women's preaching, originally published in the *Homiletic Review* in January 1888, in response to an article Willard had published in the same journal the previous month (now reprinted as chapter two in her book), as well as L. T. Townsend's rebuttal of Van Dyke's article.

In his article, Van Dyke claims that the Bible "expressly excludes and prohibits women from the work of ministry" (qtd. in Willard 125). Van Dyke relies on two biblical passages for this conclusion: 1 Corinthians 14:34-35: "Let your women keep silence in the churches; for it is not permitted unto them to speak; but they are commanded to be under obedience, as also saith the law. And if they will learn anything, let them ask their husbands at home; for it is a shame for a woman to speak;" and 1 Tim 2:12-14: "I suffer not a woman to teach nor to usurp authority over the man, but to be in silence. For Adam was first formed, then Eve. And Adam was not deceived, but the woman being deceived was in the transgression" (qtd. in Willard 126-7).⁵⁵ In response, Townsend admits, "that if the prohibition in these passages is infallible," then the controversy is settled: women are not to preach (qtd. in Willard 153). But before a final conclusion is drawn, Townsend

⁵⁵ Van Dyke appears to be using the King James Version.

argues that they must investigate “whether these passages refer to all women, and whether they embrace all time” (qtd. in Willard 153).

While Van Dyke maintains that the above quoted passages refer to all women at all time, Townsend begs to differ: “For we have already proved, by the words of our Lord, by the Acts of the apostles, by the Epistles of Paul, and by the practices of the Apostolic Church, that women are authorized to enter the ministry. Of this proof there can be no question” (Townsend qtd. in Willard 154). Here Townsend refers to the previous section of his reply in which he surveyed the New Testament and history of the early church for examples of women in ministry, especially women who were authorized to preach. But if the Bible on the one hand prohibits all women from speaking as Van Dyke claims, while authorizing it on the other hand as Townsend claims, there is a problem: “If, therefore, our esteemed brother, by these same authorities, has proved that all women, in all times and everywhere, are prohibited from entering the ministry, then the Bible plainly has contradicted itself” (Townsend qtd. in Willard 154).

For Christians, like Townsend, Van Dyke, and Willard, who were committed to the unity of the Bible, following from its status as the word of God, contradiction was intolerable. Townsend continues, “Now, if at this point the one who challenges the right of women to enter the ministry should say to us, What do you intend to do about this contradiction? we might reply, What do you intend to do about it? Either one of us can afford to rest with this charge hanging over the Bible as long as can the other. But can either afford to rest long?” (qtd. in Willard 154). Townsend, who imagines or anticipates a reply to his charge of contradiction from someone like Van Dyke, recognizes that once such a charge has been leveled against a text, those invested in the text’s integrity must

work to resolve the contradiction. That is, they must find solutions that demonstrate that the contradiction is a mere appearance, a matter of faulty interpretation. Rhetorical-interpretive exchanges in which disputants allege that a text contradicts itself and work to resolve the apparent contradiction(s) represent disputes in the stasis of *contradictory passages*.

The Problem of Contradiction

Disagreements in the stasis of contradictory passages are concerned with a text's logical consistency. A text is said to be inconsistent or contradictory if it contains a proposition and its negation (Perelman and Olbrechts-Tyteca 195). But we can only be certain that we have a logical inconsistency in the realm of formal logic (Perelman and Olbrechts-Tyteca 195). In natural language, my focus in this dissertation, consistency is a consequence of rhetorical and interpretive processes, tied to the world in which the text is introduced, and irreducible to predetermined relations between symbols.⁵⁶ Although there may be clear signals that a text appears to contradict itself, no claim that a text in natural language contradicts itself can therefore be final. A charge of contradiction against a text can always be countered by an alternative interpretation in which the contradiction does not exist.

Generally speaking humans do not tolerate contradictions in texts (although there are exceptions; see discussion of *asystatic contradictions* below). When we encounter discourse of any kind, we are inclined to interpret it as a unified, coherent whole, even

⁵⁶ To further distinguish between inconsistencies that occur in formal versus nonformal language, Perelman and Olbrechts-Tyteca call the former *contradictions* and the latter *incompatibilities* (195-6). I agree with this distinction but do not adopt the difference in terms.

when it seems to present problems. Consistency is one part of coherence, which emerges from our interaction with discourse as we attempt to understand it (Fahnestock, *Rhetorical Style* 345). While a text that is perceived to be incoherent is not necessarily inconsistent—a reader, for instance, may find certain portions of a text to lack relevancy without finding them logically inconsistent—a contradictory text is incoherent, at least insofar as it concerns the passages in question.

Often, however, the coherence of the whole text is brought into question if any of its parts are thought to be in conflict. An incoherent text can generally not perform its function. As Perelman and Olbrechts-Tyteca observe, “[B]ringing out a contradiction which the system contains[] makes the system inconsistent and thereby unusable” (195).⁵⁷ Contradictions suggest that the author of the text is violating certain functional assumptions we usually take for granted in communication. H. P. Grice named and described these functional assumptions in his article “Logic and Conversation.”⁵⁸ Contradictions would seem in particular to violate the maxim of quality, by which one should, “Try to make your contribution one that is true” (46). A contradiction would signal that this maxim of quality is being violated because one of the conflicting passages must be false. Texts that contain falsities are hardly trustworthy communicative vehicles or sources of information. Other contradictions still undiscovered may abound. Furthermore, a violation of any maxim suggests a violation of the “cooperative

⁵⁷ While a text’s usability may be a motivating factor in resolving or bringing to attention an apparent contradiction, usability is not at question in the stasis of contradiction. Such a question is more properly classified under the stasis of *jurisdiction*.

⁵⁸ Granted, Grice was specifically concerned with “talk exchanges,” but his insights apply to discourse more generally to the extent that it functions to communicate (45). Moreover, he felt that these functional assumptions rested on principles that governed rational behavior more broadly, with communication as a special case of rational behavior (48-49).

principle,” which calls on conversational participants to play by the agreed upon rules (Grice 45).⁵⁹ A contradictory text raises difficult questions: is the author lying or arguing in bad faith? Does the author have ulterior or dubious motives? Is the author mistaken or misinformed? The author may not be intentionally uncooperative but is untrustworthy nonetheless.

There may, however, be even stronger reasons to resist apparent contradictions in a text. When a text is the means by which a community regulates its beliefs, values, and behaviors, that text’s internal consistency can be paramount. The clearest examples of this are laws and sacred texts. As Quintilian notes, “[O]ne law can never be contrary to another in juristic principles, because if there were distinct principles one law would be cancelled out by the other” (7.7.2). While individuals certainly must wrestle with apparent contradictions in the texts they read, communities also have large stakes in maintaining the coherence of their texts.⁶⁰

The appearance of a textual contradiction thus presents those interested in preserving the text’s coherence with a problem that demands a solution. True disputes in this stasis always involve at least one disputant offering a way of interpreting the text that

⁵⁹ An apparent contradiction can also suggest the presence of what Grice calls an implicature, something the speaker or writer means to get across beyond or besides what is actually said by flouting the cooperative principle or one of its attendant maxims. In these cases, the contradiction would serve as a prompt for the interpreter to construct an alternative meaning. However, while there are certainly cases where speakers and writers use contradiction for the purposes of implicature (e.g. paradox), interpreters do not usually seem to view contradiction as a sign of implicature.

⁶⁰ I suspect that both individuals and communities approach textual contradictions in the same way (described in-depth below), but since individuals usually do such work in their heads it remains inaccessible. Like every stasis under discussion in this dissertation, I analyze how the arguments they classify occur in dialogic and therefore social and public contexts. But my findings are suggestive for how we understand private interpretation as well.

resolves the problem so that the contradiction is only apparent not real. The solution itself must be interpretive because contradictions always arise as a result of a particular interpretation of the text. The solution reorders the logical relation(s) between the passages in question so that the contradiction no longer exists. But solutions offer new interpretations of the text that an audience may not find persuasive, even if they resolve the contradiction. Audiences therefore may reject the solution, or alternative way of interpreting the text, as unsatisfactory. Audiences can also object to a kind of solution in principle (e.g., a particular way of interpreting a text is unacceptable for x reason{s}).

In the ancient Greco-Roman treatises of the rhetorical tradition, this stasis, like all of the others, was largely conceptualized within the judicial genre of rhetoric. The stasis' original Greek and Latin titles indicate that history: *antinomia*⁶¹ in Greek and *contrarias leges*⁶² in Latin, meaning opposing or contrary laws. Because of this conceptualization, the ancients presented a somewhat limited view of the form that disputes in this stasis can take. In what we might call the legal or classical form, two or more disputants present opposing arguments with support from different passages from the same text. They then attempt to counter the other's interpretation so that their argument stands. We can see how this form, which is the one that most treatises in the rhetorical tradition discuss, would have been at home in the adversarial context of the courtroom, in which two different and potentially contradictory laws are brought to bear on a case in a potentially contradictory fashion. The opening and closing example from Townsend takes this form.

But when we examine disputes in the stasis of contradictory passages outside the realm of law, we observe that these disputes can take two additional forms, one of which

⁶¹ E.g. Hermogenes.

⁶² E.g. the anonymous author of the *Rhetorica ad Herennium*, Cicero, and Quintilian.

we might characterize as more scholarly in nature. Two or more disputants agree that an apparent contradiction exists in a text and they present opposing remedies of the contradiction's resolution. We often see this kind of argument in the field of textual criticism. Scholars in the field will generally agree that a text contains an apparent contradiction and will offer various solutions to resolve said contradiction. Examples of this form can be found in the excerpted arguments taken from Bodde, Friedrichsmeyer, Enns, and Waltke discussed below.

There is yet a third form that disputes in this stasis can take, which we might call political. A disputant claims that two or more passages of a text contradict each other and another disputant attempts to resolve the apparent contradict. This form is perhaps best exemplified in the political sphere, when politicians, especially when they are running for office, attempt to find contradictions in their opponents' discourse in order to damage their credibility, for instance, by labeling them as flip floppers. The charged politician, in order to save his or her credibility, will need to find ways to resolve the alleged contradictory statements. The author of the pseudo-Aristotelian text the *Rhetoric to Alexander* called this kind of discourse, where one finds self-contradictions in another's words, investigation ([Aristotle] 5.1427b). This author's emphasis was on comparing present and past speech, although finding contradictions in just one temporal instance of discourse would presumably also be acceptable ([Aristotle] 5.1427b).

As we saw in Chapter 2, spoken discourse can be treated as if it were a written text especially in the age of sound recording where spoken discourse can be preserved and analyzed as well as the written word. Today, public figures, whose spoken words are constantly recorded, archived, widely accessible, and manipulable, must be especially

careful as sophisticated video and sound technology gives savvy editors the ability to splice words from different times and places that can easily present the subject's speech as self-contradictory. This tactic is especially common on news-entertainment shows like *The Daily Show with John Stewart* and *The Colbert Report*, where public figures are often lampooned with this technique. Because of the rhetorical force of video, even when it is clear that the footage has been heavily edited, it can be difficult to resolve apparent contradictions presented in this manner.

Apparent contradictions in personal discourse are especially threatening to a person's credibility. Those who have a stake in the person's credibility will usually go to great lengths to resolve the contradiction in order to maintain the person's credibility. A person may be considered untrustworthy, unreliable, unknowledgeable, perhaps even insane, if their speech is inconsistent. As Perelman and Olbrechts-Tyteca observe, "...for many people, speech is the most characteristic manifestation of the person..." (317). A person's words become one of the major sources of evidence by which an audience constructs their notions of that person (Perelman and Olbrechts-Tyteca 319).

Thus, in arguing over textual contradictions, disputants can assume that a selection of texts written by multiple authors constitutes a text, that various pieces of discourse of different genres either spoken or written by one person over a course of time constitute a text, that separate collections of texts functioning within the same sphere constitute a text, etc. Quintilian writes that his advice about how to argue in this stasis applies not only when two or more laws conflict, but when a law conflicts with a senatorial decree (7.7.10). Wherever a boundary or line is drawn around discourses or pieces of discourse, contradictions may be found within that boundary. Those boundaries

are always arguable, but arguments about what texts constitute a totality fall under the stasis of jurisdiction. Those arguments as they pertain to contradictions are discussed below.

Resolving Contradictions

Double Letter versus Spirit

Ancient rhetoricians, like Cicero, Quintilian, and Hermogenes, considered conflicts in this stasis to generally consist of a double or multiple *letter versus intent* dispute. That is, one side argues that its law be applied according to its exact verbal formulation, while an interpretation not tied to the verbal formulation be followed with the opposing law. The other side argues the converse. As Quintilian explains, “This is a justifiable view, because, when one law stands in the way of another, both parties speak against the Letter, and the Question between them is about the Spirit: the doubt with regard to both laws is whether this is the law that must be applied” (7.7.1). The same dissociation made in the stasis of *letter versus spirit*, between the agreed upon apparent meaning of the text based on textual clues and other meanings that negate this apparent meaning grounded in (visible) pragmatic clues,⁶³ is made here. Traditionally, rhetoricians believed that contradictions occurred when two or more passages conflicted at the level of *letter*, when disputants attempted to follow the passages to the *letter*. Often times this is the case. However, contradiction can also occur between passages at the level of *spirit*, as *spirit*-interpretations can still represent legitimate, accepted readings of a passage that can conflict *letter*-interpretations or other *spirit*-interpretations.

⁶³ See Chapter 2 for a fuller explanation of this dissociation.

To resolve apparent textual contradictions of any kind (*letter-letter*, *spirit-letter*, *spirit-spirit*), disputants may manipulate pragmatic clues of textual meaning, thereby adjusting the *spirit*-interpretation of one or more of the passages in question, so that the passages do not conflict with each other. I call these strategies *pragmatic solutions*. But there are other means of resolving contradictions that also allow disputants to maintain the unity and integrity of the text. Disputants can manipulate linguistically encoded clues of textual meaning, thereby adjusting the *letter*-interpretation of one or more of the passages in question. These strategies come in two kinds: *grammatical* and *semantic solutions*, depending on whether the manipulation is morphosyntactic or semantic in nature, respectively. Even though these solutions change the *letter* of the text, they are not necessarily more persuasive than *pragmatic* solutions. They can still be denied and refuted.⁶⁴

Regardless of the way a disputant resolves a contradiction, all solutions reorder the logical relations of the passages in question. While these solutions can be divided and classified according to the categories of grammatical, semantic, and pragmatic, disputants can and do use multiple tactics from different categories. Several, though not all, of the strategies detailed below were catalogued over the millennia in various rhetorical treatises. Although these solutions were originally drawn from judicial rhetoric, I demonstrate that they have broader application. Not only can analysts *discover* the following solutions in interpretive disputes in this stasis, but they can also be *deployed* by disputants who find themselves in disputes where they must reconcile apparently conflicting passages.

⁶⁴ However, changing the *letter* of the text can change the grounds of the dispute. See Chapter 8.

Grammatical Solutions

Grammatical solutions to apparent contradictions involve any attempt to resolve a contradiction through the morphosyntactic features—punctuation, gender, sentence division, lexical class, etc.—of the passages in question. In general, these solutions take advantage of the multiple meanings that can arise from the ambiguities of linguistic form. Arguers select a different possible sense afforded by the ambiguity of a morphosyntactic feature, which in turn affects the larger meaning of the passage in question thereby resolving the contradiction. The grammatical feature used to support the solution can always become the focus of rhetorical attention, resulting in an embedded dispute in the stasis of ambiguity.

In his 1933 article, “A Perplexing Passage in the Confucian *Analects*,” textual critic Derk Bodde offers a grammatical solution for a contradiction found in “[o]ne of the most baffling passages in the Confucian *Analects*,” a work comprising the sayings and thoughts of the influential ancient Chinese philosopher written and compiled by his disciples, and their disciples, reaching its present form by the second century BC (Riegel). The passage, found in *Analects* 9.1, in English reads, ““The subjects of which the Master seldom spoke were—profitableness, and also the appointments (of Heaven), and perfect virtue”” (Confucius qtd. in Bodde 347). As Bodde explains, “The difficulty here is **not** primarily a **grammatical** one, for such a translation may be read from the text without trouble, but rather lies in the fact that the statement made runs **counter to everything that the rest of the *Analects* tells us concerning Confucius**” (347; italics original, bold face added). As Bodde explains, the concepts of “the appointments (of

Heaven)” and “perfect virtue” occur repeatedly throughout the *Analects*, the latter especially being a “keystone of Confucian ethics” (374). This contradiction is not a product of the text’s grammar, as Bodde points out, but arises from what the passage explicitly states and what appears to be true concerning the content of the rest of the *Analects*.

Yet his solution is a reinterpretation of the grammar of the single outlying passage. Bodde’s solution is not original but is taken from the thirteenth century classical and textual critic Shih Sheng-tsu. While “orthodox interpretation” treats the passage as a single sentence, Shih Sheng-tsu divides the passage into two sentences. He also interprets the Chinese word *yü*, traditionally interpreted and translated as a conjunction in this passage, as a verb. His interpretation in English reads: ““The Master rarely spoke of profit. (but) he gave forth (his ideas concerning) the appointments (of Heaven), (and also) gave forth (his ideas concerning) perfect virtue”” (Bodde 349). By dividing the passage into two sentences and taking the word *yü* as a verb instead of a conjunction, this interpretation produces a “reading” which “harmonize[s] itself with what the remainder of the *Analects* tells us” (Bodde 348).

Other interpretive solutions have been offered for this widely recognized contradiction (at least among Confucian scholars), including one suggestion that because perfect virtue is difficult to attain, Confucius rarely spoke of it (Bodde 348). But Bodde rejects them all arguing that, “Translation of the character *yü* according to the formula laid down by Shih Sheng-tsu would seem, then, to be the only possible alternative to falling into a glaring inconsistency” (Bodde 351). This example demonstrates that the logical consistency of a text rests in part in the text’s grammar. Further, because this

solution appeals to grammar, an “intrinsic” property of the text, rather than appealing to “extrinsic factors” as disputants do with pragmatic solutions, those persuaded by Bodde/Shih Sheng-tsu’s interpretation would imaginably have a stronger restored sense of the text’s internal consistency.

Semantic Solutions

While grammatical solutions manipulate the more structural aspects of language as found in a text, semantic solutions manipulate conventionalized meaning relations. I closely examine two related kinds of relations that disputants can manipulate in order to resolve apparent contradictions—definitions and frames—and I mention another (cohesion). Other relations not mentioned here can probably also be manipulated for the same end.

Definition

One semantic solution involves definition (Cf. Hermogenes 87; *De Inventione* 2.49.147).⁶⁵ When faced with two or more apparently conflicting passages, a disputant may attempt to redefine a term, a word or a phrase, in at least one of the passages that shifts that passage’s meaning so that it no longer conflicts with the other passage(s) in question. Since disputants probably want to define as few words as possible in most cases, so as to minimize the charge of sophistry for instance, we would generally expect them to define *linchpin* terms (see Chapter 5), terms that determine the meaning of the

⁶⁵ If another disputant brings the definition into question, an embedded dispute in the stasis of the same name arises. See Chapter 5 on definitional dispute and Chapter 8 on the interrelation of the stases.

other terms in the passage. Cicero suggests that the disputant should show that the favored law is interpreted according to the precise language of the text, while the less favored law is interpreted through definition, “since what is plainly stated seems to be stronger and more binding” (*De Inventione* 2.49.147). While this may be good advice, the circumstances of the dispute and the relative definitional flexibility of the possible terms play a large role in what terms are defined and therefore what passages are used.

Frames

Another semantic strategy for resolving contradictions consists of manipulating the relevant, organized conceptual units of knowledge and experience, or *frames*,⁶⁶ which are applied to texts in order to interpret them and create coherence (Fillmore, “Frames and the Semantics of Understanding” 223; Bednarek 693). In interpreting passages (versus words, see Chapter 5), these frames consist of certain assumptions about a text’s function, structure, style, genre, themes, content etc., assumptions that are usually taken for granted (Bednarek 693-698). Disputants, however, can call these frames into question and argue that different assumptions are required in order to properly understand the text. In the stasis of contradictory passages, disputants may charge that apparently conflicting passages are a result of inappropriate framing, and that if the proper frame is applied the contradiction is resolved.

Classicist Hardy C. Fredricksmeyer uses this strategy of reframing to resolve an apparent contradiction in the Homeric epic the *Odyssey* in his 1989 article “Penelope Polutropos: The Crux at *Odyssey* 23.218-24.” In the epic’s twenty third book, Penelope,

⁶⁶ Other terms, such as *domain*, *base*, and *script*, are also used by cognitive linguists to denote similar concepts.

Odysseus' wife, who has for years faithfully waited for her husband's return to Ithaca, compares herself to the infamous Helen of Troy whose infidelity is blamed for the Trojan War. According to Fredricksmeier, "Scholars have objected to these lines [that contain the comparison] above all because Helen was not deceived into betraying her husband, as Penelope feared that she herself would be" (489). The apparently conflicting texts then are these seven lines from Penelope and the story of Helen recounted elsewhere in the Homeric epics. Scholars who, "since Aristarchus," have considered these lines "illogical and inappropriate," have either "rejected these lines, or emended them, or explained them in terms of psychological realism" as means of resolving the contradiction (Fredricksmeier 487).

But Fredricksmeier offers his own solution: "I believe that a better understanding can be gained by focusing on the *unifying theme of knowledge* throughout Penelope's speech, rather than on *adultery*" (487; emphasis mine). In other words, Fredricksmeier suggests that the critics frame the speech in terms of the theme of knowledge rather than the usually assumed theme of adultery. Fredricksmeier argues that this change in theme resolves the contradiction:

But insofar as knowledge is central to the first and third sections of this speech, the contrast between Penelope and Helen becomes the very point of her illustration rather than an inconsistency. The point of comparison is that the fidelity or infidelity of both women depends on their possession of an essential knowledge, that of Odysseus' true identity in the case of Penelope, and in Helen's case her own eventual return to Sparta. (489)

Fredricksmeier's new thematic frame points to common ground between Penelope and Helen, a ground that is lacking, at least at the thematic level, in other interpretations.

Other Semantic Solutions

Other semantic solutions are imaginable as well. For example, one could break the cohesion of a text, a la Halliday and Hasan, by, for example, denying certain referential links. What originally had the same referent in two conflicting passages now has two separate ones. Contradiction requires perfect semantic overlap, therefore diminishing that overlap by reducing cohesion can be a means of resolving an apparent contradiction.

Pragmatic Solutions

While grammatical and semantic solutions involve clues to textual construction that are linguistically encoded or conventionalized, pragmatic solutions involve manipulating elements extrinsic to the text itself. Here is the dividing line between solutions at the level of *letter* (grammatical and semantic) and solutions at the level of *spirit* (pragmatic). As with semantic solutions, I do not claim to offer a definitive or exhaustive list of pragmatic solutions, but the following kinds of solutions can be found in interpretive disputes in the stasis of contradiction. Because they are so numerous, I classify and treat them under a few heads: circumstances, relative illocutionary force, effects, interclausal relations, frames, and assimilation.

Circumstances

Any circumstantial element surrounding the situations of production or application of a text can be used to resolve a contradiction (Cf. Melanchthon 156). The elements across the situations of production and application remain more or less the same and can be classified according to the ancient *peristasis* or circumstances, i.e. *who, what, where, when, why, how*, and *by what means* ([Augustine] 7; Boethius 4.1205D). Burke offers a similar and likewise useful classification system with his pentad: *act, scene, agent, agency, and purpose* (*Grammar* xv). While these elements may be used in isolation, they can also be used together. It would be too tedious to give an example of disputants manipulating each element, but we will look at a few.

For instance, the circumstances surrounding the production of passages in apparent conflict may be compared using a value or principle to determine their relation to one another in support of an interpretation. In the context of law, Cicero claims that the most recent law is “always the most important” (*De Inventione*, 2.49.145; Cf. Melanchthon 156). But Quintilian suggests that the older passage is superior (7.7.8). Such arguments manipulate the element of time (when, scene) with respect to the situation of production.

With respect to the situation of application, Perelman and Olbrechts-Tyteca note that two or more passages may appear to contradict one another if they seem to apply to the same portion of reality at the same time (201). The apparent contradiction can be resolved, however, if the disputant makes “a division in time or a division in object” (Perelman and Olbrechts-Tyteca 202). The general principle is that any element can be divided and matched with an apparently conflicting passage in a mutually exclusive way so that the passages no longer conflict.

Melanchthon offers an example of how the element of person (who or agent) with respect to the situation of application, can be manipulated, effecting a division of “object,” as he explains the topic of genus and species for this stasis (158). A strategy that was recognized in antiquity, the tactic of genus and species makes a distinction between a class and a particular member of that class. In this way distinctions or exceptions can be made for the species that do not apply to the class more generally. This strategy, of course, is not limited to persons. Melanchthon uses this relation to resolve the apparent contradiction between the biblical passages “Do not return evil for evil”⁶⁷ and “The magistrate is a minister for God, and his avenger for wrath”⁶⁸ (Melanchthon 157). The first passage may be taken as a general command for all people, or at least all Christians. If interpreted as a general command, this passage would seem to generally “prohibit vengeance” (Mealnchthon 157). Having cited the topic of genus and species, Melanchthon writes, “Besides, Scripture exempts the magistrate from the general law in which vengeance is forbidden, and thus it is certain that the magistrate is allowed to exercise vengeance, to punish the guilty, to wage war” (158). The second passage then does not contradict the first because it applies to a special group of people within the general, larger class. Magistrates are a special species excepted from the rule applied to the larger class of people more generally. Through this exception, the portions of reality these two passages refer to presumably do not overlap, therefore they do not contradict one another.

Sometimes a single element is not isolated at all, but the entire situation is appealed to. This approach is essentially the one Peter Enns takes when he attempts to

⁶⁷ 1 Peter 3:9

⁶⁸ Romans 13:4

resolve the apparent contradiction between Proverbs 26:4 and 5: ““Do not answer a fool according to his folly, or you will be like him yourself;”” and ““Answer a fool according to his folly, or he will be wise in his own eyes”” (qtd. in Enns 74). Enns, who presumes that both proverbs are wise, argues that, “...the reader is expected to invest energy in *discerning whether a certain proverb is relevant for a certain situation*” (Enns 74; emphasis original). For Enns, these proverbs, and others, that seem to conflict, actually do not contradict one another, because they are not universally applicable but apply to mutually exclusive situations in which any number of elements may come into play. He interprets the “do’s” and “don’t’s” of these passages as “sometimes it’s best to do” and “sometimes it’s best not to do.”

Relative Illocutionary Forces

Another pragmatic solution involves considering the relative illocutionary force of the passages in apparent conflict. Although their theory of language may not be especially developed or self-consciously employed, disputants can and often do consider passages as kinds of speech acts. Concerning illocutionary force, the originator of speech act theory, J. L. Austin, explains,

It makes a great difference whether we were advising, or merely suggesting, or actually ordering, whether we were strictly promising, or only announcing a vague intention, and so forth. ...[W]e constantly do debate them [these issues], in such terms as whether certain words (a certain locution) *had the force of a question, or ought to have been taken as an estimate and so on.* (99; emphasis original)

As it pertains to conflicting passages in a text, a contradiction can be resolved based on the presumably intended illocutionary force of the passages in question, because these forces are a determinant of the passage's relation to the situation.

We see ancient rhetoricians accounting for illocutionary force when they advise their students to examine if a law enjoins, permits, or prohibits ([Cicero] 2.10.15; Cicero, *De Inventione* 2.49.145; Quintilian 7.7.7). Cicero tells us that enjoinder has the most weight in comparison with the other two; a passage of permission is optional; and a passage of prohibition is an exception to a conflicting enjoinder (*De Inventione* 2.49.145; Cf. [Cicero] 2.10.15). But there is no reason why these relations must always hold unless there is a governing hermeneutic principle that mandates such relations. In any case, disputants can make a case for resolving a contradiction based on the forces of the passages in apparent conflict, even if the forces are at first perceived to be the same. A rhetor can always argue that a passage should be understood to have a different force (as we see later in a closer examination of Townsend's defense of women's preaching).

Effects

Another technique involves comparing the consequences or effects of resolving the apparently contradictory passages in one direction versus another. Cicero mentions three possible qualities of comparison: expediency, honorability, and necessity (*De Inventione* 49.144-145). In comparing passages, one might ask, which is more expedient, honorable, or necessary in this particular situation? Of course, the possible qualities of comparison are not limited to these three. Quintilian suggests considering the affected persons, the realm of life impacted, penalties, the importance of the subject matter, and

“the fairer and better outcome” (7.7.7-8). Any kind of effect, or aspect of an effect, can be compared between apparently contradictory passages. The anonymous author of the *Rhetorica ad Herennium* advises that disputants should show which passage best upholds the departments of Law, namely “Statute Law, Legal Custom, the Law of Nature, [and] Equity” ([Cicero] 2.10.14-15).⁶⁹ As Cicero observes, “The conclusion from this is that if two laws (or whatever number there may be if more than two) cannot be kept because they are at variance [i.e. contradictory], the one is thought to have the greatest claim to be upheld which has reference to the greatest matters” (*De Inventione* 2.49.143). Whichever passage has the farthest-reaching consequences with respect to the “greatest matters” is the passage that takes precedence. And there are a number of ways to qualify what counts as “the greatest matters.”

Interclausal Relations

Another pragmatic solution to contradiction involves manipulating the meaning relations between sentences and clauses. While there are multiple classifications of interclausal semantic relations that could be useful in analyzing interpretive disputes in the stasis of contradictory passages, I follow the scheme proposed by Fahnestock because it “emphasize[s] the rhetorical dimension of these devices [relations]” (*Rhetorical Style* 356). In her book *Rhetorical Style*, Fahnestock lists seven pairs of “Positive and Negative Interclausal Relations,” “a taxonomy of the potential meaning relations that are part of the English speaker’s discourse knowledge...organized into pairs combining a

⁶⁹ This parallels the advice the author gives to the rhetor defending the intent of a text in a word versus intent dispute. This parallel makes sense given the multiple *letter versus spirit* dispute nature of the stasis of contradictory passages.

more expected ‘positive’ relation with a less expected opposite or ‘negative’ relation” (*Rhetorical Style* 360). They are *sequence* and *anomalous sequence*; *restatement* and *replacement*; *exemplification* and *exception*; *premise* and *concession*; *conclusion* and *nonconclusion*; *similarity* and *contrast*; *addition* and *alternation* (Fahnestock, *Rhetorical Style* 363-371). Each relation is epitomized by transition words, but they are usually understood or inferred without them. Because these relations are often unmarked in discourse, they are arguable and subject to rhetorical construction. While Fahnestock primarily focuses on relations between sentences that occur in tandem, these relations may be inferred even between non-sequential sentences in the same passage where higher orders of meaning are constructed.

Assimilation

Finally, disputants can also make a move of assimilation (see Chapter 6) or analogy to persuade their audiences that the passages in question are not in conflict (Cicero, *De Inventione* 2.49.147). Assimilation involves extrapolating a meaning from the text that is not explicit by means of analogy. Waltke makes a move of assimilation as part of a larger argument to resolve a contradiction between Deuteronomy 23:3 and the story and legacy of Ruth. Deuteronomy 23:3 prohibits any Moabite, a biblical people group, from ever entering the “assembly of the Lord.”⁷⁰ Yet Ruth, a Moabite, not only married an Israelite, but became an ancestor of David, and is even listed in the genealogy of Jesus in the Gospel of Matthew. Waltke, after suggesting a grammatical solution based

⁷⁰ Deuteronomy 23:3: “No Ammonite or Moabite shall be admitted to the assembly of the Lord. Even to the tenth generation, none of their descendants shall be admitted to the assembly of the Lord...”

on the gender of the Hebrew word for Moabite in the text,⁷¹ argues that, “Similarly, in the case of holy war, the Law mandated the execution of males but not females” (88). Waltke draws a parallel between the prohibition in Deuteronomy and the rules of holy war. Since females were spared death in holy wars, he reasons that they must also be excluded from this prohibition, thus the contradiction in Ruth’s case is resolved. Should disputants offer counter-analogies to resolve a contradiction, an embedded dispute in the stasis of assimilation would arise.

Special Cases

Internal Contradictions: Paradoxes and Oxymorons

So far, almost all of the apparent contradictions examined in this chapter have involved passages, plural. By passages, I mean separate, distinct discourse units.⁷² But an apparent contradiction can also occur *within* a discrete discourse unit. As Aristotle observed with respect to the legal realm, a law may either contain an *internal* contradiction or it may contradict *another* passage within the same text (1.15.9). One problem with the notion of internal versus external contradiction is that the unit of the passage is nebulous. In the judicial realm, one can easily define a passage as a law. But what constitutes a passage in non-legal discourse? A passage, at least in modern written English and probably other languages, would appear to comprise a single syntactic unit or closely related clauses, and an internal contradiction is one that occurs within this range.

⁷¹ Specifically, Waltke argues that because the gender of the word is masculine, the passage only applies to male Moabites (88).

⁷² The reality is a little more complicated. Sometimes the conflicting passages are not always so discrete, e.g. when a passage in a text contradicts the rest of the text (see the Bodde example).

In English, and many other languages as well, there is a special category of internal contradiction called the paradox. William Harmon in *A Handbook to Literature* defines paradox as, “A statement that although seemingly contradictory or absurd may actually be well founded or true. As we approach the conceptual limits of discourse—as commonly happens in philosophy and theology—language seems to rely increasingly on *paradox*” (364; emphasis original). Paradoxes, then, are grammatically connected discursive units that apparently contradict themselves and usually express some profound truth, or at least that is the usual expectation. One example would be Jesus’ exhortation to his disciples (one of his many paradoxical sayings): “Those who find their life will lose it, and those who lose their life for my sake will find it” (Matthew 10:39).

A species of paradox is the oxymoron. Rather than a statement of one or a few sentences, an oxymoron usually comprises immediately juxtaposed words or phrases. In *Romeo and Juliet*, Romeo produces a series of oxymorons in a speech depicting his infatuation with one of the women, not yet Juliet, from the rival Capulet family:

Why, then, O brawling love, O loving hate,
O anything of nothing first create,
O heavy lightness, serious vanity,
Misshapen chaos of well-seeming forms,
Feather of lead, bright smoke, cold fire, sick health,
Still-waking sleep, that is not what it is! (Shakespeare 1.1)

This series of oxymorons helps evoke the powerful, conflicting emotions that Romeo feels in the first scene, foreshadowing the tragic clashes that occur throughout the rest of the play.

There do not appear to be any important differences in the interpretive strategies that disputants use when resolving internal versus external contradictions. Both kinds can be resolved with solutions at the grammatical, semantic, and pragmatic levels. Brooks used a semantic solution to solve the paradox in Donne, and other examples could be found where disputants resolve paradoxes and oxymorons at the other levels.

Asystatic Contradictions

Sometimes disputants acknowledge that a text contradicts itself, but no dispute or attempt to resolve the contradiction follows. In many of these instances we can say the case is *asystatic* (Cf. Hermogenes 32; [Augustine] 15). An *asystatic* issue is a case in which there are no defensible contrary positions.

In some instances, disputants admit that a contradiction is insoluble (one of the classifications of *asystatic* questions recognized by Hermogenes 33), but do not concede that this destroys the integrity or the function of the text. Absolute non-contradiction is not a necessity or value for every person or community. Some persons and communities have a higher threshold for contradiction in their texts, although acceptance of total incoherence after interpretation is not acceptable for most communities. One notable exception might be the school of literary critics known as the deconstructionists.

Deconstruction approaches all discourse as self-contradictory and revels in this state of contradiction “as a never-ending free play of language” (Guerin et al. 377).

Contradictions are discovered not resolved (Guerin et al. 377). When these efforts are aimed primarily or solely at literary texts, the motivation would seem to be part of a general desire to put literary texts into a special category of discourse.

In certain cases, disputants may not admit that an apparent contradiction is insoluble, but will argue that the contradiction must be solved at a later time when there is more information. There is no limit to how often this approach can be taken, especially if a person or community holds a text in high regard and/or past contradictions have been satisfactorily resolved, but some audiences may not find this reasoning particularly persuasive.

In either situation of accepting a contradiction or delaying its resolution, disputants may attempt to minimize the contradiction's significance as a strategy to preserve the integrity of the text. Various tactics can be employed here to shrink the impact of a self-contradiction. The degree to which disputants work to resolve an apparent contradiction is always influenced by the relationship the disputant has to the text. Some rhetors will see any apparent contradiction in a particular text as a reason to reject it (a move of jurisdiction). Others will feel compelled to resolve every apparent contradiction in a text in an attempt to defend against any possible jurisdiction attacks. And there is plenty of non-neutral space in between.

Defending Women's Right to Preach by Solving Textual Contradictions

We now turn back to the example that opened the chapter in order to examine a more complex argument in the stasis of contradictory passages. In this dispute, L. T. Townsend presents an argument in defense of women's preaching using different passages from the Bible than those used by Henry J. Van Dyke to argue against women's preaching (in the legal or classical form of this kind of dispute). Townsend recognizes that these opposed stances and interpretations introduce an apparent contradiction in the

biblical text and he therefore proceeds to resolve the contradiction with “a compromise” (qtd. in Willard 155). Namely, Townsend proposes to amend Van Dyke’s conclusion about women’s preaching to read, “...The Word of God expressly excludes and prohibits *some* women from the work of the ministry” (Townsend qtd. in Willard 155; emphasis original). To support his emendation, Townsend solves the contradiction at the pragmatic level employing a number of solutions, including manipulating circumstantial elements, making moves of assimilation, and comparing the relative illocutionary force of the conflicting passages. In effect, Townsend follows the kind of advice offered in classical manuals for resolving conflicts in the interpretive stasis of contradictory passages.

Townsend first attempts to weaken the force of the Pauline prohibitions by putting them in the category of opinion, thereby placing the two sets of contradictory passages on two planes of authority (Willard 155). To accomplish this feat, Townsend manipulates the circumstantial element of person with respect to the situation of production.

Townsend cites disagreements between Peter and Jesus, Peter and Paul, and Paul and Barnabas, to show that the apostles, some of whom were biblical authors, were not always in agreement with each other or even with Christ (Willard 156). He also cites a time when Peter changed his opinion along with a biblical passage where Paul states his own uncertainty about the divine authority of his views (Willard 156). Both of these citations directly attack the notion that the biblical authors, both Paul and Peter having biblical epistles attributed to them, were infallible. Townsend thus concludes that, “These apostolic opinions [just cited] certainly do not have the characteristics of infallibility, uttered with ‘plenary authority’” (qtd. in Willard 156-7).

Having cited evidence of the apostles' fallibility, Townsend then firmly declares Paul's prohibition in 2 Timothy 2:12 as opinion: "...only an individual opinion is expressed. 'I do not permit a woman to teach' is not even to Timothy a command, much less is it a command to the church of the nineteenth century" (qtd. in Willard 157). Here Townsend notes the illocutionary force of the passage: what is usually considered a *command* actually appears to be *an expression of an opinion*. Thus, according to Townsend, "We must adopt, therefore, this [2 Timothy 2:12] as a law of interpretation, that as to some of the accidentals belonging to the administrative economy of the church the individual opinions of the writers of the Bible need not be regarded as infallible" (qtd. in Willard 157). Because 2 Timothy 2:12 is only Paul's fallible opinion, lacking the true illocutionary force of *command*, it does not contradict those passages which seem to authorize women's preaching.

Townsend also uses assimilation to support his argument. In one move of assimilation, he draws a parallel between Eve's curse, which is referred to in the passage from 1 Timothy that Van Dyke cites, and Adam's curse. Van Dyke argues the Paul's prohibition against women speaking in church is "rooted in the history of creation and in the divinely appointed relation of the sexes" (qtd. in Willard 127). He is presumably referring to the Genesis narrative that recounts that man was made first, then woman,⁷³ and recounts that as part of the curse proclaimed by God after Adam and Eve's disobedience that men "shall rule over" women.⁷⁴ The reasoning of 1 Timothy, which Van Dyke cites, reads, "'For Adam was first formed, then Eve. And Adam was not deceived, but the woman being deceived was in the transgression'" (qtd. in Willard 127).

⁷³ Genesis 2:18-25

⁷⁴ Genesis 3:16: "...yet your desire shall be for your husband, and he shall rule over you."

The logic is that women's subordination to men is ordained by God, not only as part of women's natural state, their first ancestor being formed second as a helpmeet to Adam, but as part of Eve's punishment for disobeying God, especially since she was the one who listened to the serpent.

To refute this conclusion, Townsend draws a parallel between the subordination of women to men and "the struggle with 'thorns and thistles,' and 'the sweat of the brow'" that men are cursed with for Adam's disobedience in the same Genesis narrative⁷⁵ (qtd. in Willard 160-1). He then asks,

But is there to be not restoration?... Or, practically, what shall Christians do?... Shall we increase the toil, the sickness, the pain, and the deaths of mankind, or try to diminish them? Does not the intelligent Christian spirit of the age bid us root out the thorns and thistles, visit and minister to the sick, build hospitals, and make the woes of the world less? (Townsend qtd. in Willard 161)

Knowing that most of his audience will agree that the hardships faced by men and other effects of sin should be alleviated, Townsend draws the following necessary conclusion: "If these human mitigations of the consequences of sin are in harmony with God's will, then it cannot be God's will for men any longer to keep their oppressive heels upon the necks of Christian women. If Christianity bids us lift the curse from man, in the same breath it must bid us lift the curse from woman...." (qtd. in Willard 161-2). Through an analogy to the curse on men and other effects of the Fall, Townsend attempts to persuade his audience that the subordination of women, as part of the curse of the Fall, is to be

⁷⁵ Genesis 3:17-19

abolished not perpetuated. Thus, Townsend's argument subordinates the Pauline prohibition (*letter*) to a more universal principle (*spirit*).

