

NOTES ON THE MINOR DECLAMATIONS ASCRIBED TO QUINTILIAN

The most recent editions are those of M. Winterbottom (Berlin and New York 1984) and D.R. Shackleton Bailey (Stuttgart 1989). I denote the work of Professor Shackleton Bailey as follows: SB = his edition; SB¹ = HSCP 87, 1983, 230–239; SB² = HSCP 92, 1989, 367–404.

245,2. *quare si hanc tantum negasset aliquando ei postea obtulisset, non tamen poterat uideri quadruplo obligatus, cum hoc ipsum quadruplum cum ea summa habuerit† quae nega<ba>tur.*

The law states that a man who dishonestly denies having received a deposit shall be liable for four-fold restitution.

In ICS 9, 1984, 53 I proposed to replace the corrupt *habuerit* with *debuerit*. I should now translate the resulting text as follows: „if he had at one time denied the original sum (*hanc*) only, and later offered it, he still could not have been regarded as liable for the four-fold amount since he owed this very four-fold amount *only* in conjunction with the sum which was denied“ and later ceased to owe it when he returned (or offered to return) that sum. The fact that Latin sometimes omits a word for ‚only‘ is well known, but instances are not always recognized.

For *habuerit* SB reads *abierit*, which presumably means ‚has ceased to be owed‘, an unexampled and improbable use of *abire*.

246,4. *ueneficii accuso. ueneficam dico quae soporem dedit. unde tibi <in> hos usus uenena? notiora sunt quaedam pernicie et experimento deprehenduntur, adeo ut aliqua publice dentur.*

A stepmother had administered to a brave soldier a sleeping-draught which had prevented him from taking part in a battle; he now accuses her of poisoning.

The last sentence is very awkward: „better known [than these sleeping-draughts] are some drugs because they cause death and are found by trial to do so [with *deprehenduntur* sc. *perniciosa*], so much so that some of them are administered by order of the state“ (as hemlock was at Athens). This awkwardness could be mitigated by changing *quaedam pernicie* to *quae dant<ur> <in> pernicie<m>*, „which are administered to cause death“, the prepositional phrase corresponding to the preceding *in hos usus*, and the verb being repeated in the following subordinate clause. It is probably an advantage not to have *quaedam* and *aliqua* in the same sentence.

249,10. *ergo, quantocumque tempore egi, nihil obest non consummasse; neque enim eum qui non uicit negaueris pugnasse, neque eum qui fructus non percepit negaueris possedissee, neque eum qui naufragium fecit negaueris nauigasse.*

The speaker argues that it should not be held against him that he did not complete the legal proceedings which he started.

The meaning of *fructus possedissee* is by no means clear; Winterbottom suggests that *fructus* are perhaps 'profits' rather than 'fruit'. I think that they are 'crops', and that Meister's *seuisse* (which Winterbottom reports with an exclamation-mark) is an excellent suggestion; agriculture fits in well between soldiering and seafaring as one of the main human activities in which success is uncertain; similarly in § 20 below we find agriculture sandwiched between *peregrinatio* and *militia*. However, preferable to *seuisse* would be *obseuisse*; *obs-* (presumably written *ops-*) would explain *pos-*.

249,15. *propius accedere ad †confessionem† huiusce rei uolo.*

For *confessionem* Winterbottom reports three conjectures with the general sense of 'demonstration': *connexionem*, *comprehensionem*, and *complexionem*. Perhaps *conclusionem* would be preferable in meaning and no more difficult palaeographically.

254,2. *an haec rogatio contra legem feratur, ... an uideatur hic etiam alia lege remanere potuisse.*

„No 'other law' arises, only the one in the thema permitting an exile to return and remain if he gives information of value to the state“, says SB² 371, who therefore suggests that *alia* should be deleted (and *lege* taken as 'legally'). I propose <s>*alua lege*, contrasting with the preceding *contra legem*.

254,17. *cum adfectari tyrannidem putaret ..., non dissimulauit, non ultionem putauit, non, cum ipse patriam perdidisset, inuidit. sed uenit in ciuitatem.*

An exile returns to give information about a plot to establish a tyranny.

„Did not regard this as a chance to get his revenge (on his country)“, Winterbottom. Not everyone has been happy with this use of *putauit*; Gronovius emended it to *parauit* and Summers (CQ 5, 1911, 19) to *petiuit*, but the best emendation, I think, is the earliest, Aerodius's *optauit* (*opt*>*put*). The same corruption has occurred at 274,7, where Rohde's *optaret* (for *putaret*) has been undervalued by the most recent editors; it has also occurred, I think, at Juvenal 3,75, where I should write *optes* for *putes*. The corruption is particularly easy in our passage, with *putaret* preceding.

255,4. *an si quis nostrum transfugisset, non ipsum modo pessimum ciuem et omnibus suppliciiis dignum iudicaretis, sed infamia etiam qui receperunt, et uelut auc-*

tores scelerum, uelut magistros turpitudinis, †colligeritis†?
colligeritis uel -retis codd.

Both deserters and those who accept them are culpable.

Winterbottom desiderates a verb meaning ‚blame‘ and reports Håkanson’s *uellicaretis* and his own *sugillaretis*, neither very close to the paradosis. I suggest *eos ag<it>aretis* (in OLD sense 10); for the common confusion of *e* and *o* see Housman, Classical Papers 641.

255,5. *scilicet ... pro nio re pro nobis sacramento, fortiore animo stabunt.*

An ironical statement about the loyalty to be expected of deserters.

„Our declaimer uses the word *sacramentum* eccentrically ..., and what he would tolerate as an adjective with it is uncertain“, says Winterbottom; Håkanson suggests *firmiore*, SB *pleniore*. Perhaps *promptiore* (OLD sense 5b) would be preferable.

255,9. *ego istud credidi scelus cum a singulis †spes† est; cum a paucis, spes est; cum a plurimis, iam †consensi†: nouum hercule genus artis.*

This passage may not be so hopeless as it has generally been considered. I should replace the first *spes* (as an erroneous anticipation of the second) by *factum* (a suggestion of Winterbottom), and then read *iam con<silium> sensi*: „I now discern (idiomatic perfect tense) the plan: it is a novel sort of strategy“. Desertion (*istud*) by individuals is a crime, on a small scale it arouses hope (on the receiving side), on a large scale one suspects a fifth column, a danger which the declaimer proceeds to emphasize.

