

Post Medieval Ars Disputandi

University of Texas doctoral
dissertation
1991

By
Donald Leonard Felipe

Introduction

In the study of the history of logic it is indeed rare to find untouched by current logical historiography a large body of literature on a topic of logical significance. The literature on disputation published from around the mid-16th century to the mid-18th century, a period which will be called "post-medieval",¹ is a notable exception. This literature, which treats what was known as the "ars disputandi", represents near terra incognita to contemporary scholarship. A perusal of the secondary literature on the logic of this period bears this out, and reveals a rather large gap in our knowledge of the history of logic which remains to be filled.

The study of logic in the period beginning around 1500 and ending in the late 18th century, has been treated by two major works, one by Jennifer Ashworth Language and Logic in the Post-Medieval Period and the other by Wilhelm Risse Logik der Neuzeit.² These two works have quite different aims. Risse's massive two volume work attempts to provide a very careful historical account of logical works published from 1500-1780. The first volume describes seven "main lines" in the logic of the 16th and early 17th century, "logic of the Ciceronians", the Ramists, the "pure Aristotelians",

¹The term, "post-medieval" has been borrowed from Ashworth, who, as far as I know, introduces it in Language and Logic in the Post-Medieval Period, Dordrecht 1974. Ashworth, however, includes in this period also the very late 15th and early 16th century, which will be neglected in this study.

²There are a number of articles devoted more specialized topics related to the logic of this period, several by Ashworth herself and several concerning the Spanish scholastics by Muñoz Delgado. With the exception of Ashworth's "Renaissance Man as Logician: "Josse Clichtove (1472-1543) on Disputations," History and Philosophy of Logic 7 (1986): 15-29, none of these articles concern disputation. Ashworth's article will be discussed at length in this introduction.

various "scholastic tendencies", the "systemtic school", and Lullian theory.³ The focus of the first volume with its scholarly descriptions of these schools is to account for what Risse sees as "reform" of the foundations of logic, which explains differences in the how logic was studied in the medieval and neuzeit periods. The impressive work finishes in the second volume with a detailed historical treatment of several topics which are not strictly speaking "logical", e.g. various philosophical topics concerning rationalism and empiricism in England and the French and German enlightenment.

Asworth notes in her book that "while [Risse's work] is historically exhaustive, it pays little attention to the actual logical doctrines discussed" (preface ix). Ashworth attempts to remedy this by giving a critical historical account of what she considers to be some of the more interesting logical doctrines of the period; this leads Ashworth to focus primarily on the works of late 15th and early 16th century logicians connected with the university of Paris, such as Caubraith, Celaya, and Tartaretus. She admits to using only one late 16th century source, the influential logic textbook of Fonseca, and one seventeenth century source, John of St. Thomas. She cites the lack of biographical and bibliographical work in the later books as a reason for neglecting them, but the primary reason seems to be that she is unimpressed with the logic found in the later works, "nothing of interest to the logician was said after 1550 at the very latest" (preface xi). I do not think it is necessary to directly respond to this remark to justify this study. I would like to note, however, that as far as the logical sophistication of works after 1550 is concerned Ashworth is probably right. Nevertheless, as it will become apparent, the works on disputation, although lacking a high degree of sophistication, treat in depth issues of great importance in the history of

³W. Risse, Logik der Neuzeit, p. 12-13.

disputation theory, which, to my knowledge, are not treated prior to the post-medieval period.

Both Risse's historically oriented account of the "logic", broadly understood, and its reform in the *neuzeit* and Ashworth's account of what she sees as the most interesting logical doctrines of the "post-medieval" period, leave almost untouched the formidable amount of literature on the ars disputandi. The number of sources from this period on disputation is quite staggering; research connected with this dissertation has turned up around 150 books and tracts on disputation. This research was conducted for the most part in German libraries, so most of these sources are German. The author does not claim that the exploration for primary sources is complete. In Germany alone there are more sources to be found, to say nothing of possible sources by French, English and Spanish authors.

Although the major books on the logic of this period do not discuss in depth the ars disputandi, some of this literature was examined by Ignacio Angelelli in an article published in 1970.⁴ The only other major secondary sources on this topic known to me are two late 19th century works by two German philologists, Horn and Kaufman,⁵ whose approach to the sources is less critical than historical-philological (even Horn and Kaufman appear to be aware of only a handful of the many sources). Angelelli's article stands as the only significant critical exposition of the post-medieval ars disputandi, and, as Angelelli admits, his pioneering work merely represents the first step in

⁴Ignacio Angelelli, "Techniques of Disputation in the History of Logic," The Journal of the History of Philosophy 67 (1970): 800-15.

⁵E. Horn, "Die Disputationen und Promotionen an den Deautchen Universitäten," *Elftes Beiheft zum Centralblatt für Bibliothekwesen*, Leipzig 1893; G. Kaufmann, "Zur Geschichte der academsichen Grade und Disputationen," Centralblatt für Bibliothekwesen No. 11 (1893: 201-25.

coming to understand the nature of the enormous amount of post-medieval literature on the ars disputandi. The aim of this dissertation is to further accomplish this task; it undertakes a critical historical study of logic books and dissertations published between the mid-16th to the mid-18th century on methods and techniques of disputation.

Historical background

In writing on the disputatio it is necessary to say something about the very long and rich historical tradition of disputation, of which the post-medieval disputatio is a part. The tradition of disputation in the West before around 1550 is far better known than the period with which this dissertation is concerned. There are, consequently, many secondary sources to which one can turn for information on the prior tradition. The general account of the historical background to the post-medieval disputatio provided here strives in no way for depth; it aims merely to locate the post-medieval disputatio in this tradition and to say a few things about how at least one common method of the later disputatio can be distinguished from the medieval obligatio.

The historical origin of academic disputation in the West has its place in the debates which occurred in Plato's academy. The earliest and historically most important source which reveals something about the rules and strategies for these debates is the Aristotelian Topics, particularly Topics VIII. In Topics VIII Aristotle provides an account of the "structure" (tājiw) of question and answer disputation, which consists in a number of rules and strategies on how to question and answer "well" in disputation.⁶ Gilbert Ryle claims that

⁶For a nice discussion of the method of disputation described in Topics VIII see P. Maraux, "La Joute d'après le huitième livre des Topiques," in Aristotle on Dialectic, Proceedings of the Third Symposium Aristotelicum, ed. G. E. L. Owen, Oxford 1968; J. Brunschwig, "Aristotle on Arguments without Winners or Losers," in Wissenschaftskolleg, Jahrbuch 1984/85.

the Topics provides an account of a method of debate taught by Aristotle in the academy.⁷ Whether or not one accepts Ryle's claim, it is a common opinion, and a quite reasonable one, that the Topics is an early Aristotelian work whose contents have a good deal to do with things taught in the academy. The Topics is of interest to this work not because it can tell us about the origin of disputation practice, but because the text influences the entire tradition to follow. In Topics VIII, for instance, Aristotle articulates for the first time in the history of logic rules governing essential disputation moves such as "I deny", "I distinguish", and "I concede", as well as numerous disputation strategies. The Topics without question marks the beginning of disputation theory in Western philosophy.

The influence of the Topics on the history of disputation theory and practice is enormous, and by no means completely understood. Eleonore Stump has shown that the Topics through Boethius, influenced the style and structure of the medieval obligatio (see Stump 1978). With regard to post-medieval disputation the Topics, and the commentary of Alexander of Aphrodisias, which, according to Risse, was reprinted eight times in the 16th century, appears to have had direct influence on tracts on disputation in 16th century textbooks, such as Eitzen (1574), Casus (1584) and Hunnaeus (1562), who also wrote a libella on disputation, Erotemata de disputatione (1569). In this dissertation there will be no attempt to account for how the Topics and its commentators influence the theory and practice of disputation in the post-medieval period; this is a large and significant topic in its own right which deserves future attention. Nevertheless, that there is indeed some influence will become apparent in the course of this dissertation.

⁷See Gilbert Ryle, "The Academy and Dialectic," in Collected Papers 1, 89-115, and "Dialectic in the Academy", in the same work, 116-125.

In addition to the Topics of Aristotle the historical background to the post-medieval disputatio includes a very complex medieval tradition on disputation.⁸ The medieval literature on disputation can be divided into two different kinds, the famous quaestio literature, examples of which are present in many great works, such as those of Aquinas and Duns Scotus, and the obligatio literature. The structure of the quaestio is well-known from the examples. The disputation begins with a question; the Opponent then offers a series of arguments for one solution to the question; the Respondent answers "sed contra", and first argues for the contrary solution to the question and then responds to the Opponent's arguments. Unfortunately, the quaestio sources provide only examples of disputations and do not reflect on the rules and strategies of the method. I know of no major medieval sources which do provide us with some reflection on the quaestio method. The great genre of the quaestio, therefore, cannot be said to provide us with medieval "disputation theory".

The sources on obligationes are of a quite different character; they are rich with explanations of rules to be followed in disputation; consequently the obligatio literature does offer a theoretical approach to disputation. This literature is also probably the best known body of disputation literature in the history of logic due to the studies of Spade (1977, 1978, 1980), Stump (1980), Ashworth (1986), D'Ors (1988) and others. As background to the post-medieval disputatio some account of the complex method of obligatio should be given. The account here is extremely superficial. Its main purpose is merely to point out some ways in which the obligatio, generally understood,

⁸I have intentionally overlooked the Ciceronian Topics and its influence on the history of disputation theory. This work's influence on the tradition of the topics has been well documented by Stump (1978 and 1989); it is still unclear to me what influence this work may have had on developments in disputation theory in the 16th century. It was certainly of interest to the Humanists but I have found no real interest in Cicero's Topics in the works of second scholastics writing on the disputatio. This is a topic for further research.

can be contrasted with a common method of the post-medieval disputatio. What is said here relies heavily on the work of Stump, Spade and Ashworth.

The purpose of the obligatio is still a matter for dispute despite the attention it has received. Weisheipl (1956) claims that they functioned as clever schoolboy exercises, whereas Boehner (1952) describes the obligatio as axiomatised logic. Spade, on the other hand, claims that they provide a theory for counterfactual reasoning. Sources recognize several different species of obligatio; rules for the various species are not completely uniform in the primary sources. It is sufficient to provide a superficial description of one kind of obligatio in Walter Burley and another in Clichtove to generally contrast a later disputation method with the obligatio.

In Burley's Tractatus de obligationibus there are six species of obligatio mentioned, namely institutio, petitio, positio, depositio, dubitatio and sit verum. The positio, for example, itself has further species determined by the nature of the subject of the obligatio, which can be a proposition which is possible, impossible, simple or composite. In the positio Burley cites three rules:⁹

(1) Everything which follows from (a) the positum, with (b) a granted proposition or propositions, or with (c) the opposite(s) of a correctly denied proposition or propositions, known to be such, must be granted.

(2) Everything which is incompatible with (a) the positum, with (b) a granted proposition or propositions, or with, (c) the opposite(s) of a correctly denied proposition or propositions, known to be such, must be denied.

⁹The translations of these rules are taken from Stump's chapter "Obligations" in The Cambridge History of Later Medieval Philosophy, p. 322.

(3) Everything which is irrelevant (impertinens) [that is, every proposition to which neither rule (1) nor rule (2) applies] must be granted or denied or doubted according to its own quality, that is, according to the quality it has in relation to us [i.e. if we know it to be true, we grant it; if we know it to be false, we deny it; if we do not know it to be true or do not know it to be false, we doubt it].

These rules determine what a Respondent must do in any given situation in the obligatio. The moves of the Respondent according to (1) and (2) are determined by the positum and what has been granted and denied in the obligatio, the truth or falsity of the proposition in question is irrelevant to determining how the Respondent moves. The only case in which the respondent must grant or deny or doubt according to the known truth value of the proposition in question is when (1) and (2) do not apply, i.e. when the proposition is impertinens. This is an important feature of obligatory rules which can be found also in Asworth's account of Clichtove on obligations.

Jennifer Ashworth's very useful study of Clichtove on disputation further brings out an important way to generally contrast the obligatio and the ars disputandi, which, it will be shown, applies to Burley's characterization of the obligatio as well.¹⁰ The reason why Clichtove is chosen to explain this contrast is because in his In terminorum cognitionem introductio and De artium scientiarumque divisione introductio there are tracts on both the obligatio and what he calls disputatio doctrinalis, which turns out to be a method of disputation quite similar to a method very common to later works. Let us first consider the obligatio.

¹⁰See Ashworth, "Renaissance Man as Logician: "Josse Clichtove (1472-1543) on Disputations," History and Philosophy of Logic 7 (1986): 15-29.

In Clichtove there were four different ways to begin a obligatio, positio, depositio, positio dubitationis and positio distinctionis. Some of these ways of beginning the obligational dispute have obvious analogues among Burley's various species of obligatio. Again if we focus on the positio we find that, with one exception, the rules determining the Respondent's moves in the disputation generally disregard the truth value of the proposition as a relevant consideration. I quote the rules as translated by Ashworth (the numbering of the rules is my own):

- (1) A possible proposition must be put forward as the object of the obligational disputation; in a positio the possible proposition is a "positum" which must be treated as true.
- (2) Never grant two contradictory propositions or an impossible proposition.
- (3) Grant whatever follows from a proposition already granted either by itself or in conjunction with other propositions which have been granted, or in conjunction with the opposites of propositions which have been correctly denied.
- (4) Deny whatever is inconsistent with a proposition already granted either by itself or in conjunction with the opposites of propositions which have been correctly denied.
- (5) If a proposition neither follows from nor is inconsistent with previous propositions, then it can be classified as irrelevant and answered as it would be answered outside the context of a disputation.

Again in Clichtove the only case in which the truth and falsity of a proposition is relevant to determining the moves of the Respondent is when the proposition in question "neither follows from nor is inconsistent with previous propositions", which is precisely what Burley means by "impertinens". Let us now consider his account of doctrinal disputation

In Clichtove's doctrinal disputation the object of the disputation, which Clichtove says is "popularly called the positio", is taken from an initial quaestio. This quaestio must concern a matter of doubt and cannot be manifestly true or false, a criterion obviously borrowed from the Aristotelian Topics, 104a5-105a19. The aim of the disputation is to learn new truths. The disputation is initiated by the Respondent who states the quaestio. The Respondent presumably selects one alternative from the quaestio as a positio. The Opponent has the duties (i) to formulate an argument or "objection" against the positio (ii) to provide proof of any part of the argument which is denied by the Respondent (iii) to offer a new argument after a given argument has been "solved" by the Respondent. The Respondent, on the other hand, has one essential duty to solve the opponent's arguments by employing response-moves, such as "I concede", "I deny", and "I distinguish".

Ashworth points to one essential difference between the obligational and doctrinal disputations in Clichtove, namely that "obligational disputations do not require the recognition of true propositions...".¹¹ The recognition of true propositions is essential to the rules of doctrinal disputation such as "a true proposition must be conceded, a false one denied, and a complex one distinguished." On the other hand, the aim of the Opponent is to construct a proof for a proposition, which necessarily entails consideration of the truth and falsity of propositions. In the obligatio, however, the respondent must initially advance something which is "possible", its truth and falsity are not relevant to its selection as a positum. Again, as in Burley's obligational rules, the only circumstance in which the Respondent must consider the truth and falsity of a proposition in giving a response is when a proposition "neither follows from nor is inconsistent with previous propositions" (rule 5 above);

¹¹Ashworth also mentions that doctrinal disputation can deal with necessary propositions whereas the positum of the obligational disputation must be merely "possible", see p. 19.

such a proposition Clictove says is "irrelevans", which is the same thing as "impertinens" in Burley.

The contrast between doctrinal disputation and obligational disputation can be put in the following way; in doctrinal disputation literally every move by the disputants in the disputation must be made against the background of what is known to be true or false by the disputants; in obligational disputation very few such moves are made by Respondent and Opponent. Most moves in obligational disputation must be made against the background of what is known to follow from the positum and what is granted and denied in the obligatio, and what is consistent and inconsistent with those things. In the obligatio moves by both disputants are almost always determined by logical considerations, whereas in doctrinal disputation moves are almost always determined by epistemic considerations. Regardless of how one interprets the aim of the obligatio, and Clictove explicitly views obligations as having merely pedagogical value, this general contrast between the two different kinds of disputation holds.

Clictove's doctrinal disputation is clearly a young forerunner to the most common method of disputation found in a great number of logic books written by 17th and 18th century German logicians, a method which come to be known as the "syllogistic" or the "modern method". Only a few minor contrasts can be made: Clictove calls the object of the dispute a "positio" whereas in the later sources "thesis" is preferred. Also the disputation is said to begin with the statement of a quaestio by the opponent whereas in later sources it is common that the respondent initiates the disputation by proposing a list theses. These differences are minor of course. Variants of the rule "a true proposition must be conceded, a false one denied, and a complex one distinguished" are found throughout later sources; also the duties of both Opponent and Respondent are essentially the same in later sources; the primary aim of disputation is almost universally claimed to be the investigation of

truth; conditions for thesishood borrowed from the Aristotelian Topics are quite common as well.

Clichtove's early 16th century treatment of what comes to be a very common later method of disputation raises the question of the origin of this method. This is a fascinating question which to my knowledge has not been satisfactorily addressed. The research for this work has focused for the most part on later sources so I have little to add. It is obvious, however, that Clichtove's doctrinal disputation is more similar to the medieval quaestio method of disputation rather than the obligatio, precisely because in the quaestio Opponent and Respondent construct argument for and against an issue based on what they understand or know to be true or false. Again epistemic considerations prevail in the making of response and argument moves in the quaestio. There are, however, "significant differences" between the quaestio and the later disputatio, as Kenny and Pinborg have pointed out.¹² The quaestio begins with the statement of a question, which is followed by an argument offered by the Opponent. The Respondent then provides a counter-argument for the opposing view and a series of responses to the Opponent's argument. In the post-medieval disputatio the disputation begins with the statement of a thesis rather than a question (although this is curiously not the case in Clichtove). Then thesis is then attacked by the Opponent with an argument. The Respondent, however, is not obliged to provide a counter-argument but is merely obliged to defend the argument by employing certain response-moves.

The quaestio method of disputation, unfortunately, is passed on to us through examples rather than in texts which reflect on rules of the method. Far to the contrary, the post-medieval disputatio is described in a huge number of

¹²See The Cambridge History of Later Medieval Philosophy, p. 26-7.

primary sources. From Clivio it has been shown that a method of what has been called the "post-medieval disputatio" was known and practiced in the early 16th century alongside obligationes. It is very likely that this method was known and practiced earlier. Unfortunately, as far as I can tell, given the lack of known primary sources very little can be determined about the historical origin of the method and its relations to the obligatio and quaestio. In the 16th century, as obligatio literature gradually disappears, tracts on the post-medieval disputatio become more and more common; by the mid-16th century the obligatio dies out,¹³ and this is followed by an explosion of primary sources on the post-medieval disputatio published in the late 16th and early 17th century. The research for this dissertation has focused for the most part on this large body of literature on disputation, which began to appear in the late 16th century, and continued to appear until the mid-18th century. I will therefore not be concerned with speculation on the historical antecedents to this literature and the possible relations between the two, but with the critical exposition of the content of this later literature. To introduce the reader to this literature I will now provide an historical overview of sources on disputation published in the period 1500-1800. As I have already mentioned, the search for primary sources is by no means complete; it is almost certain that there exist other important sources which this author has not seen.

Primary sources

In logic books published in the late 15th and early 16th centuries I have found very few tracts on the ars disputandi; I know of only one treatise, a printing of De modo respondendi et opponendi in 1498 attributed by De Rijk to the Pseudo-Albert the Great.¹⁴ Tracts on disputation in some important

¹³The latest tract on obligationes I have found is in a 1545 printing of Georgius Trapezuntius, De re dialectica libellus.

¹⁴This work belongs to a group of manuscripts on disputation known as the Thesaurus

early post-medieval logic textbooks, like Eckius, Elementarius dialectica (1517) and Stapulensis, In terminorum recognitionem introductio (1504), are quite brief and provide very little material with which to work. In the late 15th and early 16th century some works are published on the ars obligatoria, but as Ashworth has pointed out, fewer and fewer treatments of the ars obligatoria are published as the 16th century progresses, and in the mid 16th century, the darkest time for scholastic logic, obligationes disappear, and they do not reappear with the revival of scholastic logic later in the 16th century.

In the late 16th century and early 17th century, however, some rather nice works on disputation are published, which are written by German scholastics, hereafter called "German second scholastics" (secunda scholastica).¹⁵ One of the earlier works is by Goclenius, the famous professor at Marburg, De legitima disputandi ratione, which is printed in Snellius, Commentarius...in Dialecticam P. Rami... (1587) and another is a very nice little work by Hunnaeus, Erotemata de disputatione in his own Logices prima rudimenta (1569).

There are several works on disputation by German second scholastics published in the early 17th century. A work often referred to by later sources on disputation, but a work which is more devoted to logic in general than disputation is by a professor at Helmstedt, Cornelius Martini, De analysi logica, which was first published in 1612. Two early full treatises on disputation are Artificium disputandi praeceptis logicis, by Jacobus Reneccius, who studied theology at Wittenburg around the turn of the 17th

manuscripts, which have been reprinted by De Rijk in Die Mittelalterlichen Traktate De Modo Opponendi Et Respondendi, Münster 1980.

¹⁵The term "scholastic" is used quite broadly here to mean a philosopher or logician writing solidly in the Aristotelian tradition. "Second scholastic", following Giacon, is a scholastic from the period beginning after the Reformation and ending in the 19th century.

century, and De legitima ratione recte disputandi (1605), by Henningus Renemannus, a student at Helmstedt from 1585-88. Another early 17th century treatise on disputation, published in 1631, Paediae seu prudentia in disciplinis generalis, was written by Jacobus Martini, a professor of philosophy at Wittenburg.

The publication of treatises on disputation continues into the mid 17th century particularly by scholars at Altorph and Wittenburg. Two such treatises are written by Andreas Kesler, who was a student at Wittenburg, one devoted to a refutation of "Photinian disputation" ("Photinians" was apparently a name for the Socinians), Logicae Photinae examen (1658) and another Methodus disputandi, which treats rules and strategies of disputation more generally. Methodus disputandi is not mentioned in Risse's Bibliographica logica, and the edition examined was published in 1668, but the work is referred to in a very nice little treatise by a professor at Altorph, Johannes Felwinger in Brevis commentatio de disputatione published in 1659. Felwinger's treatise is important for several reasons. Not only does Felwinger provide a very detailed account of almost every facet of disputation practice, he also frequently cites other authors on disputation and even gives the earliest known bibliography of works on disputation.

Early tracts on disputation also occur in Keckermann's Systema logica first published in 1600; Keckermann's views on disputation are followed closely by Timpler in his little tract on disputation in Logicae systema methodicum (1612). The two knew each other and matriculated at Heidelberg together in 1592. Keckermann's Systema logica contains quite extensive treatments of many subjects in logic, and the scattered tracts on disputation do not seem to have influenced later authors with the exception of Timpler, although Keckermann's work is cited in the aforementioned bibliography in Felwinger.

An influential work on disputation written by Johannes Dannhawerus Idea boni disputatori et malitiosi was published in 1632, which is much like the works of Kesler and Felwinger in content. Dannhawerus himself was much travelled. He came to Altorph around 1625 for a brief stay from Marburg before moving on to Jena. His work exhibits a humanist influenced literary style, which is something lacking in Kesler and Felwinger. Dannhawerus' treatise is cited by several later sources, including Abraham Calovius in his treatise De methodus docendi & disputandi (1637), Jacobi Jacobus in Dissertatio de obligatione probandi (1716), and in a very extensive treatise by Schneider, Tractatus logicus singularis in quo processus disputandi (1718). Calovius' work has much the same style and content as that of Dannhawerus. Another mid 17th century treatise on disputation, which is very much like along the lines of the treatises of Felwinger, Kesler and Dannhawerus, but poorer in content, is Michael Wendelerus' Breves observationes genuini disputandi processus, published in Wittenburg in 1650.

In the late 17th century there appear no more treatises on disputation from scholars at Altorph or Wittenburg. In Leipzig, however, Erotemata logica, a work by Leibniz' teacher, Jacobus Thomasius, is published in 1677, which contains a whole section on disputation entitled Processus disputandi. Thomasius' Processus disputandi is slightly different in character from works by the Altorph-Wittenburg scholars. Also Thomasius clearly influences some later 18th century tracts on disputation found in the works of Syrbius (1717), Schubertus (1742), and Wildius (1744).

In contrast to our lack of knowledge of other 17th century sources on disputation, much is already known of Leibniz' views on disputation because of the study of Olaso, "Leibniz et l' art de disputer" (1975). Unfortunately, Leibniz wrote no major works on disputation, although the subject certainly interested him. Olaso's article provides some hypotheses on Leibniz' views on

disputation gathered from a handful of fragments. A look through the Leibniz Archive at Hannover and the Leibniz Research Center at Münster turned up no new materials. I do not see much that can be added to Olaso's research except to place the views of Leibniz on disputation against the background of the numerous studies on disputation of the 17th and 18th centuries in Germany. At various places in this study attempts are made to do this.

Michael Hanschius, a mathematician-philosopher who interacted with both Leibniz and Wolff at Leipzig, wrote a treatise on disputation, Idea boni disputatoris, published in 1713. Other treatises on disputation published in the early 18th century include Genuina methodus disputandi (1719), by Johannes Ioachim Langius, a professor of philosophy and mathematics at Halle, and Tractatus logicus singularis in quo processus disputandi (1718), by Johannes Fridemann Schneider. These three works are quite extensive treatments of disputation. The works by the mathematicians Hanschius and Langius are a bit more systematic than that of Schneider; but Schneider's Tractatus, a large work of 272 pages plus index, makes a real attempt to approach the subject of disputation historically, which is not attempted in any of the 17th century sources examined. A whole chapter, II De copia auctorum, qui ad artem disputandi ducunt, is devoted to what Schneider views as the history of disputation, which contains a bibliography of works on disputation by his contemporaries.

This interest in the history of disputation, and logic in general, is also seen in many dissertations published in the late 17th and early 18th centuries. These dissertations reflect an interest in methods of disputation which second scholastics believed to be practiced in antiquity, like the socratic method of questioning and a so-called megarian method of disputation. One such dissertation is written by Schneider himself, Dissertatio de variis argumentandi methodis veterum ac recentiorum philosophorum, and numerous others are published by unknown authors such as Henricus

Wideburgius, Dissertatio de recta disputandi ratione (1684), Caspar Guntherus, Dissertatio de modo disputandi megarico (1707), Cornelius Kochius, Programma de modo disputandi socratico, Johannes Treuner, Antiquum interrogandi modum [dissertatio] (1688), and Michael Wideburgius, Dissertatio de variis disputandi modis (1711).

In the mid to late 18th century tracts on disputation are extremely common, but with a few exceptions, such as those found in Reushcius (1734), Wildius (1744), and Schubertus (1742), the treatments of disputation are quite terse and disappointing. Wolff provides a very brief, condensed account of disputation in Philosophia rationalis, and the Wolffian authors who follow tend to treat disputation with the same disregard. Wolff does, however, leave a very nice little bibliography of works on disputation in Philosophia rationalis, which is certainly his best contribution to the study of the subject. By the late 18th century tracts on disputation become generally quite small and rigid in content. The latest treatise on disputation I have found, Ad methodum disputandi et conscribendi disputationes juridicas, written by Justus Böhmerus and published in 1730, treats disputation less systematically than earlier works, and contains a good deal of commentary on juridical disputation.

Limitations to the study

Most of the research for this study was done in German libraries and as a result most of the primary sources, which form the basis for this study, are written by German second scholastics. This study, however, has not been limited to German second scholastic sources; a handful of second scholastic sources outside Germany have been used, including Sanderson's Logicae artis compendium, Coke's The art of logick, and Fonseca's Institutionum dialecticarum libri octo. Unfortunately, the rich heritage of Spanish scholasticism in the 16th and 17th centuries, which certainly produced works

on the ars disputandi, has not been well researched. Nor have English sources been researched except Sanderson and Coke.