As he nears the end of his response, Townsend employs a series of what Cicero terms the *dilemma*⁷⁶ (*complexio*), “a form of argument in which you are refuted, whichever alternative you grant” (*De Inventione* 1.29.45). In one of these dilemmas, Townsend notes the illocutionary force of biblical *prohibitions* against women's public ecclesiastical speaking cited by Van Dyke and biblical *regulations* of women's public ecclesiastical speaking preaching in 1 Corinthians 11:5⁷⁷ “and elsewhere” (qtd. in Willard 166). He then considers three temporal relations for these prohibitions and regulations in terms of when they were written (circumstantial element of time {when, scene} with respect to the situation of production): the prohibition could either have been written before the regulation, at the same time as the regulation, or after the regulation (Willard 166). In each case, Townsend concludes that the prohibition belongs to the “variables of Christianity” (qtd. in Willard 166). It is not clear what the underlying principle for judging illocutionary forces is here. Perhaps Townsend inverts the Ciceronian scheme and presumes that *permission* (as the “legal” illocutionary force of 1 Corinthians 11:5) precedes *prohibition*. It is also possible that Townsend sees an implicit *command* in 1 Corinthians 11:5 (and other passages), which would fall in line with the Ciceronian vision of enjoyment trumping prohibition. In either case, *regulation* takes precedence over *prohibition* and the biblical passages used to exclude women from the office of preaching are relegated to the “variables of Christianity” (Townsend qtd. in 166).

⁷⁶ Townsend himself uses the word *dilemma* to describe most of these arguments, although it is not clear that he has in mind the rhetorical sense.

⁷⁷ 1 Corinthians 11:5: “But any woman who prays or prophesies with her head unveiled disgraces her head—it is one and the same thing as having her head shaved.”

Thus, we see how Townsend uses the charge of potential contradiction, and the exigence of preserving the integrity of the text, to put the biblical prohibitions against women speaking in church in relationship with other passages of the Bible that permit and authorize this activity. The relationship that Townsend constructs (unsurprisingly) supports his position that women have the right to preach. And as one would expect in a stasis structured according to the antithesis letter versus spirit, Townsend ultimately appeals to the spirit of the text, arguing that Van Dyke's argument is "antagonistic...to the entire spirit of the Gospel of our blessed Lord and Master" (qtd. in Willard 169).

What Can We Learn from Solutions to Textual Contradictions?

Disputes in the stasis of contradictory passages demonstrate that the logical relations of text depend on multiple levels of its construction—grammatical, semantic, and pragmatic. In turn, the interpretation of the significance of a text is highly dependent on these often invisible logical relations. When these relations conform to or do not greatly upset our expectations about the text, they fly under the radar. But when they do fall outside of our expectations, a result which can be provoked through rhetorical construction as much as through accident, then we, if we are invested in the text's integrity, must repair the broken logical relations.

We can consider these apparently broken logical relations or contradictions as problems and the interpretations people use to solve them as solutions. But over time these solutions can become separated from their problems if an audience finds the interpretations of the passages originally in conflict persuasive and accepts them. Over time the original contradiction may cease to be apparent, in essence ceasing to exist for

the audience that accepts the proposed solution, as the new ways of interpreting the passage(s) originally in conflict become habituated, normalized and unquestioned. The passages that were once in conflict may no longer even be considered in the context of one another anymore.

It seems more than likely that interpretive solutions are learnable and that disputants can pick them up and use them in other and future controversies of the same or similar nature. As historian of women's rhetoric Jane Donawerth notes, the same "biblical arguments" were used for centuries in defenses of women's right to preach, some of which appear in the excerpts from Townsend's writing analyzed above (Donawerth 77). In some cases disputants were probably recycling old arguments. In other cases the disputants were probably simply responding to the particulars of similar (enough) rhetorical situations and coming up with similar strategies. In some cases, it may have been a mix of both.

Of course, whenever a solution is applied and accepted, the other logical relations in the text are likewise affected even if not perceptibly. The passages of a text are interconnected and a change in the logical relations in one or two places affects the rest of the structure. Even the most loosely written text may be tightly woven together by the interpretive practices of the community that uses it.

The method laid out in this dissertation gives analysts the tools to examine how individuals and communities yield interpretations through larger to minute rhetorical manipulations of the text. Another approach involves examining an individual or community's hermeneutical orientation. These two approaches can actually be complementary. It is possible that differences in hermeneutical orientations are manifest

in the kinds of solutions disputants tend to choose when faced with an apparent contradiction. For instance, as stated earlier, the letter/spirit divide occurs between semantic and pragmatic solutions. Those with hermeneutical orientations that gravitate to letter-interpretations in the *letter versus spirit* stasis would probably adopt grammatical and semantic solutions when faced with an apparent contradiction, and those with hermeneutical orientations tilted toward a spirit-interpretation in a letter versus spirit stasis would probably adopt pragmatic solutions. Of course, in rhetoric, where the situation largely determines the hermeneut-rhetor's available means of persuasion, we cannot expect there to be a hard and fast rule about such a thing. Sometimes practical concerns trump principle, and the interpretive ends can justify the argumentative means.

Chapter 4: Ambiguity

The late-eighteenth century poet Phillis Wheatley, brought to colonial America from Africa as a child, was the first African American to publish a book in America (Carretta ix). Her 1773 collection of poetry, *Poems on Various Subjects, Religious and Moral*, won the young enslaved poet almost instant fame, albeit for some twisted reasons: her trans-Atlantic audience marveled at her work in part because the prevailing view among whites at the time was that black people were not capable of the same intellectual feats as their white counterparts.

Despite her achievement in breaching the literary color line of her time, twentieth century criticism of both the poet and her work has been especially harsh and unforgiving. In his landmark book on African American literature, *To Make a Poet Black*, originally published in 1939 and reprinted in 1968, J. Saunders Redding describes Wheatley's work as having a "negative, bloodless, unracial quality...that makes her seem superficial, especially to members of her own race" (11). He essentially denies her the status of "slave poet," and barely grants her the status of "Negro poet," writing that, "As a Negro poet she stands out remarkably, for her work lacks the characteristics of thought one would expect to find," and that she "failed to show...racial kinship" (Redding 9, 12, 13). Redding's critique is not unique but rather represents the overwhelming critical response to Wheatley's work in the twentieth century.

One poem of Wheatley's that has received especially negative criticism is "On Being Brought from Africa to America." As Henry Louis Gates, Jr., observes, "This, it can be safely said, has been the most reviled poem in African-American literature" (71). For such a vilified status, the poem itself is relatively short, consisting of only eight lines:

'Twas mercy brought me from my *Pagan* land,
Taught my benighted soul to understand
That there's a God, that there's a *Saviour* too:
Once I redemption neither sought nor knew.
Some view our sable race with scornful eye,
"Their colour is a diabolic die."
Remember, *Christians*, *Negros*, black as *Cain*,
May be refin'd, and join th' angelic train. (Wheatley 53)

Critics have lambasted the poem for "show[ing] her [Wheatley's] gratitude for having been taken from what she perceived as a pagan land, brought to America and taught Christianity" and "its gratuitous alignment of blackness and evil" (Jamison 412; Collins 83).

The last couplet of this poem has received particular scrutiny from critics. The sentence begins with the imperative "Remember," but the referent of its subject, the individuals being implored to remember, is ambiguous. In one reading of the sentence, "*Christians*" functions as a vocative, thereby specifying the referent of the subject of "Remember." This reading thus separates "*Christians*" from "*Negros*," who are linked with Cain, the first murderer in the Bible, but who may still gain salvation. In another reading, "*Christians*" and "*Negros*" are grouped together as a compound subject in the sentence's embedded noun clause, with an elided *that*, such that both "*Christians*" and "*Negros*" are "black as Cain" and that both are in need of salvific refining so that they

may join the “angelic train.”⁷⁸ The ambiguity arising from the question of the syntactic relation of “*Christians*” to other elements in the sentence is, as we will learn later in this chapter, a *grammatical ambiguity*.

In response to this ambiguity, critic Angelene Jamison in 1974 wrote, “And in the last two lines of the poem, “Remember, *Christians, Negroes*, black as *Cain*,/ May be refined, and join th’ angelic train,” she articulates that Blacks too have the opportunity to be saved. However, “Remember, *Christians, Negroes*, black as *Cain*” does not **clarify** whether she perceives Christians and/or Blacks can be black as Cain. The **ambiguity** indicates that possibly before Blacks can be equal to Christians, if ever, they must be refined. The lines also indicate Phillis Wheatley’s acceptance of the curse of Cain and its racist implication. (412; emphasis in italics original; emphasis in bold mine)

Jamison notes the ambiguity pointed out above but finds it unsatisfactory as it “does not clarify” Wheatley’s thoughts about blacks. Jamison concludes that Wheatley accepts the white racist ideology that linked blacks to Cain as part of a biblical argument for considering blacks inferior to whites and enslaving them. At most, Jamison believes the ambiguity suggests that black equality with Christians is possible only if blacks convert to Christianity. Jamison’s interpretation leads her to the ultimate conclusion that Wheatley was not really a “Black poet,” but that “her poetry is a product of a white mind” (415).

⁷⁸ As Fahnestock notes, “members in the same grammatical position [are] therefore by default in the same group.... What holds for most of the members...or the most dominant, will spread over the members” (*Rhetorical Style* 242). Fahnestock calls this effect *bracketing* (*Rhetorical Style* 242).

Yet her admission that the poem includes ambiguities in key lines opens the door for opposing interpretations that place Wheatley in a much different light. In 1981, James Levernier, in a defense of the poem, argued,

On the surface, Phillis Wheatley's "On Being Brought from Africa to America" suggests that Wheatley, as scholars have claimed, accepted the colonial view that slavery, because it brought Christianity to thousands of Africans whose pagan lifestyle otherwise would have condemned them to an eternity in hell, was at worst a necessary evil and at best an absolute good. *Ambiguities*, however, especially in the final couplet of the poem, indicate that Wheatley was far from comfortable with the racist attitudes of her white contemporaries.... (25; emphasis mine)

Levernier acknowledges that from one perspective the poem seems to conform to the pro-slavery attitudes of the time. But he argues that the poem contains intentional *ambiguities*, which point to a different message altogether that refutes those attitudes. The rest of his analysis, which we examine in detail near the end of the chapter, seeks to rescue Wheatley from the charge of racial self-hatred by demonstrating that these ambiguities actually subvert the racialist ideology of her time.

The controversy over the ambiguities in the final couplet of Wheatley's poem "On Being Brought from Africa" is an example of a dispute in the stasis of *ambiguity*. While ambiguity is often seen as a hindrance to interpretation, it can in fact be a powerful resource of argumentation and persuasion for the savvy interpreter-rhetor. In this chapter we will explore the nature of standard cases of ambiguity, types of ambiguity, specific strategies of persuasion that can be deployed in this stasis, and a couple of twists on the

standard case. I end with a brief analysis of two extended arguments in the stasis of ambiguity and a few concluding thoughts.

Arguing over Ambiguity

Disputes or arguments in the stasis of *ambiguity* concern the multiple possible readings that can be elicited from a single linguistic form in a text, with the standard arguments in this stasis advancing one of those readings over the others. Ambiguity in these standard cases is believed to be unintentional and interpreters generally select the sense⁷⁹ that seems to best fit the author's intention. Most linguistic forms have more than one possible sense, perhaps with the exception of certain specially coined technical terms, given that we use a finite number of symbols for an indefinite number of purposes in an indefinite number of contexts.

Yet we are not constantly involved in disputes over ambiguous language in everyday linguistic exchanges. Communication, at least in this respect, generally works—well enough to send people to the moon. There are “powerful stable constraints” that influence how we interpret language, most notably convention and context (including co-text) (Croft and Cruse 109). But convention and context are not enough for interpreting an utterance. Interpreters use information from convention and context in conjunction with related knowledge and assumptions about the world and cultural

⁷⁹ In using the term *sense*, I follow Croft and Cruse's determination of senses as *pre-meanings* (103). There are several steps of meaning construction involved in interpreting any text from deciphering the broader range of meaning elicited by a linguistic form to determining the meaning of the linguistic form in a particular instance of use. Issues of ambiguity, strictly speaking, concern earlier stages in the process of meaning construction, although these earlier stages have direct implications for the final stages of the process. See Croft and Cruse's discussion in “The Dynamic Construal of Meaning” (97-104).

practices, what Searle called “background,” in order to understand the meaning of an utterance (“The Background” 227).⁸⁰ Convention and context provide clues as to what set of assumptions or part of our background knowledge should be brought to bear in a particular instance of interpretation. But sometimes interpreters do not feel or believe they have enough conventional or contextual clues to decide which part of their background knowledge to bring into play and therefore which meaning to choose for a particular linguistic form. When this happens with an individual encountering a text, ambiguity arises.

When multiple individuals are co-constructing the meaning of a text, all participants must agree, at least tacitly, and assume they all agree (tracking), on the relevant conventional, contextual, and background information needed to make decisions about associations of linguistic form and meaning. This shared and tracked information between multiple interpreters is a part of what philosophers of language and cognitive psychologists call *common ground*, “the sum of [the participating individuals’] mutual, common, or joint knowledge, beliefs, and suppositions”, which is necessary for individuals to conduct any joint or coordinated action (Clark 92-93).⁸¹

Thus, disputes over ambiguous language between multiple individuals can arise for one of two reasons. First, all participants believe or perceive that there is a lack of necessary conventional or contextual clues needed to help determine the sense of a

⁸⁰ Croft and Cruse include background, or what they call “stored knowledge,” as part of context, and consider assumptions about the world (“nature of reality”) as a separate constraint on meaning construction (101-103). I am trying to emphasize the distinction between the environment that surrounds the discourse event and what the interpreter brings to the act of interpretation.

⁸¹ Of course, common ground is an important part of individual encounters with a text as well. But in these cases, the author cannot adjust his or her understanding of the common ground with respect to the reader.

linguistic form. They all agree that there is a lack and they all recognize their agreement. The opening example represents a disagreement of this kind. Both Jamison and Levernier agree that there are ambiguities in the final two lines of Wheatley's poem, although they disagree about the significance of these ambiguities.

Second, at least one participant, or some number fewer than all of the parties involved, perceives a lack of necessary conventional and contextual clues and attempts in the first place to persuade the other participants that the passage is ambiguous. We might imagine a case where most Wheatley critics initially did not perceive any ambiguities in "On Being Brought from Africa," but other critics attempted to persuade them that ambiguities did indeed exist in the poem. Persuading other parties that an ambiguity exists in the text would be the first step in persuading them to accept a different interpretation of that text.

In both cases, the perceived lack of necessary conventional and contextual clues creates an exigence, which, in the words of Melanchthon, "engenders argument" (163). However, when a rhetor must persuade the other participants that an ambiguity exists, more initial persuasive effort is required. Therefore, rhetors seeking to exploit the polysemous nature of language do best to choose those linguistic forms which the audience already accepts as ambiguous.

The Four Types of Ambiguity and Their Subtypes⁸²

⁸² The classic classification of ambiguity comes from Empson, who lists seven types of ambiguity. Empson defines ambiguity with respect to readers' potential "alternative reactions to the same piece of language" (1). His classification scheme, a scale of "stages of advancing logical disorder," ranges from any verbal form which is "effective in several ways at once" to full contradiction (48, 2). The classification scheme adopted here is

Even though linguistic forms are just one ingredient in the process of meaning construction, unlike the other ingredients, like context, they *visibly* “prompt” us to *start* the process (Fauconnier, *Mental Spaces* xvii). But different kinds of linguistic forms prompt us to construct different kinds of meaning relations. Therefore, different kinds of linguistic forms give rise to different kinds of ambiguity if other relevant information for interpreting the text is lacking. We can thus classify four types of ambiguity according to the linguistic form that prompts them in the first place: *phonetic*, *lexical*, *grammatical*, and *higher-order*.⁸³ We must keep in mind, however, that interpreters use multiple clues to construct the meaning of a text, which can be used to support one reading of an ambiguity over another as we will see when we turn to the strategies of persuasion that can be used in this stasis.

Phonetic Ambiguity

In *phonetic ambiguity*, the linguistic forms in question generally fall within the rhetorical canon of delivery: pronunciation, pauses, inflection, etc. Thus, with phonetic ambiguity we are largely concerned with oral texts, but some ambiguity that occurs in written, printed, and digital texts could also be classified as phonetic: word spacing, font size, italicization, etc. Attempted oral sarcasm provides an example of oral phonetic

grounded not in the effects that an ambiguity has on a reader, but in the ways that language with respect to its forms and the processes involved in interpretation can give rise to or be construed to produce multiple senses. This approach, in my opinion, lends the approach presented in this chapter more predictive power, insofar as the analyst may guess at where questions or disputes of ambiguity are likely to occur, depending on the particulars of the situation.

⁸³ The first three categories are taken from Ullman (156). The last is taken from Fauconnier, who calls it “discourse processing” (*Mental Spaces* 27-29).

ambiguity. Sarcasm can often be lost on an audience when the inflection too closely mimics another expected intonation form.

For an example of textual phonetic ambiguity, we may look to Quintilian, who gives the following standard ancient rhetorical example (which he himself classifies as lexical): “A man orders that his body be buried [*incultoloco*]”—which could mean either *in a cultivated (in culto)* place or an *uncultivated (inculto)* place, because ancient Latin writers generally did not put spaces between words (7.9.5). While ambiguity due to word spacing may have been somewhat common in Latin, it is less likely in English, which reminds us that instances of ambiguity are always a matter of the particulars of the language (here, its orthography).

Lexical Ambiguity

At the next level, we have *lexical ambiguity*, where the linguistic form in question is a word. There are at least a couple of ways in which words can be ambiguous. In the case of *homonymy*, one word can have multiple senses with respect to the conceptual categories it signifies (Quintilian 7.9.2; cf. Julius Victor 3.12). In “Vagueness and Ambiguity in Hemingway’s ‘Soldier’s Home:’ Two Puzzling Passages,” Milton Cohen points out a lexical ambiguity resulting from homonymy in one of Ernest Hemmingway’s short stories. As he explains, one passage in the story contains “a phrase that can genuinely be read in two opposing ways” (M. Cohen 161). The phrase is, “...and when he occasionally met another man who had really been a soldier and they talked a few minutes in the dressing room at a dance he fell into the easy *pose* of the old soldier

among other soldiers: that he had been badly, sickeningly frightened all the time” (qtd. in M. Cohen 162; emphasis mine). As Cohen points out,

The problematic word here is “pose.” If it means “stance” or “attitude,” it suggests that Krebs, relaxing, can now tell the truth to the fellow-soldier. But if “pose” means a false appearance, then Krebs is simply falsifying his experience once again by pretending he was badly frightened in combat—the common denominator—when in fact he actually performed “easily and naturally.” (162)

“Pose” has two senses: “stance” or “attitude” and “false appearance.” Cohen construes these senses as distinct, relatively unrelated, mutually exclusive meanings that happen to share the same verbal form. In the next chapter, we will examine definitional disputes, in which similarly there are competing senses for the same verbal form. But in the case of definition, interpreters feel that the senses are related to one another by an encompassing sense and the question is the limits or extent of that encompassing sense.⁸⁴

In another kind of lexical ambiguity, the meaning of a word’s parts does not equal the meaning of the whole: “the word has one meaning as a whole and another when broken up” (Quintilian 7.9.4). Cicero referred to the technique of breaking up a word into smaller meaningful parts, what linguists today would call morphemes, as etymology (*Topica* 8.35-37). We therefore might call this kind of lexical ambiguity *etymological*. The childhood musing, “Why do we *drive* on *parkways* and *park* on *driveways*?” illustrates how a word as a whole can have a different meaning when split up into its meaningful parts.

⁸⁴ See Croft and Cruse’s discussion of sense units and sub-sense units (110-136).

Perhaps the most recognizable kind of lexical ambiguity is the *pun*. A pun involves a single term, either phonologically or orthographically, that invokes two or more senses as intended by the author, or so assumed. Hence, people utter the phrase, “no pun intended,” when they notice that they have produced a pun unintentionally. The term may occur once or more than once, although repetition of a word with multiple senses has been traditionally classified as *antanaclasis*, a close relative of the pun (Fahnestock, *Rhetorical Style* 134). Unlike other kinds of ambiguity that are unintentional, for puns to work, the interpreter must hold both or all senses in mind, rather than choose one, in order to experience the intended effect. Here is a series of puns attributed to the nineteenth century rhetorician, Richard Whately: “Why can a man never starve in the Great Desert? Because he can eat the *sand which is* there. But what brought the *sandwiches* there? Why Noah sent *Ham*, and his descendants *mustered* and *bred*” (qtd. in Tartakovsky; emphasis mine). Here we have puns on the three words *sand which is* and the word *sandwiches*; the biblical figure *Ham*, son of Noah, and *ham* being meat; *mustered* meaning to gather and *mustard*, the brown-yellow condiment; and *bred* as in procreation and *bread*, the flour-based staple used to hold together the sandwich.

While it seems quite obvious in this example that Whately is punning these terms, especially given their comedic flavor, whether an author is indeed punning is not always clear and therefore may be disputed. For example, literary critics dispute whether such words as *die* and *Cain* in Wheatley’s poem “On Being Brought from Africa” are intentional puns on the words *die*, as in death versus “dye” meaning the coloring agent

(its more obvious meaning), and *cane* as in sugar cane.⁸⁵ We will discuss the issue of intentionality more fully in the final sections of the chapter.

Grammatical Ambiguity

When the linguistic form in question is syntactic in nature, then we classify the ambiguity as *grammatical*. There are a few subtypes. One subtype includes ambiguity of syntactic relations.⁸⁶ In these instances, the syntactic relations of a particular grammatical constituent are unclear. Quintilian provides a useful example reportedly from the ancient Delphic oracle⁸⁷ to Pyrrhus, the 4th to 3rd century BCE king of Epirus who executed multiple successful military campaigns against Rome,⁸⁸ that holds even in its English translation: “I say that *you*, O child of Aeacus, *the Romans* can defeat” (7.9.6; emphasis mine).⁸⁹ Who can defeat whom? Can the Romans defeat the addressee or can the addressee defeat the Romans? Which noun phrase is the subject and which is the object? In English, we ordinarily determine case by word order. The subject occurs before the verb and the object after the verb. But when both the subject and object occur before the verb, as may happen in poetry, the language itself gives no indication as to which noun

⁸⁵ Levernier makes the argument for these puns (26).

⁸⁶ Cf. Quintilian’s observation that grammatical cases can be ambiguous (7.9.6). But in languages like English, where word order matters more than inflectional endings if they exist at all, we ought to talk about ambiguity with respect to syntactic relations in order to include both synthetic (inflectional) and analytic (word order) languages.

⁸⁷ The Delphic oracle was notoriously obscure, and ambiguity helped to ensure that the oracle’s predictions, no matter the actual outcome of events, were correct.

⁸⁸ “Pyrrhus.”

⁸⁹ “[A]io te, Aeacida, Romanos vincere posse” (Quintilian 7.9.6).

phrase should be assigned which role (except in cases when the verb and subject display number agreement).⁹⁰

Ambiguity can also arise from questions of phrase boundaries or constituency. Quintilian explains that these instances arise “when it is doubtful what refers to what, especially when there is a word in the middle of a sentence which may be taken either with what precedes or with what follows” (7.9.7). Sentences, and utterances more generally, consist of phrases, single words or groups of words that function as units. Sometimes, however, it may not be clear, or it may be argued that it is not clear, whether certain words belong to one phrase or another within a larger sentence or utterance.

We find an example of a controversy over ambiguous phrase boundaries in Augustine of Hippo’s *De doctrina christiana*. The dispute is over the first two verses of the Gospel of John. In English the ambiguity is best displayed by the following: “In the beginning was the Word and the Word was with God and God was *the Word this* was in the beginning with God” (John 1:1-2; translation and emphasis mine). In the Latin translation used by Augustine and many others at the time, as well as in the original Greek, the word translated as “this” can function as the subject of its own sentence, separate from “Word,” producing the following division: *...and the Word was with God and God was the Word. This (one) was in the beginning with God.* “This” can also be taken as a demonstrative modifying “the Word,” thus producing this division: *...and the*

⁹⁰ The ambiguity in the English translation, of course, is an attempt to mirror the original ambiguity in the Latin. In the Latin text, both “*te*” (you) and “*Romanos*” (Romans) are in the accusative case, which ordinarily would signal them as the objects of the verb, but here they are part of an indirect statement, a noun clause introduced by a verb of thinking, saying, or feeling, and, according to Latin grammatical conventions, subjects and objects in these constructions are in the accusative case. Thus, as in the English translation, the original Latin grammar gives no indication as to whether “*te*” (you) or “*Romanos*” (Romans) is the subject or object.

Word was with God and God was. This Word was in the beginning with God. The first construction reflects the mainstream or “orthodox” division of the passage in Augustine’s time and the division that Augustine himself championed (Augustine 3.2.3). But apparently there was a “heretical” division at this time as well that divided the passage in the second way (Augustine 3.2.3). Antique Latin writers generally did not separate sentences with punctuation marks as we do today in English; therefore, ambiguities of sentence division in written script, an issue of phrase boundaries, would have been more common.⁹¹ This particular ambiguity had serious theological implications. As Augustine explains, “This heretical punctuation does not allow that the Word [Christ] is God...” (3.2.3). The mainstream division, on the other hand, championed by Augustine, affirms the full divinity of Christ.

Another kind of grammatical ambiguity involves a question of reference. In homonymy, there is a question of competing senses of a word, but even when the sense is clear, there may still be a question of reference.⁹² By reference, I mean that the word or phrase in question presupposes something else somewhere else for its specific identification (Halliday and Hasan 31, 32, 37). While campaigning for re-election in 2012, Barack Obama uttered a widely acknowledged ambiguity of this kind that caused him much political grief. In a speech he gave at a fire station in Roanoke, Virginia, Obama argued that wealthy Americans should not receive tax breaks, a major point of contention in the 2012 presidential election cycle. As part of this argument he stated,

⁹¹ Interpreters must rely on inflections, pauses, convention, past instances, and intuition in order to sort out these kinds of ambiguities in oral texts. In this respect, unpunctuated written texts are very similar to oral texts.

⁹² Quintilian groups ambiguities of homonymy and reference under the single head of homonymy (7.9.2-3).

If you were successful, somebody along the line gave you some help. There was a great teacher somewhere in your life. Somebody helped to create this unbelievable American system that we have that allowed you to thrive. Somebody invested in roads and bridges. If you've got a business—you didn't build *that*. Somebody else made that happen.⁹³ (Obama; emphasis mine)

The ambiguity here that caused Obama subsequent trouble involved the demonstrative pronoun “that.” Does “that” refer to “business” or “this unbelievable American system?”⁹⁴ If the antecedent is “business,” Obama is making an anti-free enterprise claim that government is responsible for businesses and their success, a statement that would raise the ire of business owners and further alienate him from voters on the right side of the political spectrum. But if the antecedent is “this unbelievable American system,” then Obama is making the claim that the government is responsible for the infrastructure that has helped foster the success of businesses, a much less controversial statement. As one might imagine, Obama’s political foes interpreted this ambiguity in the former manner, while Obama insisted on the latter interpretation.

Higher-order

⁹³ While this excerpt is taken from the official transcript posted on the *White House* website, it does not precisely record what Obama said. Obama actually said, “If you’ve got a business, *that*—you didn’t build that” (“President Obama Campaign Rally;” emphasis mine). The official transcript omits the first “that.”

⁹⁴ Another reading that circulated at the time construed the ambiguity as a choice between “business” versus “roads and bridges” for the antecedent of “that.” This construal of the ambiguity tended to favor the “business” reading because ordinarily demonstrative pronouns agree with their antecedents in number. Therefore, “business” would be the more likely referent. But “roads and bridges” is not an implausible reading: in speech someone might use *that* to refer to a plural antecedent, as they would when *that* is used as a relative pronoun.

Sometimes the ambiguity of a linguistic form is not specifically linked to its phonetic, lexical, or grammatical properties, but to what Gilles Fauconnier calls its “space-building potential” (*Mappings* 65). According to Fauconnier, “Mental spaces are the domains that discourse builds up to provide a cognitive substrate for reasoning and for interfacing with the world” (*Mappings* 34). These spaces represent the cognitive structures we use to think and talk about real and possible worlds (*Mental Spaces* xxxvi). According to this theory, situations, depending on their status relative to the current real world as experienced and acknowledged by interlocutors, are organized into separate but interconnected mental spaces (Croft and Cruse 33; Fauconnier, *Mappings* 38-39, *Mental Spaces* 16-22). To the extent that language prompts us to construct these mental spaces, it can prompt us to make multiple competing and even mutually exclusive space constructions. Linguistic forms, thus, can also be ambiguous in this way. As Fauconnier explains, “The language form contains *underspecified* instructions for space building” (*Mappings* 65; emphasis original). Because these ambiguities more directly involve higher cognitive processes, I call them *higher-order* ambiguities.

Fauconnier supplies a helpful example: “In that movie, a former quarterback adopts needy children” (*Mental Spaces* 23). In this sentence, the prepositional phrase *in that movie* prompts the interpreter to construct a mental space that represents a movie. But the relationship between this space and the person identified as *a former quarterback* is ambiguous. Do we have a person who used to be a quarterback in reality, who now as an actor plays a character who adopts needy children in a movie? Or do we have an actor who plays a former quarterback who adopts needy children in a movie? The sentence in isolation could prompt either reading and just as with other kinds of ambiguities,

interpreters can use context and background assumptions to persuade audiences to accept one reading over another.

Marshalling Evidence from Convention, Context, and Background

Ambiguity, like contradiction, presents an interpretive problem for rhetors to solve given an exigence requiring one reading, and there are several persuasive techniques at the rhetor's disposal for defending the preferred reading. These techniques involve marshalling evidence from linguistic convention, context, and the language user's background assumptions. More specifically, rhetors can appeal to standards of usage, context, and/or the author's motives, make arguments regarding how easily one can comply with competing readings, and rewrite ambiguous passages to fit possible readings. In the standard case, the rhetor's ultimate goal is to convince the audience that in fact no ambiguity exists, so that the audience only sees the rhetor's preferred reading.

Standards of Usage

Perhaps the most powerful argument available to a rhetor in support of a particular reading among multiple possibilities is that the favored reading is in line with the standards of usage for a certain discourse community. Many times it will be the ordinary usage of the discourse community that the audience is a member of. Indeed, the most powerful line of argument in this stasis may be that the favored interpretation matches how the verbal form would be used in an ordinary conversation among audience members. As Cicero relates, "In the first place it should be shown, if possible, that there is no ambiguity in the statement, because in ordinary conversation everyone is

accustomed to use this single word or phrase in the sense in which the speaker will prove that it should be taken” (*De Inventione* 2.40.116).⁹⁵ The more distant the discourse community to which the audience belongs is from the discourse community to which author of the text in question belongs, the more difficult this line of argument is to sustain.

But it is not necessary that the standard of usage be ordinary conversation or that the audience be a member of the discourse community in question. After all, the point, usually, is to get after what the author intended, and that means understanding the standards of usage as the author would have understood them. When the text is sufficiently distanced from the audience, either culturally, temporally, or even linguistically, the standards of usage in ordinary conversation as the audience understands them will not do. Questions of standards of usage, for example, are often key in U.S. Constitutional interpretation and judges have been known to consult dictionaries contemporaneous with the Constitution’s drafting to determine how words were used at the time in order to resolve textual ambiguities. All of this, of course, depends on how the audience understands its relationship to the text. An audience that does not see itself as distanced from the text or believes that meaning in language is acontextual will see no need to make distinctions between current standards of usage and the standards adhered to by the author.

Co-text

⁹⁵ Cf. the *Rhetorica ad Herennium*’s advice to argue that “the text is not ambiguous since one well understands which is the true sense” (2.11.16).

Another element at the rhetor's disposal is the co-text or the text surrounding the ambiguous linguistic form in question. As Cicero explains,

It must be shown that from *what precedes or follows in the document* the doubtful point becomes plain. Therefore, if words are to be considered separately by themselves, every word, or at least many words, would seem ambiguous; but it is not right to regard as ambiguous what becomes plain on consideration of the *whole context (omni...scriptura)* [co-text]. (*De Inventione* 2.40.117; emphasis mine)

Of course, if an ambiguity is acknowledged to exist, then the co-text was not enough to ensure clarity in the first place. Therefore, the rhetor's task is one of emphasis and de-emphasis: to emphasize those parts of the co-text that support the favored interpretation(s) and undermine the disfavored interpretation(s), while de-emphasizing those parts that do the opposite. Again, Cicero here is instructive: "One ought...to examine the whole document which contains the ambiguity in question in all its parts, to see if anything is apposite to our interpretation or opposed to the sense in which our opponent understands it" (*De Inventione* 2.40.117).⁹⁶ This dual process of emphasis/de-emphasis can take the form of structuring the relationship between parts of the co-text so that the disfavored portions are subordinated to the favored portions. Indeed, the process of emphasizing/de-emphasizing the co-text amounts to reconfiguring the co-text in the audience's mind.

⁹⁶ Cf. Cicero's more specific advice regarding laws: "Then if the controversy arises over an ambiguity in a law, we must try to make it appear that the interpretation which our opponent offers is dealt with in another law" (*De Inventione* 2.41.119).

A rhetor can also make a related move of *jurisdiction* and argue that certain parts of the co-text are simply not relevant to resolving the ambiguity. (This of course opens up the possibility for an embedded debate in the stasis of *jurisdiction* over the part of the co-text in question.) What counts as relevant co-text is always up for debate.⁹⁷ For the analyst, the available co-text is any text that exists with the ambiguity in the same larger text or document. Textual boundaries are always arguable, so analysts must be sensitive to the boundaries as defined by the individuals and communities whose interpretive-rhetorical practices they are studying and be clear about how they as analysts have determined the boundaries of the text in question for the purposes of analysis.

In the subsequent controversy over Obama's ambiguous "that," co-text played a significant role in how politicians and pundits persuaded audiences of the word's correct interpretation. The Romney Republican campaign for president, for example, posted a video on its website that replays a three second-video clip from Obama's speech five times in which Obama says, "If you've got a business, that—you didn't build that" ("Hard-Working Americans").⁹⁸ Video editing techniques allow modern rhetors to modify circulated copies of video-recorded oral texts (the same is true for "simpler" audio recordings), and in this case the Romney campaign de-emphasizes or rather erases most of the ambiguity's co-text by eliminating it.⁹⁹

⁹⁷ Cicero seems to have a limited textual range in mind regarding the surrounding text ("the whole context"). His advice regarding the "the whole document (*ipsam scripturam*)," literally "the text itself," is actually given in connection with considering extra-textual context (*De Inventione* 2.40.117).

⁹⁸ Although the first "that" is heard in the video, it is removed in the quoted text accompanying the video on the Romney campaign website, as it is in the official transcript on the *White House* website.

⁹⁹ Replaying the clip five times is a technique of amplification and, besides underlining Obama's words, heightens the interpretive effect of the chosen co-text on the ambiguity.

On the other hand, one political commentator, David Weigel of *Slate*, emphasizes Obama's gestures as a crucial part of the co-text for interpreting the ambiguity, arguing that "that" refers to all of the things that have helped business owners succeed:

Watch (again, can't believe I'm saying this) the body language. Obama is gesticulating to count off the various ways people have been helped—great teacher, American system. At 0:44, he says "somebody invested in roads and bridges," and gyrates his arms as if mapping out said roads and bridges. "If you've got a business," he says, making one more gyration, "that—you didn't build that." The extra "that," a false start, is not captured in transcripts. It really looks like "that" refers to the stuff that business-builders utilized on the way up, not the businesses themselves. Obama switched up, mid-sentence. These things happen.

What really convinces me, here, is that the Fox News and Romney campaign versions of the clip start RIGHT AFTER the gyrations. (Emphasis represented by capital letters original)

Weigel's observations about Obama's gestures and the Fox News and Romney campaign versions of the clip demonstrate not only the role of gesture as co-text but also the disputational nature of interpretation even when it comes to video recordings. His comments illustrate that the modification of video clips through editing is not necessarily taken for granted, but can be identified as a means of interpretation subject to dispute and refutation with other evidence.

Context

Rhetors, to support their readings of ambiguous linguistic forms, can also go outside of the text for available contextual evidence in the author's "other writings, acts, words, disposition and in fact his whole life" (Cicero, *De Inventione* 2.40.117). Cohen, for example, in determining the meaning of the word "pose" in Hemingway's "Soldier's Home," looks to a previous draft of the story, in which Hemingway wrote, "that easy pose," with "that" being replaced by "the" in the final version (qtd. in M. Cohen 162). Cohen argues that, "The rejected version seems to emphasize 'pose' as a false front—'that one' we know so well—not Krebs's relaxed stance" (M. Cohen 162). Cohen sees this fact as further evidence that Hemingway meant "pose" as "false appearance" rather than "stance" or "attitude."

As Cicero explains, "For it is easy to estimate what it is likely that the writer intended from the complete context and from the character of the writer, and from the qualities which are associated with certain characters" (*De Inventione* 2.40.117). Such contextual considerations may also take time into account, that is *when* the text containing the ambiguity in question was written (Cicero, *De Inventione* 2.41.121). Narrowing the temporal scope of the considered context could arguably give one a more precise reading of the ambiguity by circumscribing the range of relevant contextual clues. Of course, any strategy that makes use of contextual clues rests on the assumption that the author's character, actions, and linguistic acts, including the one in question, are, at least to a degree, coherent.

Motives

Another strategy involves making claims about the assumed motives of the author of the text in question. These motives could be general motives that those interpreting the text assume guide most people or they can be more specific to the individual author. Cicero's suggested strategy to consider "whether it will not appear if we accept the interpretation proposed by our opponent, that the writer neglected something more expedient, more honourable or more necessary" relies on the assumed general motivations of expedience, honor, and necessity (Cicero, *De Inventione* 2.41.119). Other motives work as well. Further, this strategy can easily go hand-in-hand with marshalling evidence from the larger context.¹⁰⁰

We see an example of an appeal to motive in Hanna Roose's interpretation of a widely recognized ambiguity in the original Greek in 2 Thessalonians 2:2: "not to be quickly shaken in mind or alarmed, either by spirit or by word or by letter, *as*... from us, to the effect that the day of the Lord is already here" (emphasis mine).¹⁰¹ A lexical ambiguity, the Greek conjunction in this verse, *hōs*, can be read two ways: either as "supposedly" or "as," yielding two different readings: "a letter supposedly (*hōs*) [but not truly] from us" or "a letter as (*hōs*) [truly] by us" (qtd. in Roose 108; alternate readings original; Greek interpolations mine). Although most scholars, according to Roose, believe that this ambiguity is unintended and therefore attempt to argue for one meaning or the other, Roose believes the ambiguity is deliberate and therefore she affirms both meanings (108). Her belief in the intentionality of the ambiguity rests on her view that the

¹⁰⁰ This link between motives and context matches Burke's claim that "any complete statement about motives will offer *some kind of* answer to these five question: what was done (act), when or where it was done (scene), who did it (agent), how he did it (agency), and why (purpose)" (*Grammar* xv; emphasis original).

¹⁰¹ The ellipses represent the word *though* whose inclusion reflects which side of the controversy this set of translators falls on.

letter, which the Christian church has traditionally attributed to the Apostle Paul, is inauthentic. Convinced that the letter is inauthentic, she argues that the author was motivated by “a clash of interests between...the author’s struggle for relevance and...his struggle for (alleged) authenticity” (Roose 117). By this assertion, Roose means that the author of 2 Thessalonians wants to, on the one hand, signify that he (or she) was the author of 1 Thessalonians, the referenced “letter” that was “[truly] by us,” and in doing so influence subsequent interpretations of 1 Thessalonians; and, on the other hand, suggest that the letter referenced in this verse was not 1 Thessalonians but perhaps “some forged letter” unknown to the readers of 2 Thessalonians (Roose 118, 119). According to Roose, the latter suggestion, in conjunction with the fact that 2 Thessalonians makes no other specific reference to 1 Thessalonians, implies that 2 Thessalonians is the older of the two letters, which therefore argues for 2 Thessalonians’ authenticity (Roose 116). Thus, Roose appeals to the general motives—relevance and authenticity—of authors attempting to write texts under the name of other well-known authors, a practice known as pseudepigraphia that was rather prevalent in antiquity.

Ease of Compliance

Another consideration that rhetors may use to persuade their audiences in this stasis is the comparative ease of complying with competing interpretations. (This strategy is not particularly useful when the text in question has little bearing on the beliefs or behaviors of the audience.) Cicero writes, “In the next place it should be pointed out, if opportunity presents, that the interpretation which our opponent favours can be followed with much less convenience than the one which we take, because there is no way of

carrying out or complying with his interpretation, whereas what we propose can be easily managed” (2.40.118). Similarly, the anonymous author of the *Rhetorica ad Herennium* advises that the rhetor argue “that [his or her] interpretation is practicable, and practicable in conformity with the Honourable and the Right, with Statute Law, Legal Custom, the Law of Nature, or Equity; of our adversaries’ interpretation the opposite is true” (2.11.16). For both Cicero and the author of the *Rhetorica ad Herennium*, rhetors can appeal to how easily audiences can follow a reading in their actions (or beliefs) in arguing for a particular interpretation of an ambiguity. When employing this strategy, the rhetor acknowledges, even if implicitly, that there are constraints on the audience’s ability to comply with an interpretation and those constraints must be taken into account.

Cicero provides the following imaginary case as an example. An ambiguous law states: “A prostitute shall not wear a crown of gold; if she does, the penalty shall be confiscation as public property” (Cicero, *De Inventione* 2.40.118).¹⁰² As the English attempts to capture, the ambiguity here—in the English, a grammatical ambiguity as a result of the elision of the object of *confiscation*—raises the question of whether the prostitute or the crown is to be confiscated when a prostitute violates this law. A few of the arguments that Cicero suggests can be used against a litigant who argues that the prostitute should be confiscated include “that there is no way to manage a prostitute as state property,” “that it is easier to administer and comply with the law by seizing the gold,” and “that it causes no inconvenience” (*De Inventione* 2.40.118). The thrust of all

¹⁰² “*Meretrix coronam auream ne habeto; si habuerit, publica esto*” (Cicero, *De Inventione* 2.40.118). The ambiguity in the Latin comes from the gender of the adjective *publica* (“public property”) which is feminine and therefore can modify either *meretrix* (“prostitute”) or *coronam* (“crown”). Thus, it is grammatically ambiguous as to which, the prostitute or the crown, the law states shall become public property should a prostitute violate this law.

of these arguments is that the reading of the law in which the gold is confiscated is the more practical interpretation from a law enforcement standpoint and therefore is to be preferred.