257,2. *ego tamen nauigauī, ego periculosa maria ingressus sum ut redimerem patrem ...; quaedam etiam non †facienda† passus sum.*

Winterbottom adopts Aerodius’s *patienda*, but I cannot see the point of this, any more than of Schulting’s *fatenda*. SB reads his own *non patiendo passus sum*, with the explanation (SB¹ 232) ‚i.e. in imagination‘; I doubt both the Latinity of this and the credibility of the sense. Perhaps the paradosis is lacunose, e.g. *non <parui> facienda*, ‚not to be made light of‘.

258,5. *utrum tandem uis magnum esse quod ego feci an minus esse quod tu fecisti?*

A heroic father rebukes his heroic son for not yielding to him the prize for heroism.

I am not convinced by Winterbottom’s explanation of this text. I think the sense required is that obtained by Rohde’s insertion of *non* before *magnum* and of *eo* before *quod tu*. However, it would be more economical just to insert *non* before *uis* (*non uis* = ‚you refuse to accept‘).

259,15 f. *di faciant ut iste sit euentus qui adhuc in hac domo omnium periculorum fuit! †nostra† tamen, quatenus forma iudicii proponitur, agitur defendentis imitatio.*

For the corrupt *nostra* Winterbottom looks with favour on Håkanson's *interea*, and indeed that makes a good contrast with the preceding wish for the future. But *nunc* would make an equally good contrast and be palaeographically more credible (confusion of abbreviations).

260,11. *relinquendum erat istud (sc. patrimonium), et res transisset ad alios; quandoque locupletem fecisset nescio quem mors liberalis.*

If the rich young man had not spent his money it would one day have passed to his heir.

Liberalis does not make sense as an epithet of *mors*; it must be a genitive singular. But it is the death not of a generous man but of an ungenerous man which enriches his heir; read <in>*liberalis*.

264,3. *solum enim ius excipiunt et circa legem calumniantur.*

Winterbottom makes three tentative suggestions about the meaning of *excipiunt*, viz. 'try to find a loophole', 'take on', 'trap'; none of these is plausible. This is not surprising, because the word should have been emended long ago to *excutiunt*, 'scrutinize', 'examine', an easy change (*t>p*); this verb with such objects as *ius*, *lex*, *quaestio*, is frequently found throughout the Declamations (there are four other instances in this one, at §§ 1, 5, and 8).

265,13. *captis urbibus uis hostium ac metus religione templorum defenditur.*

Metus has, not without reason, been suspected, and Burman's *hostium metu ac religione* has found some favour. But the manuscript evidence points to another nominative parallel to *uis*; perhaps *uis hostium atque im<p>etus*, a natural and common combination.

265,15. *tumultuosa lite aliqua nescio an etiam publica sacra turbasti.*

Winterbottom comments: „*aliqua* seems to jar, but various remedies suggested by Schultingh hardly help“; SB suggests either deletion or alteration to *uestra*. I think that *aliqua* will cease to jar if it is taken as a neuter plural with *sacra*.

266,9. *uos proditorem in ciuitate sinetis esse...? tantine est metus quisquam? toto animo aduersus hostem nisi, non respicietis, non expauescetis?*

A man exiled for treason but recalled to fight for his country proves himself a hero (*uir fortis*). But will not his fellow countrymen, engaged in battle with the enemy, fear a repetition of his treason?

Winterbottom takes *metus* to mean the fear aroused in the enemy by the *uir fortis* (is it worth the risk of treachery?), but if this is the meaning it is very obscurely expressed. Emendations include *tantine est meritum cuiusquam?* (Schulting), *tanti non est metus cuiusquam* (Rohde), *tantine aestimetur quisquam?* (Håkanson). The first and third of these have the merit of providing an allusion to the man's heroism; I suggest that this can be obtained at less cost by merely changing *metus* to *miles* (a term of modesty when used of himself by the *uir fortis*).

267,5. *nihil est enim quod accusator meus simulatione quadam †alteeat quae praeterierunt obliqua malignitate obicere conetur.*

„The accuser is unable to attack the tyrant's *ante acta uita* directly because of the amnesty“, Winterbottom.

The last two letters of the obelized word can be taken as the neuter plural *ea*, antecedent of *quae*. For the rest of the word nothing very probable has been suggested. I look for an objective genitive (as at 268,7; 306,1; 317,11; 321,16) ending in *-ae* which can be construed with *simulatione* and which will contrast with *malignitate*; I find it in *<gr>atae*, „goodwill“.

268,23. *itaque, etiamsi medicina uinci fata non potuerunt, productus est tamen usque ad eam <aetatem> pater noster qui tres liberos habebat.*

The speaker, a doctor, claims that his father's life was prolonged by medicine.

Schulting's insertion of *aetatem* seems fairly certain. Other insertions have been suggested, intended to make the speaker claim that it was his own medical expertise which prolonged his father's life. I do not think that this is either necessary (it is obvious from the context that medicine is claimed to have been responsible) or desirable (it would be a mark of modesty in the doctor that he should not explicitly claim credit for himself). However, something must be done about the *qui* clause, which is pointless as it stands. I suggest the simple expedient of emending *qui* to *qua*. Paternity or maternity can by itself be an indication of age; so at 315,7 *qui senex fortiter feci, qui iam pater fortiter feci*; 277,10 *filios uelut indices aetatis suae* (so of the female ape in Juvenal 10,195 *in uetula scalpit iam mater simia bucca*); 330,7 *ita ego adultera hoc tempore, in hac potissimum aetate, post filium, et post filium iuuenem*. The last passage might suggest that we should insert, after *liberos*, something corresponding to *iuuenem*; the easiest insertion would be *adultos*.