Some major, well-known figures from this broad historical period besides Leibniz, mention disputation in their works, including Descartes, Locke, and Kant. Descartes in the Rules (Rule II) has says scholastic disputation is not to be despised and has some use for education and sharpening of wits; Locke devotes all of chapter 10 in the Essay to criticism of what he considers to be the "abuse of words" in scholastic disputation, but he does not provide an account of what scholastic disputation is; and Kant provides a few scattered remarks on what he calls the ars disputatoria in the Logic (A11) and Critique of Pure Reason (A60-62). None of these authors, however, says anything that really adds to our knowledge of disputation in the post-medieval period, so none of them except Leibniz are discussed in this study.

As I have mentioned earlier, no works on the ars obligatoria appear after the mid-16th century, which is about where this study picks up; this study therefore will not discuss obligationes nor the relationship between later disputation practices and obligationes, because from an historical perspective it appears that there was no relationship. I have also not incorporated into this study tracts on disputation in early 16th century texts nor reprinted manuscripts on medieval disputation, such as the Thesaurus manuscripts reprinted by De Rijk. This study will for the most part leave open questions concerning the relationships between the ars disputandi in German second scholastic sources and the medieval and late medieval sources, with the exception of some general comparisons between the medieval disputation and German second scholastic sources on onus probandi.

In the last two decades or so numerous approaches to theory of "dialogue" or "discussion" have been proposed by scholars with a wide variety

of philosophical and logical interests (for instance, Harrah (1963), Hamblin (1970), Hegselmann (1985), Hintikka (1981, 1983, 1986), Jason (1980), Lorenzen (1973, 1974, 1978), Rescher (1975)). In this study these contemporary approaches to what can be called "dialogical theory" will not be discussed or explained, nor will any comparisons be made between second scholastic disputation theory and later twentieth century theories; Rescher (1975) is an exception, however, because Rescher claims that his method of formal disputation is based on "scholastic disputation", and even ventures to give a brief account of scholastic disputation. Rescher is the only later twentieth century source I have found which tries to establish a link with scholastic disputation and will be the only later twentieth century source discussed in this study.

Outline of the study

In chapter 1 some investigations are made of what was known as the "old" or "socratic" method of disputation, which is a method, or methods, of disputation in which the Opponent or Questioner tries to attack a thesis of a Respondent or Answerer by obtaining concessions to certain questions. In 17th century sources this method is often distinguished from the most common method of disputation known as the "modern" or "syllogistic" method, which is a method in which the Opponent advances syllogistic arguments against a thesis of the Respondent, who "responds" to the arguments.

Although the "modern method" is treated in a remarkably uniform manner in many sources no single name for the method is used. In chapter 2 four names for the modern method are considered and some reasons are given for preferring the name "modern method"; the justification for this preference

includes a discussion of a rule in the method that arguments advanced be statable in syllogistic form.

In chapter 3 an outline of the modern method is provided, and in chapter 4 this is supplemented with a general examination of how three important sources, Thomasius (1677), Hanschius (1718) , and Felwinger (1659), account for the general structure of the modern method.

Chapters 5 through 10 provide critical exposition of individual stages or phases in the modern method according to their sequential order. Chapter 5 examines the proposal and selection of these and particularly focuses on Thomasius, Hanschius, Böhmerus and Felwinger, who allow the theses of the Respondent to constitute arguments. Chapter 6 provides a brief account of the forming of the status controversiae, which is a stage in the disputation in which the Opponent and Respondent clarify the view under dispute and various ways in which the view can be attacked. In chapter 7 a very broad treatment is given of the Objectio, which is the stage of the disputation following the formation of the status controversiae in which the Opponent proposes an argument or arguments against the thesis. In this Chapter is discussed the issue of whether or not the conclusion of the Opponent's argument must strictly contradict the thesis, the use of direct and indirect argumentation by the Opponent, the use of loci in disputation, and the rule contra negantem principia non est disputandum. In chapter 8 an account of the assumptio is given in which the Respondent repeats and considers the Opponent's objectio, which is followed by a response (responsio), the subject of chapter 9. The primary aim of chapter 9 is to explain the logical force of response-moves open to the Respondent. In chapter 10 this is followed by an account of the various exception-moves open to the Respondent with which response-moves can be met or attacked.

In chapter 11 brief consideration is given to the duties of the praeses in the modern method, who is usually recognized as a third persona in addition to the Opponent and Respondent.

Chapters 12 and 13 aim to provide a very broad account of onus probandi. In chapter 12 a minimal background to the issue of onus probandi in the modern method is provided by a very general look at some of issues concerning onus probandi in the Roman law tradition; also in this chapter it is argued that the modern method inherited the issue of the onus probandi not from medieval disputation but from Roman law. In chapter 13 some German second scholastic sources on onus probandi are examined, particularly Dannhawerus (1632), an influential source on the question of the burden of proof; in this chapter the rule affirmanti incumbit probatio is examined and how this rule was used to attempt the transfer of the burden of proof from the Opponent to the Respondent.

In chapter 14 a very brief account of the so-called "megarian method" of disputation is given, which includes some commentary on the only known work devoted solely to megarian disputation, Güntherus (1707).

Lastly, in chapter 15 an examination of some definitions of disputation is made, which leads to a critical discussion of the primary aim of the modern method, the investigation of truth.

Chapter 1: The "modern method" and "old method"

In many 17th and 18th century German second scholastic sources on disputation two methods of disputation are distinguished, what is often referred to as the "modern" or "syllogistic" method, which is often said to be practiced "nowadays", and the "old" or "socratic" method, whose origins are considered to be with the Greeks in antiquity. This general distinction between the modern and old methods is very common; Angelelli has already provided several references for the distinction,¹⁶ and a wealth of other 17th and 18th century references are easily forthcoming.¹⁷

A general criterion often mentioned to distinguish and identify these methods is that in the modern method syllogistic arguments are offered by an Opponent (opponens), who is sometimes called the arguer (arguens), to attack a thesis proposed by a Respondent (respondens), whereas in the old method a "questioner" (interrogans) attacks the thesis of a respondent or "answerer" by offering a series of questions.¹⁸ Angelelli uses this criterion, which he found

¹⁶Ignacio Angelelli, "Techniques of Disputation in the History of Logic," The Journal of the History of Philosophy 67 (1970): p. 801, fts. 5 &6.

¹⁷I mention only a few sources not found in Angelelli: Fridemannus Bechmannus, Institutiones logicae (Jenae, 1667) p. 587 ; Iohannes Syrbius, Institutiones philosophiae rationalis (Jenae, 1717) pp.375- 401; Ioannes Reschius, Systema logica (Jenae, 1734) pp. 869-70 ; Iacobus Thomasius, (1677) pp. 139-40: 7. Porrò disputandi modus alius vetustus est, alius hodiernus. 8. Vetustum voco, qui olim Academiis Graeciae antiquissimis usurpabatur inter Sophistas ac Philosophos aevi prisci, ad quem in Elenchis Sophisticis respexit Aristoteles, & cuius simulacrum aliquod deprehe ndere licet in Dialogis Platonicis. 9. Hodiernum qualem in orbe Latino Christiano introduxerunt Scholastici, & ad nostram usque memoriam propagarunt.

¹⁸Michaelus Wendelerus, (1650) p. 21; Felwinger (1644) p.8: Respondens est, qui de thesibus vel à se propositis, vel ex conventione electis respondet, easque propugnant, pro viribus defendit, & adversarii objectionibus vindicat. Opponens est, qui propositas theses, & ad objectiones, datas responsiones oppugnant & excipit. Ab Aristotele vocatur Interrogans, à

in Heine,¹⁹ to distinguish between an "argument method", which is characteristic of second scholastic disputation, and a "question method", which Angelelli considers to cover, as a general theoretical description at least, not only the method of the Aristotelian Topics, but also other methods which proceed by questions such as the medieval ars obligatoria.²⁰ The most common method of post-medieval disputation is without question what Angelelli calls the "argument method", and a study of this method is the primary concern of this work. In this chapter, however, I provide a few investigations of the old, question method, and how it is distinguished from the "modern method"; these investigations represent only the first steps in a study which requires additional effort.

It is not sufficiently stressed by Angelelli in his studies of the question method, that the 17th and 18th century sources who make a distinction between the modern and old methods appear to disregard the ars obligatoria in their classifications of disputation methods. (Angelelli recognizes that Heine appears to be unaware of the ars obligatoria, and there appear no references to the ars obligatoria in any of the sources I have seen.) Ashworth has shown in her study of Clichtove that in the early 16th century a distinction was made between "obligational disputation" and "doctrinal disputation" and that in Clichtove these two methods are contrasted by their procedures and aims.²¹

Veterum disputandi modo, qui à nostro haud parùm discrepat. Veteres enim non syllogismis, ut hodie fit, uti solebant, sed solùm quaestionibus agebant. ; Thomasius (1677) p. 140: Inter vetustum ac hodiernum id maximè interest, quòd olim Graeci vix aliter, quàm continuis interrogatiunculis, quibus alterius partis responsiones elicerentur, disputareat. Nos loco talium Interrogationum Syllogismos formales substituimus, substutuere certè, si accuratè disserere velimus, debemus.

¹⁹Fridericus Heine, Methodus disputandi hodierna (Helmstadii, 1710) (preface).

²⁰Angelelli (1970) pp. 802-06. The example of the old method presented and discussed by Angelelli is the ars obligatoria as it appears in the Logica Magna and Logica Parva of Paulus Venetus.

²¹E. J. Ashworth, "Renaissance Man as Logician: "Josse Clichtove (1472-1543) on

Clichtove's description of "doctrinal disputation" is very close to later descriptions of the modern method, and thus Clichtove stands as an uncommon example in which the medieval ars obligatoria is treated alongside a version of the modern method. In contrast to the early 16th century work of Clichtove, in later 16th century sources "doctrinal disputation" does not appear as a name for the modern method, and no comparisons between the ars disputandi and ars obligatoria are ever made. Further research is needed to shed light on just how doctrinal disputation and the later flourishing of the modern method came to overshadow obligationes to such an extent that later authors appear not even to be aware of obligationes; it is apparent, however, that the "old method" always meant to the Counter-Reformation scholastics "the method of questioning of antiquity" not "the method of questioning of the early schoolmen".

The distinction itself between the modern and old methods appears to originate in the early to mid-17th century with protestant authors from Wittenburg and Altorph, like Felwinger, Kesler and Jacobus Martini. In the late 16th and early 17th century we find that authors like Goclenius and Hunnaeus do not go to the trouble to make the distinction, even though their accounts of disputation are very much like the 17th and 18th century accounts, and, in the case of Goclenius, disputation by questions is incorporated into his modern "argument" technique.²² Goclenius requires that the Opponent state his objections to the thesis in syllogistic form but he allows the Opponent to construct his syllogistic objections from questions conceded by the Respondent, as long as the Opponent only asks for the premises of his argument and not the conclusion.²³ Goclenius thus does not consider

Disputations," History and Philosophy of Logic 7 (1986): 15-29.

²²Rodolphus Goclenius, (1587) pp. 107- 110; Augustinus Hunnaeus, Dialectica (Coloniae, 1562) pp. 356-61.

²³Goclenius (1587) p. 112: Opponentis munus est, arma sua ac concertationem rité aptare, hoc

disputation by questions another method of disputation but a means allowed to the Opponent in the course of a dispute, under certain constraints, to construct arguments against the thesis. Felwinger, on the other hand, does not make any interrogative moves available to the Opponent in disputation, presumably because he considered questioning by the Opponent to belong to the old Aristotelian method and not to his "argument" method (nevertheless, Felwinger curiously refers to the Opponent as the interrogans in a couple of places (p.16 § 15, p. 23 § 19), perhaps in deference to Aristotle's terminology). Generally speaking, interrogative moves are seldom allowed to the Opponent by authors on the modern method, except in the clarification of theses submitted for dispute.

In addition to a rather strict distinction between "modern argument disputation" and "old question disputation" made in many 17th and 18th century sources, there is sometimes vague criticism that the old method is not as good as the modern method. Thomasius, for instance, who provides no detailed commentary on the old method, considers the modern method an improvement on the old question method insofar as the syllogistic arguments required by the modern method allow for "more accurate" discourse.²⁴ Syrbius agrees with the general idea that the modern or "syllogistic" method is superior to the old method, specifically because it is easier and more effective in avoiding and guarding against errors (Syrbius is not explicit about how the syllogistic method achieves this);²⁵ Syrbius also goes on to outline what he

est, objectiones formis syllogisticis illigare...[p.114] Porró ut argumentans eó quó vult, interrogare aliquando licet, ita tamen, ut conclusionem non interroget, sed simpliciter inferat, ne videatur ex praemissis concessis non esse effecta: ut, An non David est servatus? Etiam. An non David fuit adulter? Quidni? Ergo, quidam adulteri servantur.

²⁴See fn. 3 .

²⁵Syrbius (1717) p.376: His ita praecognitis, facilius erit omnis disputandi methodus, inprimis vero syllogistica. Quae, licet non careat incommodis, pluresque elabendi & tegendi vias aliquando habere videatur, quam Socratica; si tamen disputantes ab utraque parte & syllogismi, & methodi leges probe observent, non solum facilius est, sed & ad evitendas

considers to be a "modern" question method, which, although presumably inferior to the syllogistic method, is an improvement on the "old" socratic method of antiquity.

In some 18th century sources, for instance, Schneider and Langius, we find an effort to classify different types of disputation methods and to identify their historical predecessors which goes far beyond the general distinction between modern and old methods. Langius, for instance, distinguishes between three types of disputation, "by dialogue", "by questions" and "by syllogisms". Disputation "by dialogue" appears to be natural, informal speech or dialogue.²⁶ The "dialogues" of Job and Christ in scripture are given as examples, as well as Plato's writings which were "common among his disciples and friends" (p. 9: Exempla sacra habemus in historia Jobi & Christi. Uti e Platonis scriptis liquet, ea etiam inter discipulos & amicos fuit usitata.). Langius traces disputation "by questions" back to Socrates based on the testimony of Diogenes Laertius, and considers Aristotle and Plato to be practitioners of the method. Langius remarks that "with respect to antiquity the method of disputation by syllogisms is not undeservedly called "Aristotelian-scholastic"". ²⁷ This method, which Langius also calls "syllogistic", is the primary subject of his treatise and differs in no great respect from what Thomasius, Heine, Felwinger and others call the "modern method" (methodus hodierna).

Schneider makes what appears to be the same threefold classification of ways of disputing "by questions dialogues and syllogisms" as Langius

omnis generis sophisticationes, satis idonea.

²⁶Ioachimus Langius, (1719) p. 8-9 : Disputandi modus est triplex. Fieri enim potest vel per dialogum, seu per simplex, accuratius tamen, colloquium, vel per quaestiones, vel per syllogismos.

²⁷Ibid. p. 9 & 10.

makes, but Schneider hints that there are even more ways of disputing invented by scholars who disagree, although he does not go to the trouble to mention what these "ways of disputing" are in his chapter de modis argumentandi (pp.84-113). (Sicut ingenio inter se discrepant eruditi, ita etiam modos disputandi varios invenerunt. Quorum vero tres reliquis usu suo praeferri possunt, scilicet per quaestiones, dialogos & syllogismos instituti.) Earlier in his treatise, however, Schneider devotes an entire chapter to what he considers to be the history of dialectic and disputation theory, De copia auctorum qui ad artem disputandi conducunt.²⁸ The chapter, which runs around 16 pages, contains very brief discussion of a wide variety of sources including, Socratic method by questions, the Eleatic custom by dialogues, Megarian dialectic, Platonic disputation, Aristotelian disputation, Epicurian logic, Stoic disputation, Scholastic disputation, Ramist dialectic and others. Much of Schneider's historical commentary is very terse and from it differing methods of disputation are not readily distinguished. Schneider considers his own work to "treat disputation in the form of an art". He cites numerous other authors who, he believes, treat disputation in the same way; these authors are all 17th and early 18th century German second scholastics, who wrote on what has been called the "modern method".²⁹

This interest in the historical background to disputation theory, which appears to be a late 17th-early 18th century phenomenon is also reflected in the appearance of many tracts and dissertations devoted to the old question method. These sources not only show a theoretical-historical interest in the

²⁸Schneider, (1718) pp.13-33.

²⁹Ibid. p. 30-31. Schneider's list of authors and their works on disputation on pp. 30-31 of the Tractatus is the most extensive early bibliography of works on post-medieval disputation. The earliest known bibliography occurs in Felwinger (1657) pp. 89-90 . Another rather nice 18th century bibliography can be found in Christian Wolff, Philosophia rationalis (Francofurti et Lipsiae, 1728) pp. 51-52.

old method, which is clearly evident in the dissertations of Schmidt, Treuner, Kochius, and Wideburgius,³⁰ but also from some authors like Baumeister, Clericus, and Syrbius it is clear that some form or forms of the question method were practiced in the 18th century.

In the case of Clericus the practice of this method seems to stem from eclectic interest in ancient sources rather than from a tradition of earlier post-medieval disputation practice. Clericus, who is cited by Schneider and Hanschius as a source for "disputation by questions", says explicitly that his "canons" for the question method are abstracted from the "Socratic writings",³¹ and not only does he consider this method, which is borrowed from Socrates, an improvement on the method of the schools, but he implies that the implementation of the question method against the schoolmen is analogous to Socrates' crusade against the sophists in antiquity.³² Clericus' "canons" of Socratic disputation turn out to be nothing more than three general rules for how to conduct oneself in question oriented disputation, which appear to be the product of some loose interpretation of the Platonic dialogues;³³ his example of a question-disputation also appears to be modelled on a Platonic dialogue.³⁴

³⁰Cornelius Kochius,(1718); Johannes Schmidt, (1716); Johannes Treuner, (1688); M. Ioannes Bernhard Wideburgius, (1711). These dissertations need further research.

³¹Joannes Clericus, Logica sive ars raticionandi, in Opera philosophica, Tomus I (Amstelodami, 1704) [third edition] p. 3: Socraticam Methodum rectius disceptandi Artem diximus, quòd Socrates eâ felicissimè primus usus sit, & ejus Canonas ex Socraticorum Scriptorum lectione collegerimus.

³²Ibid. pp. 230:...artem rixandi, quae tamdiu in Scholis obtinuit, quaeque nihil habet praeter inanem acuminis ostentationem, prorsus esse viro sapiente indignam sequitur... Cùm Graecia semper hujusmodi Sophistis abundarit, tum praecipuè se jactare coeperunt, cum Philosophia paullò diligentius culta est; hoc est, circa Socratis tempora. Hic autem vir, cum esset naturâ factus ad Sophistarum superbiam retundendam, nobis viam ostendit, quâ idem hodie, si necesse sit, facere possimus...

³³Ibid. p. 232: Prima hujus Methodi Regula jubet eum, qui eâ usus est, ita se gerere quasi

Syrbius also provides a tract on the question method which he calls dialectica disputandi methodo or methodus socratica, which is placed right after a tract entitled de methodo disputandi syllogistica.³⁵ Syrbius treats the "socratic method" as a method distinct from the syllogistic method, but he distinguishes between the free, sophistic use of the method in antiquity, either in free debate or "for the sake of teaching", from the more disciplined use of the method in "the academies today", where "the Inquirer" (Quaerens) must assume the duty of the Opponent.³⁶ Syrbius' own version of the socratic method, which is presumably an example of the "modern" socratic method, is divided into two parts, one treating "the direct socratic method" and the other "the indirect socratic method". In the direct socratic method the Inquirer first indicates clearly the thesis to be attacked and then directly poses questions to the Respondent that could be used in a syllogism which contradicts the thesis (this is called the "principal syllogism"). If one of the premises of the principal syllogism is denied or called into doubt the Inquirer then poses questions to obtain a prosyllogism which proves the premises doubted or

ab eo, cum quo res ipsi est, vellet id de quo certatur discere... Secundò, priusquàm quidquam objicere adgrediamur, oportet nos eum, cum quo loquimur, si utatur verbis obscuris, interpretationem rogare...[p. 234] Tertiò, si tandem eò devenit, ut clarè quod vult efferat, oportet eum rogare de doctrinae omnibus partibus, ejusque consecrariis, non quasi quidquam in iis reprehendamus, sed ut pleniùs doctrinam percipiamus; ita ut videatur Magister nos Discipuli.

³⁴Ibid. pp. 235-41.

³⁵Syrbius (1717) pp. 375-401.

³⁶Ibid. p. 390: Neque tamen nulla est inter dialecticam disputandi methodum, antiquam & hodiernam, differentia. Quum enim veteres illi, quibus eae disputationes in usu fuerunt maxime, non solum in scholis, sed & alibi, in conuiuiis, in foro, captiosis quaestionibus se circumagerent & exercerent invicem, neque adeo certas, & a Respondente definitas, sed quaecunque quaerentibus in mentem venirent, ventilarent materias; simulare utique poterant, ac si discendi tantum causa quaestiones suas proponerent, quod hodie in academiis aequè fieri non potest, ubi Quaerens a Respondente invitatur, non ut discat, sed ut opponentis munus in se suscipiat.

denied.³⁷ This kind of question disputation appears to be very similar to the example of question disputation Goclenius provides (see fn. 8), although Goclenius does not give us examples of how a disputation is to proceed when questions are denied or doubted.

The socratic method is used indirectly in two ways. In the first way, if the thesis is ambiguous or obscure, the Inquirer attacks the thesis' ambiguity by questions; in the second way, if the thesis is clear, the Inquirer attempts to obtain admissions for prosyllogisms to attack the thesis rather than for the principle syllogism as in the direct method. Syrbius offers a number of rules in the span of two pages or so for the Inquirer and the Respondent to follow in the socratic method, which, although terse, are detailed and presented in systematic form.³⁸ This contrasts sharply with the vague, unsystematic socratic method endorsed by Clericus.

A good deal more research needs to be done on 17th and 18th century treatments of the old, socratic method, but based on these initial investigations of the method it appears that the socratic method is treated with some degree of variation in the primary sources; this, we shall see, is not the case with the modern method. With this in mind it does no harm to follow Angelelli in broadly classifying any method in which the Opponent or Questioner must ask questions of the Respondent a "question method", but we should take note that not all the primary sources which speak of the "old method" or the "socratic

³⁷Ibid. p. 391: *Ad officia particularia* vero quantum attinet, in *methodo directa Quaerens*, seu Opponens, primo statim indicabit thesin, a se impugnandam. Quae si satis liquida sit, & *antithesis* nullum habeat dubium, de ratione, qua impugnare illam velit, sollicitus erit. Et, quum consultum omnino sit, eam, syllogismo & prosyllogismis descriptam, antea concipere animo; primo de syllogismi principalis praemissis quaeret proxime, & si quae a Respondente negetur, vel vocetur in dubium, prosyllogismos etiam, quaestionibus suis ventilabit, donec Respondens tantum concesserit, quantum ad eum convincendum, possit sufficere.

³⁸Ibid. pp.393-95.

method" have precisely the same method in mind; furthermore, the ars obligatoria can be considered with some certainty to be outside the scope of post-medieval question methods of disputation.

Chapter 2: The Name "Modern Method"

In the previous chapter four different names for the so-called modern method of disputation were mentioned, "modern method" (methodus hodierna), "syllogistic method" (methodus syllogistica), "Aristotelian-scholastic method" (modus Aristotelico-Scholasticum), and "argument method". In this section I will briefly address the origins of these names and provide some reasons for preferring the name "modern method".

The name "modern method" is found almost exclusively among mid-17th and early 18th century authors such as Felwinger (1659), Thomasius (1677), Heine (1710), and other authors who make the contrast between the old question method and the modern method. The name "syllogistic method", on the other hand, is very common among 18th century authors like Syrbius (1717), Schneider (1718), Langius (1719), Wolff (1728), Reuschius (1734), and Baumeister (1749), but very rare among 17th century authors. By the mid-18th century the name is so common that it appears to be the standard name for the method (see also Hollmanus (1767) pp. 714-15, Genovesi (1753), Wildius (1744) p. 280, Osterreider (1760) p. 534, Bilfingerus (1742), p.221).³⁹ I have seen the name "Aristotelian-scholastic" used only in Langius, and even there it is used along with the name "syllogistic". The name

³⁹In one late 18th century source, Dominicus Angeloni, Institutiones logicae (Neapoli, 1772) p. 204, the method is called scholastica disputandi methodus. In the neo-scholastic textbooks of Frick, Pesch, and Remek the method given a very similar name disputatio scholastica, although Frick also uses the name syllogistica. See Vincento Remek, Logica Minor, ed. 7, Romae 1933, p.130; Tilmannus Pesch, Institutiones logicales (Friburgi Brisgoviae, 1888) p. 221; Carolo Frick S. J., Logica in usum scholarum, ed. 5, Friburgi Brisgoviae 1919, p.104. More research of neo-scholastic treatments of disputation is needed, but the disputation methods described in the above texts appear to be very much like the post-medieval method. In Pesch, p. 224, there is even a reference to Henricus Marcellius, Ars disputandi (Coloniae, 1658) as a work which explains "more fully" the rules and norms of disputation.

"argument method" is an invention of Angelelli and does not occur in the primary sources.

There are no obvious reasons why the name "syllogistic method", scarce in the 17th and 16th centuries, becomes so popular in the 18th century. One reason, however, why disputation theorists might consider "syllogistic method" a good name is because of the very common rule, which has already been shown to be present in Felwinger and Thomasius, that the Opponent advance arguments which are statable in syllogistic form. This is a good place to discuss this rule and how it might serve as a justification for using the name "syllogistic method".

The rule appears in weaker and stronger forms. Some sources require that every argument in disputation be a categorical syllogism, whereas others allow the use of arguments in more "informal discourse", namely arguments which are not proper syllogisms but can be stated as proper syllogisms such as Enthymeme, Sorites, and even "discourse" somewhat loosely construed.⁴⁰ Hypothetical syllogisms, which are usually understood in a very primitive way as simple conditional arguments such as modus ponens and modus tollens, if they are mentioned at all, are generally considered less desirable than categorical syllogisms.⁴¹

⁴⁰Thomasius is an example of a source which accepts the rule that "the Opponent oppose with a "formal syllogism"", but extends the notion of a formal syllogism to any argument which can be analyzed by rules of formal logic which evaluate the formal consequence of the argument. A formal syllogism, therefore, can be categorical and hypothetical syllogisms, as well as "discourse", which is the statement and abbreviation of syllogisms into more informal discourse. Thomasius (1677) pp.151-52: Tantum de primo Opponentis officio. Secundum erat, opponere syllogismum Formalem. Voco autem hinc syllogismum formalem omnem argumentandi formam, quae non est merus, ut appellare solemus, discursus, seu materia argumentationis sine formâ..

⁴¹Thomasius (1677) p. 155: Septimum officium Opponentis est, ut categoricè argumentetur. Est & hoc indebitum. Siquidem & hypothetici syllogismi forma sic legitima est, ut recusari jure non possit...

In Schneider brief consideration is given to what the Respondent should do if the Opponent argues by induction, which suggests that the Opponent may argue by induction rather than strictly by syllogism.⁴² Also in Kesler induction is mentioned as a possible "strategy" of the Opponent to prove a universal premise; but this strategy concerns not the argument of the Opponent against the thesis but the proof of a universal premise in the argument;⁴³ Cornelius Martini mentions this use of induction, but argues that if induction has a role in argument in disputation it cannot be in the "first attack", which must be a syllogism; induction is "subsidiary", and is used to prove a universal sentence in a syllogism.⁴⁴ Elsewhere Kesler accepts the rule that arguments in disputation must be syllogistic, but provides the addendum that we should not be so rigid as to expect all disputation to proceed by syllogisms such as disputation in scripture, the history of the Church, and common literature (p. 136: Canon V. Argumenta perspicuè breviter ac syllogisticè proponantur... Forma syllogistica. Nam ea est instrumentum veritatem facilius inveniendi & proponendi. Ubi tamen nimis rigidi sunt, qui in omnibus disputationibus formam syllogismi explicitam requirant, cum eâ interdum neglectâ disputationes inveniantur & in Scriptura, & in Historia

⁴²Schneider (1718) pp. 204: Inter syllogismos imperfectos succedit inductio, vid. l. c. § 14. quae duobus modis solvi potest: quorum unus, negatio iustae enumerationis; alter allegatio exempli omissi.