Rewriting the Ambiguity

Another strategy is to rewrite the passage containing the ambiguous linguistic form so that the ambiguity disappears and the rewritten passage explicitly conforms to the proposed reading(s). By rewriting the passage, the rhetor attempts to vividly show what the author did or did not intend. As Cicero explains, “Therefore in such cases it will be necessary to make use of this kind of argument: ‘He would have written it in this way,’ ‘He would not have used that word,’ ‘He would not have put that word in that place.’ For these considerations particularly reveal the intention of the writer” (*De Inventione* 2.41.121). Both Cicero and the anonymous author of the *Rhetorica ad Herennium* only advise rewriting the passage according to a disfavored interpretation (*Rhetorica ad Herennium* 2.11.16; Cicero, *De Inventione* 2.41.120). Neither author explains their reasons for this one-sidedness, but the reason is probably that rhetors should want to show that their interpretation is expressed in the text as-is, while the opponent’s interpretation can only be found in a re-worded version of the text. In other words, if the author had intended the opponent’s interpretation, he or she would have written it in another way. Thus, rewriting a passage to more clearly express one’s own interpretation can potentially weaken one’s argument if the audience feels that there is too great of a difference between the interpretation you propose as represented by the rewritten text and the actual text (hence, why it can be a great way to attack opposing

interpretations). Regardless, rhetors *can* rewrite passages to conform to their own interpretations, wisely or not.¹⁰³

Vincent Carretta uses this technique, even rewriting the passage in question according to his preferred interpretation, in arguing for a more positive reading of the notorious lines from Wheatley's "On Being Brought from Africa" discussed at the outset of the chapter:

Wheatley may be subverting conventional equations of blackness with evil and whiteness with good. The imperative "Remember" may not be addressed solely to Christians. Perhaps we should not read the final couplet as "Remember, *Christians*, [that] *Negros*, black as *Cain*, / May be refin'd, and join th' angelic train." It may also be read very differently as "Remember, [that] *Christians*, *Negros*, black as *Cain*, / May be refin'd, and join th' angelic train." In the second reading blackness would still be associated with sin, but it would more clearly be used metaphorically rather than physically. (64)

By interpolating the word "that" (in both cases, a complementizer), Carretta more vividly represents two of the possible readings of these lines.¹⁰⁴ The first reading, with "that" before "*Negros*," places everything to the right of "that" in a noun clause, functioning as an object of the verb "remember," so that only "*Negros*" are "black as *Cain*," the first murderer in the Bible. But in the second reading, Carretta places "that" before "*Christians*" so that both "*Christians*" and "*Negros*" are included in the noun clause as

¹⁰³ Quintilian gives a few examples of remedying ambiguous language that could be useful for this particular strategy (7.9.9-12).

¹⁰⁴ Carretta identifies two overlapping grammatical ambiguities here: one of syntactic relation (is "*Christians*" a vocative?) and one of phrase boundary (does "*Christians*" belong in the main clause or in the subordinate noun clause?).

the nouns modified by the adjective phrase “black as *Cain*.” Even though Carretta does not definitively throw his critical weight behind the second interpretation, his literal spelling out of the alternative readings is highly suggestive.

Erasing the Ambiguity from the Audience’s Mind

Of course, the ultimate strategy and goal is to convince audience members that there is no ambiguity, while persuading them that the favored interpretation is correct. The rhetor attempts to get the audience to skip future processes of choosing between senses involved in interpreting the ambiguity in question. As Cicero urges, “In the first place it should be shown, if possible, that there is no ambiguity in the statement...” (2.40.116). It is to the rhetor’s advantage to ultimately eliminate the appearance of an ambiguity from the audience’s mind so that when they read or think of the portion of the text in question only the reading put forward by the rhetor comes to mind.

Special Cases

Arguing for Multiple Senses

While in the standard case interpreters assume that the ambiguity in question was unintentional, in certain cases interpreters assume that the author of the text in question intended to be ambiguous to make the text “pregnant” with meaning. (Levernier’s argument concerning the final couplet in Wheatley’s poem, examined in greater detail in the penultimate section of the chapter, provides a good illustration.) Generally, it is easier to judge when an ambiguity is unintentional than intentional. There are certain circumstances when a text cannot or should not be ambiguous. For instance, laws must

have non-ambiguous meanings for the purposes of adjudication. But even when ambiguity is valued, in literary criticism for example, it is not always clear that the identified ambiguity was intended by the author.

We might call the more complex meaning that can be evoked by presumed deliberate ambiguity *significance* to distinguish it from the multiple *senses* evoked at the linguistic level by an ambiguity. The multiple senses evoked by a deliberate ambiguity are thus instrumental for construing a text's significance. The ambiguity, then, becomes something like a riddle to solve, as in the case of paradoxes in the stasis of *contradictory passages*. Therefore, the goal in these instances is not to get rid of the ambiguity by choosing one of the possible senses over the others, but to exploit the ambiguity by discovering its multiple senses and thus enrich the text's overall significance. This fact does not mean that the multiple senses evoked by the ambiguity necessarily have equal standing. The functions and relationships between the multiple senses of a single linguistic form can be complex. For instance, one sense might act as a kind of cover for another more covert sense, perhaps so that the author could communicate two different arguments to two different audiences, one of which might be hostile to the more covert argument. We see this argument deployed by Levernier and another defender of Wheatley and her poetry in the penultimate section of this chapter.

Sometimes interpreters do not necessarily assume authorial intention with respect to an ambiguity but instead elevate a text to such a level that they expect it to yield multiple meanings. Such an elevation may result from the text functioning across

multiple contexts, cultural, temporal, and geographical.¹⁰⁵ Sacred texts are often elevated in this way. As in the case of intentional ambiguity, interpreters do not necessarily attempt to whittle down the ambiguity's multiple senses to one, but use the ambiguity's multiple senses to enrich the text's significance according to their particular ideological frames.

In either the case of assumed authorial intention or textual elevation (and the two can feed off one another), rhetors use the same strategies or topics as we find in cases of presumed unintentional ambiguity to defend and attack possible readings. The major difference is that in these two cases—intentional ambiguity and ambiguity from elevation—there is not the same pressure to resolve the ambiguity. Only when the ambiguity is presumed to be unintentional does the ambiguity present an exigence that calls for interpreter to choose one reading over others. Still, it is necessary to defend one's interpretation even when the ambiguity is presumed to be deliberate because interpretations must be grounded in the available evidence from convention, context, and background. Otherwise the rhetor is liable of being accused of pulling an interpretation out of thin air or advancing an interpretation that is disconnected from the text. There may not be pressure to resolve an ambiguity, but an interpretation is always open to attack.

Asystatic Cases of Ambiguity

¹⁰⁵ Such elevation can also have the opposite effect and lead interpreters to have a relatively low tolerance for ambiguity. These individuals or communities may feel that the text's universal applicability rests on its clear, unambiguous nature.

Just like with contradictory passages, disputes over ambiguities can also be asystatic. An asystatic issue is a case in which there are no defensible contrary positions. Sometimes interpreters believe they are faced with an ambiguity for which the lack of conventional, contextual, and background information is so great that it cannot be resolved. A choice between possible readings cannot be made. In these instances, when an interpreter or a group of interpreters resigns itself to this conclusion, implicitly or explicitly, we may say that we have an *asystatic case of ambiguity*. Quintilian, who seems to believe all disputes in the stasis of ambiguity are in a sense asystatic without sufficient exigence (although he does not use this term in his discussion of this stasis), offers a description that is apt for such cases: “Nor does it really matter how an Ambiguity is produced or resolved. It is obvious that two things are signified, and, so far as the written or spoken word is concerned, the two sides are equally balanced” (7.9.14).¹⁰⁶ In other words, without sufficient conventional, contextual, and background information, all of the possible interpretations are equally plausible. The possible interpretations have equal claim to being correct and no evidence apparently exists that tips the scale in favor of one over the other. Of course, whether a linguistic form is ambiguous even to the point of being unsolvable is determined by the involved interpreter-rhetors.

Augustine appears to recognize such cases in the context of biblical interpretation when he writes, “When neither principles of faith nor the context is sufficient to explain

¹⁰⁶ Quintilian goes on to say, “It is therefore futile to recommend that, in this Issue, we should try to turn the expression itself to our advantage, because if that can be done, there is no Ambiguity. The whole question in any Ambiguity rests *sometimes* on which is the more natural interpretation, but *always* on which is the more equitable and which the writer or speaker intended” (7.9.14-15; emphasis original).

an ambiguity, there is nothing to prevent our punctuating the passage in any of the various possible ways.... Distinctions in interpretation of this kind may be made at the will of the reader” (3.2.5). Thus, Augustine gives interpreters of the Bible some freedom in their interpretation of ambiguities in certain asystatic cases. In these cases, interpreters may choose the reading they wish, as long as it does not contradict church doctrine, and presumably differing interpretations of an asystatically ambiguous passage do not cancel each other out, as there is no way to choose between them.

Rescuing a Poet’s Reputation with an Appeal to Intentional Ambiguity

Like the other two stases we have examined so far, strategies of persuasion in the stasis of *ambiguity* are rarely used in isolation. The debate over Phillis Wheatley’s poem “On Being Brought from Africa” that opened this chapter nicely illustrates a dispute in this stasis with literary critics employing a variety of tactics to defend their stances and attack the stances of others. Specifically, we shall examine the arguments of two literary critics, James Levernier and Mary McAleer Balkun, who attempt to shift the general critical opinion of Wheatley and her work from the prevailing view that as a poet she was disconnected from the plight of other enslaved blacks to the view that she in fact used her poetry to subversively influence the oppressive racist structures that enslaved her people. Both Levernier and Balkun support their more positive appraisal of Wheatley and her work by arguing that Wheatley was deliberately ambiguous in works like “On Being Brought from Africa.” Appealing to Wheatley’s motives and drawing on contextual evidence to support their readings of this poem, specifically its last two lines, Levernier and Balkun argue that unlike later African American writers, Wheatley had severe

constraints on what she could write. Thus, she had to write ambiguously to escape censure.

In his article “Wheatley’s ‘On Being Brought From Africa to America,’” Levernier argues that the final couplet of the poem contains a “deliberate ambiguity” in order to “drive home” the point “that Christians should practice what they preach” (26). The ambiguity, according to Levernier, involves “who is being addressed by the verb ‘Remember’” (the grammatical ambiguity noted in the beginning of the chapter). Levernier concedes that Wheatley “seems” to be addressing “*Christians*,” but he argues that, by italicizing the three nouns, “*Christians*,” “*Negroes*,” and “*Cain*” (an instance of textual phonetic ambiguity), “she links the three terms rhetorically, thereby creating a level of ambiguity in line with the deeper message of the poem” (Levernier 26). According to Levernier, the “deeper message,” which he also refers to as the “context,” is that Christians, black or white, are sons of Adam and therefore equal inheritors of “the fruits of original sin” including “slavery and economic greed” (26). More generally, the state of the soul is not marked by the color of one’s skin but by one’s motives and actions (Levernier 26). Thus, Levernier justifies his reading of this passage as deliberately ambiguous by connecting it to the poem’s “deeper” argument, which is in line with Cicero’s advice to rhetorically consider ambiguities in light of the “whole [textual] context” (*De Inventione* 2.40.117).

But Levernier’s claim that the ambiguities in Wheatley’s poem are intentional ultimately rests on an appeal to her motives as an author. In the beginning of his article he asserts, “...while *propriety* kept a black female slave from *openly* criticizing an institution like slavery, Wheatley used her considerable linguistic talent to *embed* in the

poem, at a very *sophisticated level*, a far *different message* than that which the poem *superficially conveys*” (Levernier 25; emphasis mine). Levernier argues that Wheatley, for reasons of “propriety,” intentionally made her poetry ambiguous, to avoid directly denouncing chattel slavery. He interprets her poem’s ambiguities as evidence of her discomfort with contemporaneous white racist attitudes rather than ambivalence about the condition of her people (Levernier 25).

In her 2002 article, “Phillis Wheatley’s Construction of Otherness and the Rhetoric of Performed Ideology,” Mary McAleer Balkun pushes back against critics who would argue that Wheatley’s poetry is “devoid of racial awareness” (121).¹⁰⁷ To combat such criticism, she offers a rhetorical analysis of two of Wheatley’s poems, including “On Being Brought from Africa,” assuming that, “The results can *only* be a deeper and more critical *appreciation* of this founding mother of African American literature” (132; emphasis mine).¹⁰⁸ Balkun takes for granted that rhetorical analysis of Wheatley’s works, including importantly an assessment of her audience, will only yield the poet critical appraisal.

Balkun claims that Wheatley’s poems, including “On Being Brought from Africa to America,” “were designed to manipulate [her] audience [of elite, white, powerful men] in very specific ways,” an argument from motive (122). She argues that Wheatley specifically employed intentionally ambiguous language, like puns and double entendres, to accomplish this goal (Balkun 132). Noting that the ambiguities of the line, “Remember, *Christians, Negroes* black as *Cain*,” have “become a commonplace in

¹⁰⁷ For examples, see Redding and Jamison discussed briefly in the beginning of the chapter.

¹⁰⁸ In many ways, the critical divide over Wheatley’s work reflects the divide between a hermeneutics of suspicion and a hermeneutics of faith described by Ricoeur (28-36).

analyses of the poem,” she lists three ways that the line has been read: “It has been variously read as a direct address to Christians, Wheatley’s declaration that both the supposed Christians in her audience and the Negroes are as ‘black as Cain,’ and her way of indicating that the terms *Christians* and *Negroes* are synonymous” (Balkun 131). But rather than defending one reading over the others, as other critics, Balkun, presuming that the ambiguities in this line are intentional, advances that “all three readings operate simultaneously to support Wheatley’s argument,” her argument being that “...the only ones who can accept the title of ‘Christian’ are those who have made the decision not to be part of the ‘some’¹⁰⁹ and to admit that ‘*Negroes*.../May be refin’d and join th’ angelic train’ (7-8). They must also accede to the equality of black Christians and their own sinful nature” (Balkun 131).

Balkun’s argument from motive, which supports her assertion that these ambiguities are intentional, is further supported by her appeals to the socio-cultural context of the poem. Most of her contextual arguments rely on a reconstruction of one of Wheatley’s intended audiences, elite white men, “whose members had influence and power and were thus in a position to effect social change as well as personal change for Wheatley herself” (Balkun 132). Furthermore, Balkun argues that this audience was “familiar with particular language and rhetorical devices,” “increasingly exposed to the idea of black equality and liberation,” “used to active participation in rhetorical acts,” and “more accustomed to a popularized democratized relationship between speaker and audience” (122, 132). Balkun sees the particular composition and nature of this audience as a motivating factor for the ambiguities employed in Wheatley’s poetry (122). As she

¹⁰⁹ I.e., the “some” in the fifth line of the poem: “*Some* view our sable race with scornful eye” (Wheatley 53; emphasis mine).

explains, “Her strategy takes the audience from a position of initial confidence and agreement, to confusion and uncertainty, to a new ideological position at the conclusion of each poem [including ‘On Being Brought from Africa’]” (Balkun 122). Thus, Balkun justifies her position that all three readings of the ambiguities in the disputed line should stand by arguing that Wheatley was motivated to write ambiguously in order to persuade a particular audience. We should observe that Wheatley’s putative intentions are nowhere stated in the poem. But Balkun uses cultural and historical evidence to construct Wheatley’s intentions and uses these constructed intentions to argue for Wheatley’s intended ambiguities.

Ambiguity: An Opportunity for Openings and Shifts in Meaning

Most arguments in this stasis are concerned with resolving ambiguities. Under the assumption that the ambiguity is unintentional, interpreters generally attempt to discover the intended sense through conventional and contextual clues as well as their own background assumptions. The presence of an ambiguity in a text, like a contradiction, is a problem that must be solved, and presumably there is only one solution. But ambiguities are not objective entities. They arise when interpreters perceive that they have insufficient conventional, contextual, and background clues to choose the correct sense of a linguistic form, and perceptions between interpreters can vary. But a rhetorical approach to ambiguity, as I have detailed in this chapter, can help analysts predict where interpreters might perceive ambiguities and identify the linguistic form at the root of an ambiguity.

In some cases an ambiguity may be interpreted as intentional. In standard cases where ambiguity is presumed to be unintentional, interpreters choose one possible sense and reject all others. But in cases where it is presumed that the author intended to be ambiguous, interpreters choose multiple senses, though not necessarily all of them, and decide how these multiple senses relate to each other. Because the significance of a text with deliberate ambiguities arises out of the complex relationship between the multiple evoked senses, there is a sense that the meaning in these cases is to varying degrees encoded. There is no doubt that authors sometimes do “encode” their texts, and the history of interpretation of the world’s major sacred texts provides plenty of examples of interpreters reading for encoded messages within textual ambiguities.

The polysemous nature of language in general presents a real interpretive opportunity for the rhetor (or a rhetorical opportunity for the interpreter). Because discursive meaning always relies on extra-textual clues for its interpretation, what should be taken into account in constructing that meaning and how that extra-textual evidence should itself be construed is always arguable. Construing a passage of a text as ambiguous can be an important first step in dislodging a given interpretation of that passage. Of course, the particulars of the rhetorical situation—exigence, constraints, and audience—heavily influence how much latitude a rhetor has in arguing an ambiguity into existence or advancing a particular reading, and more research needs to be done to examine the influence of the rhetorical situation on interpretive arguments.

Textual ambiguities, therefore, represent not only problems for interpreters to solve, but also opportunities for opening up and shifting the meaning of texts. Disputes in the stasis of ambiguity force those involved to evaluate the textual and extra-textual

evidence supporting different readings of the same passage. In this process of evaluation, people can be persuaded to adopt new interpretations of a text. These new interpretations can become calcified for both individuals and communities as if there were never an ambiguity in the first place. Doubtless, this process of evaluating and adjudicating ambiguities plays a significant role in the ability of certain texts to remain impactful across time, space, and culture.

Chapter 5: Definition

The 2010 U.S. Supreme Court case *McDonald v. City of Chicago* marked a historic climax in this country's debate over gun rights. Just two years prior in *District of Columbia v. Heller* the Court struck down a ban on handguns in Washington, D.C., ruling that the Second Amendment guarantees U.S. citizens individual gun ownership rights for the purpose of self-defense. This decision resolved, in the negative, the question of whether the Second Amendment only protects the right to bear arms in relation to military service (Kaufman 704). But the ruling only applied to the federal government and districts under federal jurisdiction, like Washington, D.C. At the time, the Second Amendment was not taken to restrict state and local governments from implementing their own laws regarding gun ownership, even if those laws limited a citizen's federal gun ownership rights.

Just hours after the Supreme Court handed down its ruling in *Heller*, four Chicago gun owners sued their city over a handgun ban similar to the one the Court had just struck down in D.C. (Bellandi). When their case finally made its way to the Supreme Court in 2010, the question before the Justices was whether the Second Amendment's right to bear arms, freshly interpreted as an individual right apart from military service, applied to gun legislation passed by state and local governments.

If the Court decided in the affirmative, it would continue a process known as "incorporation," which consists of applying the Bill of Rights, originally applied only to the federal government, to state and local governments as well (Amar 7).¹¹⁰ The gradual process of incorporation has rested on the Court's interpretation of the Fourteenth

¹¹⁰ This process of incorporation offers examples of arguments in the stasis of *assimilation* discussed in detail in Chapter 6.

Amendment, the post-Civil War amendment that constitutionally guaranteed African Americans citizenship after it had been denied them in the Dred Scott decision (Amar 7). Very few rights were incorporated in the first half-century after the ratification of the Fourteenth Amendment in 1868 (Curtis 1). But by the end of the 1960s, the Court had incorporated most of the rights enumerated in the first eight amendments to the Constitution (Curtis 203).¹¹¹

The textual justification for incorporation is found in just two connected clauses in the very first section of the Fourteenth Amendment: “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law” (U.S. Const. Amend. XIV, § 1, cl. 1-2; Curtis 2). These two clauses are known as the *privileges or immunities* and *due process* clauses, respectively. But historically the due process clause has been the only real textual means of incorporating portions of the Bill of Rights at the state and local levels. In the 1873 Slaughterhouse Cases, the Court, in its opinion written by Justice Samuel F. Miller, separated the privileges and immunities of state citizenship from the privileges and immunities of national citizenship (74). The former, according to the Court, were more fundamental in nature with a wide range of rights in view, while the latter were few in number, excluding many of the guarantees of the Bill of Rights (Slaughterhouse 76). This distinction resulted in a rather circumscribed definition of the term *privileges or immunities* as it appeared in the Fourteenth Amendment, limiting the number of rights that the federal government could

¹¹¹ Those rights not incorporated by this time included the right to bear arms (Second Amendment), the right not to quarter troops in private homes (Third Amendment), the right to a grand jury (Fifth Amendment), and the right to a civil jury trial (Seventh Amendment) (Curtis 203).

protect at the state and local levels to those of national citizenship (Slaughterhouse 75). The more numerous and fundamental rights of state citizenship were left under state control (Slaughterhouse 75). In this way, the Court's definition of *privileges or immunities* in 1873 set a precedent that effectively voided the clause's potential as a means of incorporation (Curtis 175).

Despite this precedent, lead counsel for the plaintiffs in *McDonald*, Alan Gura, who had also argued on the side of the defense in *Heller*, used the privileges or immunities clause as the primary textual support in his argument for the incorporation of the right to bear arms, which would effectively strike down the handgun ban in Chicago (Tanaka). Gura's argument thus required the Justices to answer a question in the *situational stasis of definition*: is the right to bear arms a privilege or immunity of U.S. citizenship guaranteed by the Fourteenth Amendment? But before he could address that question, Gura, who was the first lawyer to speak during oral arguments, had to first address a prior question:

In 1868, our nation made a promise to the McDonald family;¹¹² they and their descendants would henceforth be American citizens, and with American citizenship came the guarantee enshrined in our Constitution that no State could make or enforce any law which shall abridge the privileges or immunities of American citizenship.

The rights so guaranteed were not trivial. The Civil War was not fought because States were attacking people on the high seas or blocking access to the

¹¹² The choice of Otis McDonald, an elderly, African American Democrat, as lead plaintiff was no doubt a shrewd rhetorical move on the part of gun rights groups, given the historical context of the Fourteenth Amendment and the public image of gun rights as a concern of white, rural Republicans (Mastony).

Bureau of Engraving and Printing.¹¹³ *The rights secured by the Fourteenth Amendment were understood to include the fundamental rights honored by any free government and the personal guarantees of the—* (McDonald, Oral argument 3; emphasis added)

In this excerpt, Gura, who is cut off by Chief Justice Roberts at the end, answers the following question before the court: how should we understand the terms *privileges or immunities* or *rights*¹¹⁴ as found in the Fourteenth Amendment? His answer is that our understanding should rest on those basic rights recognized by free governments anywhere.

The Justices are more than aware of Gura's redefinition of *privileges or immunities* as those rights recognized by free governments everywhere, and his definition is soon interrogated:

Justice Ginsburg: Does it work just one way? I mean, if the notion is that these are principles that any free society would adopt, well, a lot of free societies have rejected the right to keep and bear arms.

Mr. Gura: As we mentioned—as we mentioned in our brief, this Court in *Benton v. Maryland* decided that henceforth American history and tradition are important to consider what rights are protected in this country. It's true that our friends overseas who have more or less civilized, free societies don't respect rights to the same level that we do.

¹¹³ These rights represent two of the federal rights that could be applied at the state and local levels as *privileges or immunities* according to the definition set by the Supreme Court in the 1873 Slaughterhouse Cases.

¹¹⁴ The terms *privileges or immunities* and *rights* are considered synonymous and are used interchangeably throughout judicial discourse and legal scholarship.

Justice Ginsburg: But this—then it’s not one expression of this unenumerated rights, natural rights, or the rights that any free society—basic to a free society. So you—you have to trim your definition. It’s not basic to any free society.

Mr. Gura: As understood by the people who ratified the Fourteenth Amendment. It’s not a free-flowing license, necessarily, for judges to announce unenumerated rights. However, to the extent that we have unenumerated rights which the framers and ratifiers didn’t literally understand, they nonetheless left us guideposts that we can—

Justice Scalia: Well, what about rights rooted in the traditions and conscience of our people? Would—would that do the job?

Mr. Gura: Yes. (McDonald, Oral argument 10)

In this exchange, Gura and Justices Ruth Bader Ginsburg and Antonin Scalia disagree over how the term *privileges or immunities/rights* in the Fourteenth Amendment should be defined in the sense of its extent. In total, they offer three different answers to this question: 1) those rights recognized by any free society, 2) the understanding of the framers and ratifiers of the Fourteenth Amendment, and 3) the traditions and conscience of the American people. The main issue of contention during most of Gura’s oral argument and rebuttal, thus, is a matter of how to discern the limits or scope of a term.

Situational versus Interpretive Definitions

In the more familiar situational stasis of *definition*, rhetors dispute the name or label of an object (or an action or a concept, etc.). Disputes and arguments over naming

play an enormous role in the functioning of human communities. Through naming we organize and structure our conceptualization of reality. Modern rhetoricians have variously characterized *definition* as a matter of essence, categorization, entitling, and identity.¹¹⁵ In this stasis, rhetors must choose a term to ascribe to an object, and the term chosen makes all the difference.¹¹⁶ Consider the difference between labeling a defendant's act of killing someone as murder versus manslaughter.

Interpretive definitional disputes involve disagreements over a given term's signification or its scope and limits in a particular text. For example, what does the term *murder* mean in a particular law? The medieval rhetorician Boethius noted that this stasis was called "'limit' or 'circumscribing'" (1209B). In these disputes, competing definitions are related in some way, but map onto or structure the world in significantly different ways. When competing definitions share no relation to one another in the minds of the disputants, the disagreement is better classified as an *ambiguity* dispute. In these cases, rhetors believe they are disputing two homonymous terms that share the same verbal form.

Several treatises¹¹⁷ in the rhetorical tradition list both kinds of definition—attaching a term to an object and determining a term's scope—as potential sites of controversy. They in fact represent two related verbal means of structuring our conception of the world. Adjusting how a term is applied affects its scope and adjusting a

¹¹⁵ See, respectively, Weaver, "Language is Sermonic" (1354); Weaver, *The Ethics of Rhetoric* (108); Schiappa (111); Perelman and Olbrechts-Tyteca (210).

¹¹⁶ Quintilian observes that a rhetor can be faced with three kinds of questions in this stasis: 1) whether one term applies, 2) whether one of two (or more) terms applies, 3) whether one term applies in addition to another term (7.3.8-10).

¹¹⁷ For example, Cicero, *De Inventione*; Quintilian; Capella; Boethius; Melanchthon; Erasmus.

term's scope affects its application. For this reason, rhetors can and do move between these two stases for persuasive advantage.

Definitions and Frames

Contemporary language theory, particularly cognitive linguistics, offers particular insight into the power and efficacy of arguing over the definitions of specific terms in texts. Research from this field suggests that selecting and arguing for the definition of a word as it should be understood in a text involves more than choosing between entries in a dictionary and that defining a term has consequences beyond the construction of a synonymous relationship between two sets of terms, although this is an important rhetorical feature of definitions. Terms do not exist with their definitions as isolated units of knowledge, but instead the concepts they symbolize are associated with one another through our experience and knowledge of the world. These associations are organized and structured into larger coherent conceptual units known as *frames*¹¹⁸ (Fillmore, "Frames and the Semantics of Understanding" 223).

Every term has a frame.¹¹⁹ Understanding any term, or concept, requires understanding its frame, "the structure in which it fits" (Fillmore, "Frame Semantics" 111). Concepts have specific relationships to their respective frames and to the other concepts that are "co-structured" by the same frame (Fillmore, "Frames and the Semantics of Understanding," 223). When one term or concept in a frame is introduced into discourse, all of the other concepts that exist in an interlocutor's knowledge of the

¹¹⁸ Other terms, such as *domain*, *base*, and *script*, are also used by cognitive linguists to denote similar concepts.

¹¹⁹ Every term has multiple frames. Croft argues that these frames (he uses the term *domain*) are arranged hierarchically into a *domain matrix* (168).

same frame are “automatically made available,” even though they may not be immediately salient (Fillmore, “Frame Semantics” 111). In a text, the frames of individual words are assumed to be coherent unless the text is considered contradictory (see Chapter 3).

A classic illustration of frames involves the term *weekend*.¹²⁰ *Weekend*, as it is used by most English-speakers, can only be understood within the frame of our Western society’s calendar unit of a seven-day week. In order to understand the term *weekend*, one must have knowledge of the seven-day week, idealized as consisting of five days devoted to one’s job,¹²¹ the *workweek*, and two days intended for leisure and rest, the *weekend*. Once the frame of the modern week is activated, other concepts become available and more readily accessible, such as the anticipation of Fridays and the dread associated with Mondays.

But terms can have alternative frames, frames which are somehow related or connected to one another, or construed as such, in ways that leave the choice between them in dispute (Fillmore, “Frame Semantics” 124). Consider the ongoing dispute among American evangelical Christians over the meaning of the word *dominion* as it is used in several English translations of the Bible and in particular Genesis. In the wake of the modern environmental movement, evangelical Christians have sought to ground their responses to putative environmental crises in what they believe to be the divinely

¹²⁰ See, for example, Croft and Cruse (16); Fillmore (“Frame Semantics,” 119-120); Taylor, who instead uses the term *Monday* (88).

¹²¹ George Lakoff argues for the concept of idealized cognitive models (ICMs) as a way of understanding how we conceptually organize our knowledge and experience of the world (*Women*, 68). These models are idealized in the sense that they are simplifications of reality and do not account for all real cases (Lakoff, *Women* 70). He uses the example of *weekend* and *workweek* in his explanation of the concept (68-69).

established relationship between humanity and nature, as stipulated in the Bible. Two verses that are often used for this textual grounding are Genesis 1:26 and 28. In these verses, God, according to several English translations of the Bible,¹²² gives humanity *dominion* over the earth and everything that lives in it:

Then God said, “Let us make humankind in our image, according to our likeness; and let them have *dominion* over the fish of the sea, and over the birds of the air, and over the cattle, and over all the wild animals of the earth, and over every creeping thing that creeps upon the earth.”

And,

God blessed them [humankind], and God said to them, “Be fruitful and multiply, and fill the earth and subdue it; and have *dominion* over the fish of the sea and over the birds of the air and over every living thing that moves upon the earth.”

(Genesis 1:26, 28; emphasis mine)

Broadly speaking, two poles have developed regarding the definition of *dominion* in these verses. In a paper given in 1999 at a conference hosted by the National Association of Evangelicals on poverty and environmental stewardship, E. Calvin Beisner, founder and national spokesman of the Cornwall Alliance for the Stewardship of Creation,¹²³ an interfaith and interdisciplinary coalition committed to advancing a “biblical view” of environmentalism,¹²⁴ interpreted Genesis 1:28 thus, “While tender cultivation is suited to a garden, forceful subduing is suited to all of the earth that has not

¹²² Including the King James Version, the English Standard Version, the American Standard Version, and the New Revised Standard Version (the primary translation used throughout this dissertation).

¹²³ Beisner, “E. Calvin Beisner” (1).

¹²⁴ Cornwall Alliance for the Stewardship of Creation, “About.”

yet been transformed into the garden.... Adam's *dominion mandate* involved his transforming, bit by bit, the rest of the earth from glory to glory" ("Dominion" 5; emphasis mine). Beisner in effect defines *dominion* as a mandate that requires humans to forcefully subdue and transform the earth into a garden. The frame invoked by this definition characterizes nature as chaotic and unordered with humans as sovereign rulers over the earth charged with taming its chaos.

Opposite of individuals like Beisner, the National Association of Evangelicals itself, which claims to be "a untied voice for millions of American Evangelicals," defines the word *dominion* differently (Natl. Assoc. of Evangelicals, "About Us"). In a 2004 statement exhorting evangelicals to be civically engaged, the Association wrote, "We affirm that God-given *dominion* is a sacred responsibility to steward the earth and not a license to abuse the creation of which we are a part. We are not the owners of creation, but its stewards, summoned by God to 'watch over and care for it' (Gen 2:15)" (Natl. Assoc. of Evangelicals, "For the Health" 11; emphasis mine). Here, the definition of *dominion* is not forceful transformation but stewardship. In this frame, humans do not own the earth, nor do they have a mandate to transform it, but instead they are divinely charged to protect and guard it.

The controversy over the scope of the word *dominion* represents more than a quibble over the semantic meaning of a single word in an ancient Hebrew text. This conflict represents a broader disagreement over the "biblical approach" to environmental issues and action. These opposing definitions invoke opposing frames that provide different answers to questions regarding issues like climate change, deforestation, and species extinction. Based on a definition of *dominion* as sovereign rule, Beisner's

Cornwall Alliance for the Stewardship of Creation prefers private, free market economic action over government intervention as a solution to perceived environmental issues (“The Cornwall Declaration”). In contrast, the National Association of Evangelicals, which define *dominion* as watching over and caring for, argues for government action in the areas of resource and wildlife management, energy consumption, and citizen protection from the ill effects of pollution (“For the Health” 12). Through the definition of a single term, rhetors can affect wholesale shifts in the framing of not only a text but an entire situation or worldview. Thus, interpretive disputes of definition often represent disputes over large issues of framing. Words and definitions present a more manageable rhetorical means of persuading audiences to adopt or reject complex frames.

Linchpin Terms

But not just any term in a text or debate will do. While other terms from Genesis 1:26 and 28, such as *fruitful*, *multiply*, and *subdue*,¹²⁵ also receive interpretive attention and are even disputed, the term *dominion* seems to be of central concern. If we were to order or rank the relative importance of the terms in these verses in the context of this interpretive-rhetorical situation, *dominion* would appear to be near or at the top. Its definition is either the start or end point for the definitions of all other terms in the text. But the other highlighted terms would have their place as well. While they would fall behind *dominion*, they appear to have a higher status than terms like *fish*, *birds*, and *cattle*, which in turn appear to be above terms like *to*, *of*, and *over*.

¹²⁵ Cicero recognized that certain cases in this stasis required multiple words to be defined, although he does not suggest that a hierarchy of words might exist (*De Inventione* 2.18.55).

This hierarchy of terms recalls modern rhetoricians Kenneth Burke's and Richard Weaver's discussions of ultimate terms: "...about which all other expressions are ranked as subordinate and serving dominations and powers. [Their] force imparts to the others their lesser degree of force, and fixes the scale by which degrees of comparison are understood" (Weaver, *Ethics* 212).¹²⁶ However, while it appears that a similar principle of ordering the meaning of other terms is at work behind the terms selected for dispute in the interpretive stasis of *definition*, we should not be so quick to classify them as ultimate (or god, devil, or charismatic) terms. Weaver describes ultimate terms as the "rhetorical absolutes" of a society (*Ethics*, 212). But the terms disputed in this stasis need not be so elevated. Sometimes they are: in this chapter's opening example, *right* certainly seems to have status as an ultimate term in the U.S. and even the international community (e.g. *human rights*). Sometimes they are not: *dominion*, outside of the interpretive dispute over Genesis among evangelicals, does not have any wider cultural significance. It may, however, be the case that the disputation of a term can contribute to its rise to a more ultimate status.

Instead I suggest we refer to these terms as having *linchpin* status. The linchpin status of a term is directly tied to factors of the rhetorical situation. Given a particular rhetorical situation, certain terms are pivotal for interpreting a key text, or making arguments in a debate, and order the meaning of other terms. Further, certain terms more directly index and control the frames that rhetors desire to manipulate in a dispute. Evangelical Christians considering how to approach environmental issues face the

¹²⁶ In this quote, Weaver is specifically referring to what he calls god terms, or positive ultimate terms, but this description would seem to apply to ultimate terms more generally.

fundamental question of the nature of the relationship between humanity and the earth. In Genesis 1:26 and 28, the term *dominion* comes closest to encapsulating that relationship because, whatever its specific meaning, *dominion* indexes a power relationship between people and the rest of creation. The interpretation of this term, then, holds an important key to biblically answering that fundamental question. It is no wonder that the term's definition is hotly contested.

This is not to say that rhetors have no choice in the terms they choose to define and dispute, but those choices are constrained, sometimes severely, by the rhetorical situation, especially if they aim to be persuasive. Constraints on the selection or use of linchpin terms can include a term's prior status, its prior or other definitions and associations, and the history of the dispute over the passage in question. While rhetors can argue that audiences should think along the lines of different terms than those that have formed past thinking, the force of collective mental and discursive habit is often against them. This presents a particular challenge for rhetors because, as Burke notes, our observations about reality are implicit in the terms we use ("Language as Action" 116). But human language is rather flexible, and the meaning potential for many terms allows for innovative definitions even when a word has been traditionally defined one way. Sometimes those new definitions are persuasive and supplant the old ones.

In the following sections, I examine the forms that definitions take, as means of persuasion, and other tactics rhetors can employ to persuade audiences to accept or reject certain definitions of terms in texts. These tactics represent specific argumentative and persuasive means of adjusting the frames that audiences bring to bear when they read a specific passage of a text as well as the very frame connected with the term in question.

The Scope of a Term: Conditions and Examples

Conditions of Application

The discursive form that a rhetor's definition takes represents a major factor in persuading audiences to maintain, reject, or adopt a particular definition of a term as found in a text. There appear to be two basic ways of articulating the scope of a term. A rhetor can outline the necessary and sufficient conditions for applying a term to its potential referents, and/or a rhetor can provide representative examples of a term.¹²⁷ Debates over the definition or scope of a term are debates over the term's conditions and/or examples.

In their discussion of definition, Perelman and Olbrechts-Tyteca observe, "To make their task easier, and sometimes to avoid undesired discussions, some authors provide, not necessary and sufficient conditions, but sufficient conditions for the application of a term; but the statement of these conditions, together with what is otherwise known about the term in question, nevertheless constitutes a choice of definition" (213). In a similar vein, cognitive psychologist Eleanor Rosch, in her explanation of how humans create categories from discontinuous reality, writes, "One way to achieve this [the creation of clear-cut boundaries] is by means of formal, necessary and sufficient criteria for category membership. The attempt to impose such criteria on categories marks virtually all definitions in the tradition of Western reason"

¹²⁷ Cicero recognized two ways of articulating definitions: enumeration (*partitionum*), which involves dividing and naming a thing's constitutive parts, and analysis (*divisionum*), which involves understanding the term as a genus or class and listing its species (*Topica* 5.28). Enumeration and analysis are essentially definition by conditions and examples.

(35). While Perelman and Olbrechts-Tyteca and Rosch disagree on whether both necessary and sufficient conditions form part of how people define terms or create categories, their observations corroborate the fact that conditions of application represent one means of arguing for how to define a term in a text.

The two excerpts from the *McDonald* oral argument that opened the chapter illustrate how rhetors might define and dispute a term's definition with respect to the term's conditions. Alan Gura's statement, "The rights secured by the Fourteenth Amendment were understood to include the fundamental rights honored by any free government" expresses a definition of the term *rights* with respect to the sufficient condition of recognition by free governments (McDonald, Oral Argument 3). But Ginsburg questions the sufficiency of this condition, as a means of achieving Gura's goal of incorporating the Second Amendment, because "a lot of free societies have rejected the right to keep and bear arms" (McDonald, Oral Argument 10). In response to Ginsburg's rejection of Gura's initial condition, two alternative conditions are offered: the understanding of the framers and ratifiers of the Fourteenth Amendment by Gura and the tradition and conscience of the American people by Scalia.

Each proposed condition changes the scope of the term *privileges or immunities/rights*, which determines which rights can be incorporated under the privileges or immunities clause. Because Gura's original condition undermines his rhetorical goal, according to Ginsburg, the other two conditions are offered as possible alternatives for fulfilling that goal. This example illustrates that rhetors can choose the *defining conditions* that suit their rhetorical goals. It may be that the recognition of a free government is one of multiple sufficient conditions for *privileges or immunities/rights*,

but as a defining condition in this context, it is insufficient with respect to encompassing the right to bear arms.

Examples

In addition to conditions, rhetors can also define a term through its representative examples.¹²⁸ Rhetors may set the scope of a term through clear and accepted or agreeable examples,¹²⁹ but in a definitional dispute, these examples may also be up for debate. Any example of the usage of a term is representative in some way, but degrees of representation vary (Rosch 40). The examples selected and put forward by the rhetor as representative are used as a means of characterizing the term and drawing conclusions about the term's other possible referents. But audiences do not have to accept a rhetor's argument, implicit or explicit, that an example is representative. As with conditions, the selection of representative examples can persuade an audience towards or away from a particular definition.

Not all representative examples have the same relationship or function with respect to their term. Some represent what is typical for a term (*typical examples*), others a term's ideals (*ideal examples*), some the worst of a term (*nightmare examples*), still others are simply those examples of a term that stand out most or are well-known to an audience (*salient exemplars*) (Lakoff, *Political Mind* 160-161). Doubtless, representative examples can serve other functions as well. Competing definitions may sometimes be a

¹²⁸ Cf. Rosch, who uses the term prototype (35-36).

¹²⁹ Cicero calls this strategy "induction (*inductione*)": "Induction (*inductio*) is a form of argument which leads the person with whom one is arguing to give assent to certain undisputed facts; through this assent it wins his approval of a doubtful proposition because it resembles the facts to which he assented" (*De Inventione* 2.18.56, 1.31.51).

matter of the selection of representative examples along with their construed relationship to the term and to each other.

We find two examples of definition through representative examples in a nineteenth century epistolary debate over the right of women to preach. The debate, which originally transpired through the religious journal *Church Advocate*, is between Ellen Stewart, arguing for women's right to preach, and William Johnston, arguing against this right (Donawerth 88, 92).¹³⁰ In one letter, Johnston argues that the word *preacher* only extends to men because the Bible, both Old and New Testaments, only provides examples of male preachers; there are no biblical examples of female preachers (Stewart 172). He charges anyone to “shew from the Scriptures, that women were called to do the work of an **evangelist**, to make full proof of their ministry, to **preach** the word, and to study to shew themselves *work-women* that need not be ashamed, rightly dividing the word of the Lord” (Johnston qtd. in Stewart 173; italics original; boldface added). Since preaching the word is a necessary condition for being an *evangelist*, if a woman from the Bible were found to be an evangelist, she would be a preacher, and the term *preacher* could be extended to women, giving them the right to preach.

