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Officium auditoris: rudiments of a history of hearing

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Abstract

Rhetorical discourse involves two parties, or two roles, the speaker and the hearer, stereotypically characterized as active and passive respectively. The history and theory of rhetoric concern themselves almost exclusively with the active side of the pair. It is the speaker who needs instructions in order to compose her speech, so a 'rhetoric', that is a handbook containing such instructions, is thought of as a book meant for the speaker. The history of rhetoric is largely the history of these books 'meant for the speaker'; in such a history there is nothing much to be said about the hearer. This division of the rhetorical roles into active and passive is a stereotype, and quite a drastic one; for the historian of rhetoric influenced by it (as most of us tend to be) the activity of the hearer of rhetorical discourse is something that passes unperceived even when it is emphatically asserted, as is the case e.g. in the *Rhetoric* of Aristotle; it remains invisible, even where it is most blatantly obvious, as is the case e.g. in the Rhetoric book of Martianus Capella's encyclopedia. In what follows I try to point out some instances of the concept of an 'active hearer', in the history of rhetorical theory, and give a first description of their context.

Keywords: Rhetoric, auditor, hearer, listening, judgment, Aristotle, Martianus Capella, Hobbes, Alessandro Piccolomini, Gorgias

Officium auditoris is a term of art used in the Rhetoric book of Martianus Capella's *De nuptiis Mercurii et Philologiae*, a 5th century encyclopedia of the liberal arts (Capella 1991); it refers to the things the *auditor*, the hearer of a rhetorical discourse, *does* or has *to do*, to his duties. That the hearer of a rhetorical discourse has to do something, that he is active, seems quite an unorthodox idea: it is the speaker who does something, persuading is *his* action, *his* doing; whereas 'being persuaded' is not something the hearer does – but rather something that happens to him. This is the dominant scheme. "For the most part in the history of Greek and Roman writing on rhetoric… the auditor is

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usually viewed as a passive presence", writes W. Grimaldi (Grimaldi 1990, 65). The "for the most part" qualification is meant to leave room for the *Rhetoric* of Aristotle, which, according to Grimaldi, seems to be unique in ascribing an active role to the hearer.

Capella's text is a counterexample to Grimaldi's statement: as we shall see, his treatment of the activity of the hearer, while not unrelated to Aristotle's *Rhetoric*, is not reducible to it. It seems then that this 'non-mainstream' idea of an active hearer has had, after all, a history beyond (perhaps even before) Aristotle. A first rough sketch of this history is what I am proposing in this paper.

But first we must have a clearer grasp of what an active hearer is, and also in what the passivity of the hearer consists. With this in mind, let us take a closer look at Capella's text.

Capella: the activity of the hearer

Capella[1] introduces the notion of a duty of the hearer in a judicial context, as part of a *caveat*, literally: the hearer, i.e. the judge, should take care (*cavere debemus*) not to overstep the limits of his duty (*officium*): If, e.g., his duty is to examine and decide whether something was done or not, they should not allow a discussion on whether such an act was, or was not, necessary or justified (Capella 1991, 164). This is an application of the Hellenistic theory of issues, i.e. of the theory of the types of judicial conflicts. Identifying the type of conflict is a necessary prerequisite to finding the right arguments, so normally the theory of issues is a textbook, or part of a textbook, addressed to the speaker, and containing instructions and precepts on how to compose her speech. In Capella it becomes a body of precepts on how to hear a speech – especially relevant, of course, when the hearer is a judge in a court of law. But Capella does not stop at the judicial hearer. The Aristotelian division of rhetoric into three genres, deliberative, judicial and epideictic, corresponds to the three types of hearers, deliberator, juror, 'spectator' of the epideictic discourse. The functions those hearers have to fulfil are quite different from one another, but according to Capella the hearers may not be fully aware of these differences. They may be "misled by the uncertainty of their duties" (Capella 1991, 165); in order to prevent such confusion Capella enters upon a detailed account of the *officia auditoris*, in their own right: "it is necessary to examine the distinction between them and the particular function of each".