⁴³Andreas Kesler, Methodus disputandi (1668) p. 149: Strategema Opponentis est ex inductione aliorum exemplorum ad propositam materiam argumentari. V. G. Photiniani argumentantur ita: Omnis homo singularis constituit personam per subsistentiam propriam. Christus est homo singularis. E. constituit personam per subsistentiam propriam. Major probatur per inductionem omnium hominum.

⁴⁴Cornelius Martini,(1638) p. 69: Hoc itaque jam immediatè sequitur: quia contradictione legitimatè formatâ, statim concurritur, nec potest aliter te adoriri adversarius, quàm syllogismo. Nam etiam si inductio quoque partes suas habeat, ea tamen non nisi subsidiaria est, & ad probandum enunciationem aliquam universalem per sensum, quaeri solet; ad primum autem impetum adhiberi non potest.

Ecclesiastica, & communi literatorum vita.) Kesler's remarks reveal a tacit distinction between disputation in the narrow sense of rule-governed, academic disputation and more informal disputation in important religious and intellectual contexts. Something like this distinction appears to be behind Langius' and Schneider's distinction between disputation "by dialogue" and disputation "by syllogisms", but Kesler does not explicitly distinguish these two ways of disputing. Kesler echoes the same requirement found in many other sources, that academic disputations must be "by syllogisms".

Horneius explains that induction is not used frequently in disputation because induction is used primarily in achieving the understanding of the principles of a science, but principles and "things known" are not points of controversy in disputation but rather the conclusions drawn from the principles. The syllogism is, therefore, "more accommodated" to disputation than induction. Horneius attempts to support this justification for the limited use of induction in disputation by references to Aristotelian texts, but does not mention that induction is an important method of argumentation in Aristotle's disputation method.⁴⁵

It can be generally said that authors as early as Goclenius and as late as Wolff explicitly accept the rule that arguments offered in disputation must be syllogistic arguments.⁴⁶ Also, from Costello's study it is known that in

⁴⁵Horneius (1666) pp. 92-3: Dicit autem id, Inductionem habere quidem magnam evidentiam, quia ad sensum provocat, sed syllogismum tam disputationibus magis esse accommodatum, unde 2. poster. cap. ult. 1. ethic. cap. 7. 6. ethic. cap. 3. & passim dicitur, Inductionem ad principiorum in unaquaque scientia cognitionem maximè & praecipuè requiri. At principia ipsa in disputationem non veniunt, sed conclusiones: illa autem tanquam nota supponuntur. Quare nec Inductiones crebrò in disputationibus occurrunt...

⁴⁶ Goclenius (1587), see fn. 8; Wolff (1728) p. 212: Argumentum dicitur syllogismus contra thesin respondentis ab opponente prolatus...(p.214) FORMA. eadem partim a) SYLLOGISTICA, quae communis est & commodissima, Namque Opponens syllogismos singulos, ex quibus ipsius probatio vel demonstratio constat, in forma sigillatim proponere

Cambridge in the early seventeenth century it is required that the Opponent give syllogistic arguments in disputation.⁴⁷ This tendency among German second scholastics either to disregard the possible use of inductive arguments in disputation or to consider induction merely a strategy to be used to prove universal premises in a syllogism contrasts sharply with the major role induction plays in Aristotelian dialectic.

A careful look at the sources reveals, however, that the primary intent of the rule that the Opponent offer syllogistic arguments, is not to limit the kinds of arguments in disputation, but to provide a means for evaluating the formal implications of any proposed argument. This is clear in the texts examined from Felwinger and Thomasius, who see the rule as a crucial advantage over the old question method of Aristotle, because the rule ensures that the formal implications of the Opponent's argument can be tested.⁴⁸

debet.

⁴⁷William Costello S. J., The Scholastic Curriculum at Early Seventeenth-Century Cambridge, Cambridge, Mass. 1958, p20 : "In every case, the opponent follows a carefully plotted line of syllogisms designed to trap the answerer into a position where he may be logically forced, step by step, into admitting the exact opposite of his thesis. The syllogistic presentation is mandatory, as James Duport says in his rules for students: "Dispute always Syllogistically, at least Enthymematically and as much as you can Categorically.""

⁴⁸We cannot be sure of the precise texts Felwinger and Thomasius have in mind in their criticism. But both authors mention Aristotle, and we should note that in Book VIII of the Topics it is unclear how Aristotle's theory of the syllogism in the Prior An. is to apply to argumentation in dialectic. Aristotle defines syllogismos at Top. 100a 25-28 in the same way as at Pr. An. 24a 19-21, but nowhere is formal logic of the syllogism explicitly mentioned in the account of the dialectical method in Book VIII. At Topics 155b20-27 Aristotle does make a distinction, however, between premises which "necessary premises from which a syllogism results" and "other premises", which include premises in induction, those which add weight to the argument, those which conceal the conclusion, and those which make the argument more clear, but Aristotle never says explicitly that the "necessary premises" are categorical sentences for appropriate syllogisms. Aristotle's lack of detail on this point is one reason for the debate, which has raged since antiquity, concerning whether the Topics presupposes the Analytics or vice versa. Regardless of how one views this debate one must agree that there are no passages where Aristotle explains how formal logic is to be applied to disputation. The second scholastics, however, whose primary disputation method was in many respects based on Aristotle's method, were very careful to explain how "syllogistic", or formal

Similar endorsements of the rule can be found in other sources; for instance, Jacobus Martini stresses that syllogistic form allows the evaluation of the formal implications of arguments, and that if the Opponent's argument's were not required to have valid form then the Respondent would have no grounds on which to object to an invalid argument.⁴⁹ But if the primary intent of the rule is to provide a means of evaluating formal implications then the requirement that the arguments be syllogistic is, in a sense, accidental, because it stems from the fact that syllogistic logic is the best known formal logic of the time. From a theoretical point of view, therefore, to consider the method strictly a "syllogistic method" is an unwarranted restriction. For this reason we hesitate to use the name "syllogistic method" to refer to the method; nevertheless, it is a name used by the primary sources and stems from a rule of the method which is commonly accepted.

Angelelli's name for the method, the "argument method", avoids the above difficulty because it stresses not that the argument of the Opponent be statable syllogistically but that there is an attempt to establish an implication between premisees and conclusion. This is a fine theoretical solution to the problem of how to name the method, but, unfortunately, there exist no known examples in the primary sources in which the method is named the "argument method".

logic, must be applied to ensure the validity of arguments.

⁴⁹Jacobus Martini, *Paedia seu prudentia in disciplinis generalis* (??, 1631) p. 744: Si Syllogisticè non fuerit formatum argumentum, vel urgeat opponentem, ut ipse formet in certâ figurâ & modo; vel rejiciat tanquam nihil aliud, quàm quod scopas dissolutas in se contineat, proindeque ad certam formam revocari non possit. Vel si animadvertat Respondens, bonam in argumento consequentiam esse, ne sophimate opponentem ludere & premere videatur Respondens, negando bonam consequentiam, ubi est optima Opponens autem ad formam illud manifestam revocare nequeat ipsem respondens resolutionem înstituat, & in certâ figurâ modoque argumentum disponat: ut postmodum eo melius distinctiusque ad illud respondere queat.

The name "modern method", on the other hand, is frequently used and is empty of any real theoretical content. For these reasons it may seem at least a safe name, but there are reasons for rejecting this name as well. As we have already pointed out, a method very much like the so-called "modern method" was called "doctrinal disputation" by Clichtove in the early 16th century. So, some form of the method was known and practiced well before logicians in the 17th century conceived of and named this disputation method the "modern method". Nevertheless, as far as we know, the so-called "modern method" did not receive elaborate theoretical attention until the late 16th and early 17th centuries, and it was during this period the method became the primary method of disputation among at least German second scholastics. We must be cautious, however, in claiming that little or no theory on the modern method was done by medieval scholastics. As far as the primary and secondary literature in print is concerned, it appears that from as early as the 13th century up to the early 16th century scholastic disputation theory focused primarily on the ars obligatoria, whereas disputation, of such great importance to medieval education and literary exposition, was treated more as a matter of practice than theory.⁵⁰ In addition, there is some question whether or not some common medieval disputation practices, such as the quaestio disputata, were in all essential respects the same as the modern method.⁵¹

⁵⁰Reprints of medieval manuscripts on disputation can be found in Lambert M. De Rijk, Die Mittelalterlichen Traktate De Modo Opponendi Et Respondendi, Münster Westfalen 1980, and A. G. Little and F. Pelster Oxford Theology and Theologians c. A. D. 1282-1302 (publications of the Oxford Historical Society, 96), Oxford 1934.

³⁹Kenny and Pinborg, in The Cambridge History of Later Medieval Philosophy pp. 26-27, contrast the medieval quaestio disputata, a common method of disputation among medieval theologians, which influenced greatly well-known written works of Thomas Aquinas, Scotus, and Ockham, with the post-medieval disputatio in the following way: the quaestio disputata begins with a question which is followed by arguments against the position to be defended and then arguments for the view to be adopted. The post-medieval disputation, on the other hand, begins with a the statement and explanantion of a thesis which is then defended by a respondent against the objections of an Opponent. In responding the Respondent can concede, deny or distinguish, and if the Respondent distiguishes he must deny the premise of the

Nevertheless, given what we know of medieval and post-medieval disputation we can cautiously endorse the use of the name "modern method" to refer to the the most common method of post-medieval disputation, which is the object of scores of theoretical treatments in post-medieval logic books. This seems to be the least problematic of the solutions of how to name the method, although this solution is less than ideal, complicated even further by this author who has already referred to the method as "syllogistic disputation" in a recent paper.⁵²

Chapter 3: Outline of the Modern Method

In this chapter a very general outline of the modern method will be provided. This outline constitutes an introduction to the bare bones of the modern method's structure. In the next chapter this outline will be filled out to some extent by an examination of three individual sources on the structure of the method and the most essential duties of Respondent and Opponent. This

Opponent in one sense and accept it in another; thus in distinguishing the Respondent must show that the accepted distinguished premise does not contradict the thesis. The medieval quaestio disputata, however, is "freer" and "more lively" than the post-medieval method, because each side is allowed to argue their own view. The Opponent is the only party allowed to argue in the later method, which makes the move distinguo the heart of the post-medieval disputation method. The later method is not so much concerned with airing two opposing positions for review but with disentangling ambiguities of words.

There is nothing so unacceptable in Kenny and Pinborg's very general characterization of post-medieval disputation, and the contrast given between the quaestio disputata and post-medieval disputation is insightful. But the general idea that "the move distinguo is the heart of post-medieval disputation" presupposes a rather large claim about the purpose of the post-medieval disputatio which Kenny and Pinborg have not supported with references to primary sources. We shall show that the primary purpose of disputation for second scholastics was the "investigation" or "confirmation" of truth, and the move distinguo was only one tool among many to advance toward this aim.

⁵²Donald Felipe, "Johannes Felwinger (1659) and Johannes Schneider (1719) on Syllogistic Disputation", in Estudios del II Simposio de Historia de la Logica, Pamplona 1990.

will be followed by several chapters devoted to studies of rules, duties and strategies according to their rough sequential order.

There are generally two personae in the method, an Opponent (opponens) and a Respondent (respondens). A President (praeses), who moderates the disputation and aids both the Opponent and Respondent in various ways, is sometimes considered to be a third persona in the method; however many particular duties of the President are identical to duties of the Respondent, and for this reason the President is very often classified generally as part of the persona of the Respondent, although specifically the Respondent and the President do not have all the same duties. Some debate is aired concerning the special duties of the praeses and how the praeses is to be classified. This will be treated in a special section on the duties of the praeses.

The subject matter of the disputation are theses which are circulated by the Respondent prior to the act of disputation itself. Theses must conform to certain constraints of content, many of which are borrowed from the Aristotelian Topics, for instance, a thesis cannot be obviously true or false or violate accepted ethical standards. Various pre-disputation exercises are mentioned in many sources, which include, among other things, the prefiguring of arguments and responses by the Opponent and Respondent respectively. The disputants themselves should ideally be well-versed in logic, have knowledge of the subject matter under dispute, and have good moral character. One can better understand the importance of the above features of post-medieval disputation theory if one keeps in mind that the theory concerns not "ideal speaker-hearer dialogue" but viva voce disputation. Second scholastics justifiably viewed pre-disputation exercises, knowledge of logic and the subject matter under dispute, and the possession of moral character, relevant to "effective" disputation practice.

In many sources the act of disputation is initiated by the Opponent, who selects a particular thesis for dispute from among the circulated theses. The selection of a thesis is accompanied by an "objection" (objectio), which is an argument or arguments which imply the negation of the thesis (in some sources it is sufficient to argue for the contrary of the thesis). The first objection, which should directly or indirectly contradict the thesis, is also called the "principal syllogism" (sylogismus principalis).

After the objection has been advanced by the Opponent the Respondent repeats (repetitio) and assumes (assumptio) the argument. The assumptio of the Respondent is a technical notion in disputation, which at the very least consists of the repetitio. Generally speaking in the assumptio the Respondent attempts to clarify the content and form of the argument. This is usually done by carefully repeating the argument word for word and asking the Opponent about ambiguous language or questionable form. Sometimes, when the form or content of the argument is unclear, the Respondent is allowed to provide an interpretation of the argument which removes the points of unclarity.

The Respondent follows the assumptio with either a request for proof of a premise in the argument, or a "response" (responsio, also called a solutio). Generally the Opponent is always obligated to prove any premise scrutinized by the Respondent according to the rule opponens est semper teneri ad probationem. Proofs are usually constituted by syllogisms supporting the questioned premise; syllogisms proving premisees of an objection are called "prosyllogisms". Rules of proof which decide the onus probandi were much debated. It can be shown that these debates concerning the onus probandi in academic disputation are related to similar debates in medieval and post-medieval Roman law. The connections between the post-medieval disputatio and the Roman law tradition will be examined in a later chapter on burden of proof.

Responses or solutions are disputation moves by which the Respondent attempts to "solve" the Opponent's objection, i.e. show that the Opponent's argument does not contradict the thesis. There are several such response-moves which are classified in various ways. The principal moves are well-known: "I deny" (nego), "I concede" (concedo), and "I distinguish" (distinguo). There are primarily two types of denial, i.e. variations on the move nego: a simple denial or bare negation of a premise which throws the burden of proof on the Opponent; complex denials or denials which are justified in some way, the most common of which is the proposal of an instantia, a proposition which stands as a counter-example to a universal premise. The move distinguo includes the concession of the premise in question in one distinguished sense, and the denial of premise in the other distinguished sense. The Respondent must show that the conceded premise does not imply the negation of the proposed thesis. The simple move concedo is the granting of a premise to the Opponent, which should be done only if the premise is true. Inversio and retorsio are counter-argument moves, which the Respondent uses to introduce arguments which conclude the negation of either the conclusion or one of the premisees of the Opponent's argument; these kinds of arguments employ terms from the opponent's objection in such a way that it appears that the argument of the Opponent has been "turned back" against itself. It is difficult to give a precise characterization of these moves; a study of the moves is made in the chapter responsio.

The response of the Respondent is met by an "exception" (exceptio) of the Opponent. To each type of response there correspond types of exceptions. An exception can be made to a simple denial by proofs of the denied premisees; distinctions can either be "destroyed", i.e. shown to be in some sense materially unjustified or to lack any foundation, or conceded and used in another argument against the thesis; denials of universal premisees with a justification (ratio) in the form of an instantia can be met by means of the

"limitation" of the universal premise (limitatio). In each instance the exceptio of the Opponent results in another argument, another objection, against the Respondent's thesis. The arguments produced by the escapes can be met by the Respondent by further requests for proof, or repetitions, assumptions, and responses, which can be met once again by the Opponent with additional proofs or exceptiones , and so on. Sources rarely mention conditions determining when a disputation is won or lost.

Chapter 4: Thomasius (1677), Hanschius (1713), and Felwinger (1659) on the Modern Method

It is useful to examine how some sources describe the structure of the modern method and the general duties of the Respondent and Opponent to provide some substance to the outline and to show that, although the structure of the modern method is described in various ways, the method's overall structure is nevertheless quite uniform in most German second scholastic

sources. This can be shown by a brief look at three sources, Thomasius, Erotemata logica (1677), Hanschius, Idea boni disputatoris (1713) and Felwinger, Brevis commentatio de disputatione (1659).

Thomasius partitions his disputation method into a temporal sequence of three "conflicts" (conflictus), in which the Opponent and Respondent have respective general and specific duties. In the first conflict the Opponent has the general duty of "proposing an objection" and the Respondent has the general duty of "assuming the objection and seeking proof"; in the second conflict the Opponent "proves the objection" and the Respondent "gives a response to either the objection or the proof"; in the third conflict the Opponent "makes an exception to the response with a new objection" and the Respondent gives a new response to the new objection.⁵³ In each conflict under the headings of these general duties are a number of specific duties, some of which are obligatory (debitum) and others which are optional (indebitum). The lists of "obligatory" and "optional" duties of the Opponent and Respondent in the three conflicts provides a very complex, structured theory of disputation.

In the first conflict the Opponent has seven duties four of which are obligatory and three of which are optional. The obligatory duties are: (1) that he propose a certain thesis for dispute and form the status controversiae. (2) that he oppose with a formal syllogism (3) that the syllogism is formally good (4) and that he state a syllogism the conclusion of which correctly contradicts the thesis of the Respondent. The three optional duties are (5) that the syllogism is not "implicit" by deduction ad absurdum but a direct argument,

⁵³Thomasius (1677) p. 143: 27. Opponentis officium per argumenta singula principalia commodè poterit in tres conflictus dividi. In primò proponet objectionem; in alterò, probabit eandem; in tertio ad responsionem adversarii excipiet. 28. Vicissim Respondentis officium erit in primò conflictu assumere & probationem expetere; in altero ad argumentum vel probationem ejus; in tertio ad exceptionem novam respondere.

and (6) that the syllogism does not contain any unneeded premisees and (7) that the syllogism is categorical and not hypothetical. (Quod igitur ad primum attinet conflictum, Opponentis officium his septem partibus circumscribens: (1) proponet thesin certam Respondentis ac inde formabit controversiae statum. (2) Opponet Syllogismum formalem, & quidem (3) formaliter bonum, &, (4) quod ad conclusionem attinet, verè contradicentem thesi seu sententiae Respondentis: (5) idque non implicite per deductionem ad absurdum, sed explicitè: (6) constantem praemissis non otiosis: (7) nec hypotheticum, sed categoricum. Ex his officiis priora quatuor debita sunt; reliqua tria indebita. p.145)

In the first conflict the Respondent has three duties all of which are obligatory: (1) he must repeat the status controversiae, (2) assume the argument of the Opponent (which for Thomasius consists solely in the repetition of the Opponent's arguments), (3) and he must demand proof of the major or minor or both. (Respondentis officium in hoc primo conflictu paucioribus absolvitur partibus. Neque enim ab eo, ubi ante omnia thesin, quam invadit opponens, inquisiverit, amplius quid adhuc tùm requiram, nisi ut (1) repetat controversiae statum: (2) argumentum opponentis assumat; (3) probationem petat vel majoris, vel minoris, vel etiam utriusque. p.157)

In the second conflict Opponent merely has the obligatory duty to prove the premisees scrutinized by the Respondent in the first conflict. (Sic ergò absolutus esto conflictus primus. In secundo unicum facio officium Opponentis, ut praemissam probari postulatam sive unam, sive utramque probet. p.162)

The Respondent follows in the second conflict with two obligatory duties; again the Respondent must assume or repeat the Opponent's proof then the Respondent must move to respond or solve the argument. (Nunc ab Opponente revertamur ad Respondentem. Cujus in hoc secundo conflictu

duplex est officium. Unum, ut repetat probationem Opponentis, alterum ut jam responsionem suam proferat. (p. 168)

The Opponent carries on into the third conflict only if the response of the Respondent is not satisfactory to him. If it is satisfactory the Opponent provides a new objection against the thesis, which initiates the first conflict anew (Tempus est, ut ad tertium conflictum veniamus, qui quidem tùm demum futurus est, si responsio nondum satisfecerit OppONENTI. Nam si satisfecerit, ad novum ille, ubi sic placuerit, argumentum, vel novam veteris probationem se confere, similemque primo vel secundo conflictum intergrabit. p. 183). If the response is not satisfactory then the Opponent must repeat the response and attempt an "exception", which constitute his duties in the third conflict. If the Opponent does attempt to make an exception to the response the Respondent has essentially the same duties as in the second conflict, repetition of the Opponent's argument and then response, which in the third conflict Thomasius calls "diluting the exception". (Generalia hîc praecepta duo sunt. Primum: uterque alterius discursum repetat. Facit enim hoc ad eum finem, ut alter alterum rectius intelligat. Potest tamen hoc etiam omitti, si brevibus agere placeat. 179. Alterum: opponens ad solutionem Respondentis excipiat; Hujus exceptionem diluat Respondens.)

Thomasius' account is of the structure of the modern method and the duties of Opponent and Respondent are of interest for several reasons. First, the partitioning of the method into three "conflicts" is quite unusual. The only other sources I have seen which use this terminology are Syrbius, Wildius and Schubertus, but both Wildius and Schubertus mention two conflicts not three.⁵⁴ In Wildius this is because the Opponent's duty to prove

⁵⁴Johannes Schubertus, Logica practica (Jenae, 1742); Johannes Wildius, Elementa logicae (Stuttgardiae, 1744).

denied premises in his argument is considered to be a part of the first conflict.⁵⁵

Another peculiarity is that Thomasius requires that the Respondent demand proof of one or both of the premises of the Opponent's objection in the first conflict before the Respondent moves to respond. Thomasius notes that this "duty" of the Respondent is often neglected.⁵⁶ In most sources the question of proof arises from the move "I deny", which puts the Opponent and Respondent at a point of disagreement which must be resolved before the disputation can proceed. The question who is obligated to prove, in most sources, is resolved by rules of proof. By making it a duty of the Opponent to prove in the second conflict Thomasius sidesteps possible debate over rules of proof. This additional "duty", however, although it effectively does away with debate over rules of proof, is a minor change to the overall structure of the method.

Hanschius divides the "art of disputing" into "four distinct acts": the proposal of theses, the formation of objections, the solution of the objections and the escape of the given responses. The Respondent must perform the first and third acts and the Opponent the second and fourth.⁵⁷ The temporal sequence of the method of disputation can thus be represented:

⁵⁵ Ibid. p. 283: [The sixth duty of the Opponent in the first conflict] 6. propositionem, a Respondente in dubium vocatum vel negatum, novo syllogismo stabiliet...

⁵⁶ Thomasius (1677) p.158: Tertiò petenda erit probatio praemissarum. Ac solent quidem multi hoc officium negligere, statimque ad respondendum ruere.

⁵⁷ Hanschius (1713) p.18-19: Ars itaque disputandi circa quatuor distinctos versatur actus, quorum primus est Thesium propositio, quae ad Respondentem spectat; secundus, objectionum formatio, quae ad opponentem pertinet; tertius objectionum solutio, quae vicissim Respondentis est; & denique quartus, ad datas responsiones Exceptio, quae ad Opponentem iterum refertur.

OPPONENT

RESPONDENT

(ACT I) proposal of theses

(ACT II) formation of objections
objections

(ACT III) solution of the

(ACT IV) exception to the given
responses

By "proposal of theses" (thesium propositio), Hanschius means not the selection of the particular thesis to be disputed, but the drawing up of the theses to be considered for dispute. This "act of proposing theses" is the same as the composing and circulation of theses prior to disputation, which is, according to Thomasius not a part of the act of disputation. The structures of the disputation methods in Hanschius and Thomasius are thus essentially the same.

The selection of a particular thesis to be attacked is a duty of the Opponent directly before he "forms the objection" in the second act of the disputation. After the formation of the objection Hanschius account of the disputation method is very much along the lines of the account of Thomasius. It should be noted that Hanschius does not mention the second "response" of the Respondent as a fifth act of disputation, because a second "response" would constitute a repetition of the third act.

Felwinger structures his disputation method according to the four Aristotelian causes. The material cause of disputation is the "object" of the dispute i.e. the theses.⁵⁸ Felwinger devotes four pages to explaining some

⁵⁸Felwinger (1659) p. 8: Causa materialis disputationum erit Objectum, sive id, de quo ritè disputationes institui possunt, & uno nomine Theses, vocari possunt.

conditions of content to be placed on theses and to specifying how the theses are "constituted"; these conditions will be examined in the next section. The efficient cause of disputation, on the other hand, is constituted by the "disputing persons" (personae disputantes) the President, Respondent, and Opponent.⁵⁹ The formal cause is the "act" of the disputation itself, which is the "actual discussion" (collatio actualis) of the opposing arguments. The duties to be observed by the "disputing persons" belong to the act of the disputation, i.e. the form.⁶⁰ Felwinger spends around 53 pages spelling out all theses rules and duties which apply to the act of the disputation. His treatment of the rules and duties governing a dispute is similar to the treatments of Thomasius, Hanschius, and others. The final cause is the "utility and necessity" of disputation.⁶¹ The utility and necessity appear to be the same thing, namely, the discovery of truth.⁶²

Felwinger's description of the modern method in terms of the four causes is unique and employs catchy metaphors but does no real theoretical work. Felwinger's account of the modern method is in most respects the same as other treatments of the modern method. I will now begin to go through the individual rules, duties, and strategies of the modern method beginning with the initial duty of the Respondent to propose theses for dispute. The next six chapters will concern particular stages of the modern method. These stages will be treated according to their temporal sequence in the modern method.

⁵⁹Ibid. p. 7: *Causa Efficiens*, ut dictum, complectitur personas disputantes; quae sunt. (1) *Praeses*. (2) *Respondens*. (3) *Interrogans sive Opponens*.

⁶⁰ Ibid. p. 16: *Forma Disputationis est ipse ejus actus, sive actualis argumentorum oppositorum Respondentis videlicet & Interrogantis, collatio*.

⁶¹ Ibid. p. 72: *Restat, ut Disputationis causam Finalem quoque consideremus, quae includit ejus Utilitatem, ac Necessitatem...*

⁶² Ibid. p. 72: *Exprimitur autem finis in definitione Disputationis illis verbis: Veritatis gratiâ instituta*.

Chapter 5: The Proposal and Selection of Theses

The Respondent's first duty in the modern method is to propose a number of theses to be considered for dispute. The issue to be treated in connection with this initiating move of the disputation process is whether or not the theses of a disputation constitute arguments. In this chapter four major sources will be examined, Thomasius (1677), Hanschius (1713), Felwinger (1659), and Böhmerus (1730), which do maintain that theses can have argumentative form.