In response to Johnston's challenge, Stewart begins with a dictionary definition of *evangelist*: “Our dictionary says, the work of an evangelist is to instruct in the Gospel” (175). With this definition, she is able to list several examples of women in the Bible who were evangelists because they instructed others in the Gospel: Anna, the woman of Samaria, Priscilla, and the women who “labored with [Paul] in the Gospel” (Stewart 175). Although her means of defining *preacher* through examples takes multiple steps, by

¹³⁰ Stewart reprinted the debate in the appendix to her autobiography, which serves as my source for the exchange.

placing the examples of these biblical women, the term *evangelist*, and the term *preacher*, in a series of definitional relationships, she makes the argument that the term *preacher* should be widened to include women, because there were in fact biblical examples of female preachers, contrary to Johnston's claim. These examples, if accepted by her audience, have weight because they come from a source her audience would have held as authoritative, the Bible. Even though all representative examples are in a sense potentially authoritative, these examples in particular are *authoritative examples* because their ability to represent the term *preacher* comes from the authority of their source rather than their perceived typical or ideal nature.

While the verbal form that a definition can take itself represents an available means of persuasion in the interpretive stasis of definition, there are other persuasive strategies that the rhetor may employ in this stasis that exist apart from the articulation of the definition of the term. I review a few of these strategies in the following section.

The Topics of Usage and Effects

The topics or strategies of persuasion in the interpretive stasis of definition can be divided into two categories: those topics concerning usages of the term in question and those concerning the effects of the proposed definition should it be adopted.

Standards of Usage

In the first camp, one major strategy involves linking the favored definition to its definition according to a privileged standard of usage and conversely contrasting a disfavored definition with the privileged definition. Cicero, for example, tells the student

of rhetoric that an argument aimed at falsifying the opposing counsel's definition "will be based on common belief when one considers how and in what connexion people are accustomed to use such a word in ordinary writing or speech" (*De Inventione*, 2.17.54). In this case, the audience, upon seeing a disconnect between the definition and how the word is ordinarily used, is more likely to reject the definition as false. Definitions that fall out of line with common usage are not only harder to grasp, but may be suspect because they go against common sense. They argue for an organization of the world that is not commonly shared.

Ordinary usage, however, is not the only privileged standard of usage. Dictionaries, sacred texts, other languages, and even technical jargon can all be privileged standards of meaning depending on the rhetor's audience. For example, in her nineteenth century pamphlet *Female Ministry*, a defense of women's right to preach, Catherine Booth attacks standard interpretations of 1 Corinthians 14:34-35: "Let your women keep silence in the Churches, for it is not permitted unto them to speak: but they are commanded to be under obedience, as also saith the law. And if they will learn anything, let them ask their husbands at home, for it is a shame for women to speak in the church" (King James Version).¹³¹ Booth's argument rests on a redefinition of the word *speak* in contrast to how it is commonly understood. She grounds her definition in the original Greek behind the word *speak*, λαλεῖν, adducing the testimony of four Greek scholars: "We think that with the light cast on this text by the four eminent Greek scholars above quoted, there can be no doubt in any unprejudiced mind as to the true meaning of lalein in this connection" (Booth 9). With the original ancient Greek as a

¹³¹ This translation is quoted and referenced by Booth herself.

standard of meaning, she argues that *speak* means “imprudent or ignorant talking” and that Paul was not commanding women to keep “absolute silence” but commanding them to refrain from “an improper kind of speaking” (Booth 7, 8). Returning to the original language may be a common rhetorical move in interpretive definitional disputes involving translated texts.

The explicit privileging of one standard of usage always involves the rejection or demotion of another standard. As we saw in the opening example in the first chapter of this dissertation, common usage and understanding of the term *trick* was a particular problem for scientists seeking to manage the interpretation of one of the leaked e-mails in the climategate scandal. Recall that leading climatologist and proponent of anthropogenic global warming Phil Jones had written in a leaked private e-mail to a colleague, “I’ve just completed Mike’s Nature trick of adding in the real temps to each series for the last 20 years (ie from 1981 onwards) and [sic] from 1961 for Keith’s to hide the decline.” The quote is in reference to his treatment of some data that would be published next year as the famous “hockey-stick” diagram that shows a spike in global temperatures in the latter half of the 20th century. The spike is a result of Jones combining data from two different sources. The *trick* referred to this data combination.

To many people, the term *trick* coupled with the phrase “hide the decline” suggested deception on the part of Jones. However, some scientists argued that, “Scientists often use the term ‘trick’ to refer to a ‘a [sic] good way to deal with a problem’, rather than something that is secret and so there is nothing problematic in this at all” (Schmidt et al.). Jones himself even tried to argue that he was using the term *trick* “colloquially as in a clever thing to do” (University of East Anglia: Communications

Office). In both cases, different standards of usage are privileged instead of the ordinary one taken for granted by many people in the public who read the line from the e-mail. It does not appear, however, that the arguments from the scientific community were especially effective.

Effects

The strategies that constitute the second set of topics are not primarily concerned with the veracity of the definition, but with a definition's consequences or effects. Rhetoricians have long recognized the importance of persuading an audience not only that a definition is "true" or "false," but that it is beneficial or "harmful," "expedient" or "inexpedient," "honourable" or "dishonourable" ([Cicero] 2.12.17; Cicero, *De Inventione* 2.17.54). Qualities like beneficence, expedience, and honorableness pertain not to the truth-value of a definition, but to a definition's effects, upon being adopted, in the world. These real effects arise because definition is a means of structuring our perception of the world, and therefore our actions and relations in and to it. Audiences can be very aware of the relationship between definitions and their potential consequences, which can sometimes outweigh considerations of veracity. As Quintilian shrewdly advises, "A correct Definition will be assured if we first decide in our own mind what we want to effect; it will then be possible to suit the wording to our purpose" (7.3.21).

The above topics of veracity and effects can be used separately or together in argument, depending on the desired outcome. But now I turn to the example that opened this chapter to examine how the various features of interpretive *definition* play out in an extended dispute.

A Definitional Dispute over the Term *Privileges or Immunities/Rights*

The segment of the oral argument analyzed above, involving Gura, Ginsburg, and Scalia, represents a dispute over the conditions of a term, and disputing the conditions of a term is one way of disputing a term's limits or scope. But rhetors can manipulate and dispute the scope of a term through either or both of a term's conditions and representative examples. When used in conjunction, conditions and examples can refine and even refute each other. Ginsburg demonstrates this fact when she implores Gura to "clarify [his] conception of privileges and immunities," to "tell...the dimensions of what it is," asking him, "What unenumerated rights would we be declaring privileges and immunities under your conception of it?" (McDonald, Oral argument 5). Ginsburg asks Gura for (representative) examples of privileges and immunities given his definition of the term. Although Gura at first is reluctant to answer the question, protesting, "it's impossible to give a full list of all the unenumerated rights that might be protected by the Privileges and Immunities Clause," under Ginsburg's persistence he finally responds:

If a right is, for example, the sort of right that was mentioned in the Civil Rights Act of 1866, the piece of legislation enacted by a supermajority of Congress, where the Congress said, over President Johnson's veto, here are the rights of American citizenship, and they are—they listed: To make and enforce contracts; to sue, be parties, and give evidence; to inherit, purchase, lease, sell, hold, and convey real and personal property. (McDonald, Oral argument 8-9)

But Ginsburg questions the applicability of Gura's representative examples, wondering, "even though a large portion of the population at that time didn't have those

rights?” (McDonald, Oral Argument 9). Ginsburg continues this line of questioning noting that married women did not have some of the rights Gura lists (McDonald, Oral argument 9). In response, Gura replies that, “We understand certain rights better today than we did 140 years ago, and the fact that First Amendment rights weren’t fully respected, Second Amendment rights weren’t always respected, Fourth were not always understood well—” (McDonald, Oral argument 9-10). At this point he is cut off by Ginsburg who returns to his original sufficient condition and questions its validity, thus provoking the dispute that opened this chapter. For Ginsburg, Gura’s examples invalidate his definition of *privileges or immunities/rights*, that is his original defining sufficient condition, because these rights were not universally applied. Therefore, the recognition of a right by the American government at a particular time, or any free society for that matter, is an insufficient test for determining the fundamentality of a right for inclusion among the privileges and immunities in the Fourteenth Amendment. The faulty representative examples bring into question the sufficient condition that allowed them in the first place.

Another example of a dispute over representative examples can be found in Gura’s rebuttal during the last three minutes of oral argument. (Gura had saved three minutes of time allotted to his beginning oral argument in order to make a rebuttal at the end of oral arguments after the other two lawyers had stood and argued before the Justices.) During the rebuttal, Justice Kennedy puts a question similar to Ginsburg’s before Gura: “...what are examples of privileges and immunities that are being denied by the States that—which denial would be remedied by following your proposal to overrule the Slaughter-House case?” (McDonald, Oral argument 61). But observe how in this case

the available examples are restricted: only privileges and immunities currently being denied U.S. citizens are on the table. Besides the Second Amendment, which Kennedy says to leave out, Gura and Kennedy come up with jury trial in civil cases and grand jury (McDonald, Oral argument 62). Gura concludes that since “Those are the only two provision of the Bill of Rights that have not been held incorporated under due process...perhaps we should have the Second Amendment incorporated. There’s no reason to treat it any differently” (McDonald, Oral argument 62).

While Gura sees the paucity of remaining unincorporated Bill of Rights guarantees as a signal that the Second Amendment should be incorporated, Ginsburg does not seem so sure. Ginsburg suggests that incorporating the rights to a jury trial in civil cases and grand jury would be inefficient, an argument from effect, specifically expedience (McDonald, Oral argument 62-63). Gura retorts that, “it’s not just what we’re saying; it’s what the framers of the Constitution said. ...the right to a jury trial, for example, may not be efficient, but it is free” (McDonald, Oral argument 63). While Gura sees the number of examples as reason to incorporate the Second Amendment, Ginsburg suggests that their inefficient application at the state level may imply similar inefficiencies in regards to the Second Amendment. The qualities of representative examples, which determine the scope of a term, can be used not only to test whether a potential example should be included or excluded as a case but also to confirm or negate the definition in question. In this case, Gura sees these two examples as reasons to confirm his definition of *privileges or immunities/rights*, as fundamental to American citizenship, as the term was understood by the framers and ratifiers of the Fourteenth

Amendment. Ginsburg's response suggests that these examples cast doubt on whether that definition should be adopted.

Kennedy's initial question in this exchange demonstrates that even the pool of available examples is a matter of construal on the part of the disputants. Restricting the available examples to those rights currently being denied U.S. citizens affects the character of those examples. In this case, current examples of rights being denied U.S. citizens, at least with respect to those that are culled from the Bill of Rights, are few in number and possibly cumbersome in application. We also see the role that power has to play in disputation, as Gura had little control over this restriction but still must build his argument around the parameters provided to him.

Lastly, I turn to a discussion concerning the effects of definition. Gura, in arguing for a redefinition of *privileges or immunities* to include the right to bear arms, calls for the Slaughterhouse Cases to be overturned, stating that, "the Slaughter-House Cases should not have any stare decisis effect before the Court. The Court has always found that when a case is extremely wrong, when there is a great consensus that it was simply not decided correctly, especially in a constitutional matter, it has less force" (McDonald, Oral argument 4). To this charge Justice Sonya Sotomayor retorts: "What injustice has been caused by it that we have to remedy? Meaning States have relied on having no grand juries; states have relied on not having civil trials in certain money cases; they have relied on regulating the use of firearms based on us, the Court, not incorporating the Privileges and Immunities Clause in the way that you identify it" (McDonald, Oral argument 4). She continues, "What—in which ways has ordered liberty been badly affected?" (McDonald, Oral argument 5).

In essence, Sotomayor asks Gura to provide arguments from effect to support his argument that the definition of *privileges or immunities* should be changed. But Gura refuses to list the effects of the current legally recognized definition of *privileges or immunities*: “Justice Sotomayor, States may have grown accustomed to violating the rights of American citizens, but that does not bootstrap those violations into something that is constitutional” (McDonald, Oral argument 5). Gura, instead of entering a dispute over effects, simply maintains that the current definition is false, that is unconstitutional. He demonstrates that, while appealing to the effects of a definition can be a very persuasive move, rhetors may sometimes refuse to make such appeals on principle.¹³² Sometimes such refusals can even be persuasive.

Primary versus Secondary Stases

This example demonstrates how the stases, interpretive and situational, interact in human communication. The principal stasis is one of situational definition: is the right to bear arms a fundamental right of private U.S. citizens? Gura decided to approach this question by arguing for the inclusion of the right to bear arms as one of *the privileges or immunities* of the 14th Amendment. In order to make this argument, he needed to redefine the term *privileges or immunities* in the 14th Amendment, a question of interpretive definition. In this way, arguments in the interpretive stasis of *definition* worked to serve a larger rhetorical goal in the situational stases of definition.

¹³² As Perelman and Olbrechts-Tyteca observe, “...it must not be overlooked that the orator is nearly always at liberty to give up persuading an audience when he cannot persuade it effectively except by the use of methods that are repugnant to him. It should not be thought, where argument is concerned, that it is always honorable to succeed in persuasion, or even to have such an intention” (25).

In the end, the Court rejected Gura's arguments for redefining *privileges or immunities* and his approach to incorporation through the privileges or immunities clause (McDonald, Opinion 10). Part of the problem may have been Gura's inability to satisfactorily outline the limits of the term. As Justice Alito observed in the opinion, "...petitioners are unable to identify the [privileges or immunities] Clause's full scope" (McDonald, Opinion 10). Instead, the Court, in a 5-4 decision, incorporated the right to bear arms through the due process clause, an interpretive move of assimilation, following precedent with respect to other portions of the Bill of Rights (44). (The argument for incorporation through the Due Process Clause came from Paul D. Clement, another lawyer arguing in support of the plaintiffs, on behalf of the National Rifle Association.)

In light of this outcome, perhaps we might agree with the sentiment expressed by fifth century encyclopedist Martianus Capella: "The principal [situational] issues are separate and distinguished from these legal [interpretive] questions, and these latter are termed incidental issues, while those which give rise to the lawsuit are more correctly called the issues or fundamentals" (466). As *McDonald* illustrates, while certain conflicts may revolve around texts, these textual issues are at times debated in order to answer non-textual questions. In these cases, the non-textual or situational questions are primary, and the textual or interpretive questions are secondary.

Yet we do not want to extend Capella's idea too far. The oral argument from *McDonald* also demonstrates just how crucial questions of interpretation can be in contexts in which answers, results, or reasoning must be, or are more persuasive if they are, textually grounded. Sometimes there is no escaping an interpretive dispute except to refuse to participate in disputation. In this case, the Justices still had to ground their

answer to the question of whether to apply the Second Amendment to the fifty states in the Constitutional text, but had two passages at their disposal to do so. And even though they chose the route of assimilating the Second Amendment by way of the due process clause, the question of the definition of *privileges or immunities* remains open to future dispute, even though the Justices declined to answer it for the time being. If the term were redefined, the decision would have significant consequences for U.S. citizens. While it is important to recognize the relationship between the situational and interpretive stases, we should not think the interpretive stases merely peripheral. Questions of an interpretive nature are often anything but marginal.

Chapter 6: Assimilation

Abraham Lincoln stirs the national imagination perhaps like no other president. According to polls, the sixteenth president of the United States consistently ranks as one of the public's most revered commanders-in-chief (Newport). Yet in recent years, his legacy and personal life have come under closer scrutiny, as scholars and laypersons alike have attempted to uncover the Lincoln behind the iconic image. A few major points of investigation have revolved around such questions as: Was Lincoln a racist? What were his religious beliefs? Was he, as secessionists believed, a dictator (Boritt vii)?

Besides these questions, another source of contention has concerned Lincoln's sexuality. While speculation on this subject is not new,¹³³ public interest seems to have especially grown around the turn of the twenty-first century. One notable example of the public energy around this issue is the media attention given to gay rights activist Larry Kramer's claim in a 1999 speech at an LGBT conference that Lincoln "was a gay man and a totally gay man" (qtd. in Lloyd; Kalk).¹³⁴ The rise in public interest seems to have paralleled and even in some cases influenced critical attention to this issue, as scholars subsequently began to seriously consider the question in published works igniting a historical debate over whether or not Lincoln was gay. At stake is not only Lincoln's image in the nation's collective memory but also the social and legal status of members of the LGBT community, which a gay Lincoln would undoubtedly bolster (see Morris 103).

¹³³ For example, Shively who declared Lincoln a homosexual as early as 1989 (71-90).

¹³⁴ As other evidence, historian David Donald notes that during his 1995-1996 publicity tour for his biography of Lincoln, the most frequent question he received concerned whether Lincoln was gay or not (35).

Scholars in this debate have paid especially close attention to Lincoln's relationship with one of his most intimate associates, Joshua Speed, Springfield, Illinois store owner and member of the Kentucky elite. Although much about their relationship is contested, scholars seem to generally agree on the following key points: Lincoln and Speed met for the first time on April 15, 1837, at the shop that Speed owned; Lincoln attempted to buy furnishings for a bed from Speed on credit; being moved by Lincoln's circumstances and melancholy state, Speed offered Lincoln to share with him his own bed for free; and finally that the two men shared the same bed for the next four years.¹³⁵

Lincoln scholars seem to generally agree that bed sharing between men was not uncommon in the nineteenth century;¹³⁶ thus, Lincoln and Speed's sleeping arrangement alone does not offer indisputable evidence that there was a romantic-sexual relationship between them. Scholars, therefore, have turned to written testimonies from those acquainted with the two men as well as letters Lincoln sent to Speed to reconstruct their relationship. Thus, the historical question concerning Lincoln's sexuality rests largely on the *documentary* evidence from the time. The interpretation of these documents, however, is hotly contested.

One of these contested documents is a letter Lincoln wrote to Speed on February 25, 1842. Speed had married Fanny Henning on the 15th of that month and afterwards related to Lincoln how the wedding night went.¹³⁷ Lincoln's response includes the following: "I opened the latter [letter of the 16th], with intense anxiety and trepidation—

¹³⁵ Donald 29-32; Katz 3; Strozier 54-56; Wilson 172-173. Tripp however has doubts about some of the usually accepted details of the story, which are based on Speed's account (126).

¹³⁶ Donald 36; Katz 6; Strozier 56-57; Tripp 128.

¹³⁷ Speed's letters to Lincoln from this time have been lost (Donald 34; Wilson 254).

so much, that although it [the wedding night] turned out better than I expected, I have hardly yet, at the distance of ten hours, become calm” (Lincoln 90).

In his study of Lincoln’s closest male companions, “*We Are Lincoln Men*”: *Abraham Lincoln and His Friends*, historian David Herbert Donald interprets Lincoln’s response in this letter as excitement for his friend Speed, grounded in their shared heterosexuality: “Having feared the worst, Lincoln was delighted that the letter—and presumably the wedding—‘turned out better than I expected’” (50). According to Donald, this letter along with others “stemmed from his desire to comfort and encourage his closest friend, but they also had another purpose” (50). Because of his own pending marriage with Mary Todd, Lincoln wanted to know “how Speed’s marriage was working out” (Donald 50). Thus, Donald firmly places Lincoln’s response to Speed within a frame of shared heterosexual desire, feeling, and interest.

C. A. Tripp, on the other hand, in his book-length study of Lincoln’s sexuality, *The Intimate World of Abraham Lincoln*, interprets Lincoln’s response to the news about Speed’s wedding night as a clear indication of his homosexual feelings towards Speed:

This is perhaps the clearest ‘smoking gun’ in the Lincoln-Speed correspondence. Had Lincoln been merely a close friend he would of course have reveled in the good news of a wedding night that ‘turned out better than I expected.’ Instead, he suffered a major anxiety attack that had hardly let up ‘at a distance of ten hours.’ One hears in this the loud bang of a traumatic blow, if not of an outright tragedy, not because Lincoln wished Speed any ill luck, but because he saw, or thought he saw, the crash of their own relationship. (Tripp 138)

Against the argument that this letter simply expresses deep platonic feeling, Tripp argues that Lincoln's letter indicates "a traumatic blow" to his romantic relationship with Speed.

In trying to ferret out the nature of Lincoln's relationship with Speed from this letter, both of these interpretations attempt to elicit something from the text that the text itself does not explicitly state. They attempt to "read between the lines" to determine facts about Lincoln's sexuality and his relationship with Speed that Lincoln himself never articulates. Indeed, because terms and even concepts of sexuality, such as *homo-* and *heterosexuality*, did not exist, or at least as they do now, in his time, we would not expect to find a definitive statement of Lincoln's sexuality in any of his letters or contemporary testimony.

Thus, this disagreement lies not in what is written, but in what can be *inferred* from what is written. Neither scholar negates the text, as in a *letter versus spirit* dispute. Rather, both go beyond it, attempting to pull out information only perhaps hinted at in the text. Manuals from the rhetorical tradition classify such arguments under the interpretive stasis heading of *assimilation (ratiocinatio)*. The following sections of this chapter explore the distinctive qualities of the stasis of *assimilation*, the exigence or precipitating circumstances for arguments or disputes in this stasis, types of *assimilation* disputes, the kind of argumentation particular to this stasis and one natural consequence of this kind of argumentation, specific argumentative strategies available to arguers in this stasis, and finally a closer examination of the historical debate over Lincoln's sexuality before broader conclusions about the stasis of *assimilation* are drawn.

Assimilation as Distinct from Letter versus Spirit

In assimilation, arguers infer or work to prevent the inference of a particular meaning from a text that goes beyond its *letter*, its agreed upon apparent meaning.¹³⁸ As Martianus Capella explains, “we draw something that is not in writing by argument from what is in writing” (5.465). This definition sounds quite similar to the kinds of arguments made in regards to *spirit* in *letter versus spirit* disputes. However, while *assimilation* and *letter versus spirit* share some commonalities, they diverge in important ways.¹³⁹

In both stases, a dispute arises because the parties in the dispute disagree on the value of the *letter* of the text. In *letter versus spirit*, the letter is either affirmed as fully encapsulating the meaning of the text or negated as an insufficient or even negative indicator of the text’s meaning, with an alternative interpretation based on alternative (contextual) sources. In *assimilation*, on the other hand, both parties affirm the letter of the text, but at least one side uses the *letter* as a springboard for inferences into additional meanings while the other side argues against these inferences either by pointing to the *letter* of the text or offering competing inferences.¹⁴⁰

Consider the following classical rhetorical example from Hermogenes: “It is illegal to ridicule anyone by name in comedy; someone introduces characters in a comedy with identifiable masks, and is brought to trial under the law as having ridiculed by name in comedy” (88). In this example, Hermogenes describes an ancient law similar to modern day laws proscribing libel. Here the law explicitly prohibits comedic playwrights from defaming anyone by name. In the case brought to trial, a playwright has used no names but had the actors wear recognizable masks. Both sides affirm the letter of

¹³⁸ See Chapter 2 for a more thorough discussion of *letter*.

¹³⁹ The following discussion is based on Quintilian 7.8.1-2.

¹⁴⁰ Note that one can argue against one set of inferences while advancing another set.

the law, but the defense argues against the law's extension to recognizable masks, saying that the masks did not violate the law, which only prohibits ridicule by name, while the prosecution argues an assimilation: that there is no difference between using recognizable masks and using names.

A further distinction between *letter versus spirit* and *assimilation* is that in *assimilation* not just one but both sides may use the *spirit* of the text, as they interpret it, to support their arguments, especially if both sides are offering competing inferences.¹⁴¹ In the example from Hermogenes, both sides may appeal to the legislator's intent (*spirit*). The prosecutor may argue that the legislator intended to outlaw all slander, while the defense may argue that the legislator only intended to outlaw the *record* of explicit slander (88-89). While arguments in support of *letter* in *letter versus spirit* disputes can involve appeals to authorial intent, these appeals *confirm* what is evident in the text. But in *assimilation*, appeals to authorial intent in support of *letter* make a supposition that the text alone cannot sustain: that the author wanted to *limit* the meaning and application of the text to what is evident in the text. In *letter versus spirit*, the defender of *letter* does not place such limitations on the application and interpretation of the text. One can always build on the *letter* as long as one does not negate it.

Finally, in *assimilation*, the ultimate question facing the disputants is whether the inferences presented can be supported. The jurors in Hermogenes's example must answer the question: is using identifiable masks the same as using names?

Exigence

¹⁴¹ See Hermogenes who lists letter and legislator's intent as heads under the stasis of assimilation (88-89).

What motivating circumstances, or exigence, encourage arguers to assimilate a text in the first place? One exigence is the absence of an available text that explicitly addresses the situation or issue at hand.¹⁴² This kind of exigence can only occur when arguers are confined to a closed body of texts or passages for grounding their arguments, as in law and many religious disputes.¹⁴³ Thus, when an arguer advances an assimilation in this context, the working premises are 1) that no available text explicitly addresses the present concern and 2) that the appropriate response is to assimilate an existing text from the sanctioned corpus. However, a fellow disputant may reject either of these premises causing the dispute to fall back onto preliminary questions of interpretation, thus entering the stasis of *jurisdiction* (Quintilian 7.8.7; Julius Victor 3.15). Should the disputants together reject the first premise, the dispute will move into one of the remaining four interpretive stases. Should the disputants together accept the first premise but reject the second premise, the dispute will be *asystatic* within the framework of the interpretive stases, as there will be no text in which the arguers can ground their arguments and judge the situation. Both premises must be accepted for an argument or dispute in assimilation to proceed.

¹⁴² Many of the definitions of assimilation recorded in Western rhetorical treatises assume this situation because their primary reference frame was the law. The description found in the *Rhetorica ad Herennium* is representative: “The controversy is based on Analogy (*ratiocinatione*) when a matter that arises for adjudication lacks a specifically applicable law, but an analogy is sought from other existing laws on the basis of a certain similarity to the matter in question” ([Cicero] 1.13.23). Cf. Cicero, *De Inventione* 2.50.148; Cassiodorus (2.2.6); Melanchthon (164); Fortunatianus (1.25); Julius Victor (3.15); Hermogenes (40).

¹⁴³ In the case of Erasmus, the Christian Bible: “Reasoning (*ratiocinatio*) also occurs when no scripture offers a clear definition of the subject in question and instead God’s will is inferred by reasoning from a comparison of several scriptural passages” (630).

The Supreme Court encountered the exigence of the absence of an available text in one of its most divisive decisions ever, *Roe v. Wade*. The Constitution, the Court's closed textual corpus for adjudicating legal disputes, nowhere explicitly addresses the issue of abortion. Thus, the Court, in ruling 7-2 that women have a constitutional right to abortion, had to extend existing law. The Court grounded its ruling in previous extensions of the Constitution, in which previous decisions determined that, although nowhere explicit, the Constitution guarantees U.S. citizens "a right of personal privacy, or guarantee of certain areas or zones of privacy" (*Roe v. Wade*, Opinion 152-153). With this interpretation of certain passages of the Constitution, the Court then extended the right to privacy to include women's right to abortion:¹⁴⁴ "This right of privacy, whether it be founded in the Fourteenth Amendment's concept of personal liberty and restriction upon state action, as we feel it is, or, as the District Court¹⁴⁵ determined, in the Ninth Amendment's reservation of rights to the people, is broad enough to encompass a woman's decision whether or not terminate her pregnancy" (*Roe v. Wade*, Opinion 153). Of course, it is this act of interpretive extension that many who oppose abortion argue invalidates the ruling.

It would seem that the exigence of textual absence can put pressure on arguers to advance assimilations and can even be used as a line of argument. Authoritative texts must continually be adapted to address the constantly changing issues and concerns of

¹⁴⁴ See discussion of *assimilation creep* below.

¹⁴⁵ The District Court of the Northern District Texas, which first heard the case, had ruled in *Roe's* favor for her and other women's right to abortion, but granted only declaratory relief, thereby merely determining that women had a right to abortion, rather than injunctive relief, which would have prohibited further violations of this right. Both parties cross-appealed to the Supreme Court.

those whose lives they govern.¹⁴⁶ The lack of an available text or passage that explicitly addresses a new issue or circumstance can encourage arguers to make assimilations in order to maintain the comprehensiveness of their authoritative texts.

But a text can also be extended without the classic exigence of textual absence. Another motivation for assimilating a text is to confer particular value, significance, or meaning to a situation or issue that it would otherwise not have. While arguers can choose any text, including texts that explicitly address the situation or issue at hand, sometimes assimilating a text whose connections to the situation or issue can only be inferred seems more advantageous. A good example of an assimilation motivated by this kind of exigence can be found in Ronald Reagan's 1985 "Radio Address to the Nation on Civil Rights." In this address, Reagan used part of Martin Luther King, Jr.'s "I Have a Dream" speech to support his administration's general campaign against the use of quotas in affirmative action:

Twenty-two years ago Martin Luther King proclaimed his dream of a society rid of discrimination and prejudice, a society where people would be judged by the content of their character, not by the color of their skin. That's the vision our entire administration is committed [to—a] society that keeps faith with the promise of our Declaration of Independence, a proud society in which all men and women truly are created free and equal under God. (Reagan)

At the time some saw Reagan's opposition to quotas as part of his larger opposition to the civil rights of minorities (Overbea; Raines). Although King did not address the issue of

¹⁴⁶ The process of adaptation does not have to be through assimilation and can even include expanding a closed body of texts, although the body still remains fundamentally closed.

affirmative action in his original speech, Reagan, by using King's message of hope about future racial equality, with a near direct quote, as a premise of his opposition to quotas, is able to argue that his position is in line with King's dream.

While the corpus of texts is not closed in this type of exigence, the selection of the assimilated text is still paramount. Whatever text the arguer chooses to assimilate must be known, valued, and otherwise authoritative to the audience. If not, the assimilation will have little argumentative value.

Types of Assimilation

Assimilation Disputes over the Letter of the Text

Both Quintilian and Julius Victor observe that arguments in the stasis of assimilation can be divided into two main varieties, with Quintilian making the partition along the dividing line of *letter versus spirit*. Assimilation disputes that hinge on the *letter* of the text arise because the text's agreed upon apparent meaning, which is understood as its exact verbal formulation, does not explicitly prescribe the requirements for interpreting its meaning beyond the circumstances of its initial uttering (Quintilian 7.8.3). Thus, the central question is "whether there be enough provision" in the text itself for further interpretations (Julius Victor 3.15). Any inference derived from the text beyond its explicit prescriptions for its interpretation is an assimilation, and when acknowledged or drawn into question constitutes an assimilation argument or dispute. All sides in disputes of this kind rely on the *letter* of the text to support their assimilative interpretations (Quintilian 7.8.5-6). The text in this sense is ambiguous as arguers elicit from it multiple, non-overlapping meanings. However, we do not classify such arguments

under the stasis of *ambiguity* because in *ambiguity* arguers contest a verbal form that is *present* in the text, while in *assimilation* these disputes arise because of the *lack* of a verbal form in a text. As Quintilian explains, the arguer “deduces something which is uncertain from the Letter of the law” (7.8.3).

A number of questions can arise revolving around a text’s lack of explicit prescriptions or instructions for interpreting additional meaning from it beyond the initial circumstances of its uttering, including:

1) Does a text apply once or more than once (Quintilian 7.8.3)? In other words, is a text limited to one application in time or does its application persist across time?

Quintilian provides a poignant example, which we find in a similar and more detailed form in Seneca’s *Controversiae*. According to the given law, “An unchaste woman shall be thrown from the rock” (Seneca 1.3). In examples offered in both Quintilian and Seneca, the convicted woman is thrown off a rock but survives (Quintilian 7.8.3; Seneca 1.3). The question then is should she be thrown off the rock again, and again and again, until she dies? Or has her punishment already been satisfied?

2) Does a text apply to a single, specific event or situation or can it apply to multiple events or situations of the same kind (Quintilian 7.8.3)? At first, this question may seem to restate the first one, but, as Quintilian points out with an example, one could have a scenario where several events of the same kind occur simultaneously (Quintilian 7.8.3). Along these lines, Francis Wayland, a prominent Baptist antislavery moderate in the antebellum period,¹⁴⁷ argues against a defense of U.S. slavery grounded in its apparent sanction in the Hebrew Scriptures: “It is therefore clear, that a practice may

¹⁴⁷ Noll 36-37.

have been sanctioned to the Hebrews, which is not sanctioned to all men at all times...” (Fuller and Wayland 57). For Wayland, the Bible’s putative sanctioning of slavery only applied to the ancient slavery of the Hebrews. However, no doubt recognizing the potential failure of his argument to persuade proponents of slavery, he offers the following apparent concession:

Suppose this proposition, that whatever was sanctioned to the Hebrews is sanctioned to all men at all times, be granted, I do not see in what manner it could justify slavery in the United States. It is, I presume, conceded, that a permission of this kind is to be understood according to the utmost strictness of application. If slavery be justified by the law of Moses, it is of course, only justified *in the manner* and *with the restrictions* under which it was placed by that. (Fuller and Wayland 58; emphasis original)

Here Wayland allows for the biblical sanction of slavery to extend beyond ancient Israel, but only if the slavery practiced is of the *same kind* as that which is permitted in the Bible. Of course, he admits no such similarity between the biblical and U.S. practice of slavery (Fuller and Wayland 59).

3) Can a text apply any time or should certain changes in circumstances or intervening events be taken into account (Quintilian 7.8.5)? This question assumes an answer to the first question—that the text’s application persists across time—but questions the circumstantial conditions for a text’s application. This question represents a serious point of contention for contemporary Christians with respect to two verses in Leviticus that some have argued condemn all male homosexual relations and behavior: Leviticus 18:22: “You shall not lie with a male as with a woman; it is an abomination;”

and the similar Leviticus 20:13.¹⁴⁸ In his book *Jesus, the Bible, and Homosexuality*, Jack Rogers suggests that these two verses are concerned with “[r]itual purity,” which “was considered necessary to distinguish the Israelites from their pagan neighbors” (69). However, he argues that the coming of Christ changes their applicability: “When we see Jesus as the fulfillment of the law (Matt. 5:17), we understand that our challenge is not meticulously to maintain culturally conditioned laws, but rather, with Jesus, to love God and love our neighbor (Matt. 22:36-40)” (Rogers 73). For Rogers, Jesus’ life and example are the turning event that negates the subsequent application of the Leviticus prohibitions against homosexuality.

4) The last two questions, which Quintilian treats separately, involve how texts apply to parts and wholes: Does a text that applies to the whole apply to the part? And does a text that applies to the part apply to the whole (7.8.4)? These are questions of transferability. Even though the text only asserts that it applies to a specific object, can the text then be argued to apply to the larger whole that the object belongs to? Or a smaller discrete part that belongs to the object? The direction of transfer in the first case is centrifugal. Quintilian gives the following example: It is forbidden to export wool from Tarentum [a place that was famous for its wool];¹⁴⁹ he has exported sheep.” Is it illegal to export sheep, since wool is made from their fur? The direction of transfer in the second case is centripetal. Quintilian provides this example: ““It is forbidden to accept a plough as a pledge; he has accepted a ploughshare¹⁵⁰” (7.8.4). As Quintilian’s translator Donald Russell explains, “Security for a loan had to be given in such a way as not to advantage

¹⁴⁸ Leviticus 20:13: “If a man lies with a male as with a woman, both of them have committed an abomination; they shall be put to death; their blood is upon them.”

¹⁴⁹ Quintilian 278n6.

¹⁵⁰ The blade of a plough.

the creditor (who must not appropriate the articles deposited with him) or ruin the debtor (as the removal of an essential tool of his trade—plough or ploughshare for example—would do)” (Quintilian 278n5). Does the ploughshare constitute such an essential part of the plough to therefore have the same law applied to it?

Assimilation Disputes over the Spirit of the Text

In assimilation disputes over the spirit of the text, the question of assimilation hinges not on a text’s internal prescription for its own application, but on the kinds of situations and issues a text can be applied to that are not explicitly referenced in the text (Quintilian 7.8.6). In essence, one argues that a text should or should not be applied to a *new* kind of situation or issue based on the likeness between the situation presented in the text and the situation in question. Such an argument rests on the preliminary question of whether there is an approximate text to fit the situation (for those working within a governing, closed body of texts), and if so, whether the text is similar enough to the situation to warrant its application (for both open and closed bodies of texts) ([Cicero] 2.12.18; Quintilian 7.8.7). According to ancient rhetorical manuals, disputants can take a number of approaches to argue for an approximate text’s application, each based on showing how key elements and relationships in the textual and non textual situations are in some way alike. These approaches, specific lines of argument, are discussed in detail below in the section on the particular strategies of persuasion in this stasis available to the arguer.

Before assimilating a text according to its spirit, disputants working within a closed body of governing texts (like canonical scripture or law) must also address, even if

tacitly, the question of whether a text that references an issue or situation like the one in question can be used when no other text appears to apply (Quintilian 7.8.7; Julius Victor 3.15). The answer may be *no*, that we should only follow what is stated in the available texts. The answer may be *yes*, that we should always find a similar text to apply to a situation not currently covered in the available texts. Or the answer may be *sometimes*, that sometimes we should only follow what is explicitly stated in the available texts, and that sometimes we should follow an approximate text when nothing explicit can be found in the available texts. The heuristic for determining when to follow an available text and when to apply an approximate text can be principled and explicit, or *ad hoc* depending on the situation.

If all parties agree in the negative to this question, then the controversy ends and falls out of stasis. If the parties disagree (both yes and no or sometimes), the controversy continues but within the stasis of *jurisdiction* (see Chapter 7). If the parties agree in the affirmative, or if the parties agree to a more nuanced answer (sometimes),¹⁵¹ then the controversy proceeds as an assimilation dispute over the *spirit* of the text.

Analogical Reasoning about Texts

The Classic Case: Textual Extension

As the most common Latin term for this stasis, *ratiocinatio*, suggests, assimilating a text involves analogical reasoning. Classically,¹⁵² assimilation involves extending a text

¹⁵¹ The answer of sometimes can also lead to a dispute in the stasis of *jurisdiction*, as arguers wrangle over which approximate texts can be applied when or which situations demand textual governance.

¹⁵² That is, considering the definitions and examples given in the ancient rhetorical manuals. This is no surprise as their primary models came from law. See note 10 above.

to a new situation, or kind of situation, or case. In order to argue that a text should be applied to a new situation, an arguer must draw parallels between key relations among elements in the situation described in the text and the situation in question.

Abolitionist Henry Highland Garnet illustrates the classic assimilation argument in his February 12, 1865 sermon to the U.S. House of Representatives, the first ever preached to the House by a black person.¹⁵³ Preaching near the end of the Civil War, after the Emancipation Proclamation had been issued but before slavery had been constitutionally outlawed,¹⁵⁴ Garnet draws parallels between the religious legalism decried by Jesus in the New Testament and contemporary American slavery. His text is Matthew 23:4:¹⁵⁵ “For they [the Scribes and Pharisees] bind heavy burdens, and grievous to be borne, and lay them on men’s shoulders, but they themselves will not move them with one of their fingers” (qtd. in Ofari 187).¹⁵⁶ Garnet argues that contemporary lawmakers, including members of his audience, are “modern Scribes and Pharisees” who like their “prototypes” know what is right and just according to the law and God, but institute an unjust system of oppression by enslaving African Americans, just as the scribes and Pharisees of the New Testament instituted an oppressive code of religious legalism for the Jewish people to abide by (Garnet qtd. in Ofari 188).

Textual extension, following analogical reasoning more generally, involves mapping relational structure¹⁵⁷ (i.e. any relationship between objects) from the situation

¹⁵³ Ofari 114.

¹⁵⁴ Ofari 115.

¹⁵⁵ Garnet refers to other verses from this chapter as well throughout his sermon.

¹⁵⁶ King James Version.

¹⁵⁷ As Macagno and Walton point out, analogical reasoning has been studied in modern times from two different perspectives: with respect to the relation between the terms used in an analogy and the logical form of analogy (170). I decidedly follow the tradition that

described in the text to the situation in question.¹⁵⁸ The textual situation is the source domain, the system of objects providing the relational structure to be mapped, and the non-textual situation is the target domain, the system of objects upon which that structure is being mapped (Fauconnier, *Mappings* 102). In Garnet’s sermon, the source domain is the religious legalism of the scribes and Pharisees as described in the biblical text, and the target domain is contemporary American slavery. In some cases, the source and target domains can be the same as long as the objects are different (Fauconnier, *Mappings* 102). In these cases the systems of objects placed in analogical relationship can be seen as separate domains unto themselves, even if in fact they occupy the same conceptual space in the disputants’ minds. In any case, the distinction between domains cannot be taken for granted—for an assimilation dispute to take place participants must accept the distinction between the domains or agree on the criteria to establish them (Perelman and Olbrechts-Tyteca 393).

In analogical reasoning, the mapping of structure across domains is arguable based on parallel relations, or perhaps in the beginning resemblances between individual objects,¹⁵⁹ that are taken to be “instances of a common, more abstract schema”

studies analogical reasoning with respect to the relation between terms because such relations better model the persuasive strategies at work in argument and perhaps even underlying mental processes. But the two perspectives need not be mutually exclusive, nor does one need to be discounted in favor of the other.

¹⁵⁸ See Gentner 156; Fauconnier, *Mappings* 102. Cf. Perelman and Olbrechts-Tyteca 372-373; Aristotle, *Topica* 4.4.15 “similar relation.”

¹⁵⁹ True analogical reasoning involves the mapping of relations, but resemblance between individual objects can “be the start of an analogy” (Gentner 161; Perelman and Olbrechts-Tyteca 377, 397). Indeed, amplifying object similarities is one means of securing an assimilation (see “Making Explicit Connections” under “Strategies for Supporting or Refuting an Analogy” below).