In this examination Capella insists on the different type of doubt and uncertainty that characterises each type of hearer. Thus, for example, the deliberator, doubting and inscrutable[2], "is unsettled by the perplexity of his mind" (*ambigua mentis opinione differtur*); he looks for persuasion to another's opin-

ion (Capella 1991, 165). The judge, "whose function (*officium*) is to convict or acquit, to give possession of goods or remove them from possession, before a case comes to him, is in doubt how to discharge his duty (*officium*)". "The assessor of eulogy weighs with calculating thought whether a subject is properly eulogized". It is worth noting that most of the quasi-technical terms used in these descriptions are original, i.e. not to be found in the known rhetorical textbooks.

We usually think of a rhetoric textbook as a set of instructions for the speaker. Capella, or rather Capella's source, has instructions for the hearer too. For him hearing, not only speaking, is something that one does, and something that can be done right, or wrong, which explains the need for instructions. The activity common to the three types of hearers is judging. It is as a judge that the hearer is active.

The passive hearer, a common notion

If this is the active hearer, a judge, what would the passive one be? What is an active hearer's opposite? Capella insists on descriptions that imply an almost painful alertness, on the part of the hearer. This is incompatible with a conception of the hearer acting as if charmed by the speech, as obeying to the speaker in the way a hypnotized person would do.

This conception is not foreign to the way people used to and still think and talk of rhetoric. Rhetoric, for Kant, is the art "…of deceiving by means of beautiful illusion, … a dialectic, which wins minds over to the advantage of the speaker before they can judge and robs them of their freedom" (Kant 2000, 204). This Kantian conception of rhetoric as bewitching the hearer, and of persuasion as some form of obedience, is in fact a stereotype old enough to be venerable. That the impact of speech on the mind is just like the impact of drugs to the body, or that speech can bewitch the mind – such views were common currency in classical Athens. Gorgias uses this commonplace as a defense argument for Helen, in *his Encomium of Helen*: "The power of speech bears the same relation to the ordering of the mind as the ordering of the drugs bears to the constitution of bodies" (Gorgias 1982, 27) In the same context, he invokes the irresistible power of speech: "speech is a powerful ruler" (Gorgias 1982, 23), and being persuaded equals being forced to obey: "for speech, the persuader, compelled mind, the persuaded, both to obey what was said and to approve what was done" (Gorgias 1982, 27).

In the same vein, Hecuba, in Euripides's play of that name, after failing to rally Agamemnon to her cause, recalls that persuasion is the despot to whom everyone obeys: "why do we study other sciences, we mortals, and pursue them

with such pains, instead of spending labour mastering persuasion, which alone is lord of men?" (Euripides 1991, 28).

It is worth noting that 'persuasion' here is a metonymy for the art of persuasion or the art of discourse; at the time of the composition of the *Hecuba*, the term 'rhetoric' is not yet in use (Schiappa 1999).

A judge obeying the speaker addressing him is no longer a judge. If the hearer is considered as active when viewed as a judge, then obeying is the characteristic of the passive hearer. The idea of speech, or of persuasion, as a ruler, the idea of the obeying hearer, are not elements of any theory. They are *endoxa*, readily accepted common notions needing no further justification or proof. This opposition, then between active and passive hearer is not an opposition between two theories, but an opposition between a theory and a common notion, or rather a fabric of common notions.

Gorgias?

This fabric of *endoxa* is difficult to undo. Interestingly enough, the same Gorgias who, as a 'defense counsel' for Helen of Troy made so emphatic a use of the '*logos* the ruler' stereotype, as a theoretician of persuasion reportedly tried to subvert it.

"On many occasions", reports Protarchus in Plato's *Philebus*, "I have heard Gorgias insist that the art of persuasion is superior to all others because it enslaves all the rest, with their own consent, not by force and is therefore by far the best of all the arts" (Plato 1997, 447).

There are two possible readings of this passage. The first: persuasion modifies the will of its hearers, so they accept, by their own accord, to become slaves. But this would be like giving them drugs, something that in the *Encomium of Helen* was presented not as the contrary of, but as the equivalent to violence.