271,5. *si imperes filio ut sententiam <iudex> dicat contra quam existimat, si testimonium iubeas dici eius rei quam ignorat, si sententiam in senatu <contra ipsius iudicium> (haec magis ciuilia et in medio posita; †si ex nostra libertate† argumenta repetenda sunt:) si Capitolium me incendere iubeas, arcem occupare, licet dicere: haec sunt quae fieri non oporteat.*

Examples of what a father may not order his son to do.

In the first half of the sentence I think that the supplements *iudex* (Leo) and

contra ipsius iudicium (SB² 377) are great improvements. And I should make a third change here: *dicere* for *dici*.

In the parenthesis *haec* (retrospective) calls for a contrasting *illa* (prospective); so Winterbottom, who would substitute *illa* for *si*. I should prefer to insert *illa* before *ex*, having changed *si* to *sunt* construed with *posita*. Despite SB² 377, I am not sure that *ex nostra libertate* cannot stand as shorthand for *ex nostrae libertatis custodia*, which might, however, be a possible emendation.

271,14. *sed multa sunt quae me faciant fortiozem. ante omnia aduersarius iam fatigatus est: cogita quotiens pugauerit. non dico quid fecerint hostes: non inde ceciderunt fratres mei. fortiozem me faciet melior conscientia, fortiozem faciet et causa pugnae.*

One *uir fortis* (A) contemplates battle with another (B) for the prize of heroism. B has already fought and killed two brothers of A, who were likewise *uiri fortes* contending for the prize. A here enumerates the factors which encourage him to take on B.

One of these factors is that B must be tired after his two previous combats, *not* after fighting the enemy. This must be the meaning of *non dico quid fecerint hostes*; if so, it is obscurely put, and the relevance of *non inde ceciderunt fratres mei* is even more opaque. Much more relevant to the context is the sense produced by Gronovius's reading *quid fecerim <in> hostes*; he explains this as follows: „ut bene speres de meae pugnae euentu, non allegabo apud te quae aduersus hostes dedi fortitudinis specimina: nam ab illis quoque fratres redierunt“. „I do not adduce my heroism against the enemy, because my brothers were equally heroic against them and yet were killed not by the enemy but by B in fighting for the prize“. With this reading and interpretation *inde*, which is usually either obelized or improbably emended, is sound and is equivalent to *ab iis*.

274,12. „*sed in foro sepelietur tyrannus.*“ *qua magis? mihi inter cetera etiam hoc quoque prouisum esse †facto† a diis immortalibus uidetur, quod illi loco destinatus est; nemo inire forum nostrum poterit quin uideat illud sepulchrum.*

qua SB² 379: *quam* codd.

Should a tyrant, struck by lightning in the forum, be buried there, as anybody else would be?

For *facto* it is traditional to adopt the minor variant *fato*, but this clashes with *a diis immortalibus* and is accordingly deleted by SB² 379. I suggest that it may be a corruption of *<ne>fando* (dat. masc.); the omission of the first two letters would be easy after *esse*.

279,7. *illis non est uisum nefas accipere pecuniam, sed et hanc †poenam animaduersionis† putauerunt, sicut pleraque delicta <multa> puniuntur; neque enim semper usque ad mortem perueniunt.*

multa add. SB² 379

The legislators (*illis*) have laid down that an adulterer can be either killed or let off on payment of a sum of money.

Either *poena* or *animaduersionis* (if not both) is corrupt or the passage is lacunose. Various suggestions will be found in Winterbottom's note and in SB² 379. Although Winterbottom says that it would be sad to get rid of *poenam*, I should replace it with *formam* (predicative; *hanc = pecuniam*) and make no further change; not only is the *flp* variation one of the commonest but here *poenam* could be in part a 'psychological' error due to *animaduersionis*. I am not deterred either by the occurrence of *formam* at the end of the preceding sentence or by the resemblance of *formam* to the English 'form'; for the latter compare 340,3 *forma seruitutis*, 342,4 *aliqua forma libertatis*, and OLD sense 8. I take the subject of *perueniunt* to be *poenae* (supplied from *puniuntur*) rather than (as Winterbottom) 'the legislators'.

279,8. *multi se a gladiatorum uulneribus auertunt, et quamquam nemo dubitet et illud spectaculum in parte esse poenarum, tamen nequissimorum quoque hominum suprema pericula habent suam gratiam.*

The speaker is making the point that not everyone can stand the sight of blood.

None of the meanings tentatively attributed to *gratiam* by Winterbottom is at all plausible; *habent suam gratiam* would naturally mean 'have their own attraction', which is the opposite of the sense required by the context. For *suam gratiam* I should read <mi>*sericordiam*. One is reminded of the reaction to Pompey's games of August 55 BC (Cicero, *Fam.* 7,1).

279,15 *maximo atque admirabili potius experimento grauitatem huius pueri seueritatemque, iudices, †diligetis†, quia is qui tantum nefas concupierat ipsum puerum appellare non ausus est.*

The theme states: *diues pauperem, speciosi patrem, de stupro filii appellauit.*

No appropriate sense can be extracted from *diligetis*; hence SB suggests something like *demonstratam habetis*. But the right solution is not far to seek: *colligetis*. This verb, often (as here) construed with an ablative, is very frequent in these Declamations.

279,19. *dum pecunia adfertur, dum †repetitur†, dum numeratur, fuerat tuae curae, tuae seueritatis, interuenire et aliquid facere fortius.*

The father should have acted more decisively when the adulterer was paying over the money which would save his skin.

Winterbottom is justified in rejecting, on grounds of sense, both *repetitur* and the conjectures *rependitur* and *recipitur*. SB² 379 f. emends to *perspicitur*, and 'inspecting' the coins might indeed be a credible stage between their arrival and their being counted out. But even more credible, on grounds both of sense and of palaeography, would be *expeditur*, 'got out' of its container. One is reminded of

the *pyxis* of poison in Cicero, Cael. 65 *cum Licinius uenisset, pyxidem expedit, manum porrigeret, uenenum traderet*; see also ThLL V2 1610, 12 ff.

280,5. *neutra res est quam differri oporteat: siue is est raptor qui poenam mereatur, non meretur aduocationem, siue ignoscitur raptori, non debent habere moram nuptiae uel inchoatae.*

After a rape the girl's choice between the rapist's death and marriage to him must be made immediately.