(Fauconnier, *Mappings* 103; Perelman and Olbrechts-Tyteca 397).¹⁶⁰ As Fauconnier explains, “The schema is a *frame* with *roles* that can be filled by elements¹⁶¹ of one or the other domain” (*Mappings* 103; emphasis original). Roles are autonomous, descriptive categories that can be mapped across domains (Hofstadter 547). In interpretive disputes, the criteria for determining the appropriate schema is largely determined by the issue at hand, though competing schemas can and do arise. In Garnet’s sermon, the abstract schema is perhaps best characterized as *oppression by legislators*. This schema also includes a number of roles including most obviously the role of the legislator or oppressor filled by the Scribes and Pharisees in the biblical text and U.S. lawmakers in Garnet’s own time. In a schema, some roles are more central than others, and an assimilation that fills these more central roles is stronger than one that only fills peripheral ones (Hofstadter 553, 555-556). The arguer will also want to select those roles that are most salient to the audience (Hofstadter 555). The most persuasive assimilations select schemas with roles that highlight aspects of the text and/or situation that the audience considers important and essential (see Perelman and Olbrechts-Tyteca 390). It would seem that Garnet’s assimilation follows these guidelines, although one cannot say for sure without a more in-depth analysis of the prevailing understandings of his selected text at the time. However, the arguer need not name the roles being filled or make his analogical process explicit. Depending on the rhetorical situation, doing so may serve to strengthen or weaken the extension. Tactics for making explicit connections between

¹⁶⁰ Note that I am not advancing an order of reasoning here, only the argumentative relationship between conceptual entities. A schema may arise in the process of assimilating a text, and not necessarily precede it. But the process of assimilation relies on some kind of bridge, however implicit or unconscious, between the text and the situation.

¹⁶¹ Cf. Fauconnier’s “elements” with Hofstadter’s “filler of a role” (Hofstadter 567).

elements in the same roles across textual and non-textual domains explicit can be found in the section below on strategies of argument for this stasis.

The schema, however, does more than warrant the mapping of structure from text to situation—it “specifies” that mapping (Fauconnier, *Mappings* 103). In other words, the specific relations mapped from the text to the situation are determined by whatever schema is selected to understand both.¹⁶² Thus, relations that better fit the schema will be favored in an assimilation over others (Gentner 163-164; cf. Macagno and Walton’s “genus,” 173). As the theory predicts, in Garnet’s sermon the parallel between the Jewish lay person/the Mosaic law and African American slaves/U.S. law is emphasized according to the schema of oppression by legislators, but the ethno-racial difference, or lack thereof, between the legislators and those under the law—the scribes and Pharisees are the same ethnicity as the Jewish lay people they oppress while white U.S. lawmakers oppress black people—is de-emphasized. Ill-fitting relations can be used to refute an assimilation.¹⁶³

While textual extension represents a form of analogical reasoning and argumentation, because it involves texts it has a couple of unique twists. In classic assimilation arguments, the source domain is encoded in a *text* from which structure is then mapped onto a *non-textual* target domain.¹⁶⁴ In this way, the text gains a privileged status with respect to the situation in question. Further, while cross-domain structure mapping is what gives arguments in this stasis their basic form, the privileged status of

¹⁶² Cf. Gentner’s systematicity principle, 162-163.

¹⁶³ See tactics under “Contrast the Textual and Non-textual Situations” and “Taking an Assimilation to Its Logical Conclusions” under “Strategies for Supporting or Refuting Assimilations” below.

¹⁶⁴ An interesting exception is when a text’s meaning is assimilated to interpret another text.

the text affords particular lines of arguments, such as narrowing definitions of key terms in the text or appealing to authorial intent, that one does not necessarily see with analogical reasoning in other contexts. Thus, textual assimilation represents a unique form of analogical reasoning and argumentation with its own particular strategies for persuasion.

The Non-Classic Case: Textual Extraction

But assimilation, as it is treated here, includes not only the classic case of extending a text to address a new situation, but also the non-classic, but no less common, case of attempting to extract an implicit, hidden, or obscure meaning from a text, as in the controversy over Lincoln's sexuality (see Perelman and Olbrechts-Tyteca 383-384). Even though there is no situation onto which structure from the text is mapped, the arguer still makes use of analogical reasoning. Specifically, the link between the inferred meaning and what is explicit in the text is argued through analogy. But in these non-classic cases of assimilation, the direction of the mapping is *reversed*: structure is mapped from the domain of the inferred meaning onto the domain of the text. Yet the text maintains its privileged position as the proving ground for whatever implicit meaning is proposed. In the debate over Lincoln's sexuality, scholars examine the textual evidence to see if any details of his life, when reconstructed, parallel modern conceptions of homo-, hetero-, or even bi-, sexuality, conceptions which probably did not inform Lincoln's or his contemporaries' thinking during his life. Thus, as scholars attempt to settle the question of Lincoln's sexuality, structure is mapped from contemporary notions of sexuality onto

the textual clues to Lincoln's life as found in the historical documents. We can see how, even in the non-classic case, the arguer still brings the text into his or her situation.

In both kinds of cases, textual extension and textual extraction, the structure-mapping process of assimilation brings together and associates the elements of the textual and non-textual situations such that the value of those elements changes (Perelman and Olbrechts-Tyteca 381, 382, 387, 397). Garnet's association of nineteenth century U.S. lawmakers with biblical scribes and Pharisees revalues them from reputable legislators to hypocritical oppressors. In the controversy over Lincoln's sexuality, the association of Lincoln with homosexuality could reduce the current stigma of LGBT people in contemporary U.S. society. While the direction of the mapping differs in each kind of case, the outcome does not. The acceptance or rejection of an assimilation does not merely amount to a dis/agreement concerning the structural similarity of the textual and non-textual domains, but dis/agreement concerning the set of value changes affected by the assimilation (Perelman and Olbrechts-Tyteca 390; cf. Hofstadter 602).

Assimilation Creep

Like the term *mission creep*, the term *assimilation creep* indicates the tendency of an instance of assimilation to spawn further assimilations, either within the same domain or to closely related domains, a tendency that appears to be a feature of analogical reasoning more generally (Fauconnier, *Mappings* 104; Perelman and Olbrechts-Tyteca 385-386). One cause of assimilation creep is that, as a result of being assimilated, the meaning of the text is expanded. The text now applies to a class of situations or otherwise entails some implicit meaning that was originally outside of its scope. This expansion

enables subsequent interpretations, including further assimilations, that are now more plausible given the text's expanded meaning. The text has a wider range of immediate interpretive possibilities, covering and bordering more conceptual points and coming closer to still others. Situations or issues that may not have previously seemed within the text's "interpretive range" now appear within argumentative reach.

We can see assimilation creep at work in a recent ACLU (American Civil Liberties Union) amicus brief to the Fourth Circuit Court of the United States. The case involves a Hampton, Virginia, sheriff who, when running for reelection in 2009, fired a number of his employees for expressing support for his opponent, which included liking his opponent's Facebook page. The employees sued, but lost their case in the U.S. District Court for the Eastern District of Virginia in part because the Court ruled that liking a Facebook page was not protected speech under the First Amendment. The employees appealed. In support of the employees' appeal, the ACLU in its brief argues that liking a page on Facebook is protected speech under the First Amendment. To support its claim, the civil liberties advocacy group cites previous applications of the First Amendment to non-verbal "symbolic" speech (ACLU 8). While the First Amendment expressly prohibits "abridging the freedom of *speech*," the ACLU lists several cases in which the Courts have decided that the Amendment protects symbolic expressions or conduct, including the burning of the American flag, wearing military uniforms to criticize U.S. involvement in Vietnam, and sit-ins to protest racial segregation (U.S. Const. Amend. I; emphasis added; ACLU 8). None of the cited instances are primarily verbal in nature, but through analogy the Courts have decided that these instances are protected speech because, like speech, they communicate ideas.

As a result of the First Amendment being extended to these cases, the meaning of the First Amendment itself has been expanded. The phrase “abridging the freedom of speech” no longer simply includes verbal expressions, but also symbolic acts and conduct. The ACLU therefore uses this expanded meaning of the First Amendment to argue for the Constitutional protection of liking a Facebook page: “Even if the Court concludes that ‘Liking’ is not pure speech, it is surely constitutionally protected as symbolic expression” (ACLU 7).

As this example illustrates, whenever a schema is abstracted in the process of assimilating a text, that schema governs the new meaning of the text. In the case above, as U.S. Courts broadened the scope of the kind of activity protected as “speech” by the First Amendment, an abstract schema of *symbolic expression* developed governing what could be protected. The ACLU is now trying to argue that liking a Facebook page, an electronic action, counts as symbolic expression, that it fits this agreed upon schema for interpreting and applying the text. Should the Fourth District Court accept the ACLU’s argument, it will extend the protection of the First Amendment to a new class of actions.

The use of a text for particular purposes always has an effect on its meaning to varying degrees. Depending on how abstract the governing schema is for an assimilation, the text can be very flexible (see Fauconnier, *Mappings* 104-105). (The ACLU seems to be counting on the flexibility provided by the schema *symbolic expression* in its arguments.) Furthermore, additional, more abstract schemas can always be extracted (Fauconnier, *Mappings* 104; Hofstadter 559). Thus, when people sometimes object to the assimilation of a text because they are concerned that further, *undesirable* assimilations may follow (a “slippery slope” argument), their concerns are not entirely unfounded.

Indeed, an arguer can take advantage of the fact that an audience has accepted one assimilation of a text to demand its acceptance of a further assimilation based on the same schema (see Perelman and Olbrechts-Tyteca 386-387).

The assimilation of a text, however, only makes further assimilations more possible and perhaps more argumentatively plausible. Assimilating a text never guarantees that a particular further assimilation will occur. Many other conditions must also be in place for a subsequent assimilation to be persuasive. While arguing for further assimilations of a text can strengthen the underlying schema governing the interpretation of the text, further assimilations can also undermine that schema (see Hofstadter 594-595; see Perelman and Olbrechts-Tyteca 386). Assimilating a text “too far” can actually confuse the meaning of the text in the audience’s mind (see Perelman and Olbrechts-Tyteca 380, 398). Subsequent assimilations can pick up the meanings, associations, and even consequences of prior assimilations. Plus, the direction of further assimilations is not necessarily predictable. Different relational correspondences between the domains of the text and the situation or implicit meaning than those originally advanced can always be argued for, sometimes as the result of different schemas (see Fauconnier, *Mappings* 104). This can lead not only to the alteration of the original assimilation but also its replacement. In any case, tracing how a text has been assimilated over time can prove very useful to scholars attempting to understand one way in which the meaning of a text evolves in a community.

Strategies for Supporting or Refuting Assimilations

In Support of an Assimilation

Praising the Text

One of the primary issues an arguer faces when assimilating a text is persuading the audience of the text's suitability for a new context. One helpful strategy for extending a text, according to Cicero, is to speak in "praise and support of the law which you quote" (*De Inventione* 2.50.150). Cicero in fact suggests that this tactic be taken up first (*De Inventione* 2.50.150). If audience members have negative or neutral feelings towards the text, they may be less receptive of the assimilation. But if they have positive feelings toward the text, they may be more inclined towards the assimilation. Any kind of appeal to the greatness or influence of a text or, by metonymy, of the text's author is an example of this tactic. This strategy of course is not limited to this stasis, but only fitting texts are worthy of assimilation.

Making Explicit Connections

Since arguments for extending a text rest on analogical reasoning, one important strategy involves explicitly drawing out for the audience the similarities between the "accepted principles" of text and the "circumstances" of the situation in question (Cicero, *De Inventione* 2.50.150).¹⁶⁵ As stasis theory developed into the late antique period, a specific group of topics for making connections between the textual and non-textual situations were recognized and catalogued. These lines of arguments are based on equivalence, relative significance, opposition, and consequences, and are discussed in the following sections.¹⁶⁶

¹⁶⁵ Cf. Hermogenes' "presentation of the fact" (88.15).

¹⁶⁶ Cf. Melanchthon's commonplaces, which he says writes "[i]n this [stasis]...are very effective" (166).

Equivalence. In equivalence-based arguments, one side argues that certain relevant elements in both the textual and non-textual situations are for all intents and purposes equivalent (Julius Victor 3.15; Martianus Capella 5.465; Fortunatianus 1.25).

Fortunatianus gives an example in which the law stipulates that, “He who beats his father shall lose his hand” (1.25). In the non-textual situation, “[a] man beat his mother and is sought for [the same] punishment” (1.25). Here, we imagine that the prosecutor argues that the father in the text and the mother in the non-textual situation are equivalent in their status as parents and that the *spirit* of the law is to punish those who beat their parents. The *gender* of the parent is *irrelevant*. (Note that this is not a dispute in *letter versus spirit* because the prosecutor does not argue for the spirit against the letter, but argues for *both* the letter and the spirit.) The defense would need to mount an argument for the *non-negligible relevance* of gender.

*Greater/lesser.*¹⁶⁷ If the relevant elements in the textual and non-textual situations cannot be persuasively argued to be equal, one can either argue that accepting a text with greater weight compels one to accept the situation in question that somehow has lesser weight, or one can argue that since something holds in a lesser situation, here the textual situation, it holds even more in a situation with greater weight, here the non-textual situation

¹⁶⁷ Cicero outlines four points by which similarity grounded in equality or degree of difference (greater/lesser) can be considered: quantity, quality, value, and relation to other things (*Topica* 18.68). Quantity involves any characteristic that can be compared numerically; quality involves those characteristics intrinsic to the form of the objects compared; value involves those characteristics attributed to the object by virtue of its acting in the world; and relation involves the static relationships between the object and other things in the world (*Topica* 18.69-70). All of these may be a matter of perception and argument informed by the cultural context of the rhetor and the audience.

(Fortunatianus 1.25; Julius Victor 3.15).¹⁶⁸ In the classical rhetorical example for arguing from greater to lesser, the law allows anyone to kill an exile who returns to his or her former state (Fortunatianus 1.25; Julius Victor 3.15; Martianus Capella 5.465). Someone finds, beats, but does not kill a returned exile, and is charged with unlawful punishment. The defense argues from greater to lesser that if it is permissible to kill a returned exile, then it must be permissible to beat one because it is a lesser punishment. The logic of the argument is that if one allows the more severe punishment, one must also grant the less severe punishment.

But this reasoning can also work in reverse. Fortunatianus gives the following example: a law stipulates that ““He who shields a fellow-soldier in the battle line, shall seek a reward”” (1.25). But in the case that is brought to trial, “[a] man shields the general, wishes to ask for a reward, and is refused”” (Fortunatianus 1.25). Here, we imagine that the man who shielded the general argued (unsuccessfully) from lesser to greater that if a man who protects a fellow-soldier in the line of duty may ask for a reward, so much more should a man who protects the leader of his fellow soldiers. Fortunatianus, however, provides no information as to why the man was refused. In general, those opposed to greater to lesser or lesser to greater arguments assert that the *letter* of the text must be followed, perhaps by refuting the greater/lesser relationship drawn by arguing that the original relations outlined in the text are perfectly matched, or that there are other (external) reasons (e.g. consequences) for adhering to the *letter*.

¹⁶⁸ Cf. Aristotle, *On Rhetoric* 2.23.4; Hermogenes 89.20; Martianus Capella 5.465.

Opposites. Another ground for drawing a similarity between a textual and non-textual situation is opposition (Martianus Capella 5.465; Fortunatianus 1.25; Julius Victor 3.15).¹⁶⁹ If a certain set of variables leads to a certain set of conclusions in the text, then, should the opposite of those variables exist in the non-textual situation, following the logic of the text, one can argue that the opposite conclusions should hold.¹⁷⁰ Martianus Capella gives an example in which the law mandates that a “brave man,” presumably one whose actions in battle have been especially noteworthy, “deserves a reward” (5.465). Should a prosecutor, however, wish to bring a “deserter” to trial, but have no specific law under which to try such a soldier, he or she could reason that since a “deserter” is contrary to a “brave man,” the “deserter” deserves the opposite of what a “brave man” deserves: a “penalty” (5.465). The specifications of the penalty could be argued in the same way, if the law stipulated certain rewards for certain kinds of “brave” deeds.

Consequences. Ancient rhetorical treatises also noted that an assimilation could be made based on consequences (Martianus Capella 5.465; Fortunatianus 1.25). That is, if the result or conclusion in the text and the situation could be shown to be the same, then an analogy could be drawn between the causes of the results when those causes were different. Thus, one argues that whatever applies to the cause in the text should also apply to the cause in the non-textual situation.

¹⁶⁹ The phrase for this topic in the treatises is *a contrario*, but assuming they are following the tradition of topics found in Cicero and Aristotle, this topic probably does not strictly refer to arguments based on contraries but to arguments based on opposites more broadly defined.

¹⁷⁰ See Aristotle’s topic *from opposites* (*On Rhetoric*, 2.23.1).

We find an example of this line of argument in a 1960 speech to the Nashville Christian Leadership Council by white civil rights activist Everett Tilson (Houck and Dixon 362-363). With a series of assimilations, Tilson argues that racial segregation violates the Ten Commandments. His argument concerning the ninth commandment, which prohibits bearing false witness against one's neighbor, is specifically based on consequence. After giving a number of examples of how segregation results in bearing false witness against both whites and blacks, Tilson concludes: "Segregation has betrayed us into bearing false witness about both races. It has betrayed us into granting the white man undeserved advantages. It has betrayed us into denying the Negro basic rights. In short, thanks in part at least to segregation, we have broken the ninth commandment against members of both races" (qtd. in Houck and Dixon 368). According to Tilson, segregation *causes* society to grant and deny privileges and rights according to race, acts which violate the ninth commandment because they *perpetuate* the *falsehood* that skin color correlates with superior/inferior qualities or higher/lower intrinsic value. Because segregation is a *cause* of acts of *false witness*, Tilson argues that segregation itself "breaches the ninth commandment" (qtd. in Houck and Dixon 367).

Appeal to the Appropriateness of Inferential Reasoning with Texts

Other lines of argument in support of an assimilation, besides explicitly tying the textual and non-textual situations, are also available to the rhetor. For example, the rhetor, in support of an extension or extraction, can argue that inferential reasoning is a

common and appropriate means of interpreting texts (Cicero, *De Inventione* 2.50.152).¹⁷¹ This strategy can also involve arguing that authors expect their audiences to infer meaning from their work, given the limitations of discourse, and that they write accordingly (Cicero, *De Inventione* 2.50.152). In deploying this line of argument, one can simply state that inferential reasoning is a normal approach to interpreting texts and is expected by authors and/or one can give examples of accepted interpretations derived by this method.¹⁷² If a rhetor chooses to use examples, an especially effective example would be an inferential interpretation previously argued by the opponent. This line of argument can neutralize attacks from the opposition that one's method of interpretation is unorthodox or radical. While the opponent still has other grounds of attack, unless he or she wishes to be exposed as inconsistent, this particular ground of attack will be effectively removed.

For example, Jack Rogers, in his book *Jesus, the Bible, and Homosexuality*, cites historical assimilative interpretations of the Bible that were instrumental in changing the Presbyterian Church (USA)'s positions on slavery, the role of women in the church, and divorce and remarriage, in support of his argument that the Bible can likewise be inferentially read to support modern homosexual relationships (40-44). Since Rogers' primary audience is the Presbyterian Church (USA), this move should theoretically shield him from attacks by fellow Presbyterians against his choice of interpretive method.

¹⁷¹ Cicero classifies this line of argument as a common topic, denoting that it can be applied in virtually any context (*De Inventione* 2.50.152).

¹⁷² When working with a closed body of texts, this particular tactic can involve demonstrating how inferences drawn from certain texts rely on the inferences drawn from the interpretation of other texts (Cicero, *De Inventione* 2.50.151).

Appeal to the Naturalness of the Assimilation

Another strategy is to argue that the new application or inference is a natural or logical extension of the text (see Hofstadter 550-551). One argumentative effect of the ACLU's citation of several previous extensions of the First Amendment is to suggest that extending the protection of speech to liking a Facebook page is a natural and logical application of the text.

Outstripping the Extension

In some cases the rhetor may want to "outstrip" the assimilation, that is, argue that the interpretation "is more than just a simple analogy" or mere inference (Perelman and Olbrechts-Tyteca 393). It is as if the assimilation never took place because the gap between the domains of the textual and non-textual situations has been erased. Erasing the gap is not necessarily a difficult task as the distinction between domains is not always easily discernible or sustained (Perelman and Olbrechts-Tyteca 393). Thus, the outstripping of an assimilation is really an effect of arguing, implicitly or explicitly, that the textual and non-textual situations are examples or illustrations of the same common schema (Perelman and Olbrechts-Tyteca 393, 394, 396). The assimilation, whose trace is then erased, is thus an argumentative step towards placing the textual and non-textual situations on the same plane.

For example, historically and even today it has been a common move across multiple black discursive spaces to outstrip the assimilation of the Exodus narrative found in the Bible and the African American experience. As scholar of African American rhetoric Gary Selby explains,

This sense of connection with the biblical story [of the Exodus] went beyond that of explicitly identifying, by means of analogy, the elements of correspondence between their [African Americans'] situation and that of ancient Israel—offering a hope 'embalmed in detached, lifeless sermons.' Rather, their songs and sermons emotionally transported them into experiences that transcended the boundaries of geography and chronology. (41)

The outstripping of this particular assimilation can be traced to as early as slave times. As we can see in the chorus from the slave spiritual “Go Down Moses,” the non-textual situation has been completely collapsed into the textual situation:

Go down (go down)

Moses (go down Moses)

Way down in Egypt's land

Tell old Pharaoh

Let my people go! (qtd. in Selby 36)

For many enslaved African Americans, songs like these were not simply ancient tales with striking and hopeful parallels. They truly believed that God would send them a Moses to deliver them from their Pharaohs, the whites who enslaved and oppressed them (Selby 35, 45-46). Prophetic calls for emancipation, equal rights, and equal treatment gained a divine urgency and weight when supported by such biblical outstripping.

But the outstripping of an assimilation may not always be a *desired* or *useful* effect. Sometimes the textual and non-textual situations are inadvertently blended in the audience's mind, and sometimes the rhetor will want to prevent such blending from happening in the first place (Perelman and Olbrechts-Tyteca 395). Once an outstripping

has occurred, a rhetor wishing to use the established assimilation in argument may have to find ways to mitigate an outstripping's undesired effects, as we see in the example of Martin Luther King, Jr. Although the historical assimilation of the Exodus narrative with African American experience was a rich resource for King's rhetorical call for nonviolent resistance of racial oppression, its outstripping also presented challenges (see Selby 45). When outstripped, certain elements in the Exodus narrative could have exacerbated racial tensions, encouraged passivity on the part of blacks, and led them to look for a real, geographical Promised Land (see Selby 45-48). In response to these challenges, King minimized, omitted, and transformed certain elements of the familiar biblical narrative to fit his social and political agenda (see Selby 45, 48). In any case, both the power and the danger of an outstripped assimilation lie in its collapse of the textual and non-textual situations in the audience's mind.

Equity

Quintilian remarks that "the most effective treatments are based on Equity" (7.8.7; cf. Cicero, *De Inventione* 2.50.151). If the rhetor can make the case that his or her assimilation is fair or just, the assimilation is more likely to be accepted by the audience. The interpretive principle of equity, which accommodates texts to particular situations,¹⁷³ may be so effective because it is grounded in the common desire to fairly or justly address a situation, rather than in something for which the textual evidence is equivocal. For example, after assimilating several passages of the New Testament, including the words of Christ, to support homosexuality, John McNeill in his book *Freedom, Glorious*

¹⁷³ See Eden on equity in relation to the interpretive stases (13-14).

Freedom offers the following ultimatum which aligns his interpretation with a more equitable treatment of gays and lesbians: “Will we deny them [lesbian women and gay men] the place which Christ evidently found for them in his proclamation of the Good News, or will we as a faith community seek to overcome our fears and prejudices, so long influenced by those of the world, to embrace the love and freedom of the Gospel, which reaches forth to embrace all people?” (144). As this example illustrates, this line of argument seems most appropriate in settings where the text in question is used as a means of governing the beliefs or behaviors of the audience’s community.

Assimilating Multiple Texts

Although this is not technically a line of argument, one feature of assimilation is that a rhetor may assimilate multiple texts at once in support of a larger argument (see Perelman and Olbrechts-Tyteca 391). But there is a danger in this strategy, since each text brings with it different structures and therefore can lead to different interpretations of the non-textual situation (Perelman and Olbrechts-Tyteca 392). An equal danger is that the different texts will interact with each other in the audience’s mind thereby affecting their meaning (Perelman and Olbrechts-Tyteca 392). To avoid too much interference between texts, a rhetor can keep discussion of each text sufficiently separated in the discourse, a matter of arrangement (Perelman and Olbrechts-Tyteca 392). In terms of argument structure, each text can have a specific role or use in an argument. For example, certain texts might take a more central role as the main texts supplying the structure or being structured, while other texts might take on a more “reinforcing role” supporting the structural parallels established with the main texts (Perelman and Olbrechts-Tyteca 383).

Conversely, one text can be assimilated to multiple situations or implicit meanings in the same argument. But the arguer must decide if it is wise to divide his or her argumentative energy in this way.

In Opposition to an Assimilation

Propose an Alternative Assimilation

The rhetor opposed to an assimilation can propose an alternative assimilation, following the lines of argument appropriate for supporting an assimilation (Cicero, *De Inventione* 2.50.152). The assimilated texts of the opposing disputants may be the same, but the disputants will disagree over how the text should apply to the situation—the structures they map will be different. In the main case study of this chapter, scholars oppose the conclusion that the historical evidence supports that Lincoln was gay by arguing that the evidence shows that he was heterosexual, offering an alternative assimilation. Since neither category of sexuality was available to Lincoln under those terms at the time, both interpretations involve reading back into the text contemporary conceptions of sexuality.

But should the arguer be unable to come up with an alternative assimilation, or proposing an alternative assimilation seems less persuasive, he or she may argue that the text should be interpreted according to its *letter* using the following strategies as support (Cicero, *De Inventione* 2.50. 152)

Contrast the Textual and Non-textual Situations

A rhetor opposed to an assimilation will need to attack the assimilation at its base by arguing that the textual and non-textual situations are in fact dissimilar and therefore do not warrant assimilation. Cicero suggests that the rhetor “point[] out that the cases differ in kind, nature, meaning, importance, time, place, person or repute...” (*De Inventione* 2.50.151; cf. *Rhetorica ad Herennium* 2.12.18, Perelman and Olbrechts-Tyteca 393). The goal is to relate the textual and non-textual situations in such a way that “it is not proper to take the same position in regard to both” (Cicero, *De Inventione* 2.50.151).¹⁷⁴ For example, to argue against the assimilative reasoning that justified American slavery based on the lack of its condemnation in the New Testament, John Fee, a southern abolitionist, points out that most of the Romans’ slaves “were as white or whiter than the Romans themselves,” noting that most of them were from Germany, Gaul, Spain, Greece, Egypt (Fee 29). Fee therefore concludes, “if the apostles’ teaching and practice sanctioned slavery, it sanctioned the slavery of the age...WHITE SLAVERY” (Fee 28; capitalization original). In contrasting the racial difference between contemporary slavery in America and slavery in Roman times, Fee attempts to unhinge a common biblical justification of the institution.

¹⁷⁴ Specific strategies for countering specific lines of logical arguments (equivalence, greater/lesser, opposition, consequence) can be found in some of the classical and early modern rhetorical manuals: to counter arguments of equivalence or degree difference, the arguer may relativize the importance of the textual or non-textual situation, or elements thereof, in order to show that the text does not fit the situation (Hermogenes 89.10). To counter an extension based on consequence, an arguer can demonstrate that the natures of the causes are different (Melanchthon 167). And so forth.

Take the Proposed Assimilation to Its Unacceptable, Incompatible, or Absurd

Conclusions

An arguer opposed to an assimilation may continue to assimilate the textual and non-textual situations based on the original assimilation proposed by the other side, but in this case the goal is to refute rather than affirm the assimilation. The arguer achieves this goal by taking the assimilation to “its logical conclusions,” which are either unacceptable to the audience, produce an incompatibility, or are absurd (Perelman and Olbrechts-Tyteca 387). As Perelman and Olbrechts-Tyteca point out, “This method of refutation assumes...that...it [the original analogy] was already inadequate at the start” (387).¹⁷⁵ Here, the arguer would rely on the lines of argument available to an arguer in support of an assimilation, but especially effective would be the “logical” lines of argument, such as equivalence, greater/lesser, opposition, and consequence.¹⁷⁶

The debate over Lincoln’s sexuality, including the nature of his relationship with Joshua Speed, is rife with arguments of this kind. For example, in the following passage David Donald relates the textual anecdote that convinced him that Lincoln and Speed were simply friends along with his reasoning:

James Speed, he [Lincoln] told Titian J. Coffey, the U.S. assistant attorney general, was ‘a man I know well, though not so well as I know his brother Joshua. That, however, is not strange, for I slept with Joshua for four years, and I suppose

¹⁷⁵ Perelman and Olbrechts-Tyteca also observe that, “this kind of refutation is nearly always possible” (387). Furthermore, “The refutation is never compelling, as one may refuse to accept the extension. The main significance of the refutation is, however, that it emphasizes the fragility and arbitrary character of the analogy” (Perelman and Olbrechts-Tyteca 387).

¹⁷⁶ As Melachthon remarks, “We must see, however, that there be good logic in the syllogism. When parallels are brought in, we must see that causes are of a similar nature” (166).

I ought to know him.' I simply cannot believe that, if the early relationship between Joshua Speed and Lincoln had been sexual, the President of the United States would so freely and publicly speak of it. (Donald 38)

Donald takes the premise that Lincoln had a sexual relationship with Speed to one of its logical conclusions: Lincoln would have kept any implication of it a secret as President of the United States in the nineteenth century. Donald's argument is based on logical incompatibility, as Lincoln's presidential obligation to act honorably would have clashed with the cultural shamefulness of same-sex relations at the time. But since Lincoln does publicly discuss his sleeping arrangements with Speed, which would have been the site of their sexual activity, his relationship with him must have been platonic.

Deride the Method of Inferring Meaning from Texts

Another means of undermining an assimilation is to argue that inferential reasoning is "no better than divination" (Cicero, *De inventione* 2.50.153). In other words, the rhetor attacks the method of assimilation on principle. As Cicero remarks, "all things can be proved to be like or unlike" (2.50.152). This strategy, however, is a dangerous move for the rhetor if he or she has ever used inferential reasoning to interpret a text in the past or accepted an interpretation based on inferential reasoning, as this point could be pointed out by an opponent.

In a similar vein, the rhetor may also argue that authors who rely on inference to get across their meaning are incompetent (Cicero, *De inventione* 2.50.153). This line of argument can imply that an argument in support of an assimilation assumes incompetence

on the author's part rather than deftness, or it can be used to attack the suitability of the text for assimilation in this situation through the ethos of the author by metonymy.

Cicero considers both of the strategies outlined in this section common topics, that is strategies that can be deployed in virtually any setting.

Strategies Common to Both

Definition

Another strategy available to an arguer against an assimilation is *definition* (Hermogenes 88.15). By defining the key words in a text, or the key terms of a dispute, in a particular way, a rhetor can exclude certain elements of the non-textual situation or text such that the proposed assimilation fails seemingly on its own merits. For example, in the original *Bland v. Roberts* case heard in the United States District Court for the Eastern District of Virginia, the Court ruled that liking a Facebook page is not constitutionally protected speech under the First Amendment because in previous "cases where courts have found that constitutional speech protections extended to Facebook posts," the contested speech "involved actual statements" (6). And as we shall see, in the debate over Lincoln's sexuality the definition of *homosexuality/gay* plays a crucial role in determining how to interpret the available textual evidence.

Rewriting or Amending the Original Text

Some strategies of argument in this stasis are available to both rhetors in support of and against an assimilation. For example, either kind of rhetor may rewrite or amend the original text. In the case of a rhetor using this tactic in order to affect an assimilation,

enough of the original is retained so that the text is not terribly altered, and new elements are grafted in according to a certain *spirit*. This tactic has been executed many times with such foundational documents as the U. S. Declaration of Independence. Here are the first two original sentences of the Declaration followed by its 1902 adaptation by W. A. Corey, who offers a Declaration of Independence for the working class.

When in the Course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident: that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness. (qtd. in Foner 42)

When in the course of human events it becomes necessary for **the enslaved class** to dissolve **the economic bonds** which have connected them with another and to become **the masters of their own destiny**, it is essential that they should declare the causes which compel them to the separation.

We hold these truths to be self-evident, that all men are created equal: **equal in opportunities, equal in rights**, among which are life and the pursuit of happiness. (Corey qtd. in Foner 151)

But when this strategy is used to refute an assimilation, the arguer amends the text to demonstrate how it would have to be written to fit the situation in question (see Perelman and Olbrechts-Tyteca 388). Here, the starker the difference between the amended text and the original, the more effective the refutation. In the hands of the rhetor opposed to an assimilation, this strategy is a form of taking the assimilation to its logical conclusions as manifested in necessary changes to the text. And, according to Perelman and Olbrechts-Tyteca, “The advantage in this technique is that the user profits by such measure of adherence as was given to the analogy [assimilation] in its primitive form” (389).

Martin Luther briefly makes use of this strategy in a sermon criticizing contemporary capitalistic practices that was published in 1524 as a pamphlet titled “On Trade and Usury.” In one particular place, Luther, who is staunchly opposed to monopolies, anticipates an assimilation in which the Genesis story of Joseph is cited as a righteous example of a monopoly (given that the Bible nowhere explicitly addresses the issue). In this story, Joseph saves the people of Egypt, along with people from surrounding countries, from hunger by gathering all of Egypt’s grain during a time of surplus and distributing it during a subsequent time of famine.¹⁷⁷ To counter a possible assimilation of this story in support of monopolies, Luther in one place writes, “For the text does not say that he alone gathered corn, but that he gathered it in the king’s cities¹⁷⁸,” and in another place, “Moreover, Scripture does not report that Joseph gathered the corn in order to sell it as dear as he pleased. For the text says clearly he did it not to

¹⁷⁷ Genesis 41.

¹⁷⁸ Perhaps a reference to Genesis 41:34-35 and/or 48.

satisfy greed, but in order that land and people might not perish.¹⁷⁹ But our merchant sells as dear as he pleases, and seeks his own profit solely, without concern whether land and people perish” (“On Trade and Usury” 27, 28). Luther contrasts what the text would *need* to state, but does *not*, to fit an assimilation supporting monopolies, with what the text *does* state. What the biblical text does state, according to Luther, does not support monopolies.

Appeal to Authorial Intent

In addition to amending the original text, various appeals to authorial intent can be made by both those in favor and against an assimilation. To support an assimilation, according to Cicero, rhetors “argue that no rule was laid down for this case, because when the rule was made for the other, the author of the law thought that no one would have any hesitation about this case” (*De Inventione*, 2.50.150). In essence, the rhetor argues that the author had the contested situation or inference in mind all along, but given its apparent or obvious inferential application or meaning saw no reason for explicitly referencing it in the text. The arguer may then choose to draw on contextual evidence to support this claim.

This line of reasoning is often used to support the argument that Jesus condemned homosexuality. Although there is no explicit biblical record of Jesus mentioning homosexuality, arguers will sometimes point to passages such as Matthew 19:4-9 and Mark 10:1-12. In these synoptic passages, Jesus is asked by the Pharisees about the lawfulness of divorce. He responds that divorce and remarriage amount to adultery,

¹⁷⁹ Perhaps a reference to Genesis 41:36.

drawing on Genesis to argue that “God made them [humans] male and female”¹⁸⁰ and that “no one [should] separate”¹⁸¹ a man and a woman once God has made them “one flesh”¹⁸² (Mark 10:6, 8, 9). Based on these passages, Robert Gagnon in his book *The Bible and Homosexual Practice* argues that, “There was no need for him to comment on whether homosexual unions should be permitted and, if so, whether his stance on divorce and remarriage should apply to them too.... It would have been a foregone conclusion for him that homoerotic relationships...were unacceptable” (194). According to Gagnon, Jesus would not have seen a need to explicitly condemn homosexual relationships because the only unions ordained by God were those between a man and a woman.

If a rhetor *opposes* an assimilation, he or she may argue that no text exists that treats the situation at hand “because the framer was unwilling to make any provision,” or that the text in question does not address the issue at hand because the author thought the issue was addressed in other texts, even if inferentially ([Cicero] 2.12.18). Therefore, the proposed assimilation between the text and situation in question is inappropriate because it goes against the author’s original intent.

Bradford Vivian makes an argument along this line in his attempt to disentangle Nietzschean thought from its appropriation by the Nazis to justify their mass extermination of the Jews and others. In his book *Public Forgetting*, in which he argues that “forgetting can play a positive, formative role in works of public memory,” Vivian claims that his notion of *public forgetting* enacts Nietzsche’s concept of *critical history* in which certain legacies of the past are purposefully destroyed (6, 52-53). Admitting,

¹⁸⁰ Genesis 1:27.

¹⁸¹ Genesis 2:24.

¹⁸² Genesis 2:24.

however, that Nietzsche's words were used to justify Nazi policies, he asserts, "one may measure the perversity of that appropriation, however, by the fact that the Nazis interpreted the meaning of Nietzsche's assertions here in a manner directly opposed to his intent" (Vivian 53). According to Vivian, while the Nazis' actions were unjust, unethical, and deadly, Nietzsche envisioned critical history serving justice under ethical guidance to promote life (53).

Reading between the Lines for Lincoln's (Homo)Sexuality

We return now to the historical debate over Lincoln's sexuality and his relationship with Speed that opened this chapter. As mentioned earlier, this controversy represents a non-classic case of assimilation because it does not have an instance of textual extension where a text is analogically applied to a new circumstance. Instead we have a case of textual extraction. We have multiple historians arguing over whether a particular case fits a general category. Here, the general category is the modern concept of homosexuality and the case is Lincoln, or more specifically his relationship with Joshua Speed. The evidence for determining this case consists of letters from a time before the modern notion of homosexuality was commonplace. These letters are also incomplete—many of the letters from Joshua Speed have been lost, thus giving us mostly one half of the correspondence between Lincoln and Speed. Thus, we not only have textual extraction but also conversational reconstruction. However, in any interpretive dispute, arguers always have to fill in certain blanks. It is just that in this case the degree to which historians must fill in the blanks is rather high. This circumstance, however, has

not stopped historians from attempting to determine whether Lincoln is gay or not using the available texts.

While historians draw on a range of texts as part of their investigations, their disputes seem to coalesce around a few key documents. In the following paragraphs, we will examine the disputes surrounding two of these documents: an excerpt from a letter from Lincoln to Speed describing an especially turbulent emotional time for the president-to-be and another excerpt, mentioned in the beginning of the chapter, from a letter Lincoln wrote to Speed in response to the details of Speed's wedding night. We look at arguments by David Donald, Jonathan Katz, and C. A. Tripp, who arrive at different answers to the question of Lincoln's sexuality: Donald concludes that Lincoln was not gay and that his relationship with Speed was platonic, Tripp that Lincoln was primarily homosexual and his relationship with Speed was romantic if not sexual, and Katz that the two men were romantically involved even though our modern conceptions of sexuality do not apply to them. These scholars primarily rely on appeals to authorial intent, taking the opposing assimilation to absurd conclusions, and context (often in the form of other textual evidence) to interpret key historical documents and support their conclusions. But first, we will examine how the definition of the terms *homosexual/gay* influences how the textual evidence is interpreted.

The first issue that must be addressed by any scholar entering this controversy, even if tacitly, is the definition of *gay* or *homosexual*, as the answer to whether Lincoln was gay or not heavily depends on one's definition of these terms. The term *homosexuality* was not coined until after Lincoln had died (Herzer 1). And although the belief that homosexuality is an innate, biological trait has existed throughout Western

history, this belief has always been a distinctly minority position until the late nineteenth century when it ultimately gained traction within the psychological and psychiatric communities (Greenberg 404, 407-409). How then does one determine the nature of Lincoln's sexuality according to categories he probably would not have recognized? This question is a matter of definition although it ultimately serves an issue of assimilation. As Charles Morris notes, "definitional argument[s]...limit interpretive ground for assessing [the] evidence" for Lincoln's sexuality (107). The *stipulative definition* a scholar posits for *gay/homosexual* determines the interpretive frame by which he or she will test the textual evidence for Lincoln's sexuality. In other words, even as scholars turn to the textual evidence to infer the nature of Lincoln's relationship with Joshua Speed, their conclusions hinge on their definitions of these key terms.

At the very beginning of his investigation into the sexual nature of Lincoln and Speed's relationship, Donald establishes a definition of *homosexual/homoerotic* based on sexual activity: "Was the close relationship between Lincoln and Speed a homosexual one? Or, since the word homosexual did not come into use until the 1870s, could it be called a 'homoerotic' one? To be blunt, did they have sex together?" (35). Following this definition, Donald proceeds to demonstrate that no evidence exists that suggests Lincoln and Speed had sex. He points out that none of Lincoln or Speed's contemporaries, including Lincoln's political rivals and detractors, "ever raised the question of sexual relations between [them]" (Donald 35-36). He dismisses the potentially suggestive nature of Lincoln and Speed's bed sharing since such arrangements were common at the time and held "no sexual implication[s]" (36). And though he concedes that there were indeed erotic, love relationships between young men in the nineteenth century, he maintains that,

“with rare exceptions, they do not appear to have been sexual relationships,” meaning that these relationships fail his definitional test for homosexuality (37). But Lincoln and Speed’s relationship, according to Donald, does not even fit into this “category” of male relationships as their letters to one another are “totally lacking in expressions of warm affection” (37-38). Donald goes on to interpret their letters to one another in support of this conclusion (see below), but he is “finally convinced” that Lincoln and Speed did not have a sexual relationship because Lincoln, when he was President, publicly stated that he had slept with Speed for four years (38; see discussion above). Because in his estimation Lincoln and Speed never had sex, Donald concludes that they “were simply close, warm friends, who came close to achieving Montaigne’s definition of complete comradeship” (38).