The second is: one can only persuade someone only if this someone is willing to hear her, that is if he has, implicitly or explicitly, invited her to speak. Susan Bickford makes an analogous point in the *Dissonance of Democracy*, commenting on the opening passage of Plato's Republic, where Socrates's proposal to persuade Polemarchus to let him go meets the latter's rebuttal: you cannot persuade someone who is not willing to listen to you (Bickford 1996, 1). The assembly of the people hears the speakers it has invited to speak; persuasion is not something that simply happens to the assembly, it invites it – the deliberator expects to be persuaded by a different opinion, wrote Capella, as we saw above. Hobbes would say that the assembly authorizes its speakers: "he that demandeth counsell is author of it" (Hobbes 2012, 400). So, 'willing slaves' may be read as: persuaded because they invited persuasion, and this in-

vitation would be already a very important aspect of the activity of the hearer of rhetorical discourse.

As for the Georgias text, fragmentary as it is, all one can say is that it is open to such a reading also. Things are different in the *Rhetoric* of Aristotle, where the dissociation of persuasion from obedience seems to be systematically pursued, the question at issue being that of the definition of the art.

Persuasion and the definition of rhetoric in Aristotle.

In Aristotle's *Rhetoric* the art is defined as an ability: "Let rhetoric be <defined as> an ability, in each <particular> case, to see the available means of persuasion" (Aristotle 2007, 37). This definition is, in fact, a description of the function (*ergon*) of the art (Bassakos 2010, 16-18); for the definition to be complete, this description should be accompanied by a statement of the art's purpose, that is, of the end to which this ability serves as a means.

Take, for example, the discussion on the definition of chrematistic, in the first book of the *Politics*. It begins by stating the function of the art in terms comparable to those of the definition of rhetoric: "its function is to be able to discern from what source a large supply <of money> can be procured". (Aristotle 1959, 43). This does not wholly correspond to chrematistic per se; it is rather a special version of it, corresponding to the current opinion (*doxa*) about wealth, namely, that it consists in money. The *purpose* of chrematistic is getting wealth – and wealth cannot be reduced to money alone. In this case, the function expresses an established opinion or practice, but we need to refer to the purpose, in order to know what chrematistic really is. Because the purpose involved in the practice and /or the function of an art might be different, or slightly different ("not the same, … and not far removed from it" (Aristotle 1959, 39)) from its 'defining' purpose, no definition of an art can be complete, without a statement about the latter.

If this is so, then Aristotle's definition of rhetoric, having no reference whatever to the purpose, or to the end of the art, is to be regarded as incomplete. It has been thought that one might deduce the missing statement on the purpose of rhetoric from the discussion of the function of the art that precedes and anticipates the formulation of the definition (Aristotle 2007, 36). In introducing this discussion, Aristotle states that "<rhetoric's> *function is not to persuade,* but to see the available means of persuasion …" (emphasis mine). This negative sentence is sometimes understood as containing a positive one, that is, as saying: "do not confuse the purpose of the art, which is to persuade, with its function, which is to see the available means, etc." John Gillies, for example, in his 1823 *New Translation of Aristotle's Rhetoric*, will translate the sentence itali-

cized above thus: *"Its end is persuasion*, but its proper work, or business consists in…, etc." (emphasis mine) (Aristotle 1823, 158). So, here there would be an implicit (for Gillies a quasi- explicit) though unmistakable reference to persuasion, as the purpose or the end of the art.

Strictly speaking, stating that persuasion is not the function of rhetoric does not imply that it is its end. What favours such an interpretation is the context formed by the parallelism, drawn at this point by Aristotle, of rhetoric to medicine. The end of medicine is healing, and according to Aristotle persuasion is analogous to healing in an important way: the attainment of both ends depends not only on the correct application of the rules and precepts of the art, but also on factors beyond the art's control. One may be a good doctor, follow all the rules and precepts of the trade, and yet fail to restore the health of one's patient: there are diseases that are incurable, and men are mortal, no art can change that. In the same way, one may be a good orator, etc., and yet fail to persuade: the hearers are sovereign, they have the right to choose this speaker's proposal, or that of his or her opponent. Medicine and rhetoric belong to a type of art, where following the rules, that is, performing the function of the art, is, by itself, no guarantee of the outcome. We might call such arts 'stochastic', using, somewhat anachronistically, the stoic term applying to them (Ierodiakonou 1995). Rhetoric and medicine are comparable in this respect, they are both 'stochastic', so if 'healing' is, self-evidently, the end of medicine, in the same way 'persuasion' is to be regarded as the end of rhetoric.