„*Vel* is awkward“, says Winterbottom. SB² 380 emends it to *ut* in the sense of *tamquam*. This is certainly the right sense (the rape is, *as it were*, the beginning of marriage), but the right word, I suggest, is *uel*<*ut*>.

280,8. *ante omnia non tam duram esse lex uoluit condicionem ut semper raptor puniretur; ideo et misericordiae locum fecit. et ¶idcirco† iam non ad ipsum tantummodo qui rapuit sed etiam ad eum qui duxit pertinet, qui certe nihil peccauit.*

„To insist on an *optio* after the wedding is unfair to the rapist – but also to the husband“ (Winterbottom).

Winterbottom proposes to split *idcirco* into *id*, which will serve as a subject for *pertinet*, and *circo*, which he would delete as an anticipation of *certe*. The former suggestion is convincing, the latter much less so; I should prefer to replace *circo* by parenthetical *credo* (which occurs again at § 13 below).

280,14. *scio meruisse me ut amarer, scio obsecutum (sc. me uxori meae), scio omnia maritalia officia plena indulgentia c o n s e c u t u m.*

I am not perturbed by the proximity of *consecutum* to *obsecutum*, but I think that *consecutum* („apparently unparalleled“, Winterbottom) should be *exsecutum* (cf. ThLL V2 1851, 41). It is not uncommon for *e* at the beginning of a word to be confused with the symbol for *con*.

280,16. *silentium quidem uxoris meae ego ¶uero† neque suspectum habeo neque timeo.*

I think that Håkanson was right in replacing *uero* by a verb parallel to *habeo* and *timeo*; he suggested *fero*. Perhaps (as so often in these Declamations) there is a small lacuna; for instance *ego uerum* <*iudico*> (*uerum* = ‚right‘, ‚reasonable‘).

282,1. *animus liber est, nec interest quo habitu statua ponatur.*

A statue erected in honour of a tyrannicide showed him in the female dress in which he had slain the tyrant.

No clear sense can be attached to *liber est*; hence SB¹ 233 suggests <*nos*> *liberauit* (or *liberat*), „it was your spirit that freed us“. Perhaps rather *liber<ato-ris> est*: „the spirit (evident in the statue) is that of a tyrannicide“.

292,3. *uiderint isti qui prodigis omnes oculis intuentur.*

The case concerns a *puer speciosus*, and the sense required of *prodigis* is 'unrestrained', 'lascivious'. SB¹ 234 doubts whether *prodigus* could have this sense either here or at Tacitus, Ann. 11,26,3 *apud prodigos*, where Draeger conjectured *profligatos*. Perhaps in our passage also *proflig<at>is* should be considered.

295,2. *non aliter itaque hanc causam agam quam proxime egi, etiamsi in illa nocuit ~~†~~anteratio†.*

No indication is given as to how the speaker, a son who had got his father condemned for insanity, had conducted his case on the previous occasion, so that in emending the corrupt word we have to rely on palaeographical considerations. Recent editors have adopted Rohde's *moderatio*, which is palaeographically remote. More plausible would be *altercatio*, which frequently formed part of a law-court case; the reference may be to an unseemly *altercatio* between father and son. The corruption could have been partly due to *alia ratione* in the preceding sentence.

295,3. *diu ego tuli ualetudinem patris, donec tam manifesta esset ut damnarem etiam inuitus. tradita est curatio mihi. quam diligenter hoc egerim aestimate: uidetur hoc esse sanatus.*

Recent editors have followed Rohde in replacing *hoc* with *hic*, which is so superfluous that Winterbottom has suggested deletion. I think that the preference should have been given to Rohde's alternative emendation *nunc*; it is quite common for initial *n* and *h* to be interchanged.

295,4. *legum lator prospexit senectuti; ideo medicinam filiis imperauit. cum uero sanauerim, poteram uideri impius nisi detulissem; non est indulgentia permittere sibi furorem.*

The insanity provisions of the law are in the interests of the old.

Winterbottom translates the last phrase 'let madness have its head', but he admits that the use of the reflexive is startling; however, he rightly rules out Schulting's *tibi* (with *erat* for *est*). The context seems to me to cry out for *s<en>ibus*.

296,2. *manet hoc ipsum inter causas abdicationis: obici tibi potest quod tam impius es ut ...*

On *manet* Winterbottom comments 'hardly more than *est*'. SB¹ 234 emends to *iam et* or *iam est*. I suggest *<e>minet*.

296,7. *cetera uero cui non etiam manifesta sint?*

SB deletes *etiam*. Perhaps it should be *st<at>im*; I think that the same corruption has occurred at Livy 42,53,9 and Apuleius, Met. 4,30,3.

297,6. *his enim omnibus profecto hoc efficitur, ut illum excaecari non necesse sit. neque ei nocuit illa honestissima militia: propugnator fuit ciuitatis, quoniam partem aliquam uoluptatis in hanc inpenderat.*

A *uir fortis* who had blinded his girl-friend is in danger of being punished by blindness.

„A problematic sentence“, says Winterbottom, and proceeds to make the point that *in hanc* must mean *in ciuitatem*, not *in meretricem*; he would therefore alter *nocuit* either to *nocebit* (Rohde) or to *<non> nocuit*. I think that it should be jussive *noceat* (or possibly, as Schulting, *nocuerit*); then *neque ei noceat = et prosit ei*. Next, *uoluptatis* is certainly corrupt: what he had spent on the state was not „a considerable part of pleasure“ (whatever that may mean) but a considerable part of his youth; read *iuuentutis* (*uoluptatis* may be due to a scribe's attention wandering to *uoluptatum* in § 12). Finally, *quoniam* should, I think, be *qui iam*, not (as modern editors after Rohde) *quondam*.

298,7. *ego te mihi genui. non ergo cogitabis quid mihi debeas? illa e terrae gratiam referunt, nec quicquam inueniri potest in rerum natura in quo labor pereat.*

A rustic father addresses his son, who has abandoned the farm for the life of a parasite in town.