The question of the logical form of theses is an issue for the modern method, or any method for that matter, only if it is required that more than one simple thesis, i.e. a simple sentence, be proposed by the Respondent. In almost all the German second scholastic sources I have seen the Respondent appears to be expected to propose more than one thesis; however, this apparent expectation is never spelled out as a duty, but is understood as more a matter of custom. This conclusion is based on the observation that many sources refer to the "theses" of the disputation in the plural without debate over whether or not the Respondent should propose one or more theses. Nevertheless there are a few notable exceptions which should be mentioned. Timpler explicitly states that one or more theses can be proposed by the Respondent.⁶³ Schubertus and Butschanyus, on the other hand, allow that either the Respondent asserts a single thesis alone, or a single thesis along

⁶³Timpler (1612), p.843: Obiectum disputationis est thema, sive unum, sive multiplex, de quo collatio mutua instituiture.

with its demonstration, which apparently counts as a provisional proof of the thesis.⁶⁴

In Sanderson, Logicae artis compendium, p. 42-43, we find the interesting remark that disputation in England differs from disputation on the Continent, especially Germany, insofar as in England a specific problem was proposed from which a single thesis was disputed whereas on the Continent several theses are proposed by the Opponent in connection with a certain "theme", from which a single thesis is chosen. Sanderson's description of "transmarine" thesis proposal and selection is consistent with what I have found in most German second scholastic sources.

The issue to be discussed here is of a technical concern, namely what logical form, if any, the theses are proposed in and how the logical form of theses affects the disputation process. Secondary sources up to now, namely Angelelli (1970), Ashworth (1986), and Kenny and Pinborg (1988), have completely overlooked this feature of post-medieval disputation practice. The reason for this may be that in many primary sources the logical form of theses is completely overlooked. Many sources simply refer to theses in the plural as the "object" of the disputation. One is left with the impression that when an author refers to "theses" in the plural he tacitly understands a conjunction of individual theses from among which the Opponent can select one for dispute. There are many examples which could be cited; here I take a passage from Wendelerus where the persona of the Respondent is defined,

⁶⁴Schubertus (Jenae, 1742) p.232: Thesis, quae impugnatur, aut nude tantum proponitur tanquam vera, aut una cum demonstratione, sive vere sive apparenter tali, exhibetur. ; Matthias Butschanyus, Institutiones logicae (Gottingae, 1761) p. 244: Respondens exhibeat OppONENTI aliquid ad oppugnandum, hoc vero est nuda thesis, vel thesis cum eiusdem demonstratione, vel scriptum aliquod.

The Respondent is the disputing person who advances theses either proposed by himself or collected by convention, and he vindicates these from the objections of the Opponent. (Respondens est persona disputans, quae in mutuâ collatione theses vel à se propositas, vel ex conventione collectas propugnant, easque ab Opponentis objectionibus vindicat. p. 20)

Of the four sources mentioned above which do claim theses can have argumentative form the most detailed is Thomasius, who gives rather nice examples of lists of theses, so I will focus primarily on this source.

Thomasius initially tells us that the theses to be circulated before disputation should be numbered or marked in some way. He then provides us with the following example of such a list :

- I. Man is defined as rational animal
- II. Animal rightly occupies the place of the proximate genus: it is placed in the same, correct line of the category proximately above man.
- III. Rational is the differentia. Rationality belongs to the essence of man

With respect to this list of numbered theses Thomasius distinguishes between two types of theses, "manifest theses" and "concealed theses". Manifest theses are the expressly stated propositions on the numbered list, which include both the numbered theses and their constituent propositions (pp. 144-46). Thomasius gives these six examples of manifest theses from the above list:

1. Every man is an animal.
2. Animal is the proximate genus of man.

3. Animal is placed in the same, correct line of the category proximately above man.
4. Rational is the differentia of man.
5. Rational belongs to the essence of man.
6. Rational and animal constitute the essence of man.

With the exception of manifest thesis (1), which I will discuss shortly, all the examples of manifest theses are explicit constituent propositions of the list of numbered theses.

Thomasius contrasts manifest theses with concealed theses, which he distinguishes into three types. One type of concealed thesis is "a thesis hidden in an enthymeme" (p.149). The specific example cited is Thesis II on the list. Thesis II is understood by Thomasius to be an enthymeme in which the first proposition stands as the conclusion and the second as a premise.⁶⁵ The "concealed thesis" is the entire tacit syllogism. The universal major to be supplied is,

Whatever is placed in the same, correct line of the category proximately above another, which is the species, is the proximate genus of that species (p.149).

⁶⁵Thomaius (1677) p.148-49: Vides jam, quod suprà n. 38. praemonebamus, thesin Respondentis aliam esse manifestam sue expressam; aliam occultam seu implicitam. Neque enim necesse est, ut in disputationibus conscribendis integros syllogismos proferamus. Possumus chartae & otio Lectoris parcere. Imò ne hoc quidem ibi requiritur, ut partes enthymematis hujusmodi locentur ordine naturali. Licebit conclusionem antecedenti praemittere.

A second type of concealed thesis is any proposition logically implied by the numbered theses which is not expressly stated in those theses.⁶⁶ Thomasius provides six examples.

1. This definition "man is a rational animal" is a good definition.
2. Every man is an animal.
3. Every man is rational.
4. Every rational animal is a man.
5. Whatever is not a rational is not a man.
6. Whatever is not a man is not an animal.⁶⁷

Concealed theses (2) through (6) are, strictly speaking, not logically implied by the manifest theses provided above, but rather are implied by the manifest theses and certain well-known properties of definition, which are assumed (see above footnote). Also, concealed thesis (2) is identical to manifest thesis (1). Thomasius has clearly committed an oversight here since this thesis is only implied by thesis (1) and is not expressly stated in thesis (1), therefore, it cannot be a manifest thesis according to Thomasius' own

⁶⁶Ibid. p. 149-50: Porro, non putandum est, implicitas seu occultas theses esse solùm illas, quae latent in enthymemate... Uno verbo: quaecunque thesis per legitimam consequentiam, cui ne quidem ipse autor refragetur educi potest è verbis disputationis, utut in iis expressè non habeatur, ea est implicita. (

⁶⁷Thomasius has cramped a great deal into a very small text here. I produce the text which explains how Thomaius sees these manifest theses to logically follow from the numbered thesis I (p.150): Ut autem exemplis quoque doceamus, plura esse thesium occultarum genera, quàm unum, assumamus ex n. 32. posit. I. hanc manifestam Definitur homo, quod sit animal rationale. In eâ implicitè latent hae quoque: (1) Haec Definitio: Homo est animal rationale, est bona. (Nemo enim definitiones suas volet videri vitiosas.) (2) O. Homo est animal. (3) O. Homo est rationalis per consecutionem à conjunctis ad divisa.) (4) O. Animal rationale est homo (Haec enim natura est definitionis bonae, ut sit reciproca.) (5) Vi conversionis: Quicquid non est anima rationale, non est homo: & (6) Quicquid non est homo, non est animal rationale. Possent etiam plures elici, sed hae sufficient.

criterion. Another curiosity is concealed thesis (1). This thesis is not logically implied by Thesis I. Thomasius claims that it is implied because "no one wants his definitions to be bad," (p.150, §56) but this is a weak extra-logical consideration.

A third type of concealed thesis is any logical implication accepted by the Respondent in his numbered theses (p.150, §57 and p.151, §58). In Thesis II, for instance, the Respondent accepts that an implication relation holds between the first proposition as conclusion and the second as premise, with a tacitly understood major. A concealed thesis of the Respondent is that such an implication relation holds. This is distinguished as a different type of concealed thesis because it pertains to the form of the theses rather than the matter.⁶⁸

The upshot of Thomasius' rather complex classification of theses is that the Respondent is not considered to be asserting a conjunction of theses which can be attacked individually, but a "position" of sorts, which consists of expressly stated theses (manifest theses), premises in tacit syllogistic arguments (concealed theses hidden in an enthymeme), any proposition logically implied by the expressly stated theses, and the implication relations which hold between the expressly stated theses. From among the manifest and concealed theses of this "position", as I have called it, the Opponent may select a particular thesis to be attacked, and this thesis need not pertain to the matter of the Opponent's position, namely the expressly stated theses and the propositions they imply, but can also concern an implication relation which holds among the expressly stated theses.

⁶⁸Ibid. p.150: Uterius ad novum genus occultae thesios illud quoque abit, cum Opponens in argumento Respondentis impugnat ipsam formam syllogisticam, ut vitiosam...

The explicit statement in Thomasius that the theses of the Respondent can have argumentative form is contrasted with the absence of any rules or recommendations concerning the kind of form the theses should have. Thomasius very briefly refers to the "method" and "order" of the theses, in discussing ways in which the theses can be attacked by the Opponent, but the "method" and "order" of the theses appears not to refer to their logical form, but their grammar and order; and Thomasius claims that attacking the order and method of the theses "does not deserve much grace or praise."⁶⁹

In Hanschius and Böhmerus references are also made to the order of the theses. Hanschius states that it is a duty of the Respondent to place the theses in elegant order so that the "general" theses are placed before the particular (specialibus) and "principles" are placed before the conclusions.⁷⁰ This, of course, implies that the theses advance arguments, but Hanschius says nothing more about the matter, and even in his sample disputation on pp. 30-35 he does not bother to provide an example of theses in argumentative form.

Böhmerus states that it is a duty of the Respondent to understand exactly the "total connection" of his dissertation. In explaining this duty Böhmerus says that there is a connection in the "dissertation" of the Respondent and that the Respondent must consider the "capital foundation" of his dissertation from which all the conclusions in his dissertation are formed. A dissertation for Böhmerus appears to be a collection of theses, which

⁶⁹Ibid. p.147: Methodum atque ordinem Thesium impugnare, atque adeò de formâ litigare, omissâ materiâ; ne hoc quidem multum habet vel gratiae, vel laudis. Atque ut semel & generatim dicam, si quid maximè sit à Respondente conscribendis thesibus extra materiam ipsarum rerum, ex imperitiâ vel grammaticae, vel methodicae doctrinae peccatum, pro levi ac minuto sic habebò, ut satius sit talia dissimulare, quàm argumentando exagitare.

⁷⁰Hanschius (1713) p. 19: Idque eleganti ordine, generalia specialibus, & principia conclusionibus praemittendo, omnia numeris vel alia ratione distinguendo, nervosae ubique tum brevitati tum perspicuitati studendo, & convenientem tandem thesibus titulum praefigendo.

implicitly contains a "capital foundation" and "conclusions". Böhmerus does not explicitly say that this "connection" between the foundation and the conclusions is logical implication but it appears that it must be.⁷¹ Such a description of the form of the theses of the Respondent is consistent with Thomasius' and Hanschius' remarks on the form of theses.

Felwinger distinguishes three ways in which theses can be written and constituted. The first way is when "maxims" (praecepta) are briefly expressed by definitions, divisions and explications of properties." (p.10: Conscribi & constitui istiusmodi these possunt potissimum tripliciter (I) quando praecepta breviter comprehenduntur per definitiones, divisiones & proprietatum explicationes.) This particular way of arranging theses appears not to be to argumentative but is rather a proposal of definitions and explanations. The second way, however, is clearly argumentative: "to compose theses according to a mode of some discourse so that a consequent logically follows from an antecedent." (p.10: Ut theses secundum modum alicujus discursus ita conscribantur, ut consequens sit antecedentis consecarium...).

Felwinger's so-called third way of composing and constituting theses is complex and not at all clear. It is divided into five parts, the last three of which appear to go together. The first part states that the theses can be composed so that the status controversiae, which should be stated by the Opponent, is legitimately placed in doubt. (p.11: Vel ita, ut dubiis 1. status controversiae legitimè ponatur.) Felwinger does not explain what this means. The best guess I can venture is that it means that theses can be composed in an

⁷¹Böhmerus (1730) pp.32-3: Totum nexum suae dissertationis exacte intelligat respondens. Officium respondentis in genere consistit in eo, ut propositum thema ad disputandum possit defendere... consideret totius suae dissertationis fundamentum capitale, ex quo tot conclusiones in sua dissertatione formavit Autor, studeatque, ut ad illud omnes controversias reducere queat. Inde (3) totius suae disputationis connexionem colliget, qua cognita, magis praeparatus erit ad omnia opponentium tela excipienda...

unclear way so that it is difficult for the Opponent to come up with a clear status controversiae. The second part states that the theses can be composed so that a true proposition is confirmed by the nature of the subject and predicate having been deduced. (p. 11: 2. vera sententia per argumenta, ex natura subjecti & praedati ducta, confirmetur.) Here clearly the theses form an argument with at least one premise which logically implies a conclusion known to be true. The only difference between this and "the second way" above seems to be that the conclusion is known to be true and thus is "confirmed" by the argument. The third, fourth, and fifth part appear to go together. I will simply translate them and then try to interpret what they mean:

"[theses can be composed in such a way that]3. a false opinion or thesis of the adversary after confirmation is proposed and explained by the very words of the adversary. 4. [and] the same opinion of the adversary is modestly refuted and 5. from the confirmed opinion a certain corollary is deduced."⁷²

Here it appears that a thesis is first confirmed to be false and then proposed and explained by the Respondent, "in the very words" (ipsis verbis) in which it was confirmed to be false, presumably to ensure that the Respondent does not change the language to make the thesis appear to be true. After the confirmation of the falsity of the thesis and its proposal it is "modestly" refuted. Finally, "some corollary of the the confirmed opinion", that is, some true proposition which logically follows from the negation of thesis, is deduced.⁷³

⁷²Felwinger (1659) p.11: 3 falsa sententia seu thesis adversarii post confirmationem proponatur, & ipsis adversarii verbis explicetur. 4. eadem illa sententia adversarii modestè refutetur & 5. ex sententia confirmatâ, quaedam corollaria deducantur.

⁷³The method of confirming a false thesis alluded to here can be contrasted with the method of confirming a true thesis, which is found in Keckermann (1614) p.461: III. Confirmetur thesis proposita per argumenta primum artificialia, ducta ex natura subjecti

These last three parts of "the third way of composing theses" appear to outline a method in which a false thesis is confirmed to be false, and then refuted, and then some true proposition is deduced from the negation of the thesis. This does not appear to be a way of "composing and constituting theses" but a full blown method of disputation. Felwinger says nothing more about this apparent method in his little treatise. In any case, from Felwinger's second way of composing theses it is clear that theses can have argumentative form. It does not appear that this is necessary, however, since according to the first way theses can simply be "maxims expressed by definitions, divisions, and explanations of properties."

If it is allowed that the theses of the Respondent constitute arguments then the question arises whether or not the Opponent is allowed to respond to those arguments. None of the above sources which allow argumentative thesis structuring allow response moves to the Opponent. Thomasius, as we have seen, allows selection of both material and formal theses. Felwinger, in his sample disputation, allows the Respondent both to state a thesis and an ekthesis, which is a paragraph consisting of arguments for the thesis. The Opponent does not respond to the argument, however, but offers a rather lengthy and apparently ritualized Invitatio, in which he graciously invites the Opponent to dispute and invokes Christ. When the Opponent finally makes his first substantive move in the disputation it is simply a syllogism whose conclusion contradicts the thesis.

& praedicati. 2. etiam inartificialia, sive testimonia & auctoritates... IV. Post confirmationem ponatur thesis adversarii, nostrae thesi directè opposita. V. Subijciatur refutatio, tum distinctionem, quibus ad nostrae argumenta respondent, tum obiectionum etiam adversarii. VI. Repetatur thesis comprobata, & colligantur porismata ex conclusione per argumenta confirmata.. Keckermann's method will be treated carefully in a later chapter. Both these sources indicate that a confirmatio can be provided before the Opponent advances arguments to provide grounds or perhaps even proof that the thesis is true or false.

Calovius notes that if the Respondent is allowed to state "not only assertions and bare positions but also their arguments" the duties of the Respondent and Opponent can be confused; if the Respondent attaches proof in the theses then the Opponent can assume the right of responding to those proofs and refute them, hence the Respondent will be bound to defend against the responses with "exceptions".⁷⁴ This will have the effect of reversing the roles of the Respondent and Opponent. Role reversal of Respondent and Opponent is an issue also brought up in connection with the rules for the burden of proof as well. Calovius argues that the duties of the Respondent and Opponent must be kept distinct; therefore, theses should not offer proofs to which the Opponent may respond, but be constituted by "bare assertions" against which the Opponent offers arguments.

⁷⁴Abraham Calovius, De methodo docendi & disputandi (Rostochii, 1687) p. 476: Quum itaque facilimè haec distincta munia atque jura disputantium confundantur, ubi respondens ad examen produxerit non modò assertiones & positiones nudas, sed rationes earundem, praestabit sanè in disputationibus arduis, atque gravioribus, nudas sub incudem revocare theses, ut distincta ... maneant respondentis & opponentis officia. Nam probationes adsectae fuerint, poterit opponens sibi sumere jus respondendi ad illas probationes, easque refellere, inde tenebitur respondens, rationes istas tueri exceptionibus ad responsiones opponentis...

Chapter 6: Forming the *status controversiae*

The act of forming the *status controversiae* is normally considered to be a duty of the Opponent which follows the selection of a particular thesis. The overall purpose of forming the *status controversiae* is to make clear to the disputants and the audience the meaning of the thesis under dispute accompanied by a consideration, not an assertion, of arguments to be brought against the thesis. A brief account of this is found in a little known work by the Jesuit Freytag, who says that forming the *status controversiae* entails grasping arguments for one's own position as well as arguments for one's adversaries' position and solutions and refutations of both. The difficulty of this task, Freytag remarks, is a reason why a great deal of study is needed before one "presumes to ascend to the chairs of the disputants."⁷⁵ Other sources place more emphasis not on the consideration of arguments for and against the thesis in forming the *status controversiae* but on clarification of the meanings of the terms of the thesis. Felwinger, for instance, requires that the *status controversiae*, which in this context would be the problem under dispute, i.e. the thesis, be explained by phrases which are logically equipollent, and that the meanings of the terms of these phrases be determined. The course of the disputation should also be considered in light of the meaning of the terms in the thesis and the equipollent phrases which explain the thesis.⁷⁶

⁷⁵Franciscus Freytag, S.J., *Dialectica nova sive introductio in philosophiam* (Osnaburgi, 1706) p. 183: Intelligat itaque primò, quam potest perspicacissimè, statum quaestionis ac controversae. 2. Sententiam suam ejusque rationes ac fundamenta. 3. Sententiam adversariorum, eorumque rationes ac fundamenta saltem principaliora. 4. Congruas omnium solutiones ac refutationes. Quare rursus diu studuisse necesse est, antequam disputatum cathedras praesumat conscendere.

⁷⁶Felwinger (1659) p. 21: (21.) Certus controversiae status ponatur ab iis, ne more Andabatarum pugnent. (22.) Status controversiae aequipollentibus phrasibus explicetur. (23.) Terminorum explicatio instituatur, & significationes eorundem determinetur. (24.) Contra quos instituta disputatio, consideretur.

Böhmerus stresses that the Opponent, in forming the status controversiae, must explain the thesis according to the meaning of the Respondent; and if the thesis is ambiguous the Opponent is allowed to question the Respondent about the meaning of the thesis.⁷⁷ This is the only point in the modern method in which the Respondent is allowed interrogative moves and sources are careful to limit the extent to which the Respondent can be interrogated. Langius, for instance, allows the Opponent to ask "one or two questions" if the meaning of the thesis is obscure.⁷⁸

The formation of the status controversiae is related to the construction of the objection against the thesis; a well-formed status controversiae makes clear to disputants and audience the issue under disputed, which provides the

⁷⁷Böhmerus (1730) pp.15-16: Plerumque enim aliam adversario affingunt mentem, & ita aërem verberant, sicut intentantes. Ne itaque opponens eandem admittat absurditatem, caveat, ut thesin electam secundum mentem respondentis explicet. Quod ut fiat, (1) evolvat ambiguitates terminorum in controversia occurrentium, & si respondens in disputatione mentem suam non satis declaraverit, ex ipso sciscitetur, quo sensu in praesenti controversia illum terminum accipiat. Veluti si quaestio sit de *immutabilitate iuris Naturae*, tam subjectum quam praedicatum ambiguitate laborat. Ius naturae enim vel denotat *legem naturalem vel facultatem naturalem*, aliquando etiam *instinctum naturalem*: non raro etiam, quod apud plerasque gentes iustum habetur. Sic etiam mutabilitas iuris praedicatur de *restrictiva interpretatione*, vel de *nonassistencia iuris civilis in foro soli*, vel de *collisione duorum praeceptorum iuris naturae*, ubi imago cuiusdam mutationis, iudice GROTIUS, saepe fallit incautos &c.

⁷⁸Langius (1719) pp. 34-35: THESIS VI. Ipsius vero oppositionis initium post acceptam cum praefamine aliqua invitationem, fit a determinatione theseos oppugnandae, addita sincera genuini controversae status formatione. Ekthesis. Ut controversiae status eo accuratius constitui possit, interdum consultum est, formationi isti unam atque alteram quaestionem ad Respondentem praemittere, imprimis si thesis aliquanto obscurius est proposita. Langius also makes a rather nice distinction between "forming" the status controversiae and "determining" it; the Opponent has the former duty whereas the Respondent has the latter duty which is fulfilled by writing down the theses, p.49: Status controversiae formandus est non ex Opponentis arbitrio, sed ex Respondentis... Unde Respondentis est de statu controversiae iudicare, eumque, si non recte formatus sit, reformare, & Opponentem, si imperitus sit, vel rectius informare, vel de sophismate, aut de sinistra interpretatione...

Opponent with clear knowledge of what must be argued. Numerous sources, C. Martini and Böhmerus to name two, acknowledge that the formation of the status controversiae, considered in its relation to the construction of the objection, functions as a safeguard against the Opponent arguing ignoratio elenchi.⁷⁹ Böhmerus likens the of forming the status controversiae to the formal entering of a law suit in court; the action of the litis contestatio presumably makes clear the issue to be examined in court just as forming the status controversiae makes the issue to be examined in disputation. Careless Opponents who superficially inspect the Respondent's thesis often move straightaway to advance an argument which can be admitted by the Respondent without the thesis being attacked.⁸⁰

The marshalling of arguments and clarification of terms in the thesis, which constitutes the formation of the status controversiae may appear to be trivial matters if we forget the viva voce nature of the disputation. The rule requiring the proper formation of the status controversiae, like the rules that disputants have moral character, and arguments and responses be repeated, belong to the practical side of the disputation method. This rule is mentioned in almost all the sources I have seen and was considered essential to good disputation practice.

⁷⁹ C. Martini (1638) p.23: Vocant autem vulgò controversiae statum, qui tibi constituendus est exquisitissimè, ut dixi, & videndum, qualis sit quaestio; deinde an & quomodo ei contradicatur. Cum enim omnis, qui de re aliquâ disputat, adversarium aut habeat aut habere se statuatur, (si enim tam evidens res sit, ut ei contradici nequeat, aut nullâ, aut certè valdè exiguâ institutione opus fuerit) omninò cautè observari debet, quâ ratione positae thesi contradicat, quod nisi facias, turpis orietur ignorantia elenchi, ut tu de caepis quaeras, alter respondeat de aliis.

⁸⁰Böhmerus (1730) p.15: Electa thesi, status controversiae recte est formandus. Quod in processu est litis contestatio; id etiam in disputationibus est formatio status controversiae. Incauti hic ut plurimum solent esse opposites, ut thesin respondentis superficialiter inspiciant, & tale argumentum statim forment, quod salva thesi a respondente admitti potest.

Chapter 7: Objectio

The proposal of an objection to the selected thesis is a duty of the Opponent which follows sequentially the formation of the status controversiae. A number of issues can be raised in connection with the objection which cover a broad spectrum of concerns. I will discuss the following issues which either have to do with the objection itself or more generally with argumentation in disputation: (1) I will show that there is some disagreement in the primary sources concerning whether the conclusion of the objection should strictly contradict the thesis or merely be its contrary, and I will examine some justifications for the rule that the objection strictly contradict the thesis. (2) I will briefly discuss the distinction between direct and indirect arguments with relation to the objection. (3) Primary sources rarely discuss the methods of finding and evaluating arguments in disputation, outside the context of syllogistic logic. Nevertheless, a few sources do mention the use of topics (loci) in connection with finding the content of arguments; topics are also mentioned as things to be used to prove arguments. Here I will very generally discuss the role of topics in disputation, which will require some digression on medieval topic theory. (4) A common rule of the modern method concerning principles is contra negantem principia non est disputandum, which prohibits the denial of principles. I will examine discussions of this rule in Wendelerus, Dannahwerus, and Timpler, and I will say a few things concerning the necessity of adopting such a rule.

Contradictory or contrary

The first question to be addressed concerning the objection is whether or not it is necessary that the conclusion of the objection strictly contradict the thesis. With the exception of Thomasius and the unusual dissertation of Jacobus Jacobi, all the sources I have seen appear to require that the objection contradict the thesis. In Thomasius and Jacobi it is allowed that the Opponent offer an argument which merely proves the contrary of the thesis. Jacobi's dissertation, Dissertatio de obligatione probandi (1716), does not recognize a rule that the Opponent can argue for the contrary of the thesis, but does contain examples of disputations in which such a rule appears to be understood. Thomasius recognizes the rule and offers the justification, that if the Opponent argues the contrary then the thesis and the antithesis cannot both be simultaneously true.⁸¹

Thomasius does not elaborate on this brief justification, but one can gather why proving the contrary of the thesis could be considered sufficient in the modern method. In the modern method it is not necessary that an attempt be made to prove that the thesis is true since by the rules of proof the Respondent is not obligated to prove. But as far as proving the falsity of the thesis is concerned a proof of either its contrary or contradictory will do since both imply that the thesis is false. Proving the contrary of a thesis would in fact be more difficult because the Opponent would have to prove a universal proposition, an E proposition if the thesis were an A proposition, and an A proposition if the thesis were an E, but no mention is made of this "extra difficulty" in Thomasius or Jacobi.

⁸¹Thomasius (1677) p.152-53: Contradictionis autem vocabulum hic paulo laxius, quàm aliàs, accipitur: sic videlicet, ut locum habeat non modò in propositione contradictoriâ famosè dictâ, sed etiam contrariâ. Ratio, quia ad officium contradicendi in actu disputatorio sufficit, si thesis & antithesis, h. e. propositio Respondentis & Opponentis non possint simul esse verae, id quod locum habet etiam in oppositione contrariâ.

Most sources typically hold, contra Thomasius and Jacobi, that the conclusion of the Opponent's objections must strictly contradict the Respondent's thesis.⁸² Sources seldom discuss the justification for this rule, and when they do the arguments are not as clear as one would like. Sources worth looking at on this point are Dannhawerus, Schneider, Kesler and Calovius.

Dannhawerus attempts to justify that the objection should contradict the thesis by introducing a common idea found also in Schneider and Kesler, that contradiction is the best way to distinguish what is true from what is false. Dannhawerus gives two explanations of this idea, neither one of which is entirely satisfactory. The first explanation is simply that in contradiction both contradictories cannot be true at the same time. Unfortunately, this is not related to how a disputation is to divide the true from the false. Again one could prove the thesis false by proving that the contrary is true. The second explanation is the following: "because if you obtain from the Respondent that 1. your most true conclusion follows rightly from its own principles 2. it [your conclusion] contradicts his thesis without ignoratio elenchi, then by all means you immediately win."⁸³ (Quod si igitur id obtinuisti à respondente 1. tuam conclusionem verissimam, ex suis principiis justè fluere 2. eam contradicere sine ignorantione elenchi ejus thesi, jam utique vicisti.) In this passage I take it that soundness is what is meant by "a most true conclusion which follows correctly from its own principles." In that case there are two

⁸²For instance, see Geulincx (1663) p.115: Primo ergo Oppugnans formet contradictoriam Thesis oppugnandae... ; Hanschius (1713) p. 21: Statu controversiae prius rite formato Thesi Respondentis directe contradicat... ; Hermannus Osterrieder, Logica critica (Augustae Vindelicorum, 1760) p. 537: Disputantes sibi vere contradicant...