This very same parallelism reveals, however, a quite interesting difference, too. In Aristotle's writings healing is referred to negatively, as 'what is not the function of medicine', only when there is a question of showing the 'stochastic' character of the art, as is the case in our passage here and in its 'mirror' passage in the *Topics* (Aristotle 1960, 279). Otherwise, Aristotle speaks of healing as the end of medicine in quite a positive and straightforward manner, as, for example, in the *Topics*: "medicine is the science of producing health" (Aristotle 1960, 343; cf. also 317, 587), or in the *Eudemian Ethics*: "health is the end of medicine" (Aristotle 1992, 6). This is not the case with persuasion: persuasion is referred to as 'not the function of rhetoric', in the *Rhetoric* passage above, as it is also in the mirror passage of the *Topics* (Aristotle 1960, 279). A definition of the art of rhetoric identical to that of the *Rhetoric*, that is relying solely on the function of the art, with no mention whatever of its purpose or end, is also to be found in the *Topics* (Aristotle 1960, 633); but a simple, positive statement, such as 'persuasion is the end of rhetoric' is nowhere to be found in the Aristotelian corpus[3].

This difference echoes a difference in the *endoxa*, the accepted common notions, pertaining to the two arts. That there are incurable diseases, that death has always the last word, are amongst the *endoxa* related to medicine. In saying "healing is the end of medicine" one does not need to add "as far as is humanly

possible", or something of the sort, because it is already understood. On the contrary, Rhetoric, as we have seen, has a reputation of omnipotence. Nothing can resist *logos*, the 'powerful ruler' of Gorgias's *Helena*; Hecuba's hearer, Agamemnon, is a sovereign *par excellence*, a king and a conqueror - and yet, she trusts that the art of discourse would prevail over him.

'The end of rhetoric is persuasion' is part of the same fabric of stereotypes; rhetoric is here regarded as "the craftsman of persuasion" of Plato's *Gorgias* (Plato 1979, 20). In Euripides, as we have seen, persuasion is the very name of the art: I should have studied persuasion, monologizes Hecuba. This is a conception of rhetoric that does not know of the distinction between 'stochastic' and 'non-stochastic', or between the end and the function of the art. Just as a good builder, who knows and follows the rules and precepts of his trade, will always succeed in building a house, a good speaker will be one who succeeds in persuading his audience. The sovereignty of the hearer is not here an obstacle, constitutive of the object of rhetoric, in the same way mortality is constitutive of the object of medicine, but a difficulty, to be set aside by the correct application of the precepts, and tricks, of the trade.

This is the reason why a phrase such as 'the end of rhetoric is persuasion' does not, and cannot, occur in *Rhetoric*: an unqualified, absolute statement of this sort would be understood as an expression of the commonplace, traditional view of rhetoric that Aristotle criticizes and challenges in his book.

On the other hand, one cannot think of rhetoric as something foreign to persuasion and of persuasion as something unrelated to the end of the art. What is then the end of the art, according to the *Rhetoric*?

In the *Rhetoric* Aristotle refers to the end, or the raison d'être of the art, on three occasions.

a) Rhetorical discourse consists of three 'things': "a speaker, … a subject on which he speaks and someone addressed"; this last, the hearer, is the objective or the end (telos) that the speech 'has in mind'[4] (Aristotle 2007, 47).

The hearer is the objective of the speech, because the hearer is the judge of the speech: he is the deliberator or the member of the jury who, in accepting or rejecting the speaker's proposal, decides the course of action or gives his verdict.

b) In order to justify the argument-like treatment of *ethos* and *pathos* in the *Rhetoric*, Aristotle will refer, once again, to judgment as the end of the art. In rhetoric, one needs more than 'logical' arguments, in the strict sense of the term: one needs also to construct an appropriate image of oneself (*ethos*), and to put the hearer in the right frame of mind (*pathos*), all this because "... rhetoric *is concerned with making a judgment* [5] (people judge in deliberation, and judicial proceedings are also a judgment)", and judgments are influenced by *ethos* and *pathos* (Aristotle 2007, 112).