Tripp, on the other hand, seems to have a broader definition of *homosexuality*. Although he nowhere explicitly defines the term *homosexuality* in his book, given that he follows sex researcher Alfred Kinsey’s 0-to-6 homosexuality scale for rating Lincoln’s sexuality (with 6 being exclusively homosexual, Tripp gives Lincoln a 5), we can reasonably assume that he shares Kinsey’s definition of the term: “sexual relations, either *overt or psychic*, between individuals of the same sex” (Tripp 20; Kinsey, Pomeroy, and Martin 612; emphasis mine). Further evidence of Tripp’s adoption of a broader definition includes his statement that “particular acts [would not] have affected [Lincoln’s Kinsey] rating[.]” (20). And in his chapter on Lincoln’s early puberty, Tripp expresses interest in not only Lincoln’s “sexual actions” but also his “desires” (31). Unlike Donald, Tripp does not equate homosexuality with sexual activity between members of the same sex, but views homosexuality as a “sexual orientation” (36). Given this broader definition, the

historical documents need not point to overt sexual activity for Tripp to conclude that Lincoln was homosexual.

In contradistinction to both Donald and Tripp, Jonathon Katz claims to reject modern terms for sexuality in the context of this debate altogether: “Projected on the past, homo, hetero, and bi distort our present understanding of Lincoln’s and Speed’s experiences” (9). Katz’s rejection is grounded in his belief that not only are sexual identities “changing, time specific constructions,” but so are the ways people understand sexual desires and acts (10). Katz’s rejection of the terms of the debate theoretically leaves him open “to locate the intimacies of Lincoln [and] Speed...within the erotic and emotional institutions of their own time” (9). However, the effect of Katz’s stated rejection of these terms seems to be more a rejection of any definition that might constrain him from discovering homo-erotic or sexual desire in Lincoln and Speed’s relationship, as he adopts modern conceptions of sexuality to frame their relationship rather than understanding it on their or their context’s terms. For example, even though Katz states that he wishes to “[t]o understand Lincoln and Speed” using “their language,” he argues that Lincoln’s term for Speed, *friend*, “inadequately expressed his depth of feeling” and that the two “were at a loss for words—at least for adequate affirmative terms—by which to name, characterize, and judge their relationship” (9). Further, throughout his analysis of the textual evidence, Katz resorts to modern divisions of sexuality, in one place claiming neither man had an “instinctual heterosexual desire,” and in another calling Lincoln and Speed’s separation a “divorce” (19, 24). Katz may never call Lincoln *gay*, but most modern readers will have no trouble drawing that conclusion for themselves based on Katz’s findings.

With these various definitions, scholars then examine texts such as the following excerpt from a letter Lincoln wrote to Speed on March 27, 1842, for evidence of Lincoln's sexuality: "I am not going beyond the truth when I tell you that the short space it took me to read your last letter gave me more pleasure than the total sum of all I have enjoyed since the fatal first of Jany—' 41." (Lincoln 93). In general, scholars agree that the "fatal first" of January 1841 signifies a "truly major trauma of Lincoln's life" (Tripp 130).¹⁸³ But what lies in dispute is the cause of that trauma. Did Lincoln break off his engagement with Mary Todd that day, thus sending him into a downward emotional spiral? Or did Lincoln's emotional world collapse when he learned that day that Joshua Speed would be leaving Springfield to move back to Kentucky thereby breaking their bed-sharing arrangement? While the dispute over the phrase "fatal first" itself is a question of ambiguity (What is the real world referent of the phrase?), the answer further confirms or disproves various theories about Lincoln's sexuality as inferred from the textual evidence.

Donald, while conceding that the text may be connected to Lincoln learning of Speed's imminent permanent departure, argues that Lincoln's romantic relationship with Mary Todd played an undeniable role. Donald observes that Lincoln had earlier sent Todd a letter asking to break off their engagement, and on January first, he received a letter from her stating that she accepted his decision (Donald 42-43). Thus, Donald uses the *contextual* information involving both the content of Todd's letter and the timing of when Lincoln received it to support his interpretation of the "fatal first:" "The news devastated Lincoln. Though he had earlier longed to end his commitment to Mary Todd,

¹⁸³ See also Donald 43-44; Katz 18; Strozier 59.

he now began to suspect...that he loved her more than he had thought. Even more important, he was haunted by ‘the never-absent idea’ that he had made Mary unhappy” (Donald 44).

Katz, however, questions such a sure link between the “fatal first” and the end of Lincoln’s engagement with Todd. He appeals to a strict adherence to the *letter*, to the textual evidence, by noting that, “Speed’s sale of his store is the *only* event of that January first that is actually documented” (Katz 18; emphasis original). He also questions the certainty of whether Lincoln and Todd were actually engaged, and if so who actually broke off the engagement (Katz 18). For Katz, the textual evidence suggests a much surer link to Speed’s impending move to Kentucky than to his possible broken engagement with Todd: “The evidence does show that after that January first, Lincoln was deeply distraught and depressed, perhaps at another failure as a suitor, perhaps at losing the vivacious Mary Todd, *certainly* at losing his closest male intimate, Joshua Speed” (Katz 18; emphasis original). But for whatever reason, according to Katz, “Lincoln’s loss of Speed on January 1, 1841, has been consistently underrated by Lincoln scholars” (Katz 353n64).

Tripp outright disagrees with Donald’s interpretation, countering that, “If Lincoln’s break with Mary Todd had been the focus of his depression over the fatal first, as many of his biographers have assumed, he could easily have reversed it simply by seeing her again, or even by writing a short note” (Tripp 131). Tripp finds the *logical conclusions* of the standard view lacking: Lincoln’s broken engagement with Mary Todd could not have been a cause for Lincoln’s depression given the fact that he had initiated the break and could have reversed it. Thus, rejecting the kinds of theories proposed by

scholars such as Donald, Tripp reverses the cause-effect relationship between Lincoln's emotional dive and his broken engagement with Todd, claiming that Lincoln broke up with Mary Todd in the wake of his emotional "shake up" from learning that Speed was leaving. According to Tripp, it was "Lincoln's loss of Speed" with "overtly homosexual elements" that left him "evidently crushed" (130-131).

Finally, let us return to the excerpt from Lincoln's correspondence to Speed on February 25, 1842 highlighted at the beginning of this chapter: "I opened the latter [letter of the 16th], with intense anxiety and trepidation—so much, that although it [the wedding night] turned out better than I expected, I have hardly yet, at the distance of ten hours, become calm" (Lincoln 90). As we saw in the beginning of the chapter, David Donald cast this quote within a heterosexual frame, arguing that its sentiments flowed from Lincoln's wish to reassure Speed and learn how his friend's marriage was going before he committed himself to Todd (50). Donald's argument against a reading of this letter as evidence for Lincoln's homosexuality is based on *authorial intent*, what he presumes to be Lincoln's "desire" and "purpose" (Donald 50). He grounds his presumptions about Lincoln's intent in other textual evidence and contextual clues, especially a letter Lincoln sent Speed eight months later and the event that followed: in this letter, Lincoln inquired after his friend's marriage, and soon after receiving what some scholars assume to be a positive response from Speed,¹⁸⁴ Lincoln married Mary Todd (Donald 50-51). According to Donald, Lincoln's interest in Speed's consummation and marriage was rooted in his own anxieties regarding sexual relations with women, not in any anxiety over his romantic and/or sexual relationship with Speed.

¹⁸⁴ Including Katz 24; Strozier 64; Tripp 140; and of course, Donald 50.

Much like Donald, Tripp draws on evidence from other letters (*extra-textual context*) to frame Lincoln's expression of intense emotional feeling in his response to what he learned of Speed's wedding night. Tripp asserts that one letter, written about a month before the letter Lincoln wrote in response to Speed's wedding night, expresses "a level of intimacy and warm support well in excess of friendly advice" and that its words "are not the words of even the closest chum; they are the language of love" (136-137). Arguing that this "language of love" was *intentional*, Tripp states that "Lincoln seem[ed] fully aware of the risk here" of expressing his feelings to Speed (137). Tripp also claims that Lincoln's "motives" to "support" Speed's "heterosexual venture" with Fanny, while remaining "close by and fully informed," "are crystal clear in his final sentence [of the letter]: 'I shall be so anxious about you that I want you to write me every mail'" (137). According to Tripp, "Such sentiments, amounting to one affectionate embrace after the other, are apparent in every one of Lincoln's early letters to Speed. But they reach their peak, a kind of crescendo, in the sixth letter," the letter Lincoln sent to Speed after learning about the details of the consummation of his marriage (137).

For Tripp, there is no question that Lincoln's words to Speed after his wedding night indicate romantic interest. However, to cast doubt on the conclusion that Lincoln was simply revealing deep platonic feelings, Tripp writes the following: "Had Lincoln been merely a close friend he would of course have reveled in the good news of the wedding night that 'turned out better than I expected.' Instead, he suffered a major anxiety attack that had hardly let up 'at a distance of ten hours'" (138). Tripp argues that a platonic friend would have "reveled" in Speed's successfully consummated wedding. Lincoln, however, suffered an anxiety attack in response to the success of Speed's

consummation, contrary to what one would expect if his feelings for Speed were purely platonic. Tripp maintains that the text suggests that Lincoln had romantic feelings for Speed, which Speed's newly consummated marriage now threatened. Tripp takes the opposing assimilation to its *absurd conclusions* to refute it in order to support his own interpretation.

Conclusion

Assimilations are at the same time both one of the most powerful kinds of interpretive arguments that a rhetor can make as well as one of the weakest. The power of assimilation lies in its ability to relate a text in an almost wholesale fashion to a non-explicitly related situation, or to otherwise discover in it some meaning that cannot be found explicitly in the text. In the process, the values of the elements brought into association with one another are changed. Its weakness, however, lies in the manner in which this is done: analogical reasoning. At best analogical reasoning establishes a tethered relationship between the argued meaning and the text. For this reason, the arguer may need to work to establish a link between the assimilated meaning and the text in other ways, through explicit appeals to intention or equity, for instance. Ultimately an arguer may simply try to collapse the assimilated meaning into the text, eliding the fact that the argued meaning is derived by means of assimilation. Because arguers may try to cover their tracks when assimilating a text, pinpointing analogical reasoning in textual interpretation is not always an easy task. Further, the analyst must always consider what perspective he or she takes in his or her analysis: that of the arguer, the arguer's

opponent, an audience, or some “objective” stance. Not all parties may see the argument or dispute in the same light.

While the features of any text can be highlighted and structured in multiple and various ways, the choice of text represents a major constraint on the kinds of relations that can be mapped or discovered. Therefore, analysts can study the specific texts that are selected in communities with the same bodies of text across different contexts for clues as to the milieus or ways of thinking of those communities in those contexts. Analysts may find that interpretive communities in different contexts prefer similar or different texts to adjudicate new, unforeseen situations depending on their mindset and motivations. Analysts might also study the kinds of questions that interpretive communities put to their texts in different contexts, especially those questions that their texts do not apparently or readily answer. Such an investigation would also shed light on the milieus of an interpretive community at a certain time in a certain place. Indeed, a similar study on an individual interpreter could shed similar light on his or her interpretive proclivities and preferences.

Each interpretive stasis, each kind of interpretive argument, represents an orientation towards the text. Assimilation in particular represents an orientation of discontinuity. Rhetors who argue in the stasis of assimilation act under the assumption that there is a discontinuity in reality between the domains of the text and the situation or the hidden meaning put in parallel or being extracted from the text. But whether there is continuity or discontinuity between the textual and non-textual domains in question is a matter of perception and construction, and assimilation arguments themselves build on and take part in this construction. Whenever a reader encounters a text, there is always a

question, implicit or explicit, of whether the structures of the text are identical to the question at hand or merely parallel; or when to conceive of a situation according to the parameters of a particular or given text according to a particular conceptual framework (see Hofstadter 566). In the process, the arguer must decide what relations carry over into the new ways of perceiving the textual and non-textual domains and what relations do not (Hofstadter 566). But it is through this process of assimilation that the interpretive reach of a text can be extended indefinitely. A rhetor can always make a text apply to a new case or reveal a hidden meaning.

Chapter 7: Jurisdiction

Whether at graduation ceremonies, sporting events, or military functions, the Star Spangled Banner has become a part of the pomp and circumstance of many U.S. public rituals and pastimes. While it has arguably become somewhat banal due to its pervasiveness, it remains a potent site for protest and controversy. Theologian and ethicist Stanley Hauerwas, for example, writes that he does not sing the national anthem at baseball games because not singing “reminds [him] that [his] first loyalty is not to the United States, but to God and God’s church” (481). When a Spanish-language version of the anthem was released in 2006 in support of the millions of immigrants living in the U.S., then-president George W. Bush, remarked that, “I think the national anthem ought to be sung in English, and I think people who want to be citizens of this country...ought to learn to sing the national anthem in English,” expressing a sentiment that others shared (Sands, ellipses original; Montgomery). And rock guitar prodigy Jimi Hendrix’s wordless 1969 Woodstock rendition of the song remains a defining classic of his era, capturing the anti-Vietnam spirit of his generation.

But the controversy surrounding the song’s lyrics in recent years pales in comparison to the contention they stirred in the years that preceded its legislative sanction as the country’s national anthem. Originally a poem written in 1814 by Francis Scott Key, inspired by the victory of American forces in the Battle of Fort McHenry, the tribute to the flag that “was still there” did not become the official national anthem until 117 years later in 1931 (Svejda 339, 384). Beginning in the 1910s, over forty bills and joint resolutions were introduced in Congress under public pressure to recognize the Star-Spangled Banner as the country’s official national anthem (Svejda 322; Molotsky 151).

But the push for legal recognition of the song sparked a heated, national public debate (Svejda 342). Those in favor of making the Star-Spangled Banner the national anthem argued that the song was “essentially American” (John Philip Hill qtd. in Prothero 222). They pointed out that, as a tribute to the flag, the symbol of our country, it was associated with “all the principles of liberty and of righteousness that America and Americanism imply” (“The Star Spangled Banner,” St. Louis Daily Globe-Democrat editorial qtd. in Svejda 366). Further, they observed that the song had already acquired an elevated status in the national consciousness and therefore it “should be our National Anthem in name as in fact or practice” (Matthew Page Andrews qtd. in Svejda 357).

Opposition to this legislative move, however, was vocal and fierce. Opponents argued that it would give “millions of children” required to sing it in school “the notion that the only real patriotism is warlike activity” (M. B. Hillegas qtd. in Molotsky 156). Others found its “intense hatred of Great Britain” “outmoded” (Stetson 4; Bard 18). Those with pacifistic leanings balked at making a war song the national anthem (Svejda 359). Opponents suggested alternatives such as “My Country, ‘Tis of Thee,” “America the Beautiful,” “The Battle Hymn of the Republic,” and “Yankee Doodle” (Svejda 352; Prothero 215). Contests were even held to produce a new, more fitting candidate for the national anthem (Svejda 376-378).

This early 20th century debate over whether “The Star-Spangled Banner” should be the country’s national anthem is an example of a dispute in the interpretive stasis of *jurisdiction*. Arguments in the interpretive stasis of *jurisdiction* concern the preliminary conditions for interpreting texts on particular occasions for particular audiences by particular people. For example, which gender is allowed to interpret sacred scripture in

public worship settings? This question concerns the gender of the interpreter and the site of the interpretation, both potential qualifying conditions for interpretation. In the controversy over “The Star-Spangled Banner,” the condition at issue is the song’s *eligibility* as the national anthem. Elevating the song to the status of national anthem authorizes certain kinds of interpretive arguments about the song as a text. The song becomes America’s song, a song that specially frames America’s identity, and thus interpretations of the national anthem become part of the process of constructing the country’s identity. And indeed “The Star-Spangled Banner” seems to hold a special place in national identity construction among the country’s patriotic hymns. But before “The Star-Spangled Banner” could hold an authorized position in framing America’s identity, various parties had to determine through argument that it satisfied certain eligibility conditions to be the national anthem.

As we will see, canonization, elevation of a text to a particular status, is just one of several issues that fall under the interpretive stasis of *jurisdiction*, in which we find any argument concerning preliminary conditions for interpreting texts. While some treatises from the rhetorical tradition count jurisdiction among the interpretive (legal) stases,¹⁸⁵ none of the treatises, to my knowledge, conceives of a stasis in which procedural concerns specifically pertaining to the interpretation of texts are debated. When jurisdiction is counted among the interpretive/legal stases, it is because procedural concerns pertaining to court cases are grounded in law and such disputes are interpretive

¹⁸⁵ For example, [Cicero] (1.11.19), Quintilian (3.6.66), Fortunatianus (1.11), Melanchthon (150).

by nature.¹⁸⁶ However, this chapter demonstrates that questions of jurisdiction have significant bearing on the resolution of interpretive problems, and much of the advice from the rhetorical tradition regarding *jurisdiction*, no matter how the original authors classified it, can be translated to an interpretive context. In what follows, I outline and explore the preliminary conditions for interpreting texts, examine various strategies for making jurisdiction arguments, return to and examine the case of the Star-Spangled Banner debate in more depth, and finally draw some general conclusions about what studying *jurisdiction* arguments can tell us about the nature of textual interpretation.

Preliminary Conditions for Interpreting a Text

In the interpretive stasis of *jurisdiction*, the central issue of contention concerns the preliminary conditions for interpreting a text (Cf. Quintilian 3.6.70; Hermogenes 42). When the preliminary conditions of interpretation, which are ordinarily assumed in the other stases, are questioned, the dispute enters into the stasis of *jurisdiction*. A disagreement in the stasis of *jurisdiction* can occur over whether a particular preliminary condition has been fulfilled or whether a particular condition is indeed necessary for a legitimate act of textual interpretation to take place. Until the question of the satisfaction or necessity of preliminary conditions has been resolved, a rhetor's argument concerning the meaning of a text cannot move forward in a persuasive manner for those parties who currently find the preliminary conditions unacceptable. Thus, when a dispute in the stasis

¹⁸⁶ More recently, Hanns Hohmann, who attempts to reconstitute classical stasis theory to advance modern legal argumentation, argues that the stasis of jurisdiction “does not at all contribute to the resolution of interpretive problems, and has thus nothing in common with the other legal issues, other than its relation to the law, which of course it shares with *all* issues” (Hohmann 176-177; emphasis original).

of *jurisdiction* arises, it postpones or suspends an actual dispute over the meaning of a text (Cf. [Cicero] 1.12.22; Hohmann 176). Because of this effect, raising a *jurisdiction* concern can be used as a tactic to avoid resolving or answering a dispute or question over the meaning of a text ([Augustine] 10; Melanchthon 168).¹⁸⁷ A *jurisdiction* dispute may in fact end in a stalemate for certain participants, such that only a selection, if any, of the original participants moves forward with the original argument over textual meaning.

Thus, like its situational counterpart, the interpretive stasis of *jurisdiction* has a special relationship to the other interpretive stases.¹⁸⁸ As Alan Gross observes, albeit in the context of the situational stases, *jurisdiction* is prior to the other stases (142). Among the situational stases, *jurisdiction* is concerned with procedure rather than the contingencies of the situation, placing it outside the hierarchical order of the other situational stases. A question of situational jurisdiction, therefore, can be invoked at any point, thus suspending the current dispute until the procedural question is resolved. Interpretive jurisdiction, existing outside the hierarchy of the other interpretive stases and able to be invoked at any point in an interpretive dispute, is also in this way something like a meta-interpretive stasis. It switches attention from a question of interpretation to a

¹⁸⁷ But as Quintilian would remind us, even though these conditions are preliminary, disputes over them need not necessarily occur before a disputant begins arguing the meaning of a text (7.5.2). Jurisdiction disputes can occur before, during, or after an interpretive dispute or argument has taken place.

¹⁸⁸ Despite this overlap between the situational and interpretive stases, just as with *definition*, we must distinguish and maintain a separation between the situational stasis of *jurisdiction* and the interpretive stasis of *jurisdiction*. Interpretive *jurisdiction* concerns specifically the preliminary conditions of interpretation, while situational jurisdiction involves procedural questions involving the outcome of a dispute over factors that lie outside of constructing the meaning of a text. We could consider both kinds of *jurisdiction* to be species of a larger genus of *jurisdiction*, which would include any preliminary questions of a dispute.

question concerning the conditions necessary for a legitimate act of textual interpretation to take place.

The key word here is legitimate. Anyone who reads a text interprets it. But whether or not that interpretation is legitimate, appropriate for a particular audience on a particular occasion from a particular rhetor, is another matter. Disputes in the stasis of *jurisdiction*, therefore, are really disputes over the legitimacy of interpretations by virtue of the conditions of production of those interpretations. Textual interpretation is like any other form of discourse, which, as Foucault explains, “is at once controlled, selected, organised and redistributed according to a certain number of procedures, whose role is to avert its powers and its dangers, to cope with chance events...” (216). *Jurisdiction* represents the range of argumentative procedures by which individuals, communities, and institutions attempt to control textual interpretation. Here we should note that, while many *jurisdiction* arguments are concerned with admitting or rejecting interpretations, they need not always present all or nothing alternatives. They can also be used to order the value of textual interpretations in a kind a hierarchy of legitimacy.

A useful perspective to introduce here is J. L. Austin’s speech act theory. In articulating his theory of “how to do things with words,” Austin emphasizes that certain preliminary conditions must be met in order for a successful speech act to take place (7). He explains, “Speaking generally, it is always necessary that the *circumstances* in which the words are uttered should be in some way, or ways, *appropriate*, and it is very commonly necessary that either the speaker himself or other persons should *also* perform certain *other* actions, whether ‘physical’ or ‘mental’ actions or even acts of uttering further words” (Austin 8; emphasis original). Austin calls these appropriate

circumstances *felicity conditions*, using the term *felicity* to signify that the fulfillment of these conditions does not determine the verity of a speech act but whether it has been happily or satisfactorily performed (14).¹⁸⁹ I reproduce the conditions he outlined here:

(A.1) There must exist an accepted conventional procedure having a certain conventional effect, that procedure to include the uttering of certain words by certain persons in certain circumstances, and further,

(A.2) the particular persons and circumstances in a given case must be appropriate for the invocation of the particular procedure invoked.

(B.1) The procedure must be executed by all participants both correctly and

(B.2) completely.

(Γ.1) Where, as often, the procedure is designed for use by persons having certain thoughts or feelings, or for the inauguration of certain consequential conduct on the part of any participant, then a person participating in and so invoking the procedure must in fact have those thoughts or feelings, and the participants must intend so to conduct themselves, and further

(Γ.2) must actually so conduct themselves subsequently. (14-15)¹⁹⁰

¹⁸⁹ Pierre Bourdieu, whom I reference in this chapter along with Austin, is very critical of Austin's theory of language. Bourdieu argues, "he thinks that he has found in discourse itself—in the specifically linguistic substance of speech, as it were—the key to the efficacy of speech. By trying to understand the power of linguistic manifestations linguistically, by looking in language for the principle underlying the logic and effectiveness of the language of institution, one forgets that authority comes to language from outside..." (109). But from my perspective, Austin does not at all ignore this fact as evidenced by his notion of the felicity of speech acts and his attention to felicity conditions, which I recapitulate here and build my own work on. Bourdieu describes Austin's conditions as "very bland and thin" (115). Later, however, he adopts Austin's terminology of *felicity* (116).

¹⁹⁰ Austin of course is neither the first nor the last person to recognize the connection between the force of language and certain concomitants. Writing about the stasis of

In the context of textual interpretation, interpretive arguments are themselves performatives or speech acts: arguers are not merely elucidating the meaning of a text but are actively constructing its meaning through argument. But while an interpretive argument itself may represent a central part of the performance of the act, other factors, like Austin's felicity conditions, are necessary, preliminary, for a *successful* act of textual meaning construction to take place (see Austin 8). These factors have everything to do with the legitimacy of an interpretation in a particular situation and nothing to do with its verity. In the interpretive stasis of jurisdiction we seem to primarily encounter arguments dealing with the conditions that fall under the Roman letter A and to some extent B as well. In these cases, another rhetor may argue that the interpreter has or lacks certain qualifications or that a certain style required when interpreting a text was or was not followed.

While qualifying an interpretation certainly enables it to have authorized effects, a "disallowed" or "void" interpretation is not automatically rendered "without consequences, results, effects" (Austin 16, 17). If the interpretation already exists and is accessible, it may still exert an influence and even be accepted despite an arguer's best persuasive efforts to disqualify it. Or, if an arguer is attempting to control conditions prior to interpretations being expressed, such attempts do not ensure that undesired

jurisdiction, Cicero, with the realm of law in mind, observes, "But in every case it will be proper for both sides to consider by whom and through whom and how and at what time it is fitting that action be brought or judgment given or any decision made about this case" (Cicero, *De Inventione* 2.20.60; cf. Fortunatianus 1.22 and Cassiodorus 2.2.5). More recently, Bourdieu reminds us that legitimate language use "must be uttered by the person legitimately licensed to do so...known and recognized as being able and enabled to produce this particular class of discourse...it must be uttered in a legitimate situation, that is in front of legitimate receivers...; finally it must be enunciated according to the legitimate forms (Syntactic, phonetic, etc.)" (113).

interpretations, whether procedurally or substantively, will not be issued. Individuals can and do defy norms, customs, and other socio-cultural and institutional pressures, and they can even act in defiance of threats of violence and death. The history of women's defenses of their right to preach in the Christian church, replete with institutionally unauthorized preaching by women, exemplifies the fact that unauthorized rhetoric and interpretation may still be efficacious (see Donawerth 73-104).

While it seems that most *jurisdiction* arguments are based on the conditions listed under points A, and some under B, these sorts of arguments can also be based on the conditions listed under Γ. These conditions solely concern the interpreter. For example, a rhetor may argue that an interpretation is disqualified because an interpreter was interpreting the text in bad faith, perhaps knowingly suppressing key evidence that might weaken his or her case. We will look more closely at arguments grounded in the person of the interpreter later in the next section.

Every time an interpretive argument is made legitimately, all participants must, at least tacitly, agree to the preliminary conditions and procedures for interpretation. The fact that a certain condition *has* been in place does not mean it must *remain* in place or be accepted (Austin 29). In principle, any participant at any time can argue for the rejection of any condition or procedure, constituting an argument of *jurisdiction*, though doing so may put that participant at risk of "sanctions" (Austin 29).

While one can see the establishment of preliminary conditions as a way of controlling interpretation,¹⁹¹ they are also a group's, community's, institution's, or

¹⁹¹ As Foucault argues, "We know perfectly well that we are not free to say just anything, that we cannot simply speak of anything, when we like or where like; not just anyone, finally, may speak of just anything" (216).

society's way of coordinating acts of textual interpretation (see Clark 35). The fact that the United States' Supreme Court has final interpretive authority over the meaning of the Constitution helps prevent legal chaos. Conventional preliminary conditions¹⁹² can help a community easily address recurring interpretive situations, reducing the need to determine the who, what, when, and where of these situations, and bring interpretive acts in line with a community's values, beliefs, and larger systems (Clark 70, 71-72).

Any argument concerning a preliminary condition for textual interpretation, whether about its fulfillment or its preliminary status, constitutes an interpretive *jurisdiction* argument. However, the two central constituents of interpretation, to which specific conditions can be attached, stand out as particularly effective means of enabling or disabling an interpretive act: the *interpreter* and the interpreted *text*. Arguing over the qualifications of the entities that fill these two roles can be an especially effective means of enabling or disabling an interpretive act because, of all the features of an interpretive act, they are the least mutable and most visible and defined, and they seem to be more closely tied to the interpretation that is produced. In a sense, these two constellations of conditions are first among preliminary conditions for textual interpretation.¹⁹³ The following two sections examine these two grounds of interpretive *jurisdiction* arguments more closely. However, it is worth emphasizing that the preliminary conditions established for carrying out textual interpretation often work together in relationship with

¹⁹² Preliminary conditions can also be established by explicit agreement or precedent (see Clark 65). Here we have a useful expansion or nuancing of Austin's "conventional procedure" (14).

¹⁹³ As the author of the *Rhetoric ad Herennium* writes in regards to the person bringing a case to trial, "In causes based on Transference (*translatiōibus*) we *first* examine whether one has the right to institute an action claim or prosecution in this matter..." ([Cicero] 2.12.18; emphasis mine).

one another in context and the analyst should be cautious when isolating any one factor as *the* condition that enables or disables an interpretation.

Concerning the Interpreter

When considering the interpreter, the key questions are the following: Who gets to say what the text means? and Does it matter? While anyone, of course, may interpret a text and inevitably does so in the process of reading it, the role of speaking for the text *for an audience* (even an audience of the self) must be officially “ratified” by the other participants in an interpretive situation, even if tacitly (Goffman 131; Clark 33; Bourdieu 106, 107). As Foucault writes,

This amounts to a rarefaction among speaking subjects: none may enter into discourse on a specific subject unless he has satisfied certain conditions or if he is not, from the outset, qualified to do so. More exactly, not all areas of discourse are equally open and penetrable; some are forbidden territory (differentiated and differentiating) while others are virtually open to the winds and stand, without any prior restrictions, open to all. (224-225)

To Foucault’s last point, we would expect the restrictiveness of the qualifications for the interpreter to increase as the importance or centrality of the text increased. Of course, this correlation need not always be the case. Grounding *jurisdiction* arguments in the qualifications of the interpreter opens and closes the door to persons who may interpret the text in ways the rhetor finds unfavorable. However, as mentioned earlier, an unsanctioned individual can always offer an interpretation of a text—the interpretation will just likewise be unsanctioned.

In any interpretive situation, the interpreting rhetor becomes a mediator between the text and an audience of that text, in effect making a case for the meaning of that text. Such persuasive mediation implies power. We therefore should expect that the qualifications for who is authorized to articulate legitimate interpretations of certain texts for certain audiences would correspond to the overarching power structures of the community¹⁹⁴ in which the interpretation takes place, though anomalous rituals can always be erected around specific texts. As Bourdieu reminds us, “[R]elations of communication are always, inseparably, power relations” (Bourdieu 167). What this means is that in some cases only people with certain identities, statuses, beliefs, roles, or positions¹⁹⁵ may be allowed to speak for a text.¹⁹⁶ For example, in certain religious communities, only men (perhaps with further qualifications) are permitted to interpret the community’s sacred text(s). Because disputes concerning the qualifications of the interpreter are inextricably linked with issues of power, they can be very heated.

¹⁹⁴ Any analysis that takes into account the communities in which an interpretive act is situated should recognize the multiple, overlapping, and in some cases encircling communities that may influence the qualifications of who may articulate a legitimate interpretation of a text.

¹⁹⁵ Cf.: “[W]ho is speaking? Who, among the totality of speaking individuals, is accorded the right to use this sort of language (*langage*)? Who is qualified to do so? [...] What is the status of the individuals who—alone—have the right, sanctioned by law or tradition, juridically defined or spontaneously accepted, to proffer such a discourse?” (Foucault 50). Cf. also: “Most of the conditions that have to be fulfilled in order for a performative utterance to succeed come down to the question of the appropriateness of the speaker—or, better still, his social function...” (Bourdieu 111).

¹⁹⁶ These restrictions can even apply in cases of a self-audience, in which the individual may be required to disregard his or her own reading of the text in favor of the official account.

The larger ritual or activity of which the interpretive act is a part also affects who can issue an interpretation (see Goffman 143; Clark 33, 59; cf. Foucault 225).¹⁹⁷ For example, again looking at male-female differences in religious communities, in Roman Catholicism women are barred from the priesthood because a “priest represents Christ himself in his relationship to the Church,” a relationship which is “spousal in nature” (Paul II). (For the Catholic Church, marriage can only be between a man and a woman.) This larger concern of representing Christ in his spousal relationship to the Church has the effect of barring women from a significant and powerful mode of textual interpretation in the Church: preaching. Considerations of ritual and activity in which an act of textual interpretation takes place of course involve issues of power—the asymmetrical status of men and women cannot be ignored in this example—but they are not necessarily contiguous with one another.

Qualifications, and similar ones, can also be applied to the adjudicating audience, the persons the interpreting rhetor is trying to persuade concerning the meaning of the text. Here the qualifications control the adjudicating audience’s right to decide whether to accept an offered interpretation or not.¹⁹⁸ Examples include the Supreme Court (discussed below) or church councils in Catholicism. When an audience is disqualified from *its* role

¹⁹⁷ As Foucault explains, “[R]itual defines the qualifications required of the speaker (of who in dialogue, interrogation, or recitation, should occupy which position and formulate which type of utterance); it lays down gestures to be made, behaviour, circumstances and the whole range of signs that must accompany discourse; finally it lays down the supposed, or imposed significance of the words used, their effect upon those to whom they are addressed, the limitations of their constraining validity. Religious discourse, juridical and therapeutic as well as, in some ways, political discourse are all barely dissociable from the functioning of a ritual that determines the individual properties and agreed roles of the speakers” (225).

¹⁹⁸ In the rhetorical tradition, this notion of arguing over the adjudicating audience is somewhat parallel to arguing over the proper court (e.g. Cicero, *De Inventione* 2.19.57; [Cicero] 1.12.22; Cassiodorus 2.25; [Augustine] 10).

as interpreter, it becomes a *passive* audience. No longer an adjudicating audience, it is supposed to accept whatever interpretation is sanctioned by those in power in the community.

One should not assume, however, that because an audience has the right to adjudicate a text that it also has the right to offer an interpretation with the same force as the interpreting rhetor arguing before it, or even to offer an alternative interpretation at all depending on the context. Thus, the power of an adjudicating audience correlates with the degree to which audience members can enter an interpretive dispute on the same level as the original interpreting rhetor.¹⁹⁹ For example, ordinary U.S. citizens are free to voice their disagreements with rulings by the U.S. Supreme Court, but only the Supreme Court's interpretations of the Constitution are legally binding. While interpretive arguments presented before the Court during oral arguments or in amicus briefs can influence the Justices' decision, these arguments do not have the force of determining the law of the land. Ordinary U.S. citizens, thus, are free to adjudicate the decisions of the Court, but their interpretations lack legal force.²⁰⁰

Concerning the Text

¹⁹⁹ Cf. Fahnestock and Secor's "warrant of jurisdiction": "an assumption that the audience addressed is indeed the appropriate, effectual audience to take action—that they have the right to take it, the time and occasion to take it, the means to take it, in short the power to take it" ("Toward a Modern Version of Stasis" 222).

²⁰⁰ From another perspective, the Court adjudicates the various interpretations of U.S. citizens, lifting up some and striking down others.

The other perhaps most important grounds for qualifying an interpretation is the text itself.²⁰¹ Disagreements over the qualifications of a text are disagreements over whether a text is admissible in a particular discussion.²⁰² When a text is qualified, this ensures that the text can apply to a given issue or context and opens the door to any interpretation that can be or has been drawn from it. When a text is disqualified, it is thrown out in regards to a given issue, and along with it any interpretations that could have been or have been drawn from the text. For example, when a judge tells a jury to strike a piece of testimony from the record, legally this evidence can have no bearing on the jury's judgment (though of course it may still have an effect). Whole texts as well as parts of a text can be qualified and disqualified, and even what counts as part of a text—textual boundaries—can be disputed in these discussions (see below).

We should emphasize that arguments over the appropriateness of texts concern *admissibility*, which we might usefully distinguish here from *applicability*. While one interpretation of a text may render it inapplicable to an issue, with another interpretation the text may be very applicable. But in both cases, the text is presumed to be admissible, that is it *can* be applied to the issue, whether or not it is actually found to be applicable. If participants decide a text is inadmissible, then there can be no discussion of applicability.

Particular variations of this question of textual qualification can arise, sometimes tied to or as a preliminary to the other interpretive stases. One particular question involves the issue of textual boundaries. Which parts of a continuum or collection of discourse count as part of *the* text (or *the* passage—the boundaries of any meaningful unit

²⁰¹ Cf.: “In causes based on Transference (*translationibus*), we...examine...whether it should not rather be instituted...under another law” ([Cicero] 2.12.18).

²⁰² In terms of Austin's conditions, texts are qualified or disqualified according to their appropriateness to the issue at hand, which falls under heading A.2.

of discourse can be disputed) that can be interpreted and applied in a particular context? Textual boundaries are always arguable and are another way of qualifying and disqualifying discourse in the context of interpretation. An example of an argument that turns on this point comes from a statement by former Secretary of State Hilary Clinton, who draws textual boundaries to disqualify leaked diplomatic cables from public discussion about U.S. foreign policy.

One specific variant of the question of textual boundaries involves the issue of canonization. A canon is a textual corpus that has some acknowledged significance for an interpretive community. Members of a community can argue over what belongs and what does not belong in a canonical corpus using a number of the tactics surveyed in the next section of this chapter. At stake in the question of whether a text (or passage) belongs in a canon is whether it should be accorded the same significance as that accorded to the corpus. Canonizing a text thus privileges its position in a community, perhaps permitting it to speak in new contexts or at the very least speak to old ones in a special way. Decanonizing a text or excluding a text from a canon denies that text the privileged position other texts in the corpus receive and perhaps also admission to certain discussions.

Contradictory Passages

Questions of textual boundaries can play a role in disputes in the stasis of *contradictory passages* to determine whether the conflicting passages indeed belong to the same text. Wherever apparent contradictions are found within a text, one solution is to argue for textual boundaries such that the conflicting passages are contained in separate

texts. We saw this tactic used by L. T. Townsend in chapter 3 in his defense of women’s preaching. In that example, Townsend resolves the apparent contradiction between Paul’s putative prohibition against women preaching in 2 Timothy 2:12 and other biblical passages that seem to commend it by dividing fallible apostolic opinion from infallible apostolic commands. This division, a move of *jurisdiction* within the stasis of *contradictory passages*, argumentatively resolves the contradiction. (Townsend’s categories also have the effect of removing the binding force of 2 Timothy 2:12.) Should Townsend have been questioned on his division, the discussion would have (at least temporarily) shifted to the stasis of *jurisdiction*.

Ambiguity

Questions of textual boundaries can also play a role in disputes in the stasis of *ambiguity* to determine the relevant co-text for resolving an ambiguity. We saw an example of this particular variant of *jurisdiction* in chapter 4 in the controversy over the ambiguous meaning of an instance of *that* in one of Barack Obama’s 2012 presidential campaign speeches. In that example, the selection of co-text played a crucial role in interpreting the ambiguity, as demonstrated by the Romney presidential campaign video that played a clip of the speech edited down to the single sentence, “If you’ve got a business, that—you didn’t build that,” thereby impressing upon its audience that the final *that* referred to businesses, implying that Obama is anti-free enterprise (“Hard-Working Americans”). On the other hand, Slate columnist David Weigel included Obama’s gestures as part of the co-text and from them argued that *that* refers to “the stuff that business-builders utilized on the way up, not the businesses themselves.” Indeed, when

Weigel points out the Romney campaign's (and Fox News') editing, his argument shifts into an embedded stasis of *jurisdiction* within the larger *ambiguity* dispute.

Assimilation

Another question of textual qualification that can arise involves not particular texts, but classes of texts. A preliminary question in any argument in the stasis of *assimilation* is whether an approximate text, a text that applies to an issue only *similar* to the one at hand, is admissible. In order for an assimilation argument or dispute to proceed, participants must agree that approximate texts are admissible in considering an issue. But like any other *jurisdiction* question, disagreement on this point postpones or suspends an assimilation argument. Unlike other jurisdiction questions over texts we have discussed, which deal with the qualifications of specific texts, this question is one of principle. Are approximate texts in principle admissible to discussions?²⁰³ For any individual or community, this principle does not have to be applied universally, but can be established for particular kinds of situations or even *ad hoc*. After this principle has been established, specific texts can be qualified or disqualified based on whether participants believe them to be approximate or not.

Consider as an example the opposition of originalism and purposivism as judicial philosophies for interpreting the U.S. Constitution. Originalists argue that the role of the Supreme Court is to uphold the Constitution's "entrenched" meanings, i.e. the putative specific, original intent of its authors, in any given case, not to adapt or translate them to

²⁰³ One could in fact have jurisdiction arguments over the principle of admitting contradictory and ambiguous texts, especially since some communities do. But in general, people seem to assume contradictions and ambiguities need to be resolved before the passages and texts containing them can be admitted to a discussion.

fit new cases (Calabresi 7, 8, 10-11). Purposivists, on the other hand, see the wording of the Constitution as “broad” with “generalities” that “call[] forth interpretation” (Brennan 56; cf. Eskridge et al. 221). They hew not to the text’s specific, original “static” meanings, but to its principles, which are adaptable “to cope with current problems and current needs” (Brennan 61; cf. Eskridge et al. 221). Purposivism provides a hermeneutic basis for using approximate Constitutional texts when new situations arise, while originalism by definition does not. This debate over how broadly the Constitution can be adapted to fit new cases falls under the stasis of *jurisdiction* and is preliminary to the act of interpreting the text itself. (See chapter 6 for more on the relationships between this *jurisdiction* concern and *assimilation*.)

The potential effect of qualifying or disqualifying a text exists on a continuum with regards to the range of contexts or issues the arguer hopes to open or close to the text. On one end, arguers attempt to extend the reach of a text, at the extreme claiming that a text has universal applicability so that nothing stands outside its reach. Arguments for regulating all arenas of life with a particular text or set of texts, as with some religious movements that wish to use their scriptures to govern both church and state, are found near this end. On the other end, arguers try to close several contexts to a text, and in an extreme form attempt to close all contexts to a text. For example, in 1919, Bishop J. B. Cheshire of North Carolina introduced resolutions in the Episcopal Church’s House of Bishops to exclude the songs “The Star Spangled Banner” and “America” (“My Country, ‘Tis of Thee”) from the church’s hymnal on the grounds that they were not addressed to God (“Would Drop National Anthem”). Had his resolution passed, such a move would

have denied these songs any authorized, ecclesiastical bearing in any Episcopal context. Of course, the only way to shut down all discussions of a text is to eliminate all traces of it, as people have attempted to do with book burning. But such actions go beyond the scope of this work as they exceed the category of argument.

Before we survey the lines of argument specific to this stasis, we should observe one more general note about qualifying and disqualifying interpreters and texts: in some cases, the interpreter or text is disqualified absolutely, or as absolutely as possible, but in other cases the question of qualification is simply postponed for another time or transferred to another set of arguers ([Augustine] 10).

Using the Preliminary Conditions of Interpretation as Lines of Arguments

If arguments in the stasis of jurisdiction are concerned with the preliminary conditions for offering an interpretation of a text, then we should expect the available tactics of argument to form along these lines. As Quintilian notes, specific questions of jurisdiction are grounded in the circumstances of the issue at hand (3.6.70). For each condition, rhetors can argue that a particular condition has either been satisfied or unsatisfied, or argue that the particular condition should not be a consideration in determining the legitimacy of the text and its interpretation (see strategy “Relevance of the Condition”). Here, I group these lines of argument into three categories: those pertaining to the text, those pertaining to the interpreter, and more general conditions.