⁸³Dannhawerus (1632) p. 94-95: I. finis omnis disputationis est dividere verum à falso, atqui id nihil aequè praestat ac contradictio, quia enim de simpliciter eodem aliquid dicit, fieri autem nequit, ut idem simul sit, & non sit, hinc verùm à falso optimè sequestrat. Quod si igitur id obtinuisti à respondente 1. tuam conclusionem verissimam, ex suis principiis justè fluere 2. eam contradicere sine ignorantione elenchi ejus thesi, jam utique vicisti.

conditions for the Opponent "winning" a disputation: 1. the argument against the thesis is sound 2. the conclusion of the argument contradicts the thesis, which entails that the Opponent has not argued ignoratio elenchi. Again Dannhawerus seems to miss the point that if the Opponent proves the contrary of the thesis he would also win since the thesis and its contrary cannot be true together. If the primary aim of the disputation is to prove the falsity of the thesis then the contrary appears to "divide the true from the false" just as well as the contradictory.

Dannhawerus does acknowledge the possibility of allowing the Opponent to argue for the contrary of the thesis and argues against it in a rather obscure passage, which appears to provide a reductio proof of the principle that contraries cannot be true together but can be false together.⁸⁴ I will not bother to go through the proof, which is difficult in places; but clearly a proof of the principle that contraries cannot be true together does not provide us with a reason for disallowing the Opponent from arguing for the contrary of the thesis. In fact, this principle shows that the Opponent can prove that the thesis is false by proving that the contrary is true. What Dannhawerus should say is that it is far more prudent for the Opponent to argue for the contradictory of the thesis because it is possible that both the thesis and its contrary are false. In that case, even though the thesis is false, there would exist no sound argument by which the Opponent can prove the contrary and win.

⁸⁴Ibid. p.95: Atque in hoc puncto discrepat contradictio ab oppositione contrariâ, in qua utraque pars falsa esse potest non tamen utraque vera: hoc patet, quia verum esset omnem & nullum hominem esse rusticum, verum quoque foret quendam hominem & quendam non esse rusticum, hoc si sit, simul stabunt haec contradicentia, Quidam & nullus homo est rusticus: Item omnis & quidam homo est rusticus. Illud liquet; quia si maximè hae duae falsae sunt, omnem & nullum hominem esse rusticum, non tamen idè etiam à vero abludunt earum subalternae, quia à propositionis sub alternae veritate non falsitate ad sub alternatam valet consequentia. Haec en periouteis, ne quis existemet satis esse si conclusio opponentis contrariè solùm sit opposita thesi respondentis

Schneider claims, as Dannhawerus does, that only an argument which concludes the true contradiction of the thesis and not contrary or subcontrary can fulfill the disputation's aim of "segregating the true from the false";⁸⁵ but Schneider also mentions that neither the contrary nor the subcontrary "exclude error". In the case of the contrary this certainly refers to the possibility that two contraries can be false together, but Schneider does not explain how this leaves open the possibility of "error". One could be generous and interpret this to mean that if the thesis and its contrary are false and the Opponent argues for the contrary of the thesis the disputation is in a sense erroneous i.e. fruitless, and that to avoid the possibility of such fruitless disputation the Opponent ought to always contradict the thesis.

Kesler rules out arguing for the contrary with an unexplained reference to his Systema Logicum, and dogmatically endorses the rule that the Opponent argue for the contradictory of the thesis.⁸⁶ Again in Kesler the rule is connected to the idea that "contradiction accurately and immediately

⁸⁵Schneider (1718) pp. 53-56: (pp.53-54) Primum itaque opponentis officium est, ut bene formatum controversiae statum per legitimam contradictionem impugnet. Quae sane impugnatione non contemnendis rationibus demonstrari potest. Nam disputatio omnis est inventa ad segregationem veri falso, ceu dictum cap. I. 6. quam omnium optime legitima contradictio praestat. (pp.55-56) E quibus sponte sua fluit, nec contrariam, nec subcontrariam oppositionem dissentientibus sufficere posse, quoniam neutra erroris ubique excludit.

⁸⁶Kesler (1668) p.136-36: Canon IV. Thesi electae ac intellectae Opponens opponet argumentum, cuius conclusio sit ipsi contradictoria. Nam contradictio dividit inter verum & falsum accuratè & immediatè, quod non facit axiomatum contrarietas & subcontrarietas, multò minus subaltertio. v.g. sit thesis: Omnes homines sunt electi. Huic Opponens non opponet hanc: Nulli homines sunt electi. Id quod ex Systemate Logico repetendum est. Potest tamen fieri, ut opponens conclusionem formet, cuius veritas sequitur ex theseos contradictoria. Nam v.g. qui concludit convertendam, etiam concludit convertentem qui concludit unam aequipollentium, etiam concludit alteram. Ut sit thesis Calviniana: Omnes fideles sunt electi, concludenda est Opponente haec: Quidam fideles non sunt electi. [ut qui ad tempus saltem credunt.] Nihil autem refert, si ita concludatur: Non omnes fideles sunt electi. Interdum etiam magis respicitur ad sensum, quàm ad verba.

divides what is true from what is false". Rather than explain this idea Kesler mentions a logical point, irrelevant to the issue in question, that the Opponent can argue for the contradiction of the thesis by proving propositions which are logically equivalent to it by the laws of conversion and equipollence.

Horneius, in giving three reasons why one should know accurately contradictory opposition, comes close to stating the best justification for the rule that the objection must contradict the thesis. The point Horneius makes is that if the disputants do not know the laws of contradiction then there is no point in disputing, because it is possible that the disputation will have no outcome.⁸⁷ The point which could be added to what Horneius says is that if Opponent tries to prove the contrary, it is possible that the thesis cannot be beaten by a sound argument because it is possible that the contrary is false. Such a disputation could, therefore, have no outcome and be "in vain". This seems to be the best way to justify the rule in question, but this point is not made explicitly in any of the sources I have seen.

Direct and indirect argument

The common methods of direct and indirect argument are both mentioned in numerous sources as the two legitimate ways of proving the contradiction of the thesis.⁸⁸ Both types of arguments should be given

⁸⁷Horneius (1666) p.63: Altera causa est, ut rectè statum controversiae in disputatione constituas: sicut enim, qui controversantur, contradicere sibi inter se debent, non contrariè, aut subcontrariè pugnare, cùm frustrà aliàs esse disputatio possit, necesse est, ut si accuratè inter contradictionem & caeteras oppositiones distinguere nequeas, de ea re disceptes, de qua disceptandi nulla caussa est, & tota disputatione ignorantiam elenchi committas...

⁸⁸A typical, condensed statement of the distinct is found in Felwinger (1659) p. 30: Si vederit commodiusne directè, an indirectè thesis proposita impugnetur: Si directè, argumenta rectà ad scopum theseos evertendae dirigenda erunt: Si ex hypothesi & indirectè, videndum ut ad impossibile deducatur. Illa quidem magis adhibenda via est: ista verò, si respondens pertinax

sylogistically according to the rule discussed earlier that the arguments of the Opponent be statable in syllogistic form. The use of indirect argument is also mentioned as a strategy for defeating the Respondent if the Respondent is obstinate and cannot be defeated by direct argument. This strategic use of indirect argument in the modern method is analogous to the recommended use of induction in the Aristotelian Topics to defeat difficult answerers.⁸⁹ Again we see that because of the rule that arguments in the modern method be syllogistic a feature of the Aristotelian question method is disregarded.

In Hanschius we find mentioned a type of indirect argument which assumes "hypotheses" of the Respondent and concludes the thesis is false.⁹⁰ In this type of indirect argument the "hypotheses" of the Respondent appear to be either other theses explicitly stated by the Respondent or propositions which the Opponent believes the Respondent holds to be true. Hanschius does not explain this type of indirect argument further, but from the little that is said it does not appear to be an indirect argument at all. The argument aims not to show that the thesis in question implies an impossibility but that there is an inconsistency among propositions which the Respondent wants to maintain are true.

Loci and disputation

sit, & prioibus nihil obtineri possit.

⁸⁹Topics 155b29-156a22.

⁹⁰Hanschius (1713) pp.21-22: Ut antithesin suam eo melius urgere & defendere possit, argumenta proprio Marte inveniatur, eaque vel kat' él'Eyeian vel kat' ênyvpon, prioribus antitheseos suae veritatem directe probat, posterioribus indirecte, ostendendo absurdum, quod ex assumpta Respondentis thesi consequitur. 9. Hunc in finem hypotheses Respondentis probe teneat, ut ex thesi contra illas arguere, vel illas assumendo pro veris, theseos falsitatem exinde deducere possit.

Second scholastic tracts and treatises on disputation tend to disregard the problem of "discovery" of arguments in disputation. The reason for this is probably that the problem is not a special problem of disputation theory but belongs more appropriately to the wider context of problems of the ars inveniendi. A few sources do, however, mention the problem of discovery and discuss methods for finding arguments which shed some light on the mechanics of constructing arguments in disputation as well as on some possible presuppositions to disputation. The source I will be primarily concerned with is Hanschius Idea boni disputatoris (1713), who does say a few interesting things about the finding of arguments in disputation; a discussion of the text in Hanschius will lead to the very large issue of post-medieval views on topics (loci). I cannot begin to treat this issue in sufficient depth here, but I will provide some background to medieval topic theory and show that there are affinities between some common medieval doctrines on topics and some doctrines found in Hanschius, and the well known second scholastic logic textbooks of Sanderson and Fonseca.

With respect to the form of the objection Hanschius mentions a rather simple way of finding the type of syllogism to be used. Hanschius accepts the common rule that the conclusion of the objection must contradict the thesis. So, in finding the form of the syllogism one needs to look at the type of categorical proposition exemplified by the thesis and then one can list the possible syllogisms to be used in the objection. For instance, if the thesis is, say, a universal affirmative, the conclusion of the objection must be a particular negative. The possible syllogisms to be used, therefore, are Ferio, Festino, Baroco, Felapton, Bocardo and Ferison.⁹¹ In a similar way all other

⁹¹Hanschius (1713) pp.24-25: 15. Hunc autem facile formabit Opponens ex inventis jam mediis terminis, attendendo ad theseos propositae quidditatem, qualitatem & quantitatem, ut innotescat, quo Syllogismi genere, simplici an composito, sit utendum; & si simplici, in qua

types of theses indicate the possible types of syllogisms which can be used by the Opponent in the objection.⁹²

A far more difficult question concerns not the finding of the syllogistic form of the argument and the the quality and quantity of the desired premisses, but the content or matter of the argument. This issue pertains to a more difficult area of logic relevant of disputation, the finding of premisses and argument by topics (loci).

As early as Aristotle topics (Gr. topoi/ Lat. loci) and the methodology of disputation have been theoretically related; and in the Aristotelian Topics, the first work in which topics and disputation appear to be theoretically linked, the role of topics in disputation is not entirely clear. Aristotle nowhere tells us precisely what a topic is and does not bother to explain any "theory" of topics which would treat the question of what are the roles of topics in dialectic. The Aristotelian Topics and Rhetoric merely leave us with hundreds of examples of topics, which appear to have been collected by Aristotle and perhaps some students over a period of time. It does appear to be clear, however, that the Aristotelian dialectical method is intended to treat dialectical problems, i.e. problems which admit of some controversy, by means of dialectical reasoning in disputation, i.e. reasoning from "accepted opinions" as opposed to necessary truths. Aristotle, for whatever reason, considers disputation and dialectical reasoning to be essentially linked to one another.⁹³ Whatever the various roles of topics outside of dialectic may be, in

figura & modo concludi commode possit... 16. Si Thesis fuerit Universalis affirmans, antithesis per leges contradictionis & aequipollentiae erit particularis negans, consequenter concludi poterit in omnibus tribus figuris, in prima quidem in modo FERIO, in secunda in modis FESTINO, BAROCO, & in tertia figura in modis FELAPTON, BOCARDO & FERISON...

⁹²Ibid. pp. 25-30.

⁹³Topics 155b8-16.

disputation the topics must pertain to reasoning from accepted opinions as opposed to reasoning from necessary truths.

The history of topic theory after Aristotle is complicated by the influence of Cicero's Topics on the tradition, a work which differs considerably from the Aristotelian work of the same name. Both the Aristotelian and Ciceronian Topics influenced Boethius, who is without question the most influential source in the development of medieval topic theory. Medieval topic theory, I would venture to say, is the best known area of topic theory in the history of logic due to the studies of Bird, Pinborg, Stump, Pederson-Green and others.⁹⁴ The recent studies of Stump and Pederson-Green have also contributed much to the understanding of the overall development of topic theory from Aristotle to the fourteenth century.⁹⁵ But with respect to second scholastic treatments of topics (by "second scholastic treatments of topics" I am referring to treatments of topics by Post-Reformation logicians in the Aristotelian tradition) I know of no secondary sources to which one can turn. This presents us with an enormous problem in examining the use of topics in the discovery of arguments in post-medieval disputation.

⁹⁴I mention only some of the major or more recent studies of medieval topic theory: Otto Bird, "The Formalizing of the Topics in Medieval Logic," Notre Dame Journal of Formal Logic, 1 (1960), 138-49; and "The Logical Interest of the Topics as Seen in Abelard," Modern Schoolman, 37 (1959), 53-57. Jan Pinborg, Logik und Semantik im Mittelalter, Stuttgart-Bad Cannstatt 1972; and "Topik und Syllogistik im Mittelalter," in Sapienter Ordinare: Festgabe fuer Erich Kleinedam, (Erfurter Theologische Studien, 24), eds. F. Hoffmann, L. Scheffczyk, and K. Feiereis, Leipzig 1969; N. J. Green-Pederson, The Tradition of the Topics in the Middle Ages, München 1984; E., Stump, Dialectic and Its Place in the Development of Medieval Logic, Cornell 1989.

⁹⁵Even in the area of the descriptions and functions of Aristotelian topics, these two secondary sources, which are more devoted to the study of medieval treatments of topics, are perhaps the most detailed secondary sources to be found. See also Kneale and Kneale, The Development of Logic, pp. 33-44.

Indeed, the second scholastic literature on topics are subject to many more influences than its medieval precursors due to the influences of Valla, and the so-called "topical logics" of Agricola and Ramus.⁹⁶ In the case of Ramus his influence is seen even in the 17th century among German logicians with Aristotelian leanings such as Keckermann, Crellius, and Scherbius.⁹⁷ Besides these possible non-Aristotelian influences on second scholastic topic theory there is ample evidence of interest in the late 16th century and early seventeenth centuries in the Aristotelian Topics. Risse cites eight different 16th century authors who produced commentaries on the Aristotelian Topics, three by 17th century authors, as well as eight 16th century printings of Alexander's commentary on the Topics.

The project which needs to be undertaken, of course, is a study of second scholastic logic books on topics, and this project I am not prepared to take on here. I will merely examine one passage in Hanschius on the use of topics in disputation; it can be shown that Hanschius is writing in the tradition of medieval topic theory.

The passage in Hanschius is terse, in many ways unclear in respect of content, and in some places linguistically obscure. I have produced the passage in full in a footnote with an attempted translation,⁹⁸ but my main concern is

⁹⁶See Walter Ong S. J., Ramus, Method, and the Decay of Dialogue, Harvard 1958, pp.92-130; 171-213.

⁹⁷For a nice discussion of the influences of both Zabarella and Ramus on the logic of Crellius and Scherbius see William Edwards, The Logic of Iacopo Zabarella (1533-1589), Columbia University, Ph. D. Dissertation 1960. University Microfilms, Inc., Ann Arbor Michigan, Mic 61-247, pp.341-48.

⁹⁸Hanschius (1713) pp. 22-23: 11. Resolvat thesin propositam in subjectum & praedicatum, eorumque habitudinem ad se invicem expendat. 12 Inquirat subjecti & praedicati seorsim sumti, ejusque vel integri vel principalem saltem determinationem suam, consensum vel dissensum cum aliis, quae quod medium concludendi suppeditant, Termini medii vocantur.

not to offer a complete translation and interpretation of the passage, but to abstract three important ideas which emerge from the passage. First, topics are employed in connection with an inquiry into the subject and predicate of the thesis and the aim of this inquiry is to use a topic to find a middle term to be used by the Opponent in constructing his objection. Second, "topics of finding" are said to be "nothing other than genera of relations of an object known to other objects." Hanschius gives a rather long list of these "genera of relations" which includes the relations of causes, of effects, of subjects, of adjuncts, of differences, of opposites, of equal and unequal majors and minors, of similars, of dissimilars, of conjugates, of notation, of genus, of species, of definition, of division, and of testimony. Third, the canons of dialectical topics are said to "have the power of inferring a particular

ducendo eadem per singulos inventionis Locos, qui nihil aliud sunt, quam totidem genera relationum objecti cognoscendi ad alia objecta: Scilicet causarum, effectorum, subjectorum, adjunctorum, disparatorum oppositorum, item parium, & imparium majorum & minorum, similium & dissimilium, conjugatorum, notationis, generis, speciei, definitionis, divisionis, testimonii, & attendendo, quae sit inventorum mediatorum ad subjectum & praedicatum relatio, utrum consentiant cum utroque, sed altero theseos extremo ad probandum antithesin negativam... Vim autem arguendi ex inventis mediis multum adjuvant Canones Locorum Dialecticorum, quorum nullus adeo sterilis est, ut vim nullam inferendi conclusionem particularem habeat, quin potius plurimi tam sunt foecundi ut quam plurimos medios terminos suppeditent, quod in loco effectorum & adjunctorum saepe contingit. (Translation: 11. The Opponent should resolve the proposed thesis into the subject and predicate and consider the relationship between them mutually. 12. The Opponent inquires into the subject and predicate taken separately, and of that either the Opponent inquires into the complete or that by which at least its principle determination [is made] with respect to the agreement or disagreement with others, which are sufficient for concluding a certain middle; middle terms invoked by considering the same things by singular topics of finding, which other than just the genera of the relations of the object to be known to other objects: namely, of causes, of effects, of subjects, of adjuncts, of differences, of opposites, of conjugations, of notation [either the designation of meaning or the assigning of abbreviations], of genus, of species, of definition, of division, of testimony; and by attending to what is the relation of the finding middles to the subject and predicate, whether they agree with the other for the purpose of forming proofs of an affirmative antithesis, or disagree not just to each, but to the other extreme of the thesis for the purpose of proving the negative antithesis... The canons of dialectical topics helps much the power of arguing from finding the middle terms, of which none is so sterile, that it has no power of inferring a particular conclusion, but rather many are so fertile that they supply many middle terms, which often happens in the topic of effects and adjuncts.)

conclusion" or, what amounts to the same thing, "to aid in the power of arguing by finding middle terms" (Here I take the passive "ex inventis mediis" to mean the active "by finding middle terms").

In order to show that these three characterizations of topics are consistent with medieval characterizations of topics we need to provide at least some background on medieval treatments of topics. This calls for a very brief digression which, of course, cannot do justice to the complex subject of medieval topic theory. Nevertheless, even a glance at medieval topic theory will show that Hanschius is certainly thinking of topics in this tradition, which can be supplemented with a look at Sanderson and Fonseca, in whose works medieval topic theory was alive and well.

In this digression I rely primarily on the authority of two major secondary sources, Stump's Dialectic and Its Place in the Development of Medieval Logic and Pederson-Green's The Tradition of the Topics in the Middle Ages. Both these secondary sources stress that the characterizations and examples of topics in a wide range of medieval sources, such as Garlandus, Abelard, and Peter of Spain, rely heavily on Boethius' treatment of topics in De topicis differentiis. The most pervasive feature of Boethius's treatment of topics in the later medieval sources is the distinction between two types of topics, maximal propositions (or as Peter of Spain refers to them "maxims") and differentiae. Maximal propositions are defined by Boethius as propositions which are (1) known per se and (2) have nothing more fundamental by which they are demonstrated; differentiae, on the other hand, are specific differences of content among maximal propositions.⁹⁹ These two

⁹⁹Sanderson and Fonseca give similar characterizations of topics: Sanderson (1618) p. 183: Locum est Argumenti sedes. Estque Locus duplex: Maxima, & Differentia Maxima. Fonseca (1564), reprinted 1964, Universidade de Coimbra, vol. 2 p. 474: Porro locus duplex dicitur: Maxima, et Differentia maximae. Locus maxima, est propositio per se nota fidem aliis subministrans.

types of topics are easily explained by looking at a few examples. I borrow three examples of Boethian maximal propositions found on p. 39 of Stump's book and two of Peter of Spain's topics reproduced by Green-Pederson on p. 47:

- (A) Things whose definitions are different are themselves also different. (Boethius)
- (B) What inheres in the individual parts inheres also in the whole. (Boethius)
- (C) Where the matter is lacking, what is made from the matter is also lacking. (Boethius)
- (D) If the efficient cause is posited, its effect is immediately posited. (Peter of Spain)
- (E) Whatever is predicated of a genus is predicated of the species. (Peter of Spain)

The differentia of (A) is "from definition", (B) has the differentia "from the integral whole" and (C) "from material cause" (D) "from efficient cause" and (E) "from a species". The differentiae in both Boethius and Peter obviously serve as various species of the genus "maximal proposition", the members of the species are the individual maximal propositions, which stand as principles which are known per se and need not be proved.

Against this very sketchy background to medieval topic theory we can make some sense of the passage in Hanschius. The examples Hanschius gives of the "genera of relations between the object known and other objects" are obviously in the tradition of topics as differentiae. Of the nineteen genera mentioned in Hanschius eleven are found in Boethius and Peter.¹⁰⁰ Hanschius'

¹⁰⁰The topics not found in Boethius or Peter are "of the subject", "of the adjunct", of dispartes", "of equals", "of unequals", "from testimony", and "of notation". In Fonseca can be found the topics "from equals", "from notation" and in Sanderson can be found the topics "from subject and accident", "from notation", "from testimony".

claim that these genera can be used in an inquiry into the subject and predicate of the thesis to find middle terms for the objection can now be given some explanation. The thesis provides the Opponent with the two extremes to be used in the objection, furthermore, because the conclusion of the objection must contradict the thesis, the possible forms of the conclusion and the possible moods of the syllogisms to be used by the Opponent are determined from the outset. The topics as "genera of the object known and other objects" at the very least give the Opponent a list of categories under which middle terms are to be found for the objection.¹⁰¹ The topics in this role constitute a shopping list for the Opponent in the search for a middle term, the only term which needs to be "discovered" in order to advance an objection.

It is rather easy to account for the informal way in which the topics as "genera" provide categories of possible middle terms, and thus means for finding middle terms. The more difficult function of the topics to explain is Hanschius' third characterization, namely, that topics "have the power of inferring a particular conclusion". If we understand the topics as the genera of types of possible middle terms then it is unclear how topics could have "the power of inferring". This characterization of topics seems to give them an "evaluative" rather than a "discovering" role in disputation, which cannot be captured by understanding topics as *differentiae*. On the other hand, if we understand Hanschius to be referring to topics in this characterization not as "genera" or "*differentiae*" but as maximal propositions, then the passage

¹⁰¹The finding of the middle term also involves determining the science from which the middle term is to be taken. Hanschius adds as a further strategy of finding middle terms that if the thesis is taken from a particular discipline then the middle term of the objection must be taken from that discipline but that if the terms of the thesis are "mixed" i.e. taken from two or more disciplines then the middle terms can be taken from many disciplines. Hanschius (1713) p.23: Ut autem argumenta kath aletheian ad quamlibet quaestionem dubiam vel probandam vel refutandam, invenire possit, consideret, ex quanam disciplina desumta sit THESIS proposita: ex eadem enim medii termini petendi sunt, & si mixta, h. e. ex duabus pluribusque petita fuerit disciplinis, ex pluribus etiam disciplinis colligi possunt medii termini.

would make good sense. In medieval logic topics as maximal propositions are used to "confirm" or "justify" arguments. Stump cites Garlandus, who follows the lead of Boethius, as the first known medieval source which emphasizes this use of maximal propositions. Peter of Spain also employs "maxims" in some such sense as this, although apparently the primary use of maxims in Peter is to reduce enthymemes to syllogisms by providing justification for universal major premisses. Hanschius does not explain how topics have "the power of inferring", and provides no examples from which to extrapolate.

In Sanderson we find an example of how a locus maxima (Sanderson's name for the Boethian "maximal proposition") is to function as a "logical rule in which the force of the argument is established."¹⁰² In the example the locus maxima, "to whatever the definition is attributed so too what is defined is attributed", is the implied logical rule justifying the argument "Socrates is a rational animal, therefore, Socrates is a man." If we unpack the implicit arguments we find that the argument which results by applying the locus is not a simple syllogism proving the desired conclusion, rather the locus is used in a prosyllogism to prove the major of the principal syllogism. The principal syllogism is, "whatever is a rational animal is a man, Socrates is a rational animal, therefore, Socrates is man". This syllogism is implicitly proved by the following prosyllogism containing the locus, "to whatever the definition is attributed so too what is defined is attributed, "rational animal" is the definition of "man", therefore, whatever "rational animal" is attributed to "man" is attributed to, i.e. whatever is a rational animal is a man." The locus thus functions as the universal major in a valid prosyllogism which proves the

¹⁰²Sanderson (1618) p.183: Locus Maxima est Praeceptum Logicum, in quo fundatur vis Argumenti: Locus Differentia Maximae est notatio precepti secundum differentiam simplicis thematis unde ducitur Argumentum. Exempli gratia: siquis probaverit Socratem esse hominem, eo argumento quod sit Animal Rationale: Argumentum talis syllogismi dicitur ductum à loco Definitionis; atque etiam ejus vim omnem niti hoc loco, quod sc: Cuicumque definitio attribuitur, eidem & definitum: hinc per locum intelligendo Maximam; illinc Differentiam Maximae.

universal major of the implied principal syllogism. It appears that the locus is called a "rule of logic" because it is a necessarily true universal statement which ranges over all definitions and terms and which can be used in the proof of universal statements involving definitions. Thus in Sanderson the locus is a rule which determines a certain relation between types of terms.

Horneius includes topics in a general treatment of principles which, according to Horneius, are essential to disputation. Horneius divides logic into a material part and a formal part. The formal part of logic, on Horneius' view, concerns the "theory of implication" (ratio consequentiae), which concerns the conditions under which a set of propositions constituted a syllogism, whereas the material part of logic concerns whether the nature of the principle in question is probable i.e. "topical" or demonstrative and necessary.¹⁰³ These probable principles are "common" to all sciences whereas the demonstrative principles are "peculiar" to individual sciences. But disputation does not employ one set of principles as opposed to the other, rather, arguments in disputation can employ both types of principles.¹⁰⁴ It is significant that

¹⁰³Horneius (1666) pp.103-4: Notum est logicis duo in argumentatione attendenda esse formam & materiam. Forma rationem consequentiae continet, materia naturam principiorum, an scilicet propria ea sint an communia, seu demonstrativa & necessaria, an Topica & probabilia...

¹⁰⁴Ibid., p. 105: Non est autem instituti nostri praecepta vel de Apodictica vel de Topica huc afferre, sed tantum utriusque usum ostendere maximè apodicticae. Sciendum igitur est propositiones seu principia ex quibus argumentamur duplicia esse: vel enim rebus multis communia sunt vel uni certae propria. Communia appellantur, quae ex rerum rationibus communibus seu ex natura ipsius Entis eiusque affectionum dependent, propria quae ex rei particularis natura eliciuntur. Prioris generis sunt haec: *Sublata parte tolli totium essentiale. Causa posita in actu poni etiam effectum, Ex effectu iudicari de causa, &c. De quo negetur genus de eo etiam speciem negari. Posita de definitione poni & definitum, &c:* etsi n. haec sub notionibus Logicis proponuntur, & ex Logicis etiam petuntur, super metaphysicis tamen fundantur. Posterioris generis sunt ista ista: *Omne corpus naturale habet principium motus & quietis. Quicquid generatur id generatur ex aliquo, Ex quovis non oritur quidvis. Quicquid est rationale illud est disciplinarum capax. Quicquid est immateriale non est in loco circumscriptivè, &c.*

Horneius does not limit disputation to the field of "probable argumentation" but extends it to demonstrative argumentation as well. This is quite different from Aristotle's view in the Organon, where dialectic is strictly defined as a method treating the dialectical syllogism i.e. probable argumentation. The ars disputandi in Horneius has a very much broader application than Aristotle's disputation method in the Topics. Horneius' view on this matter is consistent with many other sources, including Thomasius, Schneider, Langius, and Felwinger to mention a few.