These two points are crucial to the design of the system of the *Rhetoric*. The

structure of books I and II is determined by two major partitions (Rapp 2010): the threefold distinction of the means of persuasion into *ethos, logos* and *pathos*, and the equally threefold division of the genera of discourse into deliberative, judicial and epideictic. Now, according to (a) and (b) both partitions rely on the reference to the concept of judgment: the three genera of discourse correspond to the three possible types of hearers-judges, who in their turn correspond to the tripartite temporal division of the object of judging (Aristotle 2007, 48); the distinction of the three means of persuasion formally corresponds to the speaker (*ethos*) hearer (*pathos*) and discourse (*logos*) division (Aristotle 2007, 38), but its material justification, as we have seen, refers to the properties of judgment (point (b), above).

c) Aristotle's third mention of the end of the art occurs in the first paragraph of chapter B. 18. This passage is, in fact, a marginal note; today we would call it a footnote (Düring 1966, 208; Francisco 1999). It starts with a phrase bringing rhetoric, as a whole ("the use of persuasive speech") and judgment, in a relation of means to end: "the use of persuasive speech is directed to a judgment" (Aristotle 2007, 156); the rest of the paragraph can be read as a reply to the question "what do we mean by 'judgment'". In other words this footnote contains a theory of judgment *in nuce,* providing a context for the use of the term in instances (a) and (b) above. It proceeds in two moves. The first move is an amplification of the notion of judgment: it is spoken of as a quasi-synonym of knowledge ("there is no further need of speech on subjects that we know and have already judged") and it is abstracted from the context of rhetoric, in the narrow sense of the term, so as to become almost correlative and coextensive to the notion of *logos*: "A judge is simply one who must be persuaded". So, even in a one-to-one talk, as when admonishing or giving advice to someone, the receiver of advice is a judge ("a single individual is no less a judge"). A dialectical situation also, "speaking against an opponent", should be reconstructed as addressing a judge, and even a situation where one is "speaking" against a proposition, a situation that is purely monological – in fact a metaphor for the activity of thinking. Almost any discourse can be reconstructed as addressing a hearer, that is, a judge; almost everywhere, where there is speech, there is also judgment.

This abstraction yields several types of hearers-judges, some of them in a more proper, others in a somewhat derivative sense of the term: a citizen serving as juror is a judge, an adolescent receiving advice is to be called a judge, also. The question arises how one is to order this multiplicity, that is, which type of hearer is a hearer-judge in the strict sense, thus serving as a point of reference for the other uses of the term. This is the question addressed in the second move of our miniscule theory. "But nevertheless, only that person, is purely a judge in the general sense of the word who is judging the questions at issue in civic debates" (Aristotle 2007, 156-157). In the strict sense of the

term, there is judgment only at court and in the assembly, that is where the hearer is sovereign and the dispute is clearly stated as such. The derivative uses of the term can be justified, inasmuch as they can be described in terms of sovereignty and *dissensus*. Usually, adolescents receiving advice are not regarded as sovereign; but to the extent that they may decide whether to follow the advice given or not, they are sovereign, and to this extent the discourse addressed to them is to be described as persuasive, that is, as addressing a judge. Epideictic speech participates in no controversy, there is no issue here to be decided; but if we want to understand it as a use of persuasive speech, we must see it as if it were addressing a question (for example, a question about the literary quality of the speech, or about the oratorical excellence of the speaker).

The construction of the Aristotelian *techne* in the *Rhetoric* presupposes an active hearer, this is the 'hearer- judge'. The active character of the hearer is also what determines the 'epistemic' status of the art as 'stochastic'. Rhetoric is stochastic because the hearer it addresses is not obedient or passive, but sovereign and active as a judge, that is as deciding between conflicting alternatives, actual or implied, in a dissensual situation of discourse.

The marginal note in *Rhetoric* B 18.1 is an afterthought on the incompleteness of the definition of rhetoric, and an attempt to restore its missing 'ingredient', the reference to the end of the art. As occurring in the *endoxa* forming the fabric of the popular conception of the art, i.e. as a quasi-synonym for the manipulation of a passive and obedient hearer, persuasion is incompatible to the abovementioned presupposition of the art. But then again, separating persuasion from rhetoric would be counterintuitive. Here Aristotle is "saving the *endoxa*"; persuasion may be admitted as the end of the art, but on condition that it be separated from its common sense context (persuasion as obedience), to be integrated into the context of the theory of judgment that Aristotle exposes succinctly in B.18.1 for this purpose. 'Persuading' is transformed into 'persuading the judge', that is persuading the active hearer of the *in utramque partem* discourses.