Arguments concerning the Admissibility of the Interpreter

Possession

One way to control who has the right to interpret a text is to stipulate that interpreters must be in possession of the text. In other words, the text must belong in some way to the person who wishes to interpret it. (That “belonging,” of course, must be recognized by the other participants in the situation.) Conversely, one can argue that no one possesses the text, or that the text belongs to everyone, or that possession of the text is not a requirement for having the right to interpret it.

We see an example of this line of argument in the 3rd century work *The Prescription against Heretics* by Tertullian, one of the church fathers of the Latin West. Writing in a context of intense conflict over the meaning of the Bible, Tertullian inveighs against minority groups, or “heretics,” whom he believes “weary the strong... catch the weak and dismiss waverers with a doubt” (15). Probably taking a cue from classical rhetorical theory on this point,²⁰⁴ Tertullian wishes to forestall their interpretation of the Bible altogether: “Accordingly, we oppose to them this step above all others, of not admitting them to any discussion of the Scriptures” (15). And he does so on the basis of possession: “If in these [the Scriptures] lie their resources, before they can use them, it ought to be clearly seen *to whom belongs the possession of the Scriptures, that none may be admitted to the use thereof who has not title at all to the privilege*” (15; emphasis mine). He later argues that possession is a matter of “true” belief:

[T]he natural order of things would require that this point should be first proposed, which is now the only one which we must discuss: “With whom lies that very faith to which the Scriptures belong. From what and through whom, and when, and to whom, has been handed down that rule, by which men become

²⁰⁴ Grant with Tracy (76); see also Sider.

Christians?’ For wherever it shall be manifest that the true Christian rule and faith shall be, *there* will likewise be the true Scriptures and expositions thereof, and all the Christian traditions. (19; emphasis original)

Tertullian essentially argues that only those with true faith, that is faith that adheres to the doctrine of the Church, can be said to possess the Bible and therefore interpret it. The result is that those within the church can interpret the Scriptures, while those outside of it cannot. The reasoning is circular, but Tertullian recognized that the only way to squash heretical interpretations of the Bible was not to engage with and refute heretics, which would only leave the door open for counter-interpretation, but to strike at their right to interpret the Bible in the first place.

Tertullian’s argument for possession falls under what Foucault calls *doctrinal adherence*, in which adherence to a certain set of dogma or beliefs authorizes those who can speak, or, in our context, interpret a text (226). This particular grounding for possession more finely controls what might be said concerning a text, because, ideally, the interpreter’s doctrinal beliefs shape their discourse so that they produce a favorable interpretation—an interpretation that upholds the given doctrines. But arguments for possession can be grounded in other ways as well, including tradition, cultural association, and ancestral heritage. One can see each of these as variations on the line of argument based on possession.

Attitude towards the Text

An appropriate attitude towards a text can be expected of interpreters when they offer their interpretations, and thus the interpreter’s orientation to the text can offer an

argumentative point for qualification. In his essay “Bible Scholarship and Faith-Based Study: My View,” posted on the Society of Biblical Literature’s forum in 2006, Michael V. Fox argues that “faith-based study of the Bible,” which according to Fox’s description is guided in part by a reverent and uncritical orientation to the text, has no place “in the forum of academic scholarship.” He explains that,

Faith-based study of the Bible certainly has its place—in synagogues, churches, and religious schools, where the Bible (and whatever other religious material one gives allegiance to) serves as a normative basis of moral inspiration or spiritual guidance. This kind of study is certainly important, but it is not scholarship....

Secular scholarship allows the Bible to be seen as a rich and vital mixture of texts from an ancient people in search of God and moral culture. (Fox)

For Fox, what disqualifies faith-based study of the Bible from academic scholarship is, at least in part, the individual’s pious stance towards the text. Secular scholarship, on the other hand, is qualified in this realm because it takes the appropriate posture towards the Bible, one that is, as Fox puts it, “religiously-neutral.”

Having the Necessary Qualifications

An interpreter can be qualified or disqualified to enter a dispute over the textual interpretation of a text based on whether he or she has the “necessary” qualifications for the job, so to speak. These qualifications can include certain kinds of expertise, skills, group membership, or authority that enable or permit the interpreter to carry out the sort of interpretation desired. These qualifications are community and audience determined. Having these qualifications confers a certain amount of automatic credibility on the

interpreter. Interpretations advanced by individuals without such qualifications, especially when interpretations by qualified individuals are available, may not necessarily be dismissed out of hand. However, interpreters must ardently demonstrate that their interpretations merit attention through other means. (Here is a case where *jurisdiction* arguments may be used to order interpretations in a hierarchy of legitimacy rather than outright choosing one over another. Of course, privileging an interpretation gives it an edge.)

In the debate over the authorship of the Shakespearean canon, a matter of textual interpretation from a number of angles, professional status—whether someone has a Ph.D. in English literature or not—is sometimes used to qualify or disqualify the contenders in this debate and the answers they give to this question. Almost all professional literary scholars believe William Shakespeare of Stratford-upon-Avon was the true author of (many of) the works attributed to him, a belief earning them the collective title of Stratfordians. Anti-Stratfordians, on the other hand, who dispute Shakespearean authorship of the Shakespeare canon, generally tend to fall outside of this specialized, professional realm. As William Leahy, editor of a volume of essays exploring this subject, notes, “This has led to a situation whereby Stratfordians have found themselves able to characterize non-Stratfordians as ‘amateurs’, and damn them with the pejorative value inherent in that term” (Leahy 2). And indeed, we find this very kind of argumentative valuation in an introductory textbook to Shakespeare studies published by Oxford:

Scholars universally agree that [the] person [who wrote Hamlet and King Lear] was William Shakespeare, who lived about four hundred years ago, was born and

died in Stratford-upon-Avon, and was an actor and theatrical shareholder. *Yet* there are *some people, generally amateurs in the field*, who argue that ‘William Shakespeare’ was actually a pseudonym for a mysterious hidden author.

(Kathman 620; emphasis mine)

David Kathman, author of the textbook’s chapter “The Question of Authorship,” calls the investigation of Shakespearean authorship “the realm of crackpots” and compares anti-Stratfordians to creationists and people who claim to see UFO’s, in contrast to “those in the field” and “[p]rofessional Shakespeare scholars” (620, 621). Through these antitheses, Kathman disqualifies the interpretations of anti-Stratfordians based on their non-professional and non-specialist status.²⁰⁵

Arguments concerning the Admissibility of the Text

Coherence

A text’s coherence is one possible qualification for its admission to a discussion of an issue. A general requirement for a text to be usable is that it be coherent. But while arguers may attribute coherence or incoherence to the text itself, coherence is ultimately a

²⁰⁵ Before we move onto more general conditions, we should note one more thing about conditions concerning the interpreter or text: As the analyst attempts to understand why an interpretation succeeds or does not succeed in a particular instance on procedural grounds, a useful though not hard and fast distinction drawn from Austin might be whether a text or interpreter is incapable of performing the text required of it or whether it is of the incorrect type (Austin 35). Lines of argument, such as those concerned with a text’s coherence and an interpreter’s attitude toward the text, seem to consider interpreters or texts in terms of their capacity to perform the desired task. Lines of argument, such as those dealing with textual boundaries, the interpreter’s possession of the text, and an interpreter’s membership in a specialist group, seem on the other hand to qualify or disqualify interpreters or texts according to whether they are a certain “type” of person or text. But again, this distinction is not hard and fast, and lines of argument may qualify or disqualify interpreters or texts on both counts.

function of reader construction,²⁰⁶ built up from features of the text, context, and reader expectations, assumptions, and goals. Thus, whether a text is coherent or not is arguable. There are multiple aspects of coherence and therefore multiple lines of argument that rhetors can employ to qualify or disqualify a text in regards to this matter. I survey two specific lines of argument—contradiction and perspicuity—below.

Contradiction. Whether a text contradicts itself or not becomes an issue in the stasis of *jurisdiction* when the text’s admissibility depends on the answer. A contradiction in a text, when a text contains a proposition and its negation, brings a text’s coherence into question.²⁰⁷ Therefore, rhetors can argue that a text does or does not contradict itself to grant or deny that text bearing on an issue. (See Chapter 3 for a more detailed discussion of textual contradiction.)

For example, critics of religion sometimes point to apparent contradictions found within sacred texts to discredit those texts and by extension the religions that adhere to those texts. Such is the thrust of Tom Flynn’s early 2000s article “Matthew vs. Luke: Whoever Wins, Coherence Loses,” published in the Secular Humanist magazine *Free Inquiry*. He argues that the canonical Gospels Matthew and Luke should be disregarded as historical accounts of the birth of Jesus because they “contradict each other on almost every detail” (34). The apparent points of contradiction he lists include the existence of the star in the east, where Joseph and Mary originally lived, and Herod’s slaughter of

²⁰⁶ Fahnestock, *Rhetorical Style* 345.

²⁰⁷ See Chapter 3 on the connection between contradiction and coherence.

Judean male infants (34).²⁰⁸ Flynn also argues that each of these Gospel shares an internal contradiction: they trace Jesus' ancestry through Joseph to show that he is a descendant of King David even though they both claim that Jesus was born of a virgin and therefore not descended from his father or any of his father's ancestors (34-35). Flynn concludes that, "the dueling accounts of Matthew and Luke" are "so wholly contradictory in their details that when it comes to the Nativity, Christianity's foremost sources tell us quite literally nothing at all" (35). Given their contradictions, Flynn denies the Gospels any role in a historical discussion of the birth of Christ, supporting his larger contention which frames the article: "Indeed, need we assume that anything the Gospels say about Jesus is historical?" (34).

Perspicuity. The putative degree of clarity of a text, a factor in reader perception of coherence, can be used to argumentatively qualify or disqualify a text from having any bearing on an issue. Sometimes a text may be dismissed for its incoherence for grammatical, lexical, pragmatic, or stylistic reasons because it is *so* ambiguous or obscure no sense can be made of it.²⁰⁹ Another critic of the Christian religion (probably the philosopher Porphyry), who lived during the religion's early period, takes up this line of argument in an attack on the words of Jesus as recorded in the Gospels. Claiming that particular sayings of Jesus, such as "The kingdom of heaven is like a grain of mustard seed" or, 'The kingdom of heaven is like leaven' or, 'The kingdom of heaven is like a

²⁰⁸ Several of Flynn's apparent contradictions involve points in which one Gospel asserts something that the other neither confirms nor denies, but rather does not mention at all.

²⁰⁹ See Austin's B.1 condition (36).

merchant seeking pearls of value²¹⁰ are obscure, this ancient critic of Christianity writes:

These wild images are not the work of wise men nor even of the sibyls. When someone wants to say something concerning the realm of the divine, it is necessary for him to make his point clearly using everyday images. But these images are not commonplace: they are degraded and unintelligible. They are unfit to convey the intended comparison. They make no sense. (Porphyry 77)

In this argument, the critic undercuts the authority of Jesus' sayings by pointing out their obscurity. "Wise men" communicate clear words about the divine realm. But, according to this critic, the obscurity of these words suggest that they were not produced by a wise man, and therefore should not be taken as wise or divinely inspired, as Christians take them to be.

Conversely, a rhetor may defend against such an attack and shore up a text's admissibility by solving presented ambiguities or obscurities, minimizing or transposing their negative effects, or by extolling a text's clarity in the first place. In *De doctrina Christiana*, Augustine of Hippo pursues this line of defense for the Bible not only by offering solutions to problematic biblical passages,²¹¹ but also by arguing that the more obscure passages in the Bible work together with its clearer ones to meet the spiritual needs of its readers.²¹²

Textual Boundaries

²¹⁰ Matthew 13:31-33, 45-46.

²¹¹ For example, 3.16.24.

²¹² 2.6.8. See Camper.

Another way to qualify or disqualify a text is to determine whether it falls within or outside of a textual boundary, the special case being canonization. These boundaries can be used to argue for whether a text can be interpreted in a particular context or way. Hilary Clinton pursued this strategy in response to the disclosure of over two hundred confidential U.S. diplomatic cables by Wikileaks, an organization that releases secret documents to the public, and several news outlets, including *The New York Times*, in November 2010 (Shane and Lehren). These documents revealed the forthright and sometimes unflattering opinions of foreign and domestic diplomats, embassies, officials, and leaders (Shane and Lehren). Relations between several countries, including those involving the U.S., were threatened by these revelations (Shane and Lehren). In an effort to mitigate some of these negative effects, Clinton argued that leaked documents disclosing statements by U.S. representatives or their counterparts should not be interpreted as indicative of U.S. foreign policy. In an official statement, she stressed, “I want to make clear that our official foreign policy is not set through these messages, but here in Washington” (Clinton). In the same section of this speech, she contrasted the “private” nature of the discourse exposed in these leaks with the fact that U.S. “policy is a matter of *public* record” (Clinton; emphasis mine). Clinton drew a line between the private cables, which were leaked, and the public record. Only the latter represents *official* U.S. foreign policy, and therefore only the latter can be interpreted as such.

Discourse boundaries, such as the line between public and private, are always arguable. Further, a specific boundary need not be accepted as a point of qualification, but some kind of boundary is always taken for granted in any act of interpretation.

Principle

Another qualification for the admissibility of a text is its adherence to certain principles.²¹³ Demonstrating that a text aligns with the audience's principles can be an effective move to persuade members of the audience to accept the arguer's textually grounded claims. Conversely, showing how a text violates the audience's principles can disabuse an audience of the admissibility of a text. We see this line of argument used in both directions in the dispute over "The Star-Spangled Banner"'s eligibility to be the national anthem. Supporters of the song argued that it singularly expressed American ideals like freedom and liberty, while detractors maintained that it conveyed hatred and violence antithetical to the nation's spirit. We look more closely at these arguments in the penultimate section of this chapter.

But sometimes arguers can contend that a text cannot be judged by *a priori* principles. They can argue that the text is prior to or outside of any principle, perhaps as a source of principles. For example, Henry Van Dyke, in an 1860 sermon, attempted to undermine the persuasiveness of the abolitionist cause by arguing that the movement displaces the Bible as an ultimate authority, asserting other principles above it to then be used to judge the sacred text: "One of its [abolitionism's] avowed principles is, that it does not try slavery by the Bible; but...it tries the Bible by the principles of freedom. It insists that the word of God must be made to support certain human opinions, or forfeit all claims upon our faith" (163). In his argument, Van Dyke appeals to his audience's belief that the Bible cannot be judged by *a priori* standards, and he concludes that, "This

²¹³ See "Audience values" below. Arguing about textual principles is in fact a species of the more general line of argument concerning audience values. But I discuss this specific variety here because of its potential power and unique particulars.

assumption, that men are capable of judging beforehand what is to be expected in a Divine revelation, is the cockatrice's egg, from which, in all ages, heresies have been hatched" (163). According to Van Dyke, because the Bible is divine revelation, it cannot be judged, and therefore cannot be admitted or rejected on the basis of any *a priori* principle. To do so leads to heresy. There is no yardstick for the Bible which is the measure of all things.

Of course, a text's apparent violation of a sacrosanct principles does not automatically eject it from discussion. Other lines of argument, as found in the other interpretive stases, can be used to square the text with the apparently violated principle. When rejecting a text is not an option for participants (or is a very last resort), disputes over a text's apparent violation of a principle may never move into the *jurisdiction* stasis.

Facticity

A text can be qualified or disqualified from having any bearing on a particular issue based on its facticity, that is the degree to which the text is or seems to be grounded in the facts of the world. We find this line of argument in Stefan Maechler's 2000 *The Wilkomirski Affair: A Study in Biographical Truth*. Maechler's book exposes the fraudulent nature of Benjamin Wilkomirski's *Fragments*, a critically acclaimed and award-winning autobiography published in 1995 that describes the author's supposed survival of two concentration camps during the Holocaust. Having shown Wilkomirski's autobiography to be spurious, Maechler concludes that the text no longer has a privileged connection to the Holocaust. As part of his argument, he quotes another critic of *Fragments*, Ruth Klüger, who feels similarly:

And however valid it may be that much of this may have happened to other children, with the falling away of the authentic autobiographical aspect and without the guarantee of a living first-person narrator identical with the author, it merely becomes a dramatization that offers no illumination.... We shall continue to have to read those books that claim to be history differently than those that merely contain stories. (Klüger qtd. in Maechler 281).

For Maechler (and Klüger), testimonial literature has an illuminating role to play in our understanding of the Holocaust, a role that fictional accounts of the event can never fill. While this point may seem obvious, Maechler acknowledges that, at least at the time of his writing, there existed a contingent of Holocaust survivors who defended the book, even when faced with its fraudulence, because “they see their own experiences expressed in [it]” (305). For these survivors, the book’s ability to reflect their experiences is a more important qualifier than its facticity. For them, its historical falsity does not disqualify it from having an important bearing on their understanding of the Holocaust.

General Lines of Argument

The following lines of argument are based on points on which one can ask is the *x* (time place, hermeneutic method, etc.) appropriate for this situation? Any of these points can be used to qualify or disqualify an interpretive act based on the answer to this question.

Time

The first general qualification we will consider is an interpretation's temporal appropriateness.²¹⁴ We see an example of this line of reasoning in Louis Michael Seidman's *On Constitutional Disobedience*, in which he argues that Americans should reject the Constitution as a legally binding document that grounds our political discourse, and that instead we should determine policy based on the merits of our proposals. In defense of this proposition, Seidman makes the following argument:

The American Constitution is the oldest currently in force in the world. It was written generations before the advent of the technological, material, cultural, and moral conditions that define modern American life.... The framers knew nothing of nuclear weapons, mass production, multiculturalism, cell phones, professional sports, modern birth control, or global warming....

This gap between them and us provides a powerful argument for giving up on constitutional obedience. The sheer oddity of making modern decisions based upon an old and archaic text ought to give constitutionalists pause. (11-12)

Seidman presents and amplifies the temporal gap between the original writers of the Constitution and modern Americans, with its intervening historical events and socio-cultural changes, to demonstrate that the text was not written from a modern perspective. Seidman's premise appears to be that modern proposals should be informed by a modern perspective. The Constitution, therefore, should not serve as a basis for modern policy in America. Imaginably, for Seidman the appropriate time for basing policy on the Constitution was within the period of time when it was written.

²¹⁴ Temporality was a recognized consideration in *jurisdiction* disputes in the rhetorical tradition (e.g. Cicero, *De Inventione* 1.11.15, 2.20.60; [Cicero] 2.12.18; Quintilian 3.6.?.; Fortunatianus 1.22; Cassiodorus 2.2.5).

In Seidman's argument, the appropriate time for policy arguments grounded in the Constitution is the past, perhaps the late 18th and early 19th centuries. But the appropriate time can be the present, the near or distant future, a marked period of time like post-Emancipation, or even a recurring and periodic time frame (e.g. perhaps at certain times of the week, month, year, or larger lengths of time).

Place

Another qualification for an interpretation can be place: is the place, the spatial context, appropriate?²¹⁵ Such a question was raised in response to the June 26, 2011 Faith Shared events in which dozens of churches participated (*Faith Shared*). With the goal of strengthening interfaith relations, these services involved clergy members, almost exclusively from Christian denominations it seems, reading sacred texts from other religions, such as the Koran, during their worship services (*Faith Shared*). One blogger, with the moniker da Tagliare, took exception to this event, writing that if his or her pastor read from the Koran at church, "I would ask my pastor to explain why he would dare *use the pulpit* on the Lord's Day to teach or promote the religion of a false prophet. My attendance at his church would depend upon his answers to these questions" (emphasis mine). While da Tagliare's argument is also grounded in time ("the Lord's Day"), he or she also expresses strong feelings that the church pulpit is an inappropriate place to offer a reading of the Koran.

Purpose

²¹⁵ This point was recognized in relation to *jurisdiction* by Fortunatianus (1.22). See also Foucault (216).

An interpretation can be qualified or disqualified based on what motivates or drives the interpretation.²¹⁶ In her essay “Dwelling in Decencies: Radical Criticism and the Feminist Perspective,” Marxist feminist literary critic Lillian Robinson explains the value of feminist criticism in contrast to standard literary criticism at the time (formalism), locating its value in part in its motivations:

Feminist criticism, as its name implies, is criticism with a Cause, engaged criticism. But the critical model presented to us so far is merely engaged to be married. It is about to contract what can only be a *mésalliance* with bourgeois modes of thought and the critical categories they inform. To be effective feminist criticism cannot become simply bourgeois criticism in drag. It must be ideological and moral criticism; it must be revolutionary. (3)

Robinson finds fault with the standard critical model because it perpetuates “bourgeois modes of thought.” But she argues that “effective” feminist criticism is properly “ideological” and “moral” in its motivations. Robinson’s concern is not so much the specific hermeneutic method employed by a school of criticism, but a school’s goals, which should be, in her view, “revolutionary” against the oppressive status quo.

Consequence

Another point on which an interpretation can be qualified or disqualified is its effects or consequences. We find an example of this line of argument in a 1853 letter, later published in his newspaper the *Liberator*, that William Lloyd Garrison wrote in

²¹⁶ Although none of the treatises in the rhetorical tradition seem to draw a connection between purpose and *jurisdiction*, this point was one of the traditional circumstances (e.g. [Augustine] 7).

response to a letter he received from Harriet Beecher Stowe, who expressed deep concern that there were leading abolitionists who rejected the Bible. Garrison was one of those leading abolitionists who rejected the Bible, and he explained his reasoning as follows:

You say it is on the Bible you ground all your hopes of the liberties, not only of the slave, but of the whole human race. How does it happen, then, that, in a nation professing to place as high an estimate on that volume as yourself, and denouncing as infidels all who do not hold it equally sacred, there are three millions and a half of chattel slaves, who are denied its possession, under severe penalties? Is not slavery sanctioned by the Bible, according to the interpretation of it by the clergy generally, its recognized expounders? What, then, does the cause of bleeding humanity gain by all this veneration for the book?

While Garrison also had other reasons for rejecting the Bible as a moral authority, here he strongly implies that the veneration of the Bible has if anything led to the perpetuation of slavery rather than its abolition. Upon these grounds of negative or at least not positive consequences, he rejects the Bible as a moral authority, and asserts in its place “the nature of man, the inherent wrongfulness of oppression, the power of truth, and the omnipotence of God” (Garrison).

Persons Involved

An interpretation can be qualified or disqualified based on the persons involved in the process of the production or interpretation of the text, besides the interpreter.²¹⁷ Here

²¹⁷ In the rhetorical tradition, it was recognized that certain involved persons, usually in terms of the court, could qualify or disqualify an argument (e.g. Cicero, *De Inventione* 2.19.57; [Cicero] 1.12.22; Cassiodorus 2.25; [Augustine] 10).

other persons might be the author of the text, the various audiences of the text, and the audience of an interpretation. One needs certain individuals or kinds of people, or individuals or groups with certain capacities, involved in these various roles for an interpretation to be qualified for consideration, and in other cases certain individuals or kinds of people involved in these roles can disqualify an interpretation from having its day in court.

Such is the case in the controversy over the authorship of the New Testament “pastoral epistles.” The Pastoral Epistles, 1 and 2 Timothy and Titus, have traditionally been attributed to the Apostle Paul, but modern scholarship has called this claim into question. For those who believe that the authentic Pauline authorship of these letters is one of, if not the determining factor with respect to their canonicity, this dispute is of great importance. In his article “Pauline Authorship and the Pastoral Epistles: Implications for Canon,” Stanley E. Porter explores the issues surrounding the contested Pauline authorship of the Pastoral Epistles and settles on two alternatives:

It may well be necessary to conclude that even though the early church failed to detect the non-Pauline nature of the letters one must now decide to exclude them from their place as canonical writings. Or, it may be necessary (even if begrudgingly) to accept them as Pauline, because the alternative demands that we give up too much that we are unwilling to sacrifice. (123)

While Porter concedes that there is pressure to maintain the ecclesiastical status quo and uphold the canonicity of the Pastoral Epistles, his conclusion demonstrates that for him the continued canonicity of these texts even today depends upon whether we can rightly attribute them to Apostle Paul. The identity of the author of the text qualifies the text’s

status as part of the biblical canon, and therefore determines what kinds of interpretations can be derived from it (i.e. “biblical” interpretations). Although the specific argument presented here concerns the author of text, it is similar to qualifying arguments made in regards to other roles in the textual production and interpretation process.

Hermeneutic Method

Another qualification for an interpretation can be the method by which the interpretation is carried out, often referred to as an interpreter’s *hermeneutic* method.²¹⁸ In his book *Practicing Safer Texts: Food, Sex, and Bible in Queer Perspective*, Ken Stone presents a unique approach to the Bible: “to ‘think’ food and sex in comparable ways” and to employ that thinking in the interpretation of the Bible, especially in regards to sexual matters (7). Because this hermeneutic method might be met with skepticism, even leading to the rejection of the interpretations he offers in the book *prima facie*, Stone justifies his approach at the very beginning. While his arguments are too numerous and complex to recapitulate here, the thrust of his justification is summarized in the following: “At a time when sexual disputes threaten to tear apart religious denominations and local congregations, I believe that a great deal of insight can be obtained from careful considerations of the many possible relations that exist, have been thought to exist, or could be made to exist between food and sex” (Stone 7). By offering a defense of his hermeneutic method in the beginning of his book—a defense built on offering some

²¹⁸ This line of argument corresponds to the “how” in Cicero’s list of *jurisdiction* points (*De Inventione* 2.20.60). It also corresponds to the question of means included in the traditional rhetorical list of circumstances (e.g. [Augustine] 7).

amelioration of current religious strife over sexuality—Stone in effect authorizes the biblical (and other textual) interpretations that follow.

Practice or Custom

An interpretation can be enabled or disabled according to how well the various aspects of the interpretation, such as the who, what, when, and how, arguably fall in line with community practice. As the author of the *Rhetorica ad Herennium* explains, “[Customary law] is that which, in the absence of any statute, is by usage endowed with the force of statute law” ([Cicero] 2.13.19; see [Cicero] 2.12.18). This qualification can be based on the precedent set by a single instance, convention,²¹⁹ widespread or common practice,²²⁰ or the lack, dearth or rarity of practice. We see practice appealed to in the dispute over “The Star-Spangled Banner”’s eligibility to be the national anthem by supporters of the proposed legislation. Supporters often argued that the song had already achieved anthemic status and that it was a logical next step to legally recognize what was in practice true. We look more closely at specific arguments supporters offered in this vein in the penultimate section of this chapter.

Style and Delivery

²¹⁹ See Clark (65) on precedent and convention.

²²⁰ As Austin points out, “for a procedure to be *accepted* involves more than for it merely to be the case that it is *in fact generally used*” (29; emphasis original). Even appealing to common practice assumes a higher principle that custom has prescriptive force, and customs can be challenged.

The quality or particulars of the style and delivery of an interpretation, or any concomitant rituals, can qualify or disqualify the legitimacy of that interpretation.²²¹ We see a clear example of the qualifying nature of delivery in textual interpretation in African American preaching. In this genre of textual interpretation, preachers are expected to deliver their discourse with special attention to such features as rhythm, intonation, and language play. If the preacher does not properly deliver his or her sermon attuned to these expectations, the congregation will likely discount the sermon as not being a word from the Lord,²²² regardless of the quality of the content (Selby, “Preaching as Mimesis” 251, 254). As Selby explains, “[O]nly as it is enacted in a particular mode of oral delivery does the African American congregation recognize and respond to th sermon as a successful exemplar of the genre” (“Preaching as Mimesis” 250). A successfully delivered sermon (with appropriate content) will garner lively participation from the congregation, but a poorly delivered sermon will be met with relative silence (see Moss 99; Callender and Cameron 163).

Definition

Whether the facets of an interpretive situation meet a certain point of qualification depends on the definitions of the terms in which that point of qualification is cast. Thus, definitional arguments can play an important role qualifying or disqualifying texts.²²³ (See chapter 6 for more on definition.) In chapter 6, we saw an example of a *definitional* dispute over the word *preacher* that was in the context of a larger *jurisdictional* dispute

²²¹ See Austin’s B felicity conditions (15); see also Bourdieu 113 and cf. 152. Manner was also included in the traditional rhetorical list of circumstances (e.g. [Augustine] 7).

²²² But merely instead a human word.

²²³ See Fortunatianus 1.22.

over women's preaching. The dispute in this example was between Ellen Stewart and William Johnston. Johnston argues that only men can be preachers because there are no examples of women preachers in the Bible (Stewart 172). Stewart challenges Johnston's *jurisdictional* exclusion of women from preaching by defining *preacher* so that it includes the title of *evangelist*, of which there are multiple, indisputable biblical examples of women (175). Through her definition, Stewart presents biblical examples of women preachers, and thus argues for women to have the *jurisdictional* right to preach.

The Right to Make a *Jurisdiction* Argument

In some cases, *jurisdiction* arguments are concerned with the rights of a rhetor to make a *jurisdiction* argument in the first place.²²⁴ That is, does the person qualifying or disqualifying interpreters have the right to make such determinations? Or might there be a higher authority whose judgments supersede the original rhetor's proclamations?

Again, the historical debate over women's right to preach and expound the Bible provides a helpful example. Argula von Grumbach, the first European woman to offer a defense of the right of women to speak on religious matters,²²⁵ writing in her 1523 published and circulated open letter to the theologians at the University of Ingolstadt in Bavaria, checks the *jurisdiction* exclusion of herself as a woman from scriptural exposition by arguing that a higher power authorizes her discourse. She begins by asserting that she, like anyone else, is instructed about the true meaning of the Bible by the spirit of God (von Grumbach 86-87). She then continues with, "I don't intend to bury my talent, if the Lord gives me grace" (von Grumbach 87). She follows this conditional

²²⁴ Cf. Fortunatianus 1.22: "counter-exception" (*antiparagraphē*).

²²⁵ Donawerth 76.

with a dozen biblical references that either exalt the power of the word of God or underline the importance of preaching (von Grumbach 87-88). After this litany of references, she points out: “Now I don’t find such promises from human beings, or papal laws or utterances,” followed by verses about the certainty and power of the word of God (von Grumbach 88). Finally, she declares: “I cry out with the prophet Jeremiah, chapter 22: ‘Earth, earth, earth! Hear the word of the Lord’” (von Grumbach 88). Through this line of reasoning, von Grumbach in effect pushes against claims made by various *people* that as a woman she should not expound the scriptures by appealing to a higher authority on the issue: God.

Audience Values

One qualification for the legitimacy or admissibility of an interpretation is the degree to which it or any of its pursuant concomitants align with certain of the audience’s values, such as fairness, truth, or justice.²²⁶ We have already seen a manifestation of this line of argument in connection with the admissibility of texts: principle arguments in which texts are admitted or barred depending on whether the principles they espouse accord with the audience’s. We encounter specific examples of this kind of audience values argument in the penultimate section of the chapter, where disputants in the debate over “The Star-Spangled Banner”’s eligibility to be the national anthem argue whether the song is in line with or antiethical to American ideals. But this line of argument can also be used to enable or disable interpretations on other points as well, for example, to argue that certain persons are rightly or wrongly barred from interpreting a text.

²²⁶ “The Law rests on Equity when it seems to agree with truth and the general welfare” ([Cicero] 2.13.20); see also [Cicero] 2.12.18.

Relevance of the Condition

While arguing over the preliminary conditions of interpretation is itself a step removed from the act of interpreting a text, rhetors can take even another step back and argue over the *relevance* of a stipulated preliminary condition.²²⁷ Arguers can emphasize the relevance of a condition if they believe the audience has some doubt or disagreement about its preliminary nature, or they can assert that the condition is irrelevant and not necessary for carrying out the kind of interpretation in view. The latter angle may be used to help authorize certain kinds of interpretation that may be otherwise barred.

A number of arguments in defense of women's preaching have been of this latter sort. Jarena Lee, for example, argues for the irrelevance of gender as a preliminary condition for preaching in her 1849 autobiography. Lee, who was a member of the African Methodist Episcopal Church and felt a call to preach but was initially discouraged from doing so, contended:

O how careful we ought to be, lest through our by-laws of church government and discipline, we bring into disrepute even the word of life. For as unseemly as it may appear now-a-days for a woman to preach, it should be remembered that nothing is impossible with God. And why should it be thought

²²⁷ Further, if the condition being questioned itself is codified in textual form, it itself then may be subject to an interpretive dispute in one of the interpretive stases (cf. Quintilian 3.6.72; Hermogenes 42; Fortunatianus 1.22). Because much of the discussion of this stasis was framed by the legal realm, some writers in the rhetorical tradition (e.g. Fortunatianus 1.11) argued that there could be no question of jurisdiction without law, that is law-defined procedure. However, when we expand our scope to non-legal discourse, we can see that many questions of procedure for interpreting texts are not formal or written.

impossible, heterodox, or improper for a woman to preach? seeing the Saviour died for the woman as well as for the man.

If the man may preach, because the Saviour died for him, why not the woman? seeing he died for her also. Is he not a whole Saviour, instead of a half one? as those who hold it wrong for a woman to preach, would seem to make it appear. (11)

Lee grounds her argument for the irrelevance of gender difference for preaching in her audience's shared belief that Jesus died for men and women, thus, she argues, giving both the right to preach.

Debating the Eligibility of “The Star-Spangled Banner” to Be the National Anthem

We now turn our attention back to the early 20th century debate over the legal designation of “The Star-Spangled Banner” as the national anthem of the United States, just as previous chapters have opened and later returned to an illustrative example of the stasis in focus. This debate concerned the appropriateness of the song given its lyrics, that is, whether it should occupy such an elevated place in the nation's hymnbook or even canon. This public debate involved many players, but rather than focusing on a few as in previous chapters, we will sample discourse from a variety of players, focusing on a few main lines of argument that seem to characterize their contentions. Those in favor of making “The Star-Spangled Banner” the national anthem often used evidence from common practice or *custom* to support their position, while those against such legislative action often relied on *consequential* arguments to support their opposition. Both sides, however, had to contend with the central topic of *principle*: did or did not “The Star-

Spangled Banner” express the essential spirit of the nation? The role of a national anthem is to convey a country’s ethos, thus the selection of a national anthem is a part of constructing a country’s identity. Because of this high stake, the arguments, as we will see, could be quite heated and bombastic.

Proponents of legislative action to make “The Star-Spangled Banner” the national anthem often argued that the song was already the national anthem *in practice*, a *custom* as it were, and that designating the song as the national anthem simply would officially acknowledge what was already true. The Bronx Memorial and Executive Committee of the “Grand Army of the Republic,” for example, referred to the flag tribute as “our long standing National song” (qtd. in Svejda 361). The author of the July 4, 1923 editorial in the St. Louis Daily Globe-Democrat declared that the song “has been the most popular of patriotic airs, not even excepting ‘America’²²⁸.... It is a fully and truly a national anthem as if it were established in the constitution itself” (qtd. in Svejda 365-366). Perhaps best capturing this line of argument is a June 9, 1929 editorial that appeared in the Allentown Morning Call:

This country has been ready for it [“The Star-Spangled Banner”] a long time. The song is old enough to have well-developed traditions surrounding it. It has no rival. It is almost universally known in this country. It is regarded as the national anthem even tho there is no official action to this end. Why not put it on the books as such? Eventually it is going to be done. Why not now? (qtd. in Svejda 382)

While opponents to the official recognition of “The Star-Spangled Banner” would occasionally offer feeble rebuttals to these arguments from common practice, given that

²²⁸ I.e. “My Country, ‘Tis of Thee”

the song did appear to in fact be rather popular, they had to rely on other argumentative resources to dampen enthusiasm for the song.

One such resource was argument from *consequence*. These arguments seem to largely advance the idea that the song perpetuates or promotes militarism, whether militarism against Great Britain, militarism in children, or militarism more broadly as an obstacle to peace, these three points not necessarily being unconnected. For example, in a 1918 letter to the editor of the New York Times, Kitty Cheatham, who started a campaign against legislative action to recognize “The Star-Spangled Banner” as the national anthem,²²⁹ wrote, “To keep alive the emotion which this hymn expresses appears to me to prevent Great Britain and America from being allies in the true sense. We must forget ‘those things which are behind’ and recognize ourselves as brothers” (22). While Cheatham argued that making “The Star-Spangled Banner” the national anthem would stymie relations between America and Great Britain, M. B. Hillegas, a professor of elementary education at Columbia University’s Teachers College, claimed that such a move would negatively affect the country’s children:

It [“The Star-Spangled Banner”] gives to millions of children who sing it the notion that the only real patriotism is warlike activity....

Just so long as ‘The Star-Spangled Banner’ is made the symbol of patriotism, just so long will it be difficult to convey to children the broader ideals of patriotism—love of home, neighborliness, good citizenship, pride in worthy accomplishment, regard for those great builders who have made our country what it is and an eagerness to emulate them.... If we have an official national anthem, it

²²⁹ Svejda 352-353.

should be one whose effect upon the mental and spiritual development of our children will be in keeping with real patriotism. (qtd. in Molotsky 156)

Gesturing to broader consequences, some detractors of “The Star-Spangled Banner” asserted that its legal institution would impede progress to peace. Returning to Cheatham again, she argued, “The song of the Star-Spangled Banner is certainly retarding it [the coming biblical millennium of peace] and is not doing anything to usher in the days of ‘Peace on earth, good will toward men,’ to which the whole world is assembled, trying to direct their efforts” (qtd. in Prothero 224).

While proponents of official recognition of the “Star-Spangled Banner” seemed to favor arguments from practice and opponents seemed to favor arguments from consequence, both sides had to argue whether “The Star-Spangled Banner” expresses American ideals. In other words, were the *principles* expressed in the “*Star-Spangled Banner*” the same or congruent with the *principles of America*? Augusta Stetson, in an advertisement she published multiple times in multiple newspapers in the eastern U.S. in the 1920s,²³⁰ offers a good illustration of the arguments used by those against making “The Star-Spangled Banner” the national anthem, albeit with a religious bent.²³¹ Having first quoted the third verse of the song, which glories in the bloody and deadly defeat of the British, she wrote,

Do these phrases fittingly express the spirit of America, the nation to whom the longing world looks today for moral and spiritual leadership with Christ as the head?

²³⁰ Svejda 360.

²³¹ Stetson was a Christian Scientist (Svejda 360).

The spirit of America is not suitably expressed by hatred, nor by the horrors of war, which all nations today are praying may be abolished....

From the pages of America's historic record, 'The Star Spangled Banner' is to-day being erased, by fiat of God. In its place will be revealed America's true national anthem, written and composed by Americans, penned by Christly inspiration and illumined with spiritual light. (Stetson 4)

While Stetson felt that the sentiments expressed in the "Star-Spangled Banner" did not represent the American spirit, others felt quite oppositely. John Philip Hill, Republican U.S. Representative from Maryland, exemplifies many of the arguments from principle made in support of "The Star-Spangled Banner" becoming the national anthem in opining that,

"The Star-Spangled Banner" is essentially American. It belongs to the American people. It is the only American anthem, and whenever I hear "The Star-Spangled Banner" or think of "The Star-Spangled Banner," I think of the men who died in France, the men who died in the War of the Revolution, the Spanish-American War, and the men who died in the War of 1812. It is inseparably bound up with the ideals of the American flag and the ideal of American nationality....

The patriotic impulses and the patriotic expression of "The Star-Spangled Banner" are the national spirit.

You cannot have a national anthem that has not got a militant spirit. We do not want a national anthem that has not got a militant spirit. (qtd. in Prothero 222-223)

But arguments over the match of the principles in “The Star-Spangled Banner” and those of America extended beyond a dispute over the identity of the country. In debating principle, many rhetors made claims about the Americanness of those who fell in or out of line with their position. The debate was not only about *what* was truly American, but *who* was truly American. Stetson, for example, opened her advertisement with the following: “Every American *worthy of the name*, who is awake to the true meaning and origin of the anthem entitled ‘The Star-Spangled Banner’ will forever repudiate it, as an utterly unworthy medium for expressing one of the noblest of sentiments—patriotism and love for our glorious country” (4; emphasis mine). In a 1923 Baltimore Sun editorial, “Another Shot at the Old Anthem,” we find: “‘The Star-Spangled Banner’ survives...because there are quite a number of Americans still left in the United States” (6). The barely veiled implication here is that “The Star-Spangled Banner”’s detractors are false Americans. And, arguing that the love George Washington and Abraham Lincoln had for the United States is the same love invoked by “The Star-Spangled Banner,” the author of the St. Louis Daily Globe-Democrat June 4, 1923 editorial writes, “It is that same love that swells the breast of every *true American* when he hears the strains of ‘The Star-Spangled Banner’” (qtd. in Svejda 366; emphasis mine).

Ultimately, arguments in support of legal recognition of the song persuaded the necessary agents (members of Congress), and the Star-Spangled Banner became the country’s official national anthem in 1931. But, at least from one perspective, the debate that preceded this legislative move was part of a larger on-going dispute over the meaning of America and what it means to be a true American.

Conclusion

Studying arguments and disputes in the stasis of jurisdiction reveals how the interpretation of texts is socially, culturally, and institutionally controlled through argument. We more clearly see the various kinds of conventional constraints on issuing interpretations of texts. Often these constraints are invisible, even when we are in the midst of interpreting texts ourselves. These constraints, however, become quite visible when they are called into question or brought to the attention to forestall an act of interpretation or to assure the audience that the interpreter is within his or her right to interpret the text at hand. Even then, the untrained observer may not realize that the rhetor has stepped out of the realm of interpretation and into the realm of procedure, and specifically the realm of procedure that governs the acceptability of an instance of textual interpretation.

Austin's point about studying infelicitous speech acts is well taken (14). We stand to gain much from examining instances where constraints of textual interpretation seem to have been violated in some way. But we should not ignore those cases in which nothing has been violated, but a *jurisdiction* argument is used anyway. The exigence in these cases may be that the fulfillment of certain qualifications are silently questioned or doubted by the audience causing the rhetor to feel that he or she must stress that the interpretation has satisfied those doubted preliminary conditions to ensure that the interpretation's legitimacy is not questioned. In any case, *jurisdiction* arguments alert us to constraints on textual interpretation that we may not have otherwise recognized.