Horneius gives us a set of examples of each type of principles and from these examples it is clear that the "common" , "probable" principles are nothing but topics as maximal propositions, for example, "to that of which the genus is denied so too is the species denied." Horneius does not explain in what sense these "common principles" are "probable". In the medieval tradition maximal propositions are defined as known per se and without need of proof. From what Horneius says it would appear that these principles are "probable" in the sense that they are used in "probable arguments" which do not concern any particular science where a set of necessary truths are known; but maximal propositions can certainly be used in arguments with necessary premises.

Horneius' examples of "proper principles" appear to be principles of physics, for example: "every natural body has a principle of motion and rest." These are universal principles which can be used in a scientific demonstration and belong properly to one subject matter, which in this case is physics. These two types of principles principia communes and principia propria are essential to disputation (and far more difficult to master than the "the syllogism in general", which refers to the rules of syllogistic logic); to fail to

distinguish between these two types of principles, according to Horneius, is to be ignorant of the entire art of disputation.¹⁰⁵

Contra negantem principia non est disputandum

Horneius does give a rather lengthy treatment of how these two types of principles are to be used in argumentation, which is not limited to argumentation in disputation.¹⁰⁶ From this discussion it is clear that the principles in question cannot be lawfully denied. In many sources the rule contra negantem principia non est disputandum is mentioned in this context. This rule prohibits the denial of anything considered to be a "principle" in disputation. There are two separate issues which present themselves in connection with this rule. The first concerns the questions what is to count as a principle and on what grounds something is to count as a principle. The second question concerns the necessity of the rule itself, namely, in the modern method is it necessary to adopt a rule like contra negantem principia non est disputandum which prohibits the denial of certain propositions? In what follows I will examine a few sources which discuss the rule to address the aforementioned issues.

¹⁰⁵Ibid., pp. 103-4: Docere itaque ex quibus conficiantur demonstrationes & qua ratione, itè ex quibus syllogismi Topici, & quae istorum sit indoles ac natura, Logici utique est, nec tamen hoc cum iis coincidit quae de syllogismo in genere tractari solent. Et verò haec accuratè intelligere longè plus difficultates continet, quàm naturam syllogismi nosse in communi: quin istud etiam adolescentes facillè capiunt, illa adultis quoque & longius protractis negotium facessere possunt. Quantò autem maior est difficultas tanto etiam insignior utilitas est: sicut n. multùm interest inter scientiam & opinionem, inter principia propria seu ex ipsa rei natura deprompta & communia, atque inter id denique, ut noris quare res sit, & ut tantum quod sit; ita etiam iam insigne discrimen esse oportet inter praecepta quibus illa & quibus haec constant. Confundere itaque ea omnia, nec unum ab altero accuratè distinguere posse, aut certè normam utroque non nosse, est, uno verbo, totam artem disputandi ignorare...

¹⁰⁶Ibid., pp. 105-12.

Wendelerus is a good source to start with, not because of his clarity and originality: most of what he says about the rule contra negantem principia non est disputandum is plagiarized from Dannhawerus. But Wendelerus does provide a terse but interesting fourfold classification of "principles", which gives us a general picture of a poor man's view of the "boundaries" (limitationes) of the rule contra negantem principia non est disputandum .

Wendelerus mentions four types of principles which one cannot deny according to the rule in question: principles of knowing and those "most common principles"; principles which accord with sense experience; all universal and particular principles which are the "apparatus" of all principles, and "special principles" i.e. principles of special sciences (p.19: Contra negantem principia non est disputandum. Quod axioma sequentes limitationes admittit: 1. Qui negat principia cognoscendi eaque communissima: 2. Qui negat principia in sensus incurrentia: 3. Qui negat apparatus omnium principiorum, hoc est omnia universalialia & particularia: 4. Qui negat specialia principia. Nihilominus es superiori quâdam disciplinâ cum illo est agendum: aut hoc negat, ad absurdum deducendus.).

Wendelerus does not explain these four types of principles further, but at least three types of principles mentioned in Wendelerus are found elsewhere, principles of the special sciences (which we have already seen in Horneius as propria principia), principles which accord with sense experience, and principles of knowing and the "most common principles". I have not found discussed elsewhere "the apparatus of all principles" and I do not understand what Wendelerus means by this. The principles of the special sciences, I take it, are at least well understood, although they are not necessarily principles we would accept. There are, therefore, only two types of principles which need some explanation, principles which accord with sense experience and principles of knowing and "most common principles". A discussion of these

principles can be found in Dannhawerus from whom Wendelerus borrows chunks of text.

Before Dannhawerus provides us with a general characterization of some of the types of principles, he gives a condensed justification of those principles. Principles, according to Danhawerus, are clear per se and "radiate their own native light", which is the reason they can never be denied, because their denials are affronts to "the inner logos".¹⁰⁷ But some things can appear to be principles when they are in fact not. For this reason, Dannhawerus stresses the "axiom" contra negantem principia non est disputandum has a "reduplicative sense", i.e. one ought to assert it on the condition that the things denied are in fact principles; this reduplicative sense of the principle appears to provide some reason for giving a characterization of the "criteria" for these principles, which, according to Dannhawerus, "radiate their own native light" and thus should be knowable and recognizable without any criteria.¹⁰⁸

The ensuing text does not leave us with hard and fast criteria with which to distinguish principles from nonprinciples but with a bundle of characteristics for principles. Principles are said to be 1. "most true" which is explained as "the cause of truth with all things flowing from it." and 2. "most known" which is explained by "after its terms have been understood no one can deny assent to it." Dannhawrus explicitly mentions that these criteria for

¹⁰⁷Dannhawerus (1632) p.32-3: qui contra principia disputare vellet, ea vel evertendo vel in dubium frustra vocando, famosum in Philosophiâ proverbium est. Ut enim quae visui objiciuntur, vel sunt ipse Sol fons luminis, vel corpora illius splendore induta. Ita quae intelliguntur vel principia sunt per se lucida, ac énapodeῖkta vel conclusiones ex principiis natae. Quod si igitur principia suâ & nativâ lucis radiant, negari ἰὸγφ @sv nunquam possunt.

¹⁰⁸Ibid. p.33: Verum enimverò ut veritatis velum saepe sophistica induit, ita principiorum nomine saepe gloriatur, quod hoc nomine indignum est: quo in casu principium simul ac incipit dubitabile esse non principium est, sed conclusio, de quâ controversia esse potest adeóque disputatio. Semper igitur hujus axiomatis (contra principia non est disputandum) sensus reduplicativus est, & sub audiri debet, si sint principia.

principles are lifted from the Posterior Analytics. The criterion that principles are the "cause of truth" is apparently taken from the Aristotelian doctrine that in each science there must be a set of principles which are known per se and do not require proof; from such principles other necessary truths of the science can be derived. Dannhawerus does not comment further on this criterion, but if he does have the Aristotelian doctrine in mind then he slips when he says that "principles are either understood as principles which are clear per se and $\acute{\epsilon}\nu\alpha\pi\omicron\delta\epsilon\kappa\tau\alpha$ or as conclusions born from principles", since by this criterion conclusions of any sort, even if they are derived directly from first principles, cannot be principles

Dannhawerus devotes most of his discussion to the criterion that principles are "most known". These principles which are "most known" receive the name "principles of knowing", the same name found in Wendelerus; these principles can be distinct from those which are "the cause of truth" which, on the Aristotelian doctrine, are the principles of the special sciences. A principle of knowing, Dannhawerus claims can either be "physical" or "logical". A physical principle in a normal context would be a principle of physics. A logical principle, on the other hand, is a "syllogistic means which is assumed for the purpose of producing belief." This apparently refers to the rules of syllogistic logic. So, at the very least from this characterization of principles of knowing we find that rules of logic and principles of physics are understood to be principles.

But Dannhawerus goes on to account for more "principles of knowing". In philosophy, he claims, assent is given (unconditionally it is supposed) either by the necessity of contradiction or by the clarity and evidence of the object. When the necessity of contradiction forces one to assent one cannot deny the proposition in question without stating a formal contradiction. Assent compelled by the clarity and evidence of the object is

based on a classic Aristotelian-scholastic theory of the formation of ideas by the intellect. The specific doctrines applied are these: that the senses cannot err after all the required things are present for the purpose of sensing and that if there exists no fault in the sense experience then there cannot exist any fault in the mind in the formation of ideas based on the sense experience. The implicit conclusion relevant to the discussion of the rule contra negantem principia non est disputandum is that principles which express ideas based on "sufficient sense experience" are necessarily true and therefore cannot be denied in disputation. This is the needed explanation of the principles mentioned in Wendelerus which "accord with the senses". So, we find in Dannhawerus "principles which accord with sense experience" are a species of "principles of knowing".

Dannhawerus gives no examples of principles which are abstracted from sense experience. Presumably the bulk of these principles would have to do with the intellect's intuitive grasp of essences, but this is not made clear. This class of principles could serve as a basis for definitions of substances whose essences are abstracted and grasped by the intellect upon sufficient sense experience. Dannhawerus stresses that he does not mean here that judgements based on mundane sense experience are always true. He provides the objections that sometimes not all the sense experience required to make a judgement is present, in which case it is possible that other experience will overturn a prior judgement; he also raises the point that subjective elements often enter into judgements based on sense experience: "many times someone is persuaded to have seen not what one has seen but what one wanted to see"; "many see with strange eyes but nevertheless babble about experience." Dannhawerus thus rejects sense experience as indisputable.

Dannhawerus also mentions principles of theology in his treatment of the rule contra negantem principia non est disputandum, which is something

we do not find in Wendelerus. According to Dannhawerus, the principle is to adopted that "whatever the Sacred Scriptures affirm is true without doubt." Something like this rule is also in Langius in connection with the mysteries of faith. Langius offers a twofold justification for holding the mysteries of faith and Sacred Scripture cannot be disputed. The strong justification is that the Sacred Scripture is held to be as certain as "common and general principles and preknown and first truths. Sacred Scripture thus cannot be disputed by the rule contra negantem principia non est disputandum.¹⁰⁹ The weaker justification is that we ought to accept the "canon" that "when we cannot penetrate to the evidence of the thing itself we ought to acquiesce in the evidence of testimony."¹¹⁰ Thus we can accept the mysteries if they are not repugnant to "more sane reason".

To sum up Dannhawerus considers "principles" to be the following: (i) the rules of logic (ii) the principles of the special sciences (iii) any proposition whose negation entails a formal contradiction (iv) any proposition properly based on "the clarity and evidence of the object" i.e. any proposition whose truth is known by the intellect in a sound abstraction from sense experience (v) whatever is "affirmed" by Sacred Scripture. A class of principles we do not find mentioned in Dannhawerus are "common and most general principles". These principles Horneius considers to be topics.

In Wendelerus and Timpler we find mentioned another class of principles, namely, principles of metaphysics. Wendelerus, for instance, says

¹⁰⁹Langius (1719) p.12: Ceterum hic notandum est illud disputantium axioma: contra negantem principia non est disputandum. Id quod quemadmodum recte dicitur de ipsa sana ratione & principiis communibus & generalibus, tanquam praecognitis & veritatibus primis, omni dubitatione seria majoribus; ita praecipue valet de Scriptura sacra.

¹¹⁰Ibid. p.12: 8. In fidei mysteriis sufficit, ea saniori rationi haud repugnare. Quod eam superant, ad sublimitatem & praestantiam eorum pertinet: ubi valet canon: acquiescendum est in evidentia testimonii, quando in evidentiam ipsius rei penetrare non possumus.

that the understanding of metaphysics concerns the "real things required" in disputation, along with "understanding of the principles and hypotheses of the adversary and of the most disputable questions of the discipline from which the theses aired are taken." (p. 39: Ad realia requisita pertinet cognitio Metaphysicae, principiorum & hypothesium adversarii, quaestionum maximè disputabilium illius disciplinae, ex qua theses ventilandae desumuntur; inprimis praesentis materiae, quam examinandam proponis.) Knowledge of metaphysics is necessary, according to Wendelerus, because metaphysics explains the most general terms of the most universal definitions and the common principles which occur in every disputation ; and if you should not say this and not use these things legitimately, you will never refute adversaries who apply [these things] wrongly.(p. 40: Metaphysica necessaria est, quia explicat terminos generalissimos, definitiones universalissimas & principia communia, quae in omni disputatione occurrunt. Haec si non didiceris, neque legitimè his utaris, adversarios sinistrè adplicantes ninquam refutabis.)

Wendelerus does not give any examples of these "most general terms, most universal definitions and common principles." He does discuss briefly what he calls communia, but these propositions turn out not to be general principles of metaphysics but propria of the sciences to be used in demonstrations.¹¹¹

Timpler in his tract on disputation in Logicae systema methodicum, also claims that one must not dispute principles of metaphysics and explicitly includes this under what he calls the "worn out and common rule" contra negantem principia non est disputandum.¹¹² ; but Timpler does not bother to

¹¹¹Ibid., p. 32-3.

¹¹²Timpler (1612) p. 856: An contra negantem principia sit disputandum? Tritum & vulgatum est Philosophorum Enuntiatum: contra negantem principia non esse disputandum. Et hoc desumptum videtur ex lib. 2. cap. 2. physic. ausculat. ubi Aristoteles ait: Άσπερ τ' οΈκ §sti ΙΌgow prÚw tΌn énelΌnta tάw érxaw, éll' ætoi •t°raw §pistÆmhw μ pas«n ko□n∞w. ιΆtvw Ûudϕ t° prÚ épx«n, hoc est, sicut Geometrae non amplius sermo est advesus eum, qui tollit principia (Geometrica) sed hoc, aut ad aliam disciplinam, aut ad

explain these principles of metaphysics in his logic textbook. The principles of metaphysics are considered by Timpler to belong to a discipline "common to all disciplines".

Timpler also mentions three "theorems" to be observed in connection with contra negantem principia non est disputandum.¹¹³ The first theorem states that disputants ought agree on "certain principles of disputing" and that if someone denies these principles one should not dispute against him. At face value this theorem allows that principles, other than those which belong to some discipline, can be accepted to fall under the rule contra negantem principia non esse disputandum by the prior agreement of the disputants. This provides the disputation with some flexibility in the kinds of principles to be adopted in any particular disputation.

The second theorem is the familiar rule that principles of individual sciences cannot be disputed. But in the third theorem Timpler qualifies this rule and allows that principles of an individual discipline can be disputed if the principles are not known per se, but only appear to be. Timpler thus leaves open the possibility of denying principles of an individual science and to "weigh them on the scales of truth."

omnium communem (nempe Metaphysicam) pertinet: ita neque ei, qui de principiis (physicis) disputat.

¹¹³Ibid. p.856 : Ut autem hoc effatum recte intelligatur observanda sunt sequentia theoremata. 1. disputantes oportere inter se convenire in certis disputandi principiis. Ideo que si quis eiusmodi principia negat, adversus eum non esse disputandum. 2. singulas artes habere sua principia vera, certa & propria: Ideoque si quis neget, adversus eum artificii non esse disputandum: cum probatio eiusmodi principiorum ad artificem non pertineat. Hinc Geometrae vel Physico non est disputandum adversus eum, qui negat principia vera, certa & propria Geometriae, vel Physicae. 3. licitum esse disputare contra negantem principia alicuius artis: si illa principia videantur quidem esse vera & certa: sed tamen per se talia non sint: ideoque opus habeant, ut trutinam veritatis examinentur.

The rule contra negantem principia non est disputandum obviously plays an essential role in the modern method; the rule helps to prevent endless trains of disputation in which Respondent denies, Opponent proves, Respondent denies and so on. If no common ground can be found between Opponent and Respondent on the truth of propositions in the Opponent's arguments, i.e. the Respondent denies all propositions asserted by the Opponent, the Opponent can use principles in the proof of a proposition which the Respondent cannot lawfully deny.¹¹⁴ The principles provide the bedrock, so to speak, for all argumentation in disputation.

The presupposed principles to a disputation are not only essential to avoid the possibility of an endless disputation, but also determine the limits of what can be proved by the Respondent in the event the Opponent denies any proposition that can be denied. The principles thus set limitations within which a disputation must be conducted. Given this important function of principles one would expect bitter dispute over what principles are to be presupposed in disputation, but this is not to be found. In the sources examined what we do find is a very loose characterization of the kinds of propositions which stand as principles and very few concrete examples. This would lead one to believe that dispute of principles rarely occurred in disputation, but I have found no sources to confirm this.

¹¹⁴The necessity of accepting some propositions as indisputable in order to dispute about something besides the principles themselves is recognized in some sources. For instance Dominicus Angeloni, Institutiones logicae (Neapoli, 1772) pp. 183-84: Sexto, quod nullum principium ab alterutro disputantium adsumi debeat, quod ab altero non admittatur; ita ut principia utrique communia esse debeant. Nam si utrique communia non essent, quaestio versaretur in ipsis principiis; sicque a quaestione ad quaestionem transitus fieret. Contra negantem nostrae cognitionis prima principia non est disputandum; nam haec aliis probari nequeunt.

Chapter 8: Assumptio

The assumptio (assumption) of the objection is the first duty of the Respondent after the objection has been proposed by the Opponent. The most essential feature of the assumption (and in some sources its sole feature) is the repetition (repetitio) of the Opponent's argument or arguments. It is required that the repetition of the argument in be precisely the same words if possible, but if it cannot be repeated precisely in the same way then the "meaning" of the argument must be preserved, which presumably includes the logical structure (For instance, Schneider p.160: De assumptione argumenti sciendum est, id integrum esse repetendum vel iisdem verbis, si fieri potest, vel minimum eodem sensu retento.). In Thomasius the assumptio is constituted solely by the repetitio;¹¹⁵ however, this is not the case in all sources. In Felwinger and Timpler, for instance, the assumptio is said to have several features.

¹¹⁵See Thomasius (1677) p. 158.

Felwinger lists the assumption as one of the three main duties of the Respondent along with "proposing [theses]" and "responding [to arguments]" (p.44: In scenam tandem ipsum quoque Respondentem producamus, & videamus, quae ejus sint vel officia, vel strategemata. Cum verò in tribus rectè se gerere debeat, nimirum (1.) in proponendo, (2.) in assumendo, & (3.) in respondendo.)¹¹⁶ Two full pages are devoted to the assumption which bring out four rules to be followed concerning the assumption. The first is the rule, already seen in the example from Schneider, that the argument of the Opponent be repeated in the same words if possible, but at the very least "in the same order and way", which certainly means that in the repetition the Opponent's argument must retain the same logical structure.¹¹⁷ The second rule concerns cases in which the Opponent has proposed more than one argument. The Respondent, if he wishes, can assume and respond to the last of these arguments and disregard the prior arguments according to the rule liceat nobis ad posterius, priùs respondere, which appears to be a rule which was not accepted by others, since Felwinger emphasizes that it is a rule "for us".¹¹⁸ The third rule is that the Respondent cannot "corrupt" (pervertat) the argument of the Opponent in the assumption; tacked on to this rule is an observation that the assumption allows the Respondent, and the President, time in which to reflect on the response to the argument. This time to reflect, Felwinger stresses, is necessary to make a good response, so the Respondent is allowed to repeat the argument two or three times if he wishes.¹¹⁹ Similar observations

¹⁰⁴This same threefold division of the Respondent's duties is found in Jacobus Martini (1631), which could be the source Felwinger is following in making this classification.

¹¹⁷Felwinger (1659) pp.46-47: In Assumendo ita se gerat, ut (1.) argumentum eo ordine & modo, & si fieri potest iisdem verbis, quibus est propositum, repetat.

¹¹⁸Ibid. pp.46-47: (2.) Aut si ab opponente duo vel plura argumenta sint proposita, poterit quidem postremum priori loco assumi, & ad illud responderi, additâ formulâ: liceat nobis ad posterius, priùs respondere: ubi nihilominus etiam prius repetere & assumere licet.

¹¹⁹Ibid. pp.46-47: (3.) Assumendo argumentum non pervertat; quamvis in responsione

are made by Schneider and the little known Jacobus Maesterius in a dissertation on juridical disputation.¹²⁰ The fourth rule is that if the argument is not proposed in syllogistic form the Respondent can demand that the Opponent restate the argument in syllogistic form. If the argument cannot be put into syllogistic form the Respondent can reject the argument outright without offering a response. If, on the other hand, the Opponent does not want to restate the argument the Respondent can do it himself and then respond to it; but he must be careful to ask the Opponent questions like, "Did you want to argue in such a way?" and "Is this what you mean?", so that the Opponent cannot object that the arguments restated by the Respondent are not his own. Finally, if the Opponent objects to attempts to restate the argument on his behalf he can be dismissed as inept.¹²¹

In Timpler again, along with the common rule that the repetitio be word for word or retain the "syllogism in the order of its parts", we find that

invertere liceat: Et hoc ex illa ratione, ut reliqui intelligant si à respondente argumentum rectè repetatur & assumatur, argumentum propositum à respondente rectè esse perceptum & intellectum: deinde ut tempus etiam aliquod detur in quo de responsione ad argumentum propositum meditari possit, tum Praeses tum, Respondens, non enim semper possumus sine praeviâ meditatione respondere, imò non debemus, cum saepè primo intuitu argumentum appareat magni momenti non esse, quod tamen aliquando multum in recessu habet, si rectè perpenditur. Unde Respondenti concessum est, idem argumentum propositum bis vel ter repetere.

¹²⁰See Schneider (1718) pp. 160-161 and Jacobus Maesterius, De artificio disputandi juridice (Lugduni Batavorum, 1647) pp. 20-21.

¹²¹Felwinger (1659) pp.46-47: (4.) Si argumentum syllogisticè non fuerit propositum, petat, ut opponens in certa figura & certo modo disputet: quod si ad nullam figuram revocari possit, rejiciat tanquam scopas dissolutas. Quod si verò opponens nolit revocare ad aliquam figurarum, Respondens tamen videat, quod ad certam figuram reduci possit, ipse reducat, & post distinctè & dilucidè ad illud respondeat. Ne verò Opponens habeat, quod argumentum à Respondente formatum rejiciat, quaerat ex Opponente, an non ita voluerit argumentari, & an haec mens ejus sit. Si annuerit, benè se habet: Si contradixerit; urgeat ut ipse Opponens formet argumentum, aut illum ut ineptum disputatorem mittat.

the Respondent is allowed to restate the Opponent's argument if the Opponent has argued "in a rhetorical way".¹²²

Chapter 9: Responsio

The transition from assumptio to responsio marks a shift from a concern with the clarification and comprehension of the objection to its evaluation. The Respondent's primary aim in this evaluation is to "solve" (solvere) the objection by employing certain response moves; "solving the argument", in its most general sense, means "showing that the argument does not prove the contradiction of the thesis." In the modern method rules are introduced which establish conditions under which certain response moves can be used; there is seldom reflection on justification for these rules, but a critical exposition of the rules reveals rather clearly that they are intended to establish conditions under which the soundness of the objection is rigorously tested. By the principle ex vero nihil nisi verum a sound argument necessarily

¹²²Timpler (1612) p.848: Assumptio argumenti recte instituetur à respondente. si 1, cum honoris praefatiuncula fideliter iisdem verbis, & eodem ordine partium syllogismum ab Opponente obiectum repetat: & quidem cum aliqua mora & tarditate. 2, si opponentem, quem inter disputandum videt non syllogistice agere, sed oratorio more declamare, roget, ut aut ipse discursum suum ad formam syllogisticam breviter revocet: aut saltem eius rei faciendae potestatem sibi concedat.

has a true conclusion; therefore, if an argument is sound and the conclusion contradicts the thesis the thesis must be false. It can be generally said that in the response the Respondent endeavors to defend the thesis by showing either that the argument is not sound or that the conclusion does not contradict the thesis; both these are sufficient conditions for "solving the argument".

In initiating a response the first rule to be followed by the Respondent is that the form of the argument is to be carefully evaluated; it is emphasized that the Respondent must first evaluate the form of the argument and then the matter. This sequence is stressed in numerous sources, and was considered essential to a good response.¹²³ The reason for this is rather obvious; if a formal error is overlooked and a response is made immediately to one of the premises the possibility exists that the premises are true, and thus defensible, but the argument is unsound. This kind of justification for the sequence, "first respond to form and then to matter", is stated implicitly in by Langius. Langius warns that if the Respondent passes over a formal error the Respondent may end up denying true premises or making an inept distinction.¹²⁴ This would be the case if the Respondent moved to solve an invalid argument with true premises without first exposing the formal error.

If the argument is not valid then the Respondent has the duty to indicate that the argument has incorrect form and to cite the rule violated.

¹²³For instance, Schneider (1718) p. 164: Adsumtionem argumenti sequitur examen eius, quod instituitur vel de forma vel de materia. ... Ad formam vero prius respondendum erit...; Felwinger (1659) p. 49: Observet cum primis Respondens ut prius respondeat ad formam (si opus est) quam ad materiam.

¹²⁴ Langius (1719) p. 46: In examine assumti argumenti consideratur primum forma, deinde materia. Ekthesis. Supponitur quidem in bono & perito Opponente, ipsum a formae vitiis in argumentationibus suis perpetuo fore alienum: intera tamen vigilandum Respondenti est circa formae intergritatem. Quae vigilantia apud peritos vel una cogitatione absolvitur. Neglectum vero formae vitium iis Respondentem difficultatibus involvit, ut aut veras propositiones neget, aut ineptam distinctionem ac limitationem quaerat.

Although this move is a form of denial, i.e. a denial of the formal consequence, the Respondent nevertheless has the burden of proving that the formal consequence is bad. In some sources, such as Martini,¹²⁵ it is recognized that this is an exception to a common rule of proof affirmanti incumbit probatio, which is commonly interpreted to mean that the Opponent always has the burden of proof.

Both the rule that the form must first be examined and then matter, and the rule that the Respondent indicate and prove formal errors in the objection, appear to be commonly accepted. Both rules can be found throughout 16th and 17th century German second scholastic sources, such as Goclenius, Felwinger, Kesler, Dannhawerus, C. Martini, Timpler, and Keckermann.¹²⁶

In Schneider these duties of the Respondent to examine and correct the form of the objection is further supported by possible intervention by the praeses. Schneider makes it a duty of the praeses that he should intervene and point out a formal error in the Opponent's argument which is missed by the

¹²⁵ Cornelius Martini (1638) p.170: Qui igitur consequentiam negat, formam esse vitiosam demonstrare debet. Non negamus hanc esse disputantium legem, ut affirmanti incumbit probatio non autem neganti. Sed talis affirmatio & negatio ad materiam pertinet, quae sane probanda illi est, qui eam protulerit, protulerit, inquam, in syllogismo, aliàs ne hoc quidem semper verum est, quod affirmanti incumbit probatio

¹²⁶I provide here only the relevant texts in Timpler and Wendelerus for the rule that the Respondent indicate and prove formal errors in the objection: Wendelerus (1650) p. 54: Formale examen duabus absoluitur regulis: 1. Forma est vel vitiosa, vel vera. Si est vitiosa, Respondens vitium ostendat, & Canonem, contra quem peccatur, proferat. Perpetuum malae formae indicium est, si conclusio, praemissis veris existentibus, existat falsa. 2. Integrum argumentum, nisi corrigatur, tanquam ineptum, rejiciat. ; Timpler (1612) pp. 848-49: Solutio argumenti assumpti recte instituetur à Respondente...2, si formam syllogismi prius, quam materiam examinet. 3, si in examine formae videat, utrum sit bona, an mala; & deprehenso vitio formae, syllogismum reiiciat ob fallaciam formalem, subiecta causa, à qua illa fallacia oritur.

Respondent.¹²⁷ The praeses in this capacity functions as the guarantor of the validity of objections against the thesis.