Translations and interpretations of *Rhetoric* B.18.1.

Rhetoric B. 18.1 is an oxymoron in itself: a marginal note with a central importance. It is a difficult passage, with a controversial content. It has produced, and still produces, divergent interpretations and conflicting translations, reflecting the changing views on the value and nature of rhetoric and/or, on the passivity /activity of the hearer. John Gillies, for example, translates the opening phrase of the passage thus:

> "all persuasion is employed to produce in the hearers judgments conformable to those of the speaker" (Aristotle 1823, 312)

This version is reminiscent of the Kantian view of the art of persuasion that we saw above: persuasive discourse aims at robbing the hearer of his own judgment.

For François Cassandre, on the contrary, what the introductory phrase says is that persuasion exists for the benefit of the hearer's judgment:

> "tout discours fait pour persuader, n'a d'autre usage ni d'autre but que de porter l'auditeur à donner son jugement sur ce qui lui est proposé" (Aristotle 1743, 276). Crimmin's translation[6]: "Every discourse which is delivered with a view to persuasion, is of no other use, and has no other end, than to incite the hearer to offer his judgment upon the subject matter which is laid down for it" (Aristotle 1812, 273).

The Italian philosopher of the sixteenth century Alessandro Piccolomini has a most interesting paraphrase of the same passage, somehow preempting Gillies's view on the matter:

> "every persuasive speech therefore has to conclude with some opinion, and judgment, and mental assent, performed by the hearer. This judgment may be conformable or not conformable to the one desired by the speaker" (Piccolomini 1548, 235).

In the section of his extensive running commentary of the *Rhetoric* (*Piena e larga parafrase*) devoted to paragraph B.18.1, Piccolomini recognizes that the main issue in this context is obedience; he maintains that in order to understand the specific character of rhetoric one must be able to distinguish between persuasive discourse and command.

He enters this discussion quite carefully – one senses that he wants to refine his distinctions without doing violence to the actual use of the words, in which, sometimes, persuasion comes very near to obedience: as when, for example, we say of someone who, persuaded by someone else, follows her advice, that he obeys her. He recognizes that what makes the difference here is the concept of judgment: persuasion is obedience, but mediated by the free judgment of the hearer, otherwise; as in the case of coercion or of the fear of punishment, it is simply obedience (Piccolomini 1548, 238).

Hobbes: the hearer of no rhetoric

The last line in this rough sketch is on Hobbes. There is an active hearer in

Hobbes: he, or she, is the sovereign, the monarch or the assembly, in the process of counselling (Ch. XXV of *Leviathan*). To the notion of counselling Hobbes comes following the same path that has led Aristotle and Piccolomini to the 'reformed' notion of persuasion, as distinct from obedience, and to the notion of the active hearer that goes with it. Hobbes argues that, in spite of the fact that counselling is usually expressed in the imperative mood ("do this"), the party to which the counsel is addressed, "cannot be obliged to do as he is counselled" – that is, counsel is defined by its dissociation from the situation of command / obedience. (Hobbes 2012, 398)

There is even a reference to *officium auditoris* in this connection: the relevant passage of *De Cive* starts with a criticism of those who "confound law and councell, who think that it is the duty of Monarchs not onely to give ear to their Counsellours, but also to obey them." The Latin text runs as follows: "*qui putant, monarcharum* officium *esse consiliarios non modo* audire*, sed etiam iis obedire*" (Hobbes 1983, 168).

This hearer is eminently active, in two ways: he is of course the one who judges and decides, but he is also the origin of the discourses heard: "he that demandeth counsell is author of it" is the formulation in the English text of ch. XXV of *Leviathan* (Hobbes 2012, 400). This has an important consequence: no advice given to the sovereign, as an active hearer, can be punished. An advice is still an advice, even if it is not followed; just as with persuading which in Piccolomini's paraphrase, did not need to be conformable to the actual decision taken, in order to count as persuading.