Illae has never been questioned, and indeed makes sense: „those fields back-home“; but the plural is odd. I wonder if it should be *satae* (the first letter having lost after *debeas*); the resulting generalization fits in well with what follows. Similarly in § 16 below I take *ipsas terras* in a general sense, „the soil itself“, followed in the next sentence by the specific *agellum meum*.

298,10. *haeserunt tibi uitia ciuitatis. uidetur habere hoc primum odium rusticitas.*

The same father addressing his son.

SB¹ 234 (cf. SB² 383) puts a comma after *odium*, thus taking *rusticitas* in apposition to *hoc* (the function of *primum* is not clear), and refers to ThLL IX 464,16 for *odium habere = ‚be disliked‘*. One would prefer something which ties on more naturally to the preceding sentence. This consideration tells in favour of reading *rusticitas<ti>s* (an early conjecture supported by Håkanson): „desire not to seem *rusticus* causes adherence to city vices“ (Winterbottom). But the function of *primum* is still not clear. I should change it to *praemium* (ironical): dislike of country ways has as its reward being infected by city vices.

298,13. *agam causam per uices anni, non numerabo fructus; luxuriosum filium ad delicias uoco paratas.*

The father will plead the advantages (*fructus*) of country life.

To obtain the required sense recent editors delete *non*. It can be retained

if one reads *non <nullos>*, a deliberate understatement; the omission would be easy before *numerabo*.

302,1. *quaerendum est igitur an hic gladiator sit aut fuerit. non sumus magna legis interpretes: non ludum nec harenam nec armorum scientiam complexa est, sed gladium.*

To decide whether his client is or has been a gladiator an advocate appeals to the etymology of that word.

Winterbottom thinks that there is much to be said for the variant *magnae*, but that is most probably a mere assimilation to *legis*. Not that *magni* is sound: I think it should be *mali* (the opposite corruption, of *magnus* to *malus*, has occurred at Decl. mai. 2,6 (p. 25,24 H.); for *malus interpres* see ThLL VII1 2253,35.

304,3. *quamquam quid mihi cum lege, dum ne ueniat adulter ille, ille sacrilegus, ille desertor in penates meos? ... armiger, da gladium.*

The speaker, whose son has been guilty of adultery, sacrilege, and army-desertion, says he has no need of a law to punish him; he will kill him with his own hands.

Dum ne gives the opposite of the sense required and for that reason is emended by SB² 384 to *dum modo*; he paraphrases „once I get him within reach“. But *ne* is a very unlikely corruption of *modo*. I suggest *dum ne <impune>*, the loss of *impune* being due to homoeoteleuton.

305,2. *homines innocentes cum damnarentur quoque †confestim† inter se concurrere coegit.*

A rich man forces two exiles who had returned home illegally to fight each other to the death. The two were „innocent even when they were condemned“ to exile because their offence was unintentional homicide.

Confestim „adds little more than scornful alliteration“, says Winterbottom; moreover it is clear from various phrases in §§ 13 and 14 that „quidquid factum est, non est factum confestim“ (Gronovius). Conjectures reported and criticized by Winterbottom are *infestos*, *infeste*, and *confessi*. I suggest *contemptim*; that the rich man despised the two exiles emerges from § 4 *cum aliquis iis quos contempsit irascitur*.

305,8. *quid ego faciem tristissimi illius temporis narrem, quid uulnera, quid sanguinem, quid gemitus?*

The two exiles are engaging in enforced single combat.

I do not believe that *temporis* is acceptable in the sense of ‚moment‘. The available conjectures are *contentionis*, *certaminis*, *muneris*, *paris*. I now prefer *sceleris*; if the initial *s* were lost by haplography after *illius*, the remnant *celeris* might have been mistaken for *temporis* (both words were commonly abbreviated).

The rich man stands accused of unlawful killing (*iniustum supplicium*), and the illegality of his action is stressed throughout the declamation, the actual word *scelus* being used in §§ 1, 2, and 11.

305,14. *nondum dico concurrere, stantis <alterum> alterius ceruicem ferire coegisti.*

The same single combat.

Stantis is Winterbottom's emendation of the manuscript reading *pr(a)estantis*; it makes a good contrast to *concurrere*, and may well be right. But one wonders where *prae* came from. I should suggest *praestantis <suam, alterum> alterius* were it not that ThLL III 948,49 knows only one instance of *ceruicem praestare* (instead of *praebere*).

307,6. *iungit enim amicitias similitudo morum; nescio quo modo inter se ~~†~~animorum nomina† uident et agnoscunt. ... nec haec in nobis tantum c o m p a r a t i o: muta animalia si in unum conferantur, genera tamen coibunt.*

A originally read *nomina*, which has been corrected to *numina*, and this became the vulgate; but *animorum numina* is an incredible expression, and Obrecht's *lumina* is little less so. In ICS 9, 1984, 66, I proposed *animi hominum*. I now suggest *amicorum animi*; at 259,13 *amico* has been corrupted to *animo* (the opposite corruption, of *animos* to *amicos*, is found at Seneca, Epp. 19,11); as for the corruption of *animi* to *nomina*, both are words which were regularly abbreviated.

Winterbottom points out that *comparatio* is illogical: „the phenomenon is found not only in us; a comparison may be drawn with animals.“ I suggest that *comparatio* is a marginal note which (like *amicus* at 321,3) has intruded into the text, *haec* being a neuter plural.

309,1. *nam etiamsi nullo themate ad id alligatur, ut necesse sit eum raptorem uideri, rei tamen iudicatae facere controuersiam non potest.*

Winterbottom takes *nullo* in OLD sense 6, „not at all“. I cannot gainsay this, but I strongly suspect that we should read *nullo <modo>*; *modo* was regularly abbreviated, and all the more liable to omission (as here and at 311,10) because of homoeoteleuton.

313,5. *non scrutor quid uoluerit legum lator; ... id siue uoluit esse quod scripsit siue aliud aliquid cogitauit, hoc scripsit, hoc iure uiximus, hoc ~~†~~spectauit†.*

The last word is obelized by Winterbottom, with good reason: having just admitted that the legislator may have had something else (*aliud aliquid*) in mind, the speaker cannot now assert that *this* is what he had in mind. I suggest *hoc iure uiximus* (or *uiuimus*, as at 331,18) *<quasi> hoc spectarit*.