After it has been determined that the objection is formally valid the Respondent has the duty of responding to the matter of the argument. The final aim of the response to the matter is to "solve" (solvere) the argument. The general sense of "solve" which appears to be understood in most of the primary sources is "showing that the objection does not prove the contradiction of the thesis".¹²⁸

The word "responsio" is used ambiguously to denote both that phase of the disputation in which the Respondent makes response-moves in an attempt to solve the Opponent's argument and individual response-moves. There are a number of response-move types which the Respondent may use, some of whose instances can solve arguments in disputation and others whose instances cannot. Many of these moves are quite well known; they include nego, distinguo (which involves the move limitatio), concedo, transeat, inversio, and retorsio, and the lesser known concedo totum argumentum, subdistinguo, and providing an instantia. Despite the familiarity of some of these response-moves, particularly nego, distinguo, concedo and transeat, examples of which are plentiful in examples of medieval quaestio disputata, I know of no secondary sources which explain precisely how any of these moves function in disputation to solve or weaken arguments. In what follows I will endeavor to explain the logical significance each type of response-move

¹²⁷Schneider (1718) p. 246: Ratione Opponentis Praeses observat argumenti formam, si vitiosa haec est, atque a respondente neglecta, illam emendabit. Conf. cap. I X, §. 5 & 6. (

¹²⁸There is a more specific sense of "solve", however, that sometimes appears to be understood some sources, namely, "showing that one or both of the premises of the objection are false." The general sense of "solve" implies the specific sense, since it is not possible to show that one or both of the premises are false without showing that the objection does not contradict the thesis.

as it is explained in some post-medieval sources; I will also discuss rules governing the use of some of these moves.

A topic which should first be addressed, however, is a very common distinction found throughout the primary sources between direct and indirect response moves. The distinction between direct and indirect response-moves is seldom explained despite its frequency. It is usually illustrated by a listing of certain moves as direct and others as indirect. A common, and rather primitive, classification of direct and indirect responses, whose best known adherents are Timpler and Keckermann, is that direct responses are nego, distinguo, and concedo, whereas the indirect response is retorsio or inversio; Timpler and Keckermann follow the common practice of not distinguishing between retorsio and inversio. Some other sources have more detailed listings. Felwinger, for instance, lists the nego, distinguo, and concedo as direct responses but makes a threefold distinction among indirect responses: (i) conceding the whole argument and claiming that the Opponent has argued ignoratio elenchi, a move commonly known as concedo totum argumentum (ii) inversio (iii) showing that the Opponent's argument implies a proposition that the Opponent wants to reject. Schneider, on the other hand, in addition to inversio adds the peculiar move reprobatio fiduciaria and, like a few others sources such as Syrbius and Thomasius, also includes giving an instantia as an indirect response; this move is usually considered to be a type of denial and therefore a direct response. These discrepancies among the sources in classifying direct and indirect responses raise the question what is the basis for the distinction, a question which is seldom addressed in the primary sources.

It does not appear that there are criteria by which the various listings of direct and indirect response-moves can be systematically accounted for. Wendelerus, however, offers a criterion which should be considered, namely, that direct responses "solve" arguments whereas indirect responses do not; this

criterion is also implicit in a passage from Hanschius.¹²⁹ In what follows it will be shown that nego, providing an instantia, distinguo, and concedo totum argumentum are moves which solve the Opponent's objection in the most general sense, i.e. they show that the argument does not prove the contradiction of the thesis. Inversio, retorsio and simple concedo, on the other hand, do not solve arguments. The various lists of direct and indirect response-moves cannot be accounted for by this criterion. Even on Keckermann's and Timpler's basic classification, concedo is listed as a direct move and concedo cannot be used to solve the Opponent's argument. Also, in Felwinger concedo totum argumentum is listed as an indirect move, but it does solve. Finally, in Thomasius and Syrbius, providing an instantia, a type of denial, which certainly does solve arguments, is listed as an indirect move. In conclusion, therefore, there appears to be no systematic foundation for the distinction between direct and indirect response-moves. The only feature of this distinction which appears to be consistent throughout the sources is that retorsio and inversio are always listed as indirect moves, and, as it will be shown, retorsio and inversio are not used to solve arguments. In what follows each type of response-move will be examined individually to determine its logical force in disputation.

Nego

The apparently simple response move nego (heretofore nego will be referred to as "denial") admits of several different characterizations. A denial can be "simple" (simplex), to use Schneider's terminology, in which case no "justification" (ratio) is given. Schneider recommends this type of denial when the denied premise is obviously false.¹³⁰ Felwinger and Kesler, on the

¹²⁹See Hanschius (1718) p. 65.

¹³⁰Schneider (1718) pp.175-76: Cum igitur negatio praemissis adplicatur, videndum probe, an

other hand, recommend a denial without a justification when the premise denied is not manifestly false.¹³¹ This type of denial is in effect in a request for proof of the denied premise; if the Opponent cannot or does not want to prove the denied premises then the Respondent fulfills his duty if he provides a denial simpliciter. Syrbius gives a similar characterization of a kind of denial which he calls petimus probationem (we demand proof); which is contrasted with two other types of denials, inversio and providing instantiae. (Syrbius' classification of inversio as a denial is quite unusual and appears to be influenced by Thomasius).¹³² Simple denials provisionally solve the Opponent's argument in the sense that the Opponent has the burden of proof to establish that the premise is true. If the Opponent does not prove a denied premise then the premise can be rejected as false and the argument is solved; if the Opponent does prove a denied premise, then the Respondent must attack the proof to solve the argument, or concede the proof and respond in another way.

Simple denials, which throw the burden of proof on to the Opponent, can be distinguished from denials which are supported by some justification (ratio). Hanschius makes this distinction he which calls a distinction between

praemissa propositio, quae neganda est, speciem veri habeat; utrum aperte falsa sit: priore casu adiici debet ratio negationis, ne sub illa veri specie opponens suscitet dubium suum; posteriore casu simplex negatio sufficit...

¹³¹Felwinger (1659) p.51-52: Si manifestè falsa, neget subjectâ negationis ratione: vid. Method. Disputandi Kesleri, pag. 268. Vel si non manifestò falsa, ejus probationem ab opponente petat. (18) Quod si verò Opponens vel non possit vel nolit praemissas probare, si respondens rigorosè agere velit, non tenetur respondere; vel suffecerit etiam officio suo si simpliciter negaverit.

¹³²Syrbius (1717) p.387: Negatio tres quasi species, vel modos, habet. Vel enim petimus probationem alterutrius (vel etiam utrius,) praemissae, vel argumentum invertimus, vel denique instantia utimur. Quum petimus probationem ad duo inprimis attendendum, primo, ne diversum probetur ab eo, quod probari debebat, ac deinde, ne circulus vitiosus committatur...

"absolute denials" and "denials made for the sake of proof", i.e. denials which demand proof by the Opponent.¹³³ The former type of denial is a denial with an argument attached which proves the denial; if the denial is of a universal premise then the ratio or argument for the denial should be an instantia, which can be generally characterized as a counter-example to a universal premise in the Opponent's argument, which proves that the premise is false.

There are numerous examples of instantiae throughout the primary sources. A complete and careful account is found in Hanschius, who provides a rather nice distinction between direct and indirect instantiae.¹³⁴ An instantia used indirectly is a proposition used in an argument which implies the negation of the premise attacked. The premise is proved false by placing the instantia as a major premise in an argument which concludes the negation of the premise. Hanschius gives the following example:

Let the proposition be "Every man is a sinner", to which directly the instantia is thus formed: "Christ is not a sinner, Christ is a man, therefore, some man is not a sinner." (Sit propositio: omnis homo est peccator, ad quam

¹³³Hanschius (1713) pp.61-62: 18. Per negationem respondetur ad propositionem manifesto falsam. Negatio ipsa duplex est, vel absoluta quam semper sequi solet ratio negationis vel probationis tantum gratia facta.. Si absolute negetur propositio subjungenda simul est immediate negationis ratio, vel si in specie Majoris consequentia, h.e. cohaesio terminorum primae propositionis negetur, addenda Instantia, quae est labefactio propositionis universalis per exemplum sub subjecto sumptum cui praedicatum non convenit, adeoque haec viam sternit ad Distinctionem, unde promanat Limitatio, qua argumentum plenarie tandem solvitur. ; Also see Böhmerus, (1730) p. 44-45: Instantia est nihil aliud, quam ostensio per contrarium exemplum, maiorem non esse universalem...

¹³⁴Ibid., pp.61-62: 19. Instantia dupliciter formari potest (1) directe; ponendo propositionem, per quam instantia fit loco majoris, & concludendo contradictoriam propositionis ad quam instantia datur. ex. gr. Sit propositio: omnis homo est peccator, ad quam directe sic instantia formatur: Christus non est peccator, Christus est homo, E. quidam homo non est peccator: indirecte: ponendo propositionem per quam instantia fit loco minoris, & inferendo conclusionem absurdam ex falso supposito ad quod instantia datur ortam, h.m. O. homo est peccator, Christus non est peccator, E. Christis non est homo.

directe sic instantia formatur: Christus non est peccator, Christus est homo, E. quidam homo non est peccator.)

The universal major premise attacked is "(x)(x is a man --> x is a sinner)". The instantia provided is "Christ is not a sinner", which fills the place of the major premise in the following argument which concludes the contradiction of the attacked premise,

Christ is not a sinner.

Christ is a man.

Therefore, (Ex) (x is a man & - x is a sinner.)

An instantia is used indirectly if it is assumed as the minor premise in an argument which contains the major under attack and concludes an absurdity. In the example of the indirect instantia the same premise "every man is a sinner" is attacked, and the same instantia "Christ is not a sinner" is introduced; the following argument results from the indirect use of the instantia,

Every man is a sinner, Christ is not a sinner, therefore, Christ is not a man (O. homo est peccator, Christus non est peccator, E. Christus non est homo.)

It is clear in these examples that direct and indirect instantiae differ insofar as they are different uses of instantiae; in the above examples the instantia itself, "Christ is not a sinner", remains the same. These two uses of instantiae in both cases solve the argument of the Opponent by showing that the universal major premise is false; this is undoubtedly the reason why providing an instantia is usually classified as a type of denial. In the direct use the denial of the universal premise is proved via a direct argument and in the indirect use it is proved by indirect argument.

Distinguo

The move distinguo, Thomasius says, is the most frequently used and most useful response move in the practice of disputation.¹³⁵ Thomasius' claim is probably true, supported further by the frequent use of distinguo in sample disputations. Kenny and Pinborg, in the most recent commentary on post-medieval disputation in the Cambridge History of Late Medieval Philosophy, go so far as to call distinguo "the heart of the post-medieval disputatio." By this Kenny and Pinborg mean not only that distinguo was the most frequently used response move but that the predominant use of distinguo reflected a special interest on the part of post-medieval disputation theorists and practitioners in the "disentangling of the senses of ambiguous words." Kenny and Pinborg's rather bold claim is not supported by any evaluation of the logical force of distinguo and its overall importance to post-medieval disputation practice and theory. These are indeed topics which to my knowledge have not been treated in any recent secondary literature. Here I endeavor to give a rather basic exposition of the essential formal features of distinguo. A full examination of the presupposed grounds for various distinctions in post-medieval disputation cannot even be begun here. Such a study would entail a close look at the kinds of distinctions made in disputations from this period, and careful examination of the many tracts, and some treatises, devoted to the topic of distinctions. A study of this kind has not yet been made, or even begun to my knowledge, and without it Kenny and Pinborg's claim about post-medieval disputation cannot be fully evaluated. Nevertheless, a very brief look at a few general rules governing the use of

¹³⁵Thomasius (1677) p.174-75: Itaque poteramus hinc secundum conflictum claudere, nisi adhuc de modo per distinctionem respondendi, quod frequentissimum & utilissimum responsionis genus est, monenda venirent non pauca.

distinctions in disputation will show that there are reasons for questioning Kenny and Pinborg's characterization of distinguo. Let us first, however, examine the formal structure of distinguo. Once again I rely on Thomasius' Erotemata logica, which has one of the clearest treatments of distinguo I have seen.

The move distinguo is usually classified as a move distinct from nego; in Thomasius, however, distinguo is considered a species of denial. The responses to the matter of the argument, on Thomasius' scheme, are either simple denial or denial under condition. Simple denials are either universal, which is inversio or retorsio (these moves are treated as the same) or "examples", which are instantiae.¹³⁶ A denial which is not simple is "conditioned" or "limited" and the "foundation" of such denials is "nothing else but distinction." (p. 170: Cum negatio non est simplex, sed conditionata seu limitata, fundamentum ejus aliud esse non potest, quam distinctio.) Distinction, therefore, on Thomasius' account is a kind of denial. This kind of classification of distinguo is quite unusual, but it will be shown that distinguo "solves" the argument by asserting the denial of a "limited" premise; it is, therefore, quite reasonable to classify it as a species of denial, although Thomasius is one of the only sources to do so.

The Respondent must do at least three things in proposing a distinction; first he must propose the terms of the distinction; second, if need be, he explains the distinction by a definition, description or example; and third, he must apply the distinction to the argument. This involves first introducing two "limitations" (limitationes) of the premise in question, and then conceding one limitation and denying the other.¹³⁷

¹³⁶Again Thomasius classification of inversio as a type of denial is quite unusual, and, apparently, is followed only by Syrbius.

¹³⁷Thomasius (1677) pp. 170-71: Circa distinctionem tria ut plurimum sunt agenda

Thomasius provides a rather clear example of a proposal of terms of a distinction. The premise to be attacked is, "Whatever Michael Majerus holds is probably true" (Quicquid statuit Mich. Majerus, id probabiliter verum est.) The Respondent first introduces the distinction between "singular opinions" and "common opinions", thus accomplishing the first part of the act of distinguishing; secondly, the Respondent explains the difference between singular opinions and common opinions: singular opinions are defined as those opinions contrary to the common opinion of publicly well-known philosophers: common opinions, on the other hand, are those which follow received opinion. Finally, the Respondent applies the distinction to the argument by first stating two distinct limitations (limitationes) of the premise under attack. One limitation is, "Whatever Michael Majerus holds, which is a common opinion, is probably true." (Quicquid statuit Mich. Majerus sc. tanquam opinionem communem, id probabiliter verum) and the other limitation is "Whatever Michael Majerus holds which is a singular opinion is probably true." The Respondent then applies the limitation to the argument by distinguishing the term wherever it occurs. The Respondent is required to do this by the rule that a distinguished term must be distinguished in all its occurrences. The Respondent goes on to "solve" the argument by denying one of the limited premises, and conceding the other. In the present example the Respondent concedes the limited major "Whatever Michael Majerus holds, which is a common opinion, is probably true", but denies the minor "'Every animal is a brute" is a common opinion."

Let us consider formal representations of the "limitations" of universal minor premises to make clear how the argument is solved by the

respondenti, (exemplum quaere n. 144) primò, proponat eam in terminis; deinde, si opus, (intelliges ex n. 155. 157.) explicet, h.e. unicuique distinctionis membro addat definitionem, descriptionem, vel exemplum; tertio applicet eam ad argumentum, id quod fit limitando.

distinction. A peculiarity to be noted here is that in the premises of the argument there is quantification over propositions as opposed to individuals (I have found these sorts of quantifications elsewhere); this, however, does not affect the syntactical features of the distinctions. The argument to be attacked can be represented,

(x) (Mich. Maj. holds $x \rightarrow x$ is probably true)
 Mich. Maj. holds that "every animal is a brute"
 Therefore, "every animal is a brute" is probably true.

The argument with the limited major is,

(x) ((Mich Maj. holds $x \ \& \ x$ is a common opinion) $\rightarrow x$ is probably true.)
 Mich Maj. holds that "every animal is a brute" & "every animal is a brute" is a common opinion.
 Therefore, "every animal is a brute" is probably true.

The argument is then solved by the denial of the minor premise. In every distinction the argument is solved by the denial of a limited premise. The move distinguo, therefore, solves the argument by attacking the matter of the argument not its form.¹³⁸ Furthermore, it must be stressed that distinction does not function as a counter-argument for the denial of the Opponent's conclusion, but only functions to "solve" the Opponent's argument by the denial of a "limited" premise.

¹³⁸This is stressed in Brunnemannus, in his very terse characterization of distinction in Enchiridon logicum (Francofurti, 1653) p. 42: ... Demum illam negationem quae sub distinctione facta est examinet; nulla enim responsio sine negatione...

In the only recent attempt I know of to explain the move distinguo, in Nicholas Rescher's Dialectics, the formal structure of distinguo is misrepresented.¹³⁹ Rescher construes distinction not as consisting in a denial of a premise in the Opponent's argument, but in the assertion of a "counter-consideration", which provides reasons for believing that the conclusion of the Opponent's argument is false. So, for example, let us suppose the Opponent offers the following argument as an objection, which we can formally represent as follows (the following example is the same example Rescher uses to illustrate distinction in what he calls "scholastic disputation" on page 14. I have symbolized the argument using standard symbols; this differs from the way in which Rescher states the argument only insofar as Rescher uses an "ut nunc" qualification on some universal quantifiers. I have seen no grounds in post medieval sources on disputation for assuming such a restriction on universal quantifiers):

$$(x)(Ax \rightarrow Gx), (x)(Gx \rightarrow Bx), \text{ therefore, } (x)(Ax \rightarrow Bx).$$

Rescher's account of a distinction of this argument is that the Respondent "divides" the middle term "G" to consider things that have not only the property G but some other property as well, say D; the Respondent uses the distinguished term to construct a counter-argument that gives grounds for believing that the conclusion of the Opponent's argument is false. The formal structure of the argument, according to Rescher, is this:

$$(Ex)((Gx \ \& \ Dx) \ \& \ Ax), (x)((Gx \ \& \ Dx) \rightarrow Bx), \text{ therefore, } (Ex)(Ax \ \& \ -Bx).$$

¹³⁹Nicholas Rescher, Dialectics, pp. 13-14.

The essential difference between Rescher's account of distinguo and the second scholastic account is that in the second scholastic account the aim of the move distinguo is to solve the argument of the Opponent by introducing a distinction which allows for the denial of one of the premisses of the Opponent's argument without conceding the negation of the thesis. But the conclusion Rescher wants, $(Ex)(Ax \ \& \ -Bx)$, the contradiction of the conclusion of the Opponent's argument, is not derived from the denial of one or both of the limited premisses. Indeed it is difficult even to see how the distinguished premisses in the Respondent's argument can even count as "limitation" of the premisses of the Opponent's argument. What is required to construct the argument Rescher wants is the complete reconstruction of the Opponent's argument. Distinction, on Rescher's view, is thus not a "response-move" at all, but a kind of counter-argument. This kind of interpretation of distinguo is certainly not in the tradition of post-medieval disputation practices.

A rule governing the use of distinguo, mentioned by Keckermann, is that the Respondent should never respond by denial if the argument can be solved by distinguishing and limiting.¹⁴⁰ Keckermann provides several reasons for this rule: that it is "against legitimate and natural order" to use harsh remedies when it is possible to use softer ones; that distinction is far more conducive to friendly disputation whereas denial stirs up animosity in

¹⁴⁰Keckermann (1614) pp.471-72: nunquam respondeatur negando aut inficiando, si solui argumentum possit distinguendo & limitando. Diligentissimè notandus est hic Canon, & in usu tantò magis urgendus, quanto licentiosius in eum peccant imperiti Disputatores, qui (ut est omnis ignorantia audax) solent perfractè ac contumaciter inter respondendum negare, vel utramque praemissam, vel certè alterutram: id quod est planè contra legitimum & naturalem ordinem, qui requirit, ut leniora remedia prius tententur, quam aspera & acerba applicentur. Est autem durissima responsio per Negationem, contra mitis & lenis per distinctionem & limitationem: quia negatio destruit & pessundat, quod est hostile: Limitatio autem & distinctio conciliat, quod est amicorum & bonorum virorum proprium. Quin & maior inest euditio in limitando & distinguendo, quam in negando: siquidem furiosi & stulti milites plura possunt negare, quam sapientes omnes affirmare.

disputation; that it takes more erudition to respond by distinction than by denial. Keckermann's final and most interesting reason is that distinction is a better move with which to defend the thesis, since a denial can be refuted by a proof of the denied premise, which secures for the Opponent a proposition with which he can attack the thesis. In a response via distinction, however, the Respondent denies a proposition dangerous to the thesis and concedes a proposition which cannot be used to attack the thesis.¹⁴¹ The Respondent thereby concedes to the Opponent nothing with which he can work against thesis.

In this account of distinguo, I have primarily focused on the formal aspects of the move. The far more complex questions, however, concern what are the grounds or the "matter" for distinctions. These kinds of questions are seldom brought up in post-medieval tracts and treatises on disputation, although there are plenty of tracts and some full treatises explicitly devoted to distinctions, which was indeed an important topic to the logicians of the period. A rule relevant to the grounds for distinctions, which is quite often mentioned in disputation sources, is that a distinction must have some "foundation in fact" (fundamentum in re).¹⁴² Distinctions were open to attack if they could be shown to have no such foundation. One finds no special concern in the primary source with linguistic ambiguity, which one would expect if Kenny and Pinborg's claim about distinguo were true. Linguistic ambiguity is treated as just one basis for a distinction. This is confirmed in several sources, for instance Keckermann, who, in an account of praecognita

¹⁴¹Ibid., p 472: Denique etiam tutius est & securius respondere distinguendo & limitando, quam inficiando: quia negatione datâ, si paulò ingeniosior & promptior sit opponens, convertet sese ad probandum, & ita habebit instandi & urgendi ac disputationem protrahendi occasionem: cum contra probandi & urgendi ansa magis ipsi praecidatur, si distinguendo aut limitando respondeatur, atque ei aliquid concedatur, quod tamen nostram causam non evertat.

¹⁴²See, for instance, Felwinger (1659) p. 50; Schneider (1718) pp. 179-80.

of disputation, says that disputants must know not only "distinctions of word" (distinctiones vocum) but definitions and distinctions "among the things themselves" (distinctiones rerum ipsarum).¹⁴³ It is not clear what Keckermann means by these two different types of distinctions, but certainly before any broad claims can be made about the nature of the move distinguo in post-medieval disputation studies of the kinds of distinctions recognized by second scholastics should be undertaken.

Subdistinguo

The move subdistinguo is a response which solves the argument by the addition of a second distinction to the premises of the argument and the denial of one of the twice limited premises. Subdistinction is seldom mentioned in German Protestant sources, although subdistinction is a well known response move, many examples of which exist in examples of medieval quaestio disputata. The only post-medieval source I have found which provides a clear example of subdistinction is the little known Jesuit Freytag in Dialectica nova sive introductio in philosophiam. Below I have regimented the example provided by Freytag to explain subdistinction; I provide the text, which is quite condensed, in a footnote.¹⁴⁴

¹⁴³Keckermann (1614) p. Praecognita autem ista quae aperte ponenda erunt in tractatione problematis, sunt tria praecipua: 1. vocum ambiguarum distinctiones; 2. Definitiones tam subiecti quam praedicati: Denique 3. distinctiones non vocum, sed rerum ipsarum, atque adeo explicatio subiecti & praedicati per argumentum Diversitatis, quod argumentum dicitur distinctio rerum, ut notum est.

¹⁴⁴Freytag (16) p. : Pro praxi: Sit distinguendus hic syllogismus: Quod est causa peccati, non est amandum, sed divitiae sunt causa peccati, ergo non sunt amandae. Postquam repetivit syllogismum totum, denuo resumat majorem hoc modo: Quod est causa peccati, non est amandum: Distinguo majorem quod est causa per se peccati, non est amandum, Concedo majorem. Quod est causa per accidens peccati non est amandum, subdistinguo: non est amandum pro omni tempore nego majorem: pro aliquo tempore non est amandum concedo majorem. Atqui divitiae sunt causa peccati, distinguo similiter minorem. Sunt causa per se peccati, Nego minorem. Sunt per accidens causa peccati, con. min. ergo divitiae non sunt amandae, distinguo etiam consequens, non sunt amandae pro omni tempore, Nego

The original argument to be attacked is,

Whatever is the cause of sin ought not to be loved.

Riches are the cause of sin.

Therefore, riches ought not to be loved.

The major is first distinguished by introducing a distinction of the middle term, "being a cause of sin per se" and "being a cause of sin per accidens"; the following possible syllogisms result after the distinction has also been applied to the argument:

Whatever is the cause of sin per se ought not to be loved.

Riches are the cause of sin per se.

Therefore, riches ought not to be loved.

Whatever is the cause of sin per accidens ought not to be loved.

Riches are the cause of sin per accidens.

Therefore, riches ought not to be loved.

But rather than solve the argument at this point by denying the limited major or minor premise in one of the arguments the Respondent concedes the major and minor in the weaker sense of the distinguished term (i.e. "whatever is the cause of sin per accidens" and "riches are the cause of sin per accidens"). The Respondent at this point has conceded all the premisses to a valid argument and will lose the disputation if no further move is made; he escapes, however,

consequentiam, non sunt amandae, pro aliquo tempore, concedo consequentiam. Pro quo observa, quod quando dicis: distingo, debeas dicere consequens, non consequentiam, quia distinguis ipsam propositionem, quae infertur; quando autem dicis Nego aut concedo, debes dicere consequentiam, quia non tam ipsam propositionem negas, quam quod sequatur ex praemissis.

by applying a further subdistinction to the major term, which results in the following syllogisms,

Whatever is the cause of sin per accidens ought not to be loved
for all time.

Riches are the cause of sin per accidens.

Therefore, riches ought not to be loved for all time.

Whatever is the cause of sin per accidens ought not to be loved
for some time.

Riches are the cause of sin per accidens.

Therefore, riches ought not to be loved for some time.

The argument is then solved by denying the major that "whatever is the cause of sin per accidens ought not to be loved for all time" and conceding the major "whatever is the cause of sin per accidens ought not to be loved for some time." The Respondent then has the right to deny the formal implication "therefore, riches ought not to be loved for all time" because this conclusion does not follow from the conceded premises.

The use of subdistinction certainly complicates the response, which is perhaps the reason why it is not much discussed by post-medieval sources; this, however, is speculation on my part, since I have found no sources which object to the complexity of subdistinction.

Concedo/Transeat

The move concedo applied to a premise in an argument is simply the concession of the truth of the premise. The simple rule governing the use of

this move is that all true premisees ought to be conceded. This rule can be found in many sources, usually with some emphasis that the Respondent should concede only those propositions which are obviously true. The obvious reason for this concern is that concession of a premise to an Opponent not only cannot solve the Opponent's argument, but grants to the Opponent a premise which can be used to refute the thesis.

In a handful of sources the move concedo is distinguished from transeat by the conditions under which each move is to be used. In Geulincx, for instance, it is said that Respondents should use concedo if the premisees in question are of indubitable truth whereas transeat should be used if the premisees are of "ambiguous truth" or if the truth or falsity of the premisees is irrelevant to the truth or falsity of the thesis.¹⁴⁵ Similar contrasts between the uses of concedo and transeat can be found in a few other sources, for instance O'Kelly, who provides this succinct, and common characterization of the rules of use for the primary response moves: Denique, si vera sit propositio, dicat Concedo: si falsa, nego: si dubia, distingo: si ad rem non fuerit: transeat vel esto.¹⁴⁶

A question of logical significance concerning the distinction between concedo and transeat is whether or not transeat commits the Respondent to granting the truth of the premise in question. Concedo clearly does commit the Respondent to this, but if transeat functions in the same way the Respondent may be led to the concession of the truth of propositions, which are irrelevant

¹⁴⁵Geulincx (1663) p.119: Tres illa responsiones sunt: I. Concedo, 2. Transeat, 3. Nego. Et primam quidam Responsionem adhibent circa illas propositiones et partes argumenti, quae sunt indubitae veritatis. Secundum abhibent circa illas partes argumenti, quae sunt ambiguae veritatis, aut quarum veritate vel falsitate non multum interest, quaeque ideo contra Thesin nihil faciunt. Tertiam denique Responsionem adhibent circa illas partes argumenti, quae directe faciunt contra Thesin.