So there is a concept of active hearer in Hobbes, with characteristics quite comparable to those of the Aristotelian model, introduced in a similar context, and addressing similar questions. But there is a difference: this is not a hearer of rhetoric. Ch. XXV of *Leviathan* is organized as a threefold distinction: command is distinguished from counsel and counsel is distinguished from the discourse of 'exhortation and dehortation', the latter corresponding to rhetoric, as manipulation of the hearer. Rhetoric is here exclusively associated with this passive hearer. Hobbes's active hearer does not obey commands, and of course is not (to be) manipulated by exhortation or dehortation.

In introducing his concept of counsel Hobbes follows a 'Ramist' tactic. Ramus takes from classical rhetoric the parts that correspond to his idea of rationality, i.e. invention and disposition, and creates from them his dialectic. Rhetoric is confined to what is left after this abstraction, i.e. delivery and the list of tropes (Mack 1996, 89). In a similar manner, the active, judging hearer of the Aristotelian rhetoric becomes the basis upon which Hobbes constructs his concept of counsel; but this concept can no longer be regarded as belonging to rhetoric, because, as we saw, Hobbesian rhetoric can only involve a passive hearer.

Ramus's redistribution of the elements of classical rhetoric, as well as Hobbes's attitude to the art, are both parts of the movement that brought about the impoverishment of rhetoric, and its shrinking to a more or less decorative role, a '*rhétorique restreinte*' (Genette 1970, 71). It remains interesting, though, from the point of view of a history of hearing, that *officium auditoris* has survived the demise of the art: as we have seen, being an active hearer is essential to *Leviathan*.

The opposition between activity and passivity in rhetoric is a rich subject of study, as it may be projected in a variety of registers: masculinity/ femininity, victory/defeat, voice / silence, mastery/obedience, etc. (Gross, 2009).

But, as the above brief sketch might suggest, this opposition has also to do with something that lies at the mutable center of the very concept of rhetoric: we have seen that opting for an active hearer, that is, setting aside the active / passive stereotype, is a decisive move in the construction of Aristotle's techne; and, the reverse side, separating the active hearer from rhetoric, is central to the formation of the '*rhétorique restreinte*' of modernity. Thus, in an almost ironic circle, the active hearer, the 'perfect outsider' of mainstream history and theory of rhetoric, may be regarded as what, in fact, shapes the theory and history of the art.

Endnotes

1 Capella is no original thinker. His book on rhetoric (book V of the *De Nuptiis*) is a compilation of Hellenistic and Roman rhetorical textbooks. The source of the 'theory of the hearer' he presents in sections 446 to 451 of book V of the *De Nuptiis* (Capella 1991, 164-167) is unknown. In what follows, the name 'Capella' must be understood as an abbreviation for 'Capella's unknown source'.

2 The Latin text is: "*Honestate vel utilitate incerta dubius alienae sententiae persuasionem inexplicabilis deliberator expectat"*. Stahl translates: "who is in doubt over the propriety or advantage of a course of action and looks for persuasion to another's opinion, he is a deliberator in perplexity". In a footnote he explains that he translates 'inexplicabilis' as 'in perplexity' , because its normal translation (=inexplicable) would be meaningless here. But to the deliberative speaker the hearer-judge may appear 'inscrutable' – and to be, or to appear, inscrutable may be thought of as a characteristic of their function.

3 The following passage from *Nicomachean Ethics* might perhaps count as an exception: "We deliberate not about ends, but about things that are conducive to ends. For a doctor does not deliberate about whether to cure, *nor an orator whether to persuade*, nor a politician whether to produce good order" (emphasis mine) (Aristotle 2004, 43). But here the emphasis is not on the precise characterization of the end (cf. below, at the end of this chapter), but rather on the distinction between means and ends.

4 Literal translation: "and the end <*telos*> refers to him, I mean the hearer".
5 Here the Greek is somewhat idiosyncratic; «*heneka kriseôs estin è rhetorikè*», literally: judgment is the raison d'être of rhetoric. Cf. Th. Goulston's Latin translation: «*rhetorica instituitur judicandi gratia*" (Aristotle 1809, 365)
6 Daniel Michael Crimmin's translation of the *Rhetoric* is, in most parts, an exact English version of the translation of Fr. Cassandre.

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