313,9. *accusator quid debet tibi? ut eum deferat aduersus quem argumenta habeat, aduersus quem testes habeat: alioqui nocentem an innocentem qui scit?*

Suggested replacements for *tibi* are *nisi* (taken with what follows) and *rei publicae*, both very violent changes. I suggest *sibi*: „what does an accuser owe to his own conscience?“

314,19. *nihil uariatum, nihil ex more insanientium mutatum est. „ego te, pater, occidi“. †longa confessio est repetita totiens confessio est†.*

The confession of a parricide.

Scholars have made heavy weather of emending the last sentence. There is no doubt about the meaning: „a confession repeated over and over again is lengthy, even though it runs to no more than four words“ (SB² 389). I would read <non> *longa confessio est* (sc. the four preceding words): *repetita totiens, longa est*. This is a case where a scribe, having to repeat later on in a sentence one of two words used earlier, has repeated the wrong one (*confessio* instead of *longa*).

315,23. *si alterum utique ex domo nostra destinabatis, cur non senem potius traxistis?*

The subject of the two verbs must be the gods (Winterbottom). Since it is not easy to understand *dii* from the context, I think that the word must be inserted before *destinabatis*; it has been likewise omitted before *dedicari* at 323,15. For the bare vocative *dii* see 335,4 *bene, dii, quod leue fuit uulnus!*

317,4. *¶ingamus esse prouocatum quem imperator in aliam partem expeditionis ire iusserit.*

I do not believe that *expeditionis* is governed by *partem* because (a) *expeditio* can hardly have the sense of *exercitus* (for *expeditiones* as a normal feature of military life see 312,4 *longum iter incidit, periculosa expeditio*), (b) with *ire* the natural meaning of *in aliam partem* is *in aliam regionem* (OLD s.v. *pars* 12). The most probable solution is a small lacuna, e.g. *expeditionis <ducem>*.

317,10. *et si uerba ipsa intuemur, hoc satis est; si uero introspicere uoluntatem uouerimus, ecquid manifestum est non hoc sensisse legum latorem, ut ulla necessitate posset cogi pater cum filio dimicare? an uero is qui scripsit ‚hostem‘ non uideatur scripsisse ‚alienum‘.*

This is the usual contrast between the wording and the intention of a law. In this case the wording is ‚*hostis*‘ but the intention is ‚*alienus*‘. For *scripsisse* (an erroneous repetition of *scripsit*) read *uoluisse* or (as Professor Winterbottom has suggested to me) *sensisse*.

318,7. *ante omnia enim testamento tempus non est cautum quo soluum. ac ne cauere quidem potuit; nam qui dicit ‚utri malueris‘ et tempus non adicit, ma-*

nifesto illud quoque significat, ‚cum uolueris utri uolueris solues‘.

On the *ac ne* clause Winterbottom comments „it is not clear why a time limit could not have been set“. The point is not whether it *could* but whether it *should* have been set; for *potuit* read <o>*portuit*. It did not need to be set because it was implicit in the wording that the time in question was *cum uolueris*.

321,12. *hi sunt qui coniunctos separant amicos, ... qui hereditates captant, qui t̄se† testamentis parant.*

I do not believe that the last three words yield satisfactory sense, and suggest *sibi <opes> testamentis parant*.

321,19. *quid enim? iam te metiri incipis et longam domus nostrae patientiam calcas? ecquid scis quid paulo ante fueris?*

A man who has been enriched by an inheritance scorns his previous poverty and subservience.

Metiri is described by Winterbottom as an odd expression; he suggests that it may mean „feel your full strength“. I wonder if it should be *mentiri*, „misrepresent yourself“ (OLD sense 3).

321,29. *utinam quidem fortuna praestitisset ut frater meus uiueret: ostendissem uobis medicum; ... ostendissem potionem hanc ... medicamentis permixtam et oneratam.*

If the brother were alive, he would have pointed to the doctor who poisoned him and to the poisoned drink which that doctor administered. Surely the double *ostendissem* should be *ostendisset*.

330,1. *non ignoro expectatione criminis me onerari ex hoc praecipue, quod abdicat indulgens pater.*

SB¹ 237 is justified in querying *expectatione*; he suggests *purgatione*. The preposition is indeed desirable, but *explicatione*, „expounding“, would be palaeographically more convincing. The same corruption has occurred at Cicero, ad Q. fr. 2,15,3, the opposite at Curtius 3,1,17.

333,4. *maximorum mihi malorum causam hoc ipsum attulit, quod uidebar disertus: adeo ut, si mihi exuere hanc partem persuasionis liceret, amputare uocem et uelut omnem usum loquendi perdidisse maluerim quam cum homine de me optime merito iam bis consisterem.*

A young man regrets his own oratorical expertise which he had been forced to employ against his benefactor.

Winterbottom gives two possible senses for *partem persuasionis*: (a) „the role consisting in persuasion“; (b) „the role given to me by public opinion“. The latter seems impossible. The former might just be acceptable were it not that an easy and

convincing emendation is not far to seek: for *partem* read *artem*. For the confusion of these two words see Housman's note on Manilius 1,843; add Decl. 298,11, where *ars* has become *pars* after *parasitos*, just as in our passage *artem* has become *partem* in front of *persuasionis*; also Cicero, Mur. 6, where *partis* has become *artis* in all manuscripts.

337,6. *ceterum quidem tu ei qui tot lenocinia haec constituta uitae contempserit, qui non detineatur his uoluptatibus, dices „non habes graues causas monendi“?*

Winterbottom thinks that the first *qui* clause may be corrupt because of (a) *constituta*, which he calls ‚verbiage‘, (b) the order of the words *tot lenocinia haec*. Both of these objectionable features can easily be eliminated by changing *haec* to *huic*. The use of *haec* with *uita* is natural here and in similar contexts (e.g. Cicero, De re p. 6,9) where the contrast is with death.