Even when there are no *jurisdiction* arguments made these constraints still exist. Certain preliminary conditions must still be satisfied for an interpretive act to proceed

and be accepted in any particular context. By cataloguing the *kinds* of arguments that people make to defend or attack certain qualifications for performing an interpretive act, we can begin to outline what socio-cultural-institutional pieces must be in place for a legitimate, i.e. community-acceptable, interpretation to occur. Then, by examining which of those kinds of arguments are used in any one community surrounding a particular text, and their specific articulations, we can understand how the values of a community map onto various situations of interpreting texts.

Such observations would represent true advances in our understanding of how textual interpretation works in the real world, that is a human world that is socially, culturally, politically, economically, etc., constituted. We can see what forces act on textual interpretation even though they have no direct bearing on the process of constructing the meaning of a text. But of course, these various non-textual constraints have innumerable consequences for the kinds of interpretations that are perpetuated, circulated, popularized, and ultimately legitimated. That is the point. The one who gains control over the conditions of interpretation gains measurable control over the interpretation itself.

Chapter 8: Zooming Out: Interrelations, Implications, and Conclusions

In the preceding chapters I have isolated and closely examined each of the interpretive stases: *letter versus spirit*, *contradictory passages*, *ambiguity*, *definition*, *assimilation*, and *jurisdiction*. In this concluding chapter, I “zoom out” from my more in-depth analysis of each interpretive stasis and examine how the interpretive stases work as a rhetorical *system* for studying, understanding, analyzing, and generating interpretive arguments. I also consider how the interpretive stases fit within the larger theoretical system of the stases, in particular their relation to the more familiar situational stases. I then suggest how composition and literature teachers can use the interpretive stases to teach students how to think about and craft arguments about texts. Lastly, before some final concluding remarks, I discuss some promising intersections between the interpretive stases and contemporary language theory for further research.

In analyzing any interpretive dispute, even ones only involving single texts, a more complex picture of the interpretive stases emerges as the following case illustrates. In her 17th century pamphlet, *Women’s Speaking Justified, Proved and Allowed of by the Scriptures*, Margaret Fell argues against the widely accepted interpretation of 1 Corinthians 14:34-35²³² and 1 Timothy 2:11-12²³³ that women should be silent in church. She states that the “ground of [this] objection is taken from the Apostle’s *words* [in these passages],” but that “how far they wrong the Apostle’s *intentions* in these Scriptures, we shall show clearly when we come to them in their course and order” (61; emphasis mine).

²³² “[W]omen should be silent in the churches. For they are not permitted to speak, but should be subordinate, as the law also says. If there is anything they desire to know, let them ask their husbands at home. For it is shameful for a women to speak in church.”

²³³ “Let a woman learn in silence with full submission. I permit no woman to teach or to have authority over a man; she is to keep silent.”

Fell's framing of this dispute as one over the meaning of the words against the intentions behind them places her argument squarely within the stasis of *letter versus spirit*. Indeed, what follows in the rest of her pamphlet is an argument for God's "will and mind concerning women" as opposed to a strict, literal interpretation of these two passages (Fell 61).

Yet upon closer examination, we find what appear to be instances of other interpretive stases in the text. For example, Fell makes what look like several *assimilation* arguments throughout her pamphlet. In one place she argues, "Thus much may prove that the Church of Christ is a woman, and those that speak against the woman's speaking speak against the Church of Christ and the seed of the woman, which is Christ" (62). Here Fell alludes to Genesis 3:15, where God curses the serpent for its deception, and a number of New Testament passages, such as 2 Corinthians 11:2, which many Christians believe imply that the church will in some sense be united to Christ, as two people are in human marriage, in the new age. Through an assimilative move of equivalency (see Chapter 6), Fell condemns prohibitions of women's speaking by arguing that such prohibitions by extension also fall against the Church and even the prophesied offspring of the first woman, Christ.

In another place in the pamphlet, Fell seems to enter the interpretive stasis of *definition*. Here Fell returns to one of the passages of contention, 1 Corinthians 14:34-35,²³⁴ and asserts, "Here the Apostle clearly manifests his intent, for he speaks of *women that were under the Law, and in that transgression as Eve was, and such as were to learn,*

²³⁴ "They are commanded to be in obedience as also saith the Law; and if they will learn anything, let them ask their husbands at home, for it is a shame for a woman to speak in the church" (qtd. in Fell 64).

and not speak publicly, but they must first ask their husbands at home, and it was a shame for *such* to speak in the Church” (64; emphasis mine). In this passage Fell makes a definitional move concerning the scope of a word by limiting the women referred to in this passage by the pronoun *they/them* to those under the Law. These women, according to Fell, are the women Paul is silencing. This definitional move allows her to argue that women not under the Law, those whom have “had the Revelation and Spirit of God poured upon them,” are permitted to speak in church (64). In Chapter 2 we learned that defining words in a text can be a move in a *letter versus spirit* debate, but we also know from Chapter 5 that the act of defining a word itself can signal a *definitional* dispute.

In yet another passage Fell appears to provoke a dispute in the stasis of *contradictory passages*. In a “Further Addition” to the pamphlet, Fell references a passage from Acts that records Paul’s stay with Philip, one of the “seven” leaders of the biblical church in Jerusalem, where it also records that Philip had four prophesying daughters (67; Acts 21:9). Fell points out that, although Paul stayed with them, the Bible does not record his disapproval of their speaking (67; Acts 21:8-10). With this example in mind, she continues, arguing that if Paul’s proscription applied to “all women, that no woman might speak, then Paul would have contradicted himself” (67). In a classic move of *contradictory passages*, Fell counters an opposing interpretation of one passage with another passage from the same text whose meaning seems obviously clear.

Besides apparent instances of other interpretive stases, it seems that Fell’s argument is ultimately not in the interpretive stasis of *letter versus spirit*, but the situational stasis of *quality*: as the title states, she is *justifying* women’s speaking. That Fell’s *letter versus spirit* argument over the meaning of 1 Corinthians 14:34-35 and 1

Timothy 2:11-12 seems to include the quintessential moves of other interpretive stases (*assimilation, definition, and contradictory passages*) and is enveloped by the situational stasis of *quality* raises a number of questions. How are the interpretive stases related to each other? And how are the interpretive stases related to the situational stases? Fell's pamphlet is just one example of an interpretive argument whose classification under one interpretive stasis is complicated by the complexity of its moves.

The Intra-relations of the Interpretive Stases

At first glance, the interpretive stases, unlike the situational stases, appear not to be connected to one another by presupposition in a hierarchical order. While the situational stases generally follow a pattern of progression, with disputes moving from fact to definition to cause and effect, etc., disputes over the interpretation of texts, if they move from one interpretive stasis to another at all, appear to have no predictable progression. It appears that rhetors can simply re-construe their orientation to the text, thereby shifting the debate into another stasis. With the situational stases rhetors can work to resolve conflicts in higher stases by shifting down to lower stases, but this mechanism appears to be absent for interpretive disputes (Fahnestock and Secor, "Towards a Modern Version of Stasis" 223).

Yet in fact a presuppositional hierarchy does seem to structure the relations between the interpretive stases and thus interpretive disputes. This hierarchy does not contain as many rungs as the situational stasis ladder, but it is a hierarchy nonetheless. In the presuppositional hierarchy of the interpretive stases, the first level of debate involves questions concerning the letter of the text—its understood explicit meaning. The

questions to be resolved at this level concern the linguistic forms that make up the text and the referents of the text's terms. These questions fall under the stases of *ambiguity* and *definition*. Rhetors must be in agreement about what a text means at this most basic and fundamental level before they can settle higher order questions, such as how a text should be applied in a novel situation.

Once rhetors agree on the explicit meaning of a text, its *letter*, such that there are no questions of *ambiguity* or *definition*, they may move to questions of negation, affirmation, application, and passage comparison. The interpretive stases of *letter versus spirit*, *contradictory passages*, and *assimilation*, which all exist on the next level of the presuppositional hierarchy, represent these questions in various ways. In *letter versus spirit*, rhetors agree that the text has an apparent explicit meaning, but one party believes that this explicit meaning is *negated* by the real meaning of the text (as derived from the author's intention, for instance). In *assimilation*, all parties *affirm* the text's *letter*, but at least one party wishes to go beyond the *letter* to *apply* the text in a novel way or context. In *contradictory passages*, multiple texts are reconciled to each other, with, in the classic and most basic case of two texts, the *letter* affirmed and the purported *spirit* negated in the first and the *letter* negated and *spirit* affirmed in the second. *Contradictory passages* also often arises as a result of *applying* the passages in question. In each of these stases, disagreement depends on rhetors agreeing on the meaning of the text's *letter*—that is, rhetors agree that the text is unambiguous and that its terms are properly defined.

As we saw in previous chapters, some of the lines of argument particular to the interpretive stases are eponymous with other interpretive stases. This observation is not new. In Hermogenes' *On Issues*, multiple stages of argumentation in each of the stases

share names with the stases indicating kinds of argument rather than disputes. That certain lines of interpretive argument in a sense “epitomize”²³⁵ larger interpretive disputes should not be surprising given that all of the stases involve making particular moves to initiate a debate. In other words, each stasis has its key argumentative move. For instance, arguing for the expansion or narrowing of the scope of a term, a definitional argument, is the key argumentative move in every dispute in the stasis of *definition*. If no rhetor makes this move, the dispute cannot be said to have entered into this stasis.

But, as we have also noted in previous chapters, some of these epitomizing lines of argument can be used in stases whose essences they do not perform. If we look back at the strategies catalogued for each stasis in the previous chapters, we discover that the only epitomizing lines of arguments that can persuasively operate outside their eponymous stases are those of ambiguity, definition, and jurisdiction.²³⁶ This finding confirms what we have just discussed about ambiguity and definition, as arguments concerning textual meaning at its most basic level (the *letter* of the text), and what we know about jurisdiction as concerning the preliminary conditions for issuing an interpretation. Thus, in every case when an epitomizing line of argument is used in a stasis that it does not epitomize, the interpretive premises or conditions of the larger dispute are called into question. These out-of-stasis epitomizing lines of argument shift the dispute into the more fundamental or preliminary stases they represent. Resolution of

²³⁵ Fahnestock argues that certain rhetorical figures “epitomize” lines of reasoning in the sense that they “summar[ize]” or “condense[.]” the relationships between terms expressed by a form of argument (*Rhetorical Figures* 24). I use “epitomize” here in a similar sense: certain lines of argument perform the essence of the interpretive stases.

²³⁶ My conclusions closely resemble the courtroom strategy laid out by Hermogenes, being informed in part by it.

questions in the original stasis cannot take place until questions at these more fundamental or preliminary levels have been resolved.

When Fell, for example, limits the women referred to in 1 Corinthians 14:34-35 to “women that were under the law,” she shifts the interpretive premises of her initial *letter versus spirit* argument. Fell’s initial plan to negate the *letter* of the text, the “Apostle’s words,” rests on her agreement with her opponents that 1 Corinthians 14:34-35 at the level of the *letter* prohibits all women from speaking in church. However, by redefining certain words in the text, she is no longer negating the *letter*, pitting the “Apostle’s intentions” against the “objection taken from [his] words,” but has in fact changed the *letter* itself (Fell 61). Thus, she and her interlocutors are no longer in agreement about the *letter* of the text. It is no longer one side on *letter*, one side on *spirit*, but each side now has a different interpretation of the *letter*, hinging on the definition of the words that refer to women.

By making a move of definition, in service of explicating Paul’s intentions as part of an argument that begins in the stasis of *letter versus spirit*, Fell shifts her argument into the lower, more fundamental stasis of *definition*. From this perspective, the dispute cannot move forward until it is resolved in this stasis. Fell may have in fact located the fundamental locus of contention in this dispute concerning which women Paul’s prohibition applies to, in which case resolution on this point would not return the dispute back to the higher stasis of *letter versus spirit* or any other higher stasis. However, if the two sides reach agreement on the meaning of the *letter* of the text, but one side still feels that this meaning is insufficient, that side could argue for a more sufficient interpretation from another angle, moving the dispute into one of the higher stases.

The relation of *ambiguity* and *definition* to *letter versus spirit*, *contradictory passages*, and *assimilation* is one of presupposition hierarchy. Ambiguity and definition concern issues of meaning upon which arguments in the other stases are built. However, as we saw in Chapter 7, the relationship of *jurisdiction* to the other stases is different. Jurisdiction is concerned with the conditions for issuing any interpretation and is thus preliminary to all of the stases. Thus, when invoked, *jurisdiction* suspends or postpones a dispute in any of the other stases until it is resolved. To be clear, invoking *jurisdiction* in one of the higher-order interpretive stases does not send the dispute into a lower-order stasis (*ambiguity* or *definition*). Invoking *jurisdiction* in a higher-order stasis like *letter versus spirit* simply means that for the dispute to continue in that stasis, certain preliminary conditions must be satisfied.

This is true even for *jurisdiction* disputes concerning texts. These kinds of *jurisdiction* disputes often look like disputes in the other five interpretive stases, for instance arguments over the qualification of a text based on whether it contradicts itself. The difference is that disputes in the other five interpretive stases happen within the context of admissibility—texts disputed in the other five interpretive stases are presumed to be admissible to the issue at hand. In *jurisdiction* disputes concerning texts, on the other hand, the admissibility of the text itself is in question. If the question of admissibility is resolved in the affirmative, the dispute returns to the original interpretive dispute, whether lower- or higher-order. There are no intermediary steps. Thus, it is best to see *jurisdiction* as existing outside the presuppositional hierarchy. It can be invoked in conjunction with any other stasis. Once a *jurisdiction* dispute is resolved, the original

dispute is ended *de facto*, indefinitely suspended, or resumed, but it is not as a result shifted to another stasis.

Jurisdiction, as we have seen in previous chapters, is related to the other interpretive stases in another way. In some of the interpretive stases, arguments for the qualification of texts can work as strategies of persuasion. Such strategies become available means of persuasion whenever the meaning of a text is dependent on the inclusion or exclusion of another text or its parts. For instance, the boundaries of a text can play a key role in constructing the meaning of a passage as they determine the co-text by which the passage should be understood. Determining the boundaries of a text, which parts are in and which parts are out, is a matter of *jurisdiction*. As in other jurisdiction disputes, these cases represent arguments over the conditions for interpreting a text. No movement in the presuppositional hierarchy results from these kinds of argument. Once the jurisdiction question has been answered, the original dispute is ended *de facto*, indefinitely suspended, or resumed.

With respect to the presuppositional hierarchy, rhetors can move not only from higher- to lower-order stases and vice versa, but also laterally within the two levels. This fact represents one major distinction between the interpretive and situational stases, as there is no logically structured lateral movement possible between the situational stases since their relation to one another is vertical. Lateral movement between the interpretive stases represents the re-construal of the textual dispute: at any point in the process of arguing for the meaning of a text, rhetors can change their orientation to the text and thus change how they approach the original question of textual meaning.

Fell makes a lateral move from *letter versus spirit* to *contradictory passages* in the “Further Addition” to her pamphlet. Here Fell throws into sharp relief Paul’s apparent prohibitions against women speaking in 1 Corinthians 14:34-35 and 1 Timothy 2:11 and an apparently clear instance of women’s ecclesiastical speaking (Philip’s prophesying daughters) without Paul’s condemnation in Acts 21:8-10. In doing so, Fell re-approaches the original question of the meaning of 1 Corinthians 14:34-35 and 1 Timothy 2:11. In her initial approach, Fell splits the letter of these contested passages from their spirit to make a claim about Paul’s intent. But as a result of this split, her claim about Paul’s intention becomes un-tethered from the biblical text. In order to make a convincing case about Paul’s intention, she needs to show that her claims are evidenced in the text.

By placing the contested passages, according to their conventional meaning, in an apparently contradictory relationship with another biblical text, Fell presents her readers with an interpretive problem to be solved. A satisfying solution could persuade them to change their minds about the meaning of the contested passages. The solution Fell provides is definitional: “but they were **such women** that the Apostle mentions in Timothy, that grew wanton *and were busy-bodies, and tattlers*, and kicked against Christ” and “whereas it is said, I permit not a woman to speak as saith the Law—but **where women are led by the Spirit of God, they are not under the Law**” (67; emphasis in italics original; emphasis in bold mine). Fell’s definition offers her readers a way of maintaining the coherence, and thus the integrity, of the Bible with respect to these three passages. In turn, this definition works to ground Fell’s claim about Paul’s intention in the biblical text, specifically its *letter*, by changing the *letter* itself. By reconstruing her rhetorical position to the textual issue at hand, from *letter versus spirit* to

contradictory passages, Fell accesses different means of persuasion not originally available to her.

Each lateral move from one specific stasis to another has a different set of characteristics. In moves between *letter versus spirit* and *contradictory passages*, arguers usually go from considering the meaning of a passage in isolation (or as in the above example in mere comparison with other passages) to considering the meaning of multiple passages in relation to one another, or vice versa. In moves between *assimilation* on the one hand and *letter versus spirit* or *contradictory passages* on the other, arguers go back and forth between tussles over where to locate the meaning of the text or texts and how far the meaning of a text can be extended to novel situations. Moves between *ambiguity* and *definition* most smoothly occur between *definition* and *ambiguity* of reference, where rhetors go between semantic differences of kind to semantic differences of degree. But other moves at this level are also possible.

While the text may stay the same when arguers make these lateral moves, the nature of the debate does not. When arguers make lateral moves across interpretive stases, they ask their audiences to reorient themselves to the text as well, for instance, to no longer negate the *letter* meaning of the text but to apply it to a novel situation, or to no longer see one text with two different readings but one text with one reading and two shades of meaning.

So far we have examined how arguers can move through the vertical and horizontal structures of the stases, but what about the recursive nature of the interpretive stases? The situational stases are recursive—a debate in one stasis can be “interrupt[ed]” at any time by questions of another stasis (or even the same stasis) regarding related

contingencies of the situation (Fahnestock and Secor, “Toward a Modern Version of Stasis” 218). If this recursivity, or nesting, can occur among the situational stases, it may also occur among the interpretive stases. And indeed it does. Nesting occurs among the interpretive stases if, in a dispute about a text, a second text is brought in as support and a dispute arises about this second text. In order for this second text to be used as support in the larger dispute, the dispute surrounding it must be resolved.

Fell brings in multiple other biblical passages into her pamphlet besides 1 Corinthians 14:34-35 and 1 Timothy 2:11-12, whose meaning she is contesting, and in multiple cases treats them with *assimilation* arguments. As we saw in the introduction of this chapter, she assimilates Genesis 3:15 and New Testament passages such as 2 Corinthians 2:11 to argue that prohibitions of women’s speaking by extension also fall against the church and even Christ. In one sense these *assimilation* moves are simply lines of argument used to mold the meaning of these secondary texts to support Fell’s larger *letter versus spirit* argument. But as the key, epitomizing moves of assimilation, they raise that stasis’ fundamental questions with respect to those texts and open up the possibility for debate on those points. Thus, Fell’s *assimilation* arguments represent nested stasis arguments or at least the potential for nested stasis disputes in her larger *letter versus spirit* argument over 1 Corinthians 14:34-35 and 1 Timothy 2:11-12.

Nested disputes are just that—nested. They are not presuppositionally related to the stases in which they occur. They are incidental in that they happen to arise when another text is brought in to resolve a larger interpretive dispute. But they are not fundamental to the resolution of the dispute. Arguers can always decide to abandon a secondary text as a means of proof and turn to other means (textual or not).

The Interrelation of the Situational and Interpretive Stases

But questions of textual interpretation often seem to arise in the context of larger non-textual issues, issues normally classified according to the rubric of the situational stases. It thus makes sense to ask, how are the situational and interpretive stases related to one another?

One way to approach this question is to ask whether the interpretive stasis questions are in fact manifestations of the situational stases in the context of textual interpretation. In other words, perhaps the situational stases really do comprehensively classify all types of disputes that can arise in any situation and the interpretive stases represent their particular instantiations. Quintilian argued that this was the case. He claimed that “from those three basic Issues [Conjecture, Definition, and Quality] arise these shadows of them [the legal issues], as it were, sometimes simple, sometimes complex, but with their own peculiar features” (3.6.88). Specifically, Quintilian outlined their relationships as follows:

Such are Letter and Spirit, which is unquestionably based either on Quality or on Conjecture; Inference, which generally depends on Quality; Conflict of Laws, which has the same structure as Letter and Spirit; and *amphibolia* (Ambiguity), which is always a matter of Conjecture. Definition also belongs to both classes—the class concerned with the consideration of facts and that concerned with that of the written law. All of these variations, even if they fall under the three basic Issues, have (as I have said) some peculiarities of their own...[but] there is no Question raised in any of them apart from the three I have mentioned. (3.6.88-89)

Yet even though we could find important and fundamental similarities between the interpretive and situational stases, as Quintilian does here, we risk losing sight of the “peculiarities” of controversies that hinge on texts if we reduce the former to the latter (Quintilian 3.6.88).

Of all the interpretive stases, the best case for joining an interpretive stasis to a situational stasis can be made for *jurisdiction*. The situational stasis of *jurisdiction* is concerned with procedural questions prior to disputes over situational elements. Likewise, the interpretive stasis of *jurisdiction* is concerned with preliminary conditions for issuing interpretations. Since both kinds of *jurisdiction* exist outside of the hierarchical order of their respective stases, the argument could be made that a larger stasis category of *jurisdiction* exists standing outside the rest of the stases. All *jurisdiction* disputes would then be arguably united by the same principles but have particular realizations depending on whether they concern arguments over situational elements or arguments over texts.

The case for joining or reduction does not hold up, however, for the other interpretive stases. *Letter versus spirit*, for instance, represents a useful, functional category for classifying interpretive disputes in which arguers split over interpreting a text in regards to its explicitly understood content versus another source of meaning. If we are interested in understanding the kinds of arguments used in these disputes and the contexts in which these disputes pop up, it makes sense to group them together rather than splitting them up according to any situational stasis classification. *Assimilation*, likewise, represents a particular approach to textual meaning. While assimilation disputes are certainly driven by *qualitative* concerns, they specifically involve the process of

analogically extending the explicit the meaning of a text. This distinction, which usefully sets these kinds of disputes apart from other interpretive disputes, is lost if this stasis is subsumed under the situational heading of quality. In the same way, reclassifying disputes in the stasis of *contradictory passages* as either *conjectural* or *qualitative* would elide the major stake in these debates: the integrity of the text as grounded in its logical consistency. This stake motivates the kinds of arguments used in these debates, and it is useful for analysts to have a specific kind of classification of these kinds of disputes.

In the same vein, *ambiguity* is best considered separately from other *conjectural* disputes. In the first place, unlike other questions of fact, except in cases of indecipherability, the number of alternative readings or senses tends to be more severely limited. This is not to say that the possibilities of meanings is limited, only that questions of ambiguity themselves are limited to the possible linguistic forms evoked by the string of signs present—and this is usually rather finite. (Out of this finitude of linguistic forms, however, arguers are able to build an indefinite number of meanings.) Interpreting non-linguistic data, however, offers a much wider, and less constrained number of possible “readings.” Here, arguers are not choosing from a limited range of linguistic forms, but scenarios and sequences of events, which can be indefinitely varied. Another significant difference is that questions of ambiguity always involve texts created by people and therefore always involve issues of intention. Situational questions of conjecture, on the other hand, may or may not involve intention (Quintilian 7.2.1). Again, the variable of the text looms large as a distinguishing factor.

While Quintilian outlines specific relationships between the legal/interpretive stases and various logical/situational stases, discussions of stasis theory found in other

places in the rhetorical tradition (even in Quintilian's own work) suggest that all of the interpretive stases could be tied to the single situational stasis of *quality*.²³⁷ Several authors note that there are certain kinds of qualitative questions that depend on written documents, especially the law. For example, Cicero writes that quality has "two subdivisions, equitable and legal," and that in legal instances of quality "we examine what the law is according to the custom of the community and according to justice" (1.11.14).²³⁸ Questions of *quality* are concerned with the relative nature or character of a thing (Cicero 1.9.12). These questions can only be decided by some kind of outside or calibrating norm, standard, or value. Many communities use texts as a source of norms for determining these types of questions in certain realms (e.g. legal or moral). Using texts to adjudicate questions of quality always involves interpretation, and the questions of interpretation that arise in these instances can be classified according to the heads of the interpretive stases. Indeed, whenever textually grounded norms are in dispute, arguers can essentially change the norm by reinterpreting the text to support their positions, using many of the arguments outlined in this dissertation. As we observed in the beginning of this chapter, Fell's *letter versus spirit* argument over the meaning of 1 Corinthians 14:34-35 and 1 Timothy 2:11-12 is ultimately driven by the *qualitative* question of whether it is *biblical* for women to speak in church or not. While the status quo answer to this question

²³⁷ Arguments for tying the legal/interpretive stases to other particular rational/situational stases have also been made. Christian Koch, for example, argues that "the *status legales*... may be seen as subdivisions of the *status* of definition" (281). His reasoning for this connection is in fact rather similar to that for placing the interpretive stases under the heading of quality: "In the *status* of definition, we discuss how a fact can be subsumed under a rule or norm. The *status legales* are about the same kind of discussion, but they approach it from the other end, applying norms to facts.... [D]isputes about correlating facts and norms are innumerable and varied... but the four usual *status legales* provide a model for how to distinguish and specify such disputes" (Koch 281-282).

²³⁸ Cf. [Cicero] 2.13.19; Hermogenes 37; Fortunatianus 1.14; Martianus Capella 5.460.

at the time was negative, Fell's reinterpretation of the key biblical passages represents an attempt to shift the norm to achieve an affirmative answer.

Yet even though there is wide acknowledgement in the rhetorical tradition that certain qualitative questions turn on written documents, several treatises maintain a separate listing of types of disputes whose primary source of contention is textual meaning.²³⁹ I think this approach makes sense. Certain qualitative disputes do turn on written texts. Here, we might say that interpretive disputes may be nested within larger disputes of *quality* when the meaning of a text, which is used to adjudicate that particular issue of *quality*, is itself called into question. However, there is no reason to limit our conception of the interpretive stases as kinds of qualitative disputes. Interpretive disputes can arise without the exigence of a qualitative question. The process of reading itself can stoke questions of interpretation. For instance, a reader might find a passage in a text ambiguous, in the absence of a qualitative question, simply because he or she lacks the necessary contextual clues to choose between the senses evoked by a linguistic form.

While the interpretive stases certainly share certain concerns with some of the situational stases, they cannot be reduced to them. The particulars of textual interpretation, deriving from attempts at understanding meaning at the direction of intended signs when other means of access to the original intention are severely limited, renders these interpretive disputes categorically different from their situational counterparts. Therefore, I maintain that if we are to use stasis theory for contemporary rhetorical and pedagogical uses, we need one set of stases that treats situational elements

²³⁹ Hermogenes notably stands outside of this more widespread approach and classifies all of the legal/interpretive stases as kinds of qualitative disputes.

and another that treats textual elements, neither one being demoted in status as a pseudo- or quasi-set of stases.

Pedagogical Uses and Implications of the Interpretive Stases

Just as teachers of rhetoric and composition have incorporated the situational stases into their courses as both a writing and analytical tool for students, I argue that teachers should also consider including the interpretive stases to work towards these ends as well. The interpretive stases offer students a concrete and systematic way of generating arguments about texts and a structured means of understanding debates over textual meaning.

In the first place, those who teach rhetorical analysis might consider incorporating the interpretive stases as part of the training they give their students in this area. Some writing and rhetoric teachers already include the more familiar situation stases in their instruction on rhetorical analysis, as evidenced by Mark Longaker and Jeffrey Walker's *Rhetorical Analysis: A Brief Guide for Writers*. I suggest, in addition to these stases, which are concerned with the contingencies of a given situation, teaching the interpretive stases as a specific method for analyzing arguments over textual meaning. Since so many contemporary disputes do involve texts—from controversies over the U.S. Constitution to the scrutiny paid to celebrity tweets—a method tailored for investigating these kinds of arguments would prove very useful for students.

Second, we can use the interpretive stases to help teach our students how to engage in and make arguments about the meaning of texts—an essential skill set in English studies, the humanities, and the professional world at large. Again, rhetoric and

composition teachers are already using the more familiar situational stases to help teach students argumentation skills as we see in Sharon Crowley and Debra Hawhee's *Ancient Rhetorics for Contemporary Students*, Jeanne Fahnestock and Marie Secor's *A Rhetoric of Argument*, Lester Faigley and Jack Selzer's *Good Reasons with Contemporary Arguments*, and Andrea Lunsford, John Ruszkiewicz and Keith Walter's *Everything's an Argument*. But the interpretive stases could be used to specifically help students make arguments about texts.

Let us imagine that an instructor was teaching an upper division English course and wanted to help his or her students practice engaging with arguments by literary critics or other scholars of textual meaning. The interpretive stases could give students a systematic guide for determining the central issue of disagreement concerning the interpretation of a text among a group of critics. Knowing that there are six different kinds of disputes can help students discern the thrusts of the critical discussions they encounter. Are critics primarily arguing for one reading over another based on verbal form? Then the stasis is *ambiguity*. Are critics attempting to reconcile two passages that seem to clash with one another in order to achieve some kind of textual harmony? Then the stasis is *contradictory passages*. Once students discern the thrust of the argument, they can look for the particular point of contention in the dispute they are examining. Having determined that a series of articles are arguing over which plays were written by Shakespeare in the stasis of *jurisdiction*, a student could pinpoint a specific contention over whether Shakespeare wrote *Edward III* or not.²⁴⁰ Sometimes the process may happen in reverse, with students discovering the specific question first and classifying the

²⁴⁰ According to Kathman, this is a real dispute (620).

kind of dispute second. Students may first recognize that critics are arguing over whether a certain play was written by Shakespeare and then recognize that this is a *jurisdiction* dispute. In either case, giving students a way to pinpoint the main bone of contention about a text could help students get their bearings in a critical discussion rather than becoming mired and lost in the details of an argument.

With the central issue and question identified, students can then generate arguments that engage the concerns of the critic(s) they wish to respond to rather than generating arguments in a vacuum. They can begin by directly engaging the particular contention of the critic or critical discussion. Students may be best aided in this pursuit by reformulating the main contention as a question (cf. Fahnestock and Secor, *A Rhetoric of Argument* 83). For research projects, this question can act as students' overarching research question (cf. Fahnestock and Secor, *A Rhetoric of Argument* 88). For example, suppose students were attempting to enter the critical discussion we examined in Chapter 4 over Phillis Wheatley's "On Being Brought from Africa to America." The dispute between could be phrased as so: *Does Wheatley's poem contain deliberate ambiguities that work to subvert the racist ideology of her time?* Once reformulated, students can pose a claim answering this question: *The ambiguities in Wheatley's poem appear to be deliberate, but rather than simply subverting the racist ideology of her time, they seem to reflect her own ambivalence about the consequences of slavery.* They can then see how their claim lines up with claims by other critics in the critical discussion and position their claim accordingly. Knowing the kind of dispute they are entering can also help students more explicitly frame the claim they are making and the discussion they are entering, as well as lay out the terms of the debate. The stases help to distinguish different

kinds of discussions and claims with their respective characteristics (cf. Fahnestock and Secor, *A Rhetoric of Argument* 84).

Then, students can turn to the topics or lines of argument particular to each interpretive stasis to discover support for their claims in making an argument. All of these topics can be phrased as questions that can guide students in their own research and reasoning. In other words, each topic can point students to sites of inquiry leading to deeper research and refinement and support of their claim. For example, a student wishing to enter the dispute over ambiguities in Wheatley's "On Being Brought from Africa to America" might turn to the topic *standards of usage* and investigate the following question: *How were the ambiguous words in question generally understood or defined at the time of Wheatley's writing?* This question, spurred by the heuristic provided by the topics, could lead the student to do a philological study of certain words in the poem. The student could then use the research he/she unearths to refine his/her initial claim and eventually support the claim he/she makes in the paper he/she turns into the instructor.

The interpretive stases along with their respective topics help make explicit the critical assumptions and persuasive moves that more seasoned critics and analysts take for granted. As the research presented in Laura Wilder's *Rhetorical Strategies and Genre Conventions in Literary Studies: Teaching and Writing in the Disciplines* strongly suggests, teaching the specific topoi of literary criticism, and arguably textual analysis more generally, greatly increases students' success in performing these tasks (Wilder 117-119). Teaching the topoi advanced in this dissertation along with the interpretive

stases to which they are tied can show students that different kinds of claims require different kinds of support (cf. Fahnestock and Secor, *A Rhetoric of Argument* 87).

Further, the presuppositional hierarchy of the interpretive stases, as presented in my dissertation, shows students how certain disputes rest on prior grounds of agreement concerning textual meaning. For example, the hierarchy can show students that disputes over contradictions in texts rest on prior agreement about what critics assume the text can be taken to be saying. If students recognize that a critical argument or dispute occurs in a higher-order stasis, they might investigate whether other critics have disagreements about the same passages of the text at a more fundamental level in the stases of either *ambiguity* or *definition*. Or, students may see if they can broker arguments in these stases themselves. Instructors can also warn students about the benefits and costs of arguing in a stasis different from the one of the critics they wish to engage. For instance, such arguments, especially if the move is lateral, can place a student outside of a discussion and make his or her contribution irrelevant. Arguing in a different stasis can only be done with strategic, argumentative bridging.

Specific stases can also be used to teach students about the kinds of considerations one can take into account when doing any kind of textual analysis. *Ambiguity* can be used to teach students the importance of linguistic form. *Jurisdiction* can be used to teach students about issues of canonization. There are few models for teaching students this kind of knowledge and these skills systematically and comprehensively, but the interpretive stases offers one means of beginning to do so. In short, the interpretive stases give us tools for teaching our students how to systematically

conduct research for, engage with, and ultimately make *persuasive* arguments about the meaning of texts.

The Cognitive Bases of the Interpretive Stases

Throughout this dissertation, I have consistently drawn on contemporary language theory to begin to investigate the cognitive and linguistic grounds of arguments for and over the meaning of texts. In terms of cognitive linguistic theory, this coordination of meaning can be explained in terms of the alignment of mental spaces, or conceptual constructs of elements and relations that are part and parcel of thinking and communicating (Fauconnier, *Mappings* 11). When it comes to the interpretation of texts, both coming to a common understanding of a text with other readers and attempting to understand the author's intent represent such coordination. The stases present a classification of where, as readers interpret a text, this coordination breaks down. The stases classify grounds of disagreement that can be seen as competing means of constructing competing spaces invoked by operations being performed on the text. For instance, the interpretive operation of translating a text to a new situation can result in multiple possible new spaces. As we saw in Chapter 6, the famous call from Martin Luther King Jr.'s "I Have a Dream" speech to judge people on their merits rather than their race was used by Reagan to campaign against the use of quotas in affirmative action—an application of the slain civil rights leader's message that still remains controversial today. In terms of mental space theory, people bitterly disagree over how to map elements from King's original arguments to contemporary policies such as

affirmative action in a world that does not at least appear to be like the one King inhabited.

But contemporary language theory not only gives us a cognitive explanation for people's ultimate disagreements over the meaning of texts. It can also, in conjunction with the interpretive stases, help us understand the processes that lead to that disagreement. At their base, each interpretive stasis marks a textual hinge where interpreters break in their *inference* of what the author *intended*.²⁴¹ Did the author intend this linguistic form or this one (*ambiguity*)? Would the author permit the passage to be used in these new circumstances or only in the circumstances he or she was familiar with (*assimilation*)?

Indeed, any claim or belief about the meaning of a text is the result of several inferential steps, many "almost instantaneously" and thus below the level of consciousness (Sperber and Wilson 65, 66). While many of these steps may be unconscious, they may be brought to the surface and questioned at any point either by the reader him or herself or by an interlocutor. When these inferences, upon which the interpretation is built, are questioned or provoked, the interpreter may marshal evidence to shore up his or her position, acquiesce to an alternative position, admit ignorance, or maintain his or her initial interpretation in faith (perhaps until more support is available). Once any of these inferential steps is brought up from beneath the surface of

²⁴¹ Of course, authorial intention is not always at issue (especially given the number of schools of literary criticism that believe the author is dead). In cases where getting at authorial intention is not necessarily at issue, the interpretive stases mark textual hinges where interpreters break in their inference over another guiding principle of interpretation.

consciousness, they can be classified, described, and analyzed according to the system of the interpretive stases.

Contemporary language theory also highlights the fact that interpretive disagreements may be largely driven by differences in assumptions and experiences between readers. For example, how much did listeners' varying experiences with African American styles of preaching affect how they interpreted Jeremiah Wright's "God and Government" sermon, in which he exclaimed "God damn America!"? While interpretations can certainly be motivated, the assumptions and experiences that interpreters bring to a text have a significant effect on how they interpret it. The kinds of disagreements people have, delineated by the stases, could point to kinds of differences in assumptions and experiences. Connecting kinds of disagreements to differences in assumptions and experiences could have predictive power in forecasting reader reactions to a text, which could be especially useful when a writer is composing a text for a diverse audience.

Another interesting intersection between the interpretive stasis system and contemporary language theory involves the topics or lines of argument tied to each stasis. The lines of argument for each stasis represent specific ways that interpreters attempt to overcome interpretive disagreements by persuading their audience members to change or otherwise reorganize their minds' conceptual structure. We have a clear example in Chapter 3 when L. T. Townsend argues for women's right to preach by in part moving Paul's prohibitions against women speaking in church from the category of universal command to the category of individual opinion (Willard 155-157). Townsend attempts to restructure his audience's conceptual organization of which texts are uttered with divine

authority and which are not. Categorization is a widely recognized and studied phenomenon within cognitive studies (e.g. Rosch; Fauconnier and Turner). But how the work of structuring our conceptual categories is accomplished through argument deserves much more attention and investigation.

While the intersection of the interpretive stases and contemporary language theory deserves more exploration in general, the integration of cognitive linguistics and the topics seems like an especially fertile ground for further research as it could link specific argumentative moves with potential changes in conceptual structure in readers' minds. We thus may come to understand why certain rhetorical moves are more persuasive than others. We may also learn how changes in conceptual structure are affected through discourse at the level of argument.

The Theory of Interpretation Underlying the Interpretive Stases

The methodology presented in this dissertation for analyzing how people interpret texts is rhetorical (in nature). It is grounded in the rhetorical tradition, with its specific framework being the ancient rhetorical interpretive stases. As a part of stasis theory, the interpretive stases frame textual interpretation as *argumentation*. Interpreters are cast as *arguers* who make *claims* about the meanings of texts, which, when questioned or doubted (in reality or otherwise), must be *defended* with various forms of *support* taken from such sources as the text or context. That claim can also be *attacked* with disconfirming support and be pitted against *alternative claims* of meaning. The framework for understanding textual interpretation arising from the interpretive stases then is a theory about *how* interpreters argue for and against the meanings of texts.

Although not the only possible lens through which to see textual interpretation, the interpretive stases teach us that through the process of argumentation, the meaning of texts are forwarded, contested, rejected, and ultimately constructed.

Each interpretive stasis then represents a *kind of conflict* that people can have *about* the meaning of a text. Five of the interpretive stases denote parts of a text where agreement over the meaning of a text *hinges* and can break down. According to the taxonomy of interpretive stases adopted here, the meaning of a text can hinge on a linguistic form (*ambiguity*), a term (*definition*), the perceived intention of the author or some other animating principle against the explicit message of text (*letter versus spirit*), the congruity of multiple passages (*contradictory passages*), or the translation of a text to a novel situation or use (*assimilation*). Rhetors can also step back from the text and question the conditions for interpreting a text in the first place (*jurisdiction*). As rhetors argue over the meaning of a text, any one of these points of a text—its various linguistic forms, any of its terms, the congruity of intention and obvious meaning, coherence of multiple passages, how it should be applied in new situations, and the conditions for its interpretation—are possible sites of disagreement. Whenever rhetors disagree along one of these points, there are certain lines of argument, or means of support and attack, which they can rely on in order to support their side of the argument and oppose the other side.

Stasis theory is also, and first and foremost, an *inventional* heuristic that helps rhetors discover strategies for argument. The interpretive stases not only point to kinds of controversies over texts, but also how to formulate and support claims about texts in competition with other claims. A rhetor wishing to contest a forwarded or accepted interpretation of a text can choose to break with that interpretation on any of the grounds

classified by the interpretive stases. He or she could, for example argue that the interpretation relies on a faulty definition of a term, and offer an alternative definition that supports an interpretation of the text they support. To support that alternative definition and alternative claim, the rhetor could turn to the various lines of argument in the stasis of definition.

We saw rhetors use alternative definitions of the term *trick* to support different interpretations of an email written by climatologist Phil Jones possibly revealing duplicitous intentions concerning a global temperature graph he published. In the cases examined in this dissertation, rhetors turned to some standard of usage—a strategy classified as early as the 1st century BCE by Cicero—to justify their definitions. It's unlikely that these arguers consciously turned to the catalogues of topics in the rhetorical treatises, but certainly such advice could have been an aid. The inventional utility of the interpretive stases is a major reason why they would be an excellent addition to many undergraduate writing and rhetoric curricula.

Textual interpretation is an inherently argumentative process because it always involves reasoning from assumptions and the available evidence to justify a belief in a particular meaning of a text. When these reasons are put before an audience, including an audience of the self, they become means of persuading that audience to that particular meaning of a text. Furthermore, the reasons justifying any particular meaning of a text can never be conclusive because of the polysemous nature of language and the indeterminable nature of context. There can only be more or less persuasive reasons for accepting an interpretation, and therefore more or less persuasive interpretations, always within the context of a particular audience. The evaluation of those reasons depends on

the hermeneutical standards of a particular interpretive community, and even those standards can be contested by community individuals.

The interpretive stases offer us a way to understand and analyze how people arrive at the interpretations of texts, or justify their interpretations of texts, given the evidence available to them and their own assumptions. Textual interpretation is rhetorical through and through. But if *any* interpretation of a text is rhetorical, then so is any analysis done under the rubric of the interpretive stases. While the interpretive stases offer a stance by which to analyze arguments over textual meaning, they do not offer an escape from it. There is a hermeneutic circle. But there is a rhetorical one too.

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