337,8. *sicut onera facilius subeas si partiaris, ita hoc graues casus adleuare possis, si non ingruant ac semel ueniant.*

„*Ingruere*, though regularly used of disasters, seems to lack the implication, required here, of coming *together* (contrast *semel ueniant*, ‚come on a single occasion‘), Winterbottom, who therefore finds Schulting's *congruant* attractive. However it is a pity to get rid of *ingruant*, which is the *mot juste*; better, I suggest, *non <una> ingruant* (the omission of *una* would be easy in this collocation). In what follows *una* is repeated by *uno tempore* and *eodem tempore*.

337,14. *sed uxorem perdidisti. ne in hac quidem tibi multum desiderii est. quomodo enim uos, diuites, recipitis matrimonia? recipitis? aliae uos rapiunt uoluptates, illa ministeria, illi imitati feminas pueri.*

The loss of a wife means little to a rich man, who can easily find replacements, female or male.

I do not believe either in *recipitis* (‚take on marriage‘, Winterbottom) or in the conjecture of SB² 395 *reficitis* (‚remodel‘). I would substitute *reicitis*, ‚discard your wives‘ (OLD 6b quotes *uxorem reicere* from Ulpian, Dig. 25,3,1,14). Moreover, *quomodo* introduces not a question (‚in what spirit‘, Winterbottom) but an exclamation; and *uos* is a nominative, not (as it has always been punctuated) a vocative. Finally, the second *recipitis* should be deleted as an erroneous repetition of the first (so already Aerodius).

338,5 f. *eo iure facimus istud quo illud etiam, ut narremus in isdem declamationibus et contradictiones ponamus etiam a petitore. quod iam in foro non secundum meum consilium fiet.*

The use of the proem for narration and for answering an opponent's objections. The writer here gives his opinion that this should not be done in a real case (as op-

posed to a declamation); in Inst. 5,13,45 Quintilian says that it is seldom done (*in foro rarum*). The two passages can be reconciled by Ritter's change of *non* to *raro*, but a preferable change would be to insert *saepe* before *secundum* (it could easily have been lost in that position); this insertion has the additional advantage of making the order of words more natural.

I regard Schulting's *tamen* for *iam* as right, although Winterbottom doubts its Latinity; see Kühner-Stegmann 2,320 ad med.

338,14. *non satis putauit iste ipse qui expellere filium uolebat <id facere> quasi aliquid s u i credidisset: infelicissimam nutricem ... lacerauit.*

A putative father tortures a nurse to get evidence about the young man's birth.

Winterbottom reports various attempts to make sense of this difficult sentence; more successful than any of these is the insertion of *id facere*, which is due to SB. The latter explains *sui* as „quod ipse commentus esset uel inuenisset“; a more convincing word for that would be *ficti*, of which *sui* is quite a credible corruption.

339,1. *post aduersum proelium, quod quidem isti qui rebus Philippi fauent dolore ac rumoribus in maius extollunt, non pacem petistis ...*
isti SB² 397: *ipsi* codd.

„Demosthenes' addresses the Athenians after the battle of Chaeronia.

Here are the two latest attempts to interpret *dolore ac rumoribus*: Winterbottom, „by appeal to grief and by magnifying rumours“; SB² 397, „does it mean a show of distress, put on to add to the general gloom?“ I do not believe either of these; *dolor* is quite an inappropriate word to denote the reaction of Philip's supporters to his great victory. I no longer adhere to my own suggestion (ICS 9, 1984, 72) that *dolore ac* conceals *dolose* or *dolosis*; instead, I would write *damnorum rumoribus*; the rumours exaggerated the battle-losses (OLD s.v. *damnum*, 2c) of the Athenians.

339,8. *iam multo facilius ac pronius erit ut doceam hos esse qui, etiamsi utiles consiliis futuri essent, indigni tamen propter dedecus proximae militiae erant.*

The sense demands *erunt*; note *futuri essent*. The corruption may have been partly due to the influence of *proximae*, „recent“.

340,2. *indignum putauit legum lator eum qui in fortuna aliqua rei publicae, qui in numero ciuitatis fuisset, redigere in seruitutem.*

Winterbottom quotes Wahlén's translation of *in fortuna aliqua rei publicae* as „in irgendeiner Stellung in dem Staat“; this seems a very strained use of *fortuna*. SB¹ 237 suggests *parte*, which is palaeographically improbable. I think that the solution may be not Rohde's *forma* but *formula* in OLD sense 2, „register“, „list“, „roll“ (ThLL VI 1114,32 ff.); *fortunam* has been corrupted to *formulam* in some manuscripts of Seneca, Epp. 95,51. The resulting phrase has the same meaning as *in numero ciuitatis*.

340,12. *res est nobis cum homine qui non erubescit, nihil r e s e r u a t; etiam periculose auarus est.*

This unblushing greedy reckless fellow is a *mango*.

I do not believe that *nihil reseruat* could mean „keeps nothing back“ (in the way of shocking behaviour), but even if it could, that would be very feeble in this context; and the same is true of the two conjectures reported by Winterbottom, *obseruat* and *nihil <nisi> res seruat*. I should write *auersat<ur>*; the *uers/seru* variation is found at Ovid, *Ars* 2,729, *Her.* 4,45, *Ciris* 275, *Seneca*, *Thy.* 281.

341,6. *templa extruuntur, multum impendiorum sacra ducunt, aliquid et spectacula; opus est uectigalibus.*

The uses to which state revenues are put.

Winterbottom asks whether in the use of *ducunt* the image is of magnetic attraction or absorption. Neither, I should say; arithmetic is more to the point. I should read *<de>ducunt*, the usual Latin word for ‚subtract‘ (OLD sense 14; ThLL V 1 281,5 ff.); the same mistake (omission of *de*) has occurred in the paradosis of Cicero, *Off.* 1,59 *addendo <de>ducendoque*.

342,7. „num igitur, si in scaenam misero et mimi partibus tamquam matrona processerit, poterit uideri mea uoluntate in libertate esse?“ *non est hoc porro simile; nam ipsa statim scaena rem fictam esse testatur.*

Porro is unintelligible. Schulting suggested *posito* or *proposito* or *protinus*, but *porro* may be sound if there is a small lacuna, e.g. *non est hoc <idem, non> porro simile*.

342,14. *hic parce quidem stringendus erit pudor patris, stringendus erit tamen ...; hoc ideo non amare nec districte primum quod ...*

On *districte* Winterbottom's note is: „Apparently ἄπαξ, and ignored by TLL. There seems to be no similar use of the adjective, and after *stringendus* the word must remain suspect“. The adverb which most resembles *districte* is *distincte*, which would make sense here (‚explicitly‘); it is used by Quintilian three times in the *Inst.* (at 5,10,10 Bonnell reports *districte* as a variant).

343,15. *tantumne pecunia ualet, tantum ille fulgor diuitiarum contra ueritatem potest? n u n c ille melior.*

The speaker is a poor man who has been cheated of his bride by her father, who has given her to a rich man.

On *melior* Winterbottom comments: „Ironic: his wealth has given the rich man the edge. Perhaps the sentence is a question“. If it is a question I think that *nunc* should be replaced by *num*. However, I should prefer to take it as a statement, changing *nunc* to *hinc* („as a result of his wealth“); initial *h* and *n* are often interchanged (as at 350,11 *nunchoc*).

344,7. *hoc uero intolerabile est, lugere uiuentem, quotiens occurrit flere, †plenas† quasdam ducere exequias dignitatis.*

Worse than mourning for a son is mourning for a son's good name.

SB emends *plenas* to *diurnas*. I think that this is on the right lines, but that <per>*petuas* would be a more probable change (*et*>*le*).

344,11. *et iam hoc, iudices, satis erat: †nisi† et inscriptum et maleficium est.*

The plaintiff sums up his contention that the deed of which he complains was a crime not specifically recognized by the law.

As Winterbottom points out, the obvious sense can be obtained by deleting *nisi*. Preferable, I suggest, would be <*nihil*> *nisi*; the speaker uses a similar turn of phrase just above (§ 9), *non fiunt ista nisi subito*.

348,3. *tot milia conscriptorum militum in aciem educere, adsignare loca interim periculosa, tuendos ciues, expugnanda hostium castella, non potest sola ratio: opus est et metu.*

The reason why a commander must have supreme power in war.

Adsignare is not an appropriate verb to govern *tuendos ciues* and *expugnanda castella*. Rather than supply a more appropriate infinitive, I should insert one, and it is easy to insert *curare* before *tuendos*.

348,5. *suspectos proditoris tantum in carcerem duci iussi. ... iam igitur de his, qui in carcerem duci debuerunt, leuius est supplicium.*

The suspected traitors deserved summary execution, so imprisonment was a lighter penalty than might have been inflicted on them.

Winterbottom obelizes *in carcerem duci* before *debuerunt* and suggests that *in carcerem* might be replaced by some equivalent of *ad supplicium*. I should merely insert *non* before *debuerunt*; they did not deserve imprisonment but immediate execution.

348,7. *exercitus partem †dicimus†.*

The reference is to the Roman practice of *decimare*, but Winterbottom rightly rejects the vulgate *decim*<*am*>*us*, which is not appropriate with *partem*, and instead reads *occidimus*. The simple verb *caedimus* seems palaeographically preferable; *ced* has become *dic*, just as at Lucretius 3,1090 *condere* has become *ducere*.

348,9. *sane non consummauerit crimen suspicio.*

crimen Obrecht: *primum* codd.

„Granted the suspects could not complete their crime“ is the rendering of Winterbottom, who calls it „a weird phrase“. I think that, even with Obrecht's emendation, the phrase is still corrupt, and that the way to emend it is not the double change

consummauerint crimen susceptum (SB) but the single change of *suspicio* (which has been influenced by *suspectos* in § 5 and in the theme) to *conspi<ra>tio*, which derives support from § 11 *tanta conspiratio in ciuitate nostra nocentium*.

349,7. *si incidisses in illos felicioribus saeculis natos, cum quibus uirtus magis commune bonum erat, non expectassent legem, . . .*

„I do not understand *cum*. A gloss on *quibus?*“, says SB² 400. I think it is much more likely to be a corruption of *in*, the antecedent of *quibus* being *saeculis*.

349,11. *etiamnum fortis sum, etiamnum posse uideor; sed supersunt dies*.

If the speaker does not pardon his rapist son within 30 days of the rape he will be condemning him to death. Here he professes himself resolute enough to do so, but there are still ‚days‘ to go. A numeral (or equivalent, e.g. *aliquot*) seems to be missing either before or after *supersunt*.

350,10. *haec ad ius; sed ad ream legi sua e adplicandam sane scrutemur et animum*.

Winterbottom points out that *lex sua* normally means a law which favours someone. Here, however, it must be the law under which the stepmother is accused, since *legi adplicari* means ‚to be brought within the scope of a law“ (OLD sense 9c). Schulting conjectured *huic*, but *legi* needs no qualification (it has none in § 2), and I wonder whether it would not be better to delete *suae* as an erroneous anticipation (slightly disguised) of *sane*.

382,5. „*quid ergo? duo praemia feres?*“ *†ideo tyrannicida sum. ut† tu iam habes praemium: patrimonium, liberos, tyranni mortem desideratam*.

A rich man pays a young man to slay a tyrant. Is the young man entitled to two rewards (one from the rich man, one from the state)?

Ideo raises difficulties because the young man has just been denying that it was for the rewards that he slew the tyrant. SB² 404 takes it as ironical („that’s what I killed the tyrant for“); I think it may be corrupt and suggest *duo tyrannicida sum <meritus>*. In what follows Schulting proposed *at tu <tria> iam habes praemia*; this is ingenious, but instead of inserting *tria* I should substitute it (viz. *III*) for the troublesome *ut* which the manuscripts offer before *tu*. The speaker proceeds to list the rich man’s three rewards.

388.12. *litus, amoenitate notum, numquam elato adluitur mari, sed molli-
ter deuexum aequali planitie, paulatim superueniente pelago, subsidit.*

„An elaborate way of saying that the water became deep only gradually“, Win-
terbottom.

In this topographical description it is quite possible that *numquam* should be
nusquam; for this corruption see Housman, Classical Papers 1100.

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