¹⁴⁶O'Kelly, Guiliemus, Philosophica aulica (Neo-Pragae, 1701) p. 34.

to the truth and falsity of the thesis but known to be false. Most German Protestant sources appear to either be unaware of this important point or unconcerned.¹⁴⁷ Geulincx, for instance, says explicitly that concedo and transeat cannot be distinguished. By this he means that these moves cannot be logically distinguished because each entails that the Respondent grants the truth of the premise in question.¹⁴⁸ Geulincx even goes a bit further and introduces the rule, which I have not seen elsewhere, that "he who is silent appears to concede" (Qui tacet, consentire videtur). This rule says that any premise or formal consequence passed over in silence by the Respondent is granted to the Opponent.

Concedo totum argumentum

Most sources ignore discussion of the simple move concedo and treat a quite different move concedo totum argumentum, which, it must be stressed, is a completely different response move from concedo despite its likeness in name. Concedo totum argumentum,, also statable as argumentum non facit contra me, entails the assertion that the Opponent has argued ignoratio elenchi, the claim that the conclusion of the argument does not contradict the thesis. But this assertion does not imply that there is some fault in Opponent's argument, nor does it imply that the Respondent concedes that the Opponent has provided a sound argument. The move merely dismisses the argument as

¹⁴⁷Angelelli (1970), p.808, notes that "one of the few flaws" in Hunnaeus' Erroremata de disputatione is that concedo is used both to concede true premisees and premisees which are irrelevant.

¹⁴⁸Geulincx (1663) p. 121: Una igitur modo Responsio est qua Defendens utitur, nempe Nego. Hac una, inquam, expresse utitur, implicite enim altera Responsio est, nempe Concedo vel transeat (inter haec enim non distinguit), quam tacendo satis adhibere censetur.

irrelevant to the issue at hand. It can be said, therefore, that concedo totum argumentum does "solve" the Opponent's argument by showing that the argument does not contradict the thesis, but it does not "solve" the argument in the sense of showing that the argument is unsound.

The following condensed account of concedo totum argumentum is found in Langius,

"He who opposes a speech illegitimately or with ignorance commits *éeromaxðan* (fighting with air), which is unworthy of a learned man. For it is granted to the Respondent that he not be held to defend what he does not hold; for [in doing so] the Opponent imputes to the Respondent what he does not hold and, therefore, Respondent is not obligated to defend it. The Opponent attributes a negative opinion to one who is affirming, or an affirmative opinion to one who is denying or a determinate opinion to one who is not determining. Hence instead of a response the Opponent must hear this common saying, "I concede the whole argument"." (Qui illegitime, seu cumignoratione elenchi opponit, committit æpomaxian, viro docto indignam. Nam Respondenti imputat, quod non statuit, ideoque nec defendere tenetur; seu affirmanti tribuit negativam, aut neganti affirmativam, aut non determinanti determinatam sententiam. Unde loco responsionis audire tenetur tritum illud: Concedo totum argumentum.)

Here it is very clear that concedo totum argumentum is to be used not to attack a particular feature of the Opponent's argument, but to dismiss the argument from consideration, because the Opponent, in arguing ignoratio elenchi, attributes a position to the Respondent which he does not necessarily hold. This distinguishes concedo totum argumentum as a different type of response than concedo, which is to be used to grant to the Opponent a premise which is true.

Nego consequens et consequentiam

A clear distinction is made between denial of the major, minor premise, or conclusion (consequens) and the denial of the formal consequence (consequentia). Denial of one of the premisses or the conclusion entails the rejection of the premise or conclusion in question whereas denial of the formal consequence entails the claim that the conclusion does not follow from the conceded premisses. As noted above, measures are taken by praeses and Respondent at the onset of the responsio to guarantee that the objection does have valid form. Any subsequent denial of the formal consequence must be made on the grounds that the premisses conceded to the Opponent do not imply the desired conclusion, which entails that one or both premisses have been denied or distinguished.

Ad conclusionem nunquam est respondendum

A rule is frequently mentioned in the sources is "one ought never to respond to the conclusion" (ad conclusionem nunquam est respondendum).¹⁴⁹ A response to the conclusion is understood to consist in the denial of the conclusion without any response to the premisses or to the formal consequence of the argument. A justification for the rule found in Geulincx and Wendelerus is that if the Respondent merely denies the conclusion without further response to the form or premisses of the argument he is led into maintaining a contradiction. In Geulincx this is shown by the aforementioned rule, qui tacet, consentire videtur, which forces the Respondent to grant anything he passes over in silence. If the Respondent denies the conclusion

¹⁴⁹For instance, see Langius p. 47-48: Ad conclusionem quidem nunquam respondendum est, sed argumentum strictiori sensu sic dictum, seu ad medium terminum, qui in utraque praemissa est...

without any other response he must maintain both that the conclusion is false and that it follows from a valid argument with true premises, which is impossible according to the principle ex vero nihil nisi verum.¹⁵⁰ A similar justification is found in Wendelerus.¹⁵¹

Argumentum in contrarium

Some sources mention that if the Respondent cannot solve the Opponent's argument he may turn to giving arguments, which is a move strictly speaking beyond his duties. Horneius refers to such a move as argumentum in contrarium.¹⁵² In Horneius it is not clear whether this move is an argument against one of the premises of the Opponent's argument or a full fledged proof of the thesis; in any case it is a move which the Respondent should not make because it is outside the bounds of his duties. When the Respondent does offer a counter-argument there is a danger of role confusion

¹⁵⁰Geulincx (1663) p.121: Partes Argumenti sunt Antecedens (cum illud simplex est in enthymemate), Major, Minor (quum praemissae sunt inaequales), prior pars Antecedentis, posterior pars Antecedentis (quum praemissae sunt aequales), Consequentia, et denique Consequens seu Conclusio. Harum quamlibet negare Respondens excepta ultima potest, scil. Majorem, Minorem, Consequentiam, sed non potest negare Consequens. Cujus haec est ratio, quia quae non negat Respondens, ea censetur admittere tanquam vera; si ergo non negato Antecedente, nec ullâ Praemissâ ejus, non negatâ Consequentiam, neget ipsum Consequens seu Conclusionem, hoc ipso pugnat contra illud principium Logices: Ex vero nihil nisi verum. Antecedens enim pro vero habere censetur, Consequentiam etiam admittere, negat vero Conclusionem, hoc est, dicit illam esse falsam; hoc nihil aliud est dicere quam: ex vero per bonam consequentiam falsum sequitur.

¹⁵¹Wendelerus (1650) p.57: Ad conclusionem nunquam esse respondendum. Nam error est in alterâ praemissarum, & Conclusio falsa praesupponit praemissam falsam. Ratio, quia ex praemissis, tanquam causis sufficientibus in actu, necessaria inferetur Conclusio. Neque etiam tunc respondendum est, quando ex praemissis non infertur, aut quando plus in eâ est, quam in praemissis, quia tunc non est Conclusio.

¹⁵²Horneius (1633) p.126: Caeterùm sicut respondentis non est probare theses: ita rursus nec partes suas ille impleverit si argumenta opponentis non solvat, sed argumentum in contrarium afferat, sicut nec rectè docet, qui quod dicit argumentis multis confirmare potest sed obiectiones solvere nequit..

in the disputation, which is considered by most sources to be undesirable. Langius mentions that role confusion can occur either "by inexperience" or "by subtlety". The inexperience of the Respondent and Opponent can cause role confusion if the Respondent mistakes an argument in support of the thesis for a response, and the Opponent, rather than pointing out the blunder, responds to the argument. On the other hand, the Respondent may desire to switch roles with the Opponent if the Respondent cannot come up with a response, and so in place of a response he may offer an argument. Langius, like Horneius and others, considers this attempt at role confusion "by subtlety" bad disputation.¹⁵³

Inversio/Retorsio

The move inversio is universally classified as an indirect response. Retorsio is sometimes considered simply another name for inversio, which is the way Thomasius, Keckermann, and some others handle these terms.¹⁵⁴ In Reuschius, whose account of retorsio and inversio will be examined carefully, the two responses are not only carefully distinguished but two different types of inversions and retorsions are distinguished. The contrast between Reuschius' treatment of inversio and a few other sources shows that inversio

¹⁵³Langius (1719) pp. 16-17: Personae disputantes, seu ipsarum partes, non sunt confundendae, ita ut vel per imperitiam, vel per versutiam, e Respondente fiat Opponens, & ex Opponente Respondens.... Respondens Opponentis partes accipit vel ex imperitia, vel ex versutia. Ex imperitia, quando pro oppositi argumenti solutione ad theseos suae probationem confugit, novas pro ea rationes in medium proferens, easque Opponentis argumento opponens. Quo pacto Opponens, si etiam ipse est imperitus, pro eo, quod prolatum argumentum suum, exacta ad illud responsione prosequi debebat, deserto hoc officio suo, Respondentis rationes examinare & ad eas respondere cogitur. E versutia (quae tamen a bona disputatione abest) Respondens Opponentis partes sibi vindicat, quando non quidem nescit, ad argumentum sibi respondendum esse, sed ad illud tamen respondere aut non potest, aut non vult.

¹⁵⁴Thomasius (1677) p.158.

admits of various degrees of analysis and description in primary sources. This makes it difficult to characterize inversio in a precise way. There are, however, two essential features of inversio which are manifest in the various discussions: (i) inversio does not solve the argument of the Opponent (ii) inversio aims to "turn the argument of the Opponent against itself". The former feature, of course, tells us nothing about what inversio is. The second feature, on the other hand, is extremely general, and as it stands tells us little about the logical structure of inversio. Nevertheless it is probably the only positive characterization which applies generally to the various treatments of inversio in the primary sources. To explain this second feature I will examine a series of sources beginning with Felwinger because of its brevity and generally, and ending with Reuschius.

The Respondent inverts the argument and he shows that [the argument] works against the Opponent himself; For the response is most elegant if it is shown that the argument works against the Opponent, and hence the Opponent himself is involved in a contradiction. (Vel invertat argumentum, & contra ipsum opponentem facere, ostendat: elegantissima namque responsio est, si ostenditur, argumentum contra opponentem facere, indeque ipsum contradictione involvi. p.53)

Here Felwinger states rather clearly that inversio is a response in which the Opponent's argument is made to work against itself, and it is said to do so showing that the Opponent is involved in contradiction. But Felwinger does not work out the logical details of the response. With this further characterization of inversio in mind lets us move on to Thomasius who provides us with an example.

The example of inversio in Thomasius is the following:

The argument to be attacked is,

Whatever Michael Majerus holds is probably true.
 Michael Majerus holds that "every animal is a brute."
 Therefore, "every animal is a brute" is probably true.

In this particular case the Respondent inverts the argument by substituting the major premise with its apparent contradictory containing a distinction, and by drawing a conclusion which contradicts the Opponent's conclusion,

Whatever Michael Majerus holds, which is a singular opinion, is probably false.

Macheal Majerus hold that "every animal is a brute" and "every animal is a brute" is a singular opinion.

Therefore, "every animal is a brute" is probably false.

Thomasius' example is complicated because the major premise in the inversio is not merely the simple contradiction of the major premise, but also contains a distinction, which must also be inserted in the minor premise if the argument is to remain valid. The conclusion of the inverted argument does contradict the conclusion of the original argument. This involves the Opponent in a contradiction only if the Opponent concedes the premisees of the inversio, but it is not at all clear why he should. The Opponent should have the option of denying the one or both of the premisees of the Respondent's inversio since neither the premisees nor the conclusion of his own argument imply the premisees of the inversio.

Another account of inversio is found in Langius, who describes inversio in a very colorful way saying that inversio turns back the argument against the Opponent "as if the throat had been cut by its own sword."¹⁵⁵ The

¹⁵⁵Langius pp. 55-56: INVERSIO est responsio, qua argumentum Opponentis in ipsum

combative metaphor does seem consistent with Felwinger's claim that inversio involves the Opponent in a contradiction. In Langius' definition and example of inversio, however, it appears that inversion is limited to specific contexts in which a negative universal major is converted, and the minor is changed so that the middle term is the subject of the converted major premise. Here is the example,

The argument to be inverted is,

Whatever is a contradictory belief is not true and should not be held.

The belief about the Trinity is contradictory.

Therefore, the belief about the Trinity is not true and should not be held.

In the inverted argument the negative universal major is converted and the minor is changed as follows,

Whatever belief is true and should be held is not contradictory

The belief about the Trinity is true and should be held.

Therefore, the belief about the Trinity is not contradictory.

As in the above example from Thomsius the argument involves quantification over beliefs rather than individuals; the arguments are, nevertheless, valid. In this particular inversio no distinction is introduced in

retorquetur, ipso per suum quasi gladium jugulato. Locum habet inversio in propositione majore universaliter negante, & fit per conversionem, ita ut e subjecto fiat praedicatum, v.g. Quodcumque dogma est contradictorium, non est verum nec credendum. Atqui dogma de Trinitate est contradicit. Ergo, [dogma de Trinitate non est verum nec credendum.] Inversio: Quodcumque dogma est verum & credendum, non est contradictorium. Atqui dogma de Trinitate est verum & credendum: uti liquet e plurimis Scripturae S. testimoniis.

the argument as in Thomasius's example. Furthermore, the conclusion of the inverted argument does not contradict the conclusion of the argument attacked, rather the contradiction of the conclusion of the argument to be attacked is assumed as a minor premise in the inversio. Unlike Thomasius' bald assertion of an example without a characterization of inversio Langius does provide us with a formula for how to construct an inversio, but this formula appears to be limited to syllogisms with negative universal majors.

Reuschius' treatment of retorsio and inversio exhibit detail not found in any other source. Not only are retorsio and inversio distinguished from one another and explained by examples, inversio and retorsio and both further distinguished into inversio and inversio imperfecta and retorsio totalis and retorsio partialis. I will first examine Reuschius' account of inversio.

Reuschius defines inversio in the following way,

Inversion is when the opposite [proposition] is substituted for the assumed minor and at the same time opposite [terms] are substituted for both the major and minor [term]. (INVERSIO est, quum minori sumtioni opposita, simulque tum medio, tum maiori termino oppositi substituuntur. Atque sic inversio minoris propositionis vel negationem vel restrictionem infert.)

The definition is supported by the following example,

The argument to be attacked is,

Whatever makes men less fit for public affairs, makes them unhappy.

Old age makes men less fit for public affairs.

Therefore, old age makes men unhappy.

The argument inverted is,

Whatever makes men more fit for public affairs makes them more happy.

Old age makes men more fit for public affairs.

Therefore, old age makes men more happy.¹⁵⁶

The assumed minor premise "old age makes men less fit for public affairs" is substituted by the "opposite" proposition "old age makes men more fit for public affairs"; but this substitution of the "opposite" proposition is determined by the substitution of the "opposites" of the major and middle terms in the original argument, namely, the substitution of "makes men more fit for public affairs" for "makes men less fit for public affairs" and "makes men more happy" for "makes men less happy". Reuschius' first condition for inversion, that the minor premise be substituted by the opposite proposition, appears to be redundant. In addition "opposite" is clearly used in a loose sense here. With regard to "opposite proposition" it certainly does not mean strictly "formally opposite". Although, the premise obtained by substituting the "opposite" of the middle term does materially imply the contradiction of the original premise. The opposite terms must be characterized as "material opposites"

Reuschius distinguishes plain inversio from imperfect inversio which he defines as follows: "inversions are called imperfect if we substitute the

¹⁵⁶Reschius (1734) p.865:

Quod homines minus aptos reddit rebus gerendis, id miseros efficit eos.

Senectus homines minus aptos reddit rebus gerendis: ergo

Senectus homines miseros efficit.

Cui argumentationi sequens opponitur inversio,

Quod homines magis aptos reddit rebus gerendis, id feliciores efficit homines.

Senectus homines magis aptos reddit rebus gerendis: ergo

Senectus feliciores efficit homines.

opposite for the major proposition under some distinction or restriction."
 (INVERSIONES vocant IMPERFECTAS, si sub distinctione aut restrictione
 quapiam oppositam propositioni maiori substituimus.) The following example
 is given,

The argument to be attacked is,

Whatever has been promised ought to be done
 Betrayal of the fatherland has been promised.
 Therefore, betrayal of the fatherland ought to be done.

The argument inverted imperfectly is,

Whatever has been promised badly or stupidly ought not to be
 done, or it is done more stupidly.
 Betrayal of the fatherland has been promised badly and stupidly.
 Therefore, betrayal of the fatherland ought not to be done, or it
 is done more stupidly.¹⁵⁷

In an imperfect inversio rather than substituting opposite terms for the
 major and middle terms a distinction is introduced into the premise and the
 contrary proposition is substituted. So, "(x) (x has been promised & x is
 promised badly and stupidly --> - x ought to be done.)", which is an E

¹⁵⁷Ibid. p. 865-56:

Quod promissum est, praestari debet,
Patriae prodito est promissa: ergo
Patriae prodito debet praestari.

Cui sequenti respondetur inversione imperfecta,

Quod male seu turpiter promissum est, non debet praestari, seu turpius
praestatur,
Patriae prodito male seu turpiter est promissa: ergo
Patriae prodito non debet praestari, seu turpis praestatur.

proposition, is substituted for, "(x) (x has been promised ---> x ought to be done)", which is an A proposition.

If we follow Reuschius' criteria for inversion and imperfect inversion and look back at Thomasius example, we see that Thomasius in fact gives us an example of an imperfect inversion, in which "(x) (Micheal Majerus holds x --> x is probably true)" is substituted by something close to the contrary proposition with a distinction introduced, namely "(x) (Micheal Majerus holds x and x is a singular opinion --> x is probably false [which appears to be intended as "- x is probably true"])".

Reuschius makes a rather fine distinction between retorsio and inversio and an even finer distinction between retorsio totalis and retorsio partialis. A retorsio totalis is defined as follows: "A total retorsion is when the opposite [proposition], either formally or materially is substituted for the major whereas the assumed minor of the argument is preserved." (RETORSIO TOTALIS est, quum, servata minori sumtione argumentationis, maiori substituitur opposita, sive formaliter sive materialiter.)

The argument to be attacked is,

Whatever frees us from desires is bad.

Old age frees us from desires.

Therefore, old age is bad.

The total retorsion of the argument is,

Whatever frees us from desires is good.

Old age frees us from desires.

Therefore, old age is good.

The only difference between retorsio totalis and inversio is that in retorsio totalis the minor premise remains the same, whereas in inversion the substitution of the opposite of the middle term for the middle term changes the minor premise. The "opposite" of the major premise, it is remarked, can either be formal or material. In the above example the opposite is obviously material since the major premise remains formally an A proposition. Although one can see how easy it would be to propose a "formal opposite" by substituting "(x) (x frees us from desires --> - x is good)" for its contrary "(x) (x frees us from desires --> x is good)."

A retorsio partialis is defined as the following: "partial retorsion is when the major is denied in restriction and particularly. In total retorsion, therefore, denial of the major is involved whereas in partial retorsion the restriction of the major is involved." (Retorsio PARTIALIS est, quum maior in restrictione et particulariter negatur. In retorsione igitur totali negatio maioris: in retorsione partiali restrictio maioris involuitur.) The definition is again supported by an example,

The argument to be attacked is,

A loaf should not be given to dogs.
 You are a dog.
 Therefore, a loaf should not be given to you

The retorsio partialis of the argument is,

Crumbs should be given dogs.
 I am a dog
 Therefore, crumbs should be given to me.¹⁵⁸

¹⁵⁸Reschius (1734) pp.863-66: §. 858 Eadem tacita negatio obtinet, si retorsio vel inversio

The restriction of the major premise in this example is different from a distinction. The term is "restricted" in meaning in an intuitive way which cannot be represented formally; we could characterize this "restriction" of a term as the substitution of a term which is "weaker" in meaning. The "particular" nature of the denial of the major in the partial retorsio is difficult to account for. The argument can be analyzed as a hypothetical syllogism which would constitute an example of modus ponens. In that case the argument could be represented,

If you are a dog --> - you should be given a loaf.

You are a dog

Therefore, - you should be given a loaf.

The particular denial of the major premise in this case entails taking the negation of the consequent. This, along with the "restriction" of the term "loaf" in the major yields the partial retorsio.

adhibeatur: illic enim syllogismo proposito maior, hic minor atque maior falsitatis arguitur; dum contradictoria adferitur. §. 859.

Exemplum retorsionis totalis foret, si quis argumentaretur.

Quodcunque voluptatibus nos privat, est malum.

Senectus nos privat voluptatibus: ergo

Senectus est malum.

atque ego responderem.

Quodcunque voluptatibus nos privat, seu liberat, est bonum

Senectus privat, seu liberat, nos voluptatibus: ergo

Senectus est bonum.

Exemplum retorsionis partialis reperitur in responsione feminae Canaanitatae, quae Christo argumentanti.

Canibus (i.e. ethnicis), panis, (i.e. beneficium sanationis), non est dandus.

Tu es canis: ergo

Tibi panis non est dandus.

hanc retorsionem opponebat,

Canibus micae sunt concedendae.

Ego sum canis: ergo

Mihi micae sunt concedendae.

If you are a dog --> you should be given crumbs.

I am a dog.

Therefore, I should be given crumbs.

If we attempt to analyze this argument as a categorical syllogism the major premise must contain a relational predicate,

(x) (x is a dog--> - a loaf should be given to x)

You are a dog.

Therefore, - you should be given a loaf.

The restriction of the major would then entail replacing the term on the right hand side of the relational predicate with the term with restricted meaning; the "particular denial", on the other hand, would consist in changing the premise from an E to an A premise. It is difficult to see how this could be considered denying the premise "particularly".

There are two essential things to be generally noted about the accounts and examples of inversio and retorsio found in Felwinger, Thomasius, Langius and Reuschius. First, the general idea of "turning an argument back on itself", which is at the heart of the meaning of both inversio and retorsio, is in most sources not precisely understood. In Langius and Reuschius, where some careful characterization of inversio or retorsio are attempted, there is not precise agreement on a definition of inversio. What we find in Langius and Reuschius are various formulas for how "to turn an argument against itself". In Reuschius these formulas exhibit complexity not found elsewhere. I have seen no evidence in other sources that Reuschius' definitions of inversio, inversio imperfecta, retorsio totalis and retorsio partialis were in common use.

The other essential feature of inversio is that it does not solve the Opponent's argument, that is to say that it does not show that the Opponent's argument does not contradict the thesis. What inversio in fact does in all the above examples is provide a counter-argument whose conclusion is either the contradiction of the conclusion of the Opponent's argument or the contradiction of one of the premisses. When the inversio concludes the contradiction of the conclusion of the Opponent's argument it is difficult to distinguish it from a simple argument for the thesis, since a contradiction of the Opponent's conclusion should be logically equivalent to the thesis. Apparently the only difference between the two would be that inversio employs some specific kind of restatement of Opponent's premisses which manipulate the terms of the premisses to achieve some rhetorical effect, i.e. the appearance that the premisses of the Opponent's argument "turn back" on the Opponent's position. But from the examples of retorsio examined this effect must be characterized as rhetorical, because there is no logical reason why the Opponent must accept the premisses of the inverted argument; the inverted argument is in fact a counter-argument which the Opponent should be able to reject. Also, because inversio consists in the Respondent providing an argument, there is the question whether or not the Respondent must assume the burden of proof. Most sources overlook this problem, but it is pointed out by Jacobi;¹⁵⁹ also Syrbius explicitly says that if the Respondent provides an inversio he cannot decline the burden of proof if the Opponent demands it.¹⁶⁰

Despite some laudatory things said of inversio, as Felwinger's remark that it is a "most elegant response", the rhetorical force of the move appears to have been understood in some sources. A rule, which is found in at least

¹⁵⁹Jacobi (1716) p.10.

¹⁶⁰Syrbius (1717) p. 387: Inversione cuius generis caute imprimis utendum est. Ea enim quum argumentari suscipiat respondens, neque onus probandi declinare poterit, si ab Opponente urgeatur...

Keckermann, is that before one advances an indirect response one must advance a direct response (again Keckermann recognizes retorsio/inversio as the only indirect response).¹⁶¹ Hanschius, on the other hand, says that in the exceptio, the Opponent's escape from the response, the Opponent can demand a direct response if only an indirect response is given, because the indirect response does not solve.¹⁶² These rules seem to be aimed at reducing the function of inversio in disputation to rhetorical flourishing, which can supplement the direct response whose aim is the solution of the argument. Regardless of the elegance and persuasive force of an inversio, however, the issues of the strength of the Opponent's arguments and whether or not the Respondent can find a solution to those arguments remain the essential concerns of the disputation.

It should be noted that in later scholasticism the term inversion took on a quite different meaning from what we find in 17th and 18th century texts on disputation. In Coffey, for instance, inversion means the "process" of deducing from some proposition a proposition whose subject is the contradictory of the subject of the original proposition. Coffey gives the following definition and example on page 243 of The Science of Logic,¹⁶³

"Inversion is that process of immediate inference by which from a given proposition we infer another having for its subject the contradictory of the original subject...Inversion of A[(a) S a P converts to P i S which obverts

¹⁶¹Keckermann (1614) p. 471: Directae responsioni, quae scilicet ita instituitur, ut modò diximus, addi interdum debet indirectae, ut est imprimis retorsio, qua ostendimus argumentum adversarii pro nobis facere. Duplicem solutionem esse sive responsionem docetur alibi: hoc loco id tantum notetur, nunquam esse indirectè respondendum, nisi prius sit responsum directè.

¹⁶²Hanschius (1713) p.65: Si responsio fuerit indirecta, in genere excipiat, hac ipsa oppositum argumentum non solvi, petatque ut respondeatur ad argumentum directe.

¹⁶³P. Coffey, The Science of Logic, London 1912.

to P o S- which cannot be converted.] (b) S a P obverts to S e P, which converts to P e S, which obverts to P a S which converts to S i P which obverts to S o P: thus giving the two desired inverses, S i P and S o P."

There are two essential differences from inversion in the context of disputation and Coffey's analysis of inversion in The Science of Logic. First, in disputation no attempt is made to infer anything from the Opponent's argument in inversion. Rather, certain substitutions of terms are made which result in an argument which either implies the negation of the conclusion of the Opponent's argument or the negation of one of its premises. Inversion in Coffey, however, is simply legitimate deduction of a proposition from another proposition by the laws of conversion and obversion. Second, inversion as it is explained in our post-medieval sources can only be understood in context of disputation, i.e. the various definitions of inversion presuppose some dialogical schema. In Coffey, however, inversion consists in simple deduction, which can be defined without any reference to a dialogue.

Chapter 10: Exceptio

The word "exceptio" is a technical term in second scholastic disputation theory borrowed from Roman legal terminology. In Roman law an exceptio is a "countercase" brought by the defendant against an argument given by the plaintiff. In the modern method of disputation, on the other hand, an exceptio is a counter-response made by the Opponent to moves of the Respondent in the response, specifically to those moves which aim to solve the argument of the Opponent. It is difficult to provide a descriptive translation of "exceptio"; the translation used throughout this work is "exception". Like the word "responsio", "exceptio" has two senses, one which denotes that phase of the disputation in which the Respondent makes exception-moves to particular responses of the Opponent, and, more particularly, a sense which denotes an individual exception-move. The use of the word "exceptio" to denote this phase of the disputation and exception-moves which occur in it is very common in second scholastic sources. It occurs in mid to late 16th century German works, for instance, in Hunnaeus and Goclenius, and is used throughout the 17th and 18th century disputation literature, as well as in 18th and 19th century neo-scholastic sources. I do not know when the use of the word exceptio was transferred from legal contexts to disputation.

It appears that to each type of response move there correspond a type or types of exceptions, but sources usually do not systematically list response-moves with the corresponding exceptions; the correlations between the types of moves must be abstracted from various sources. I will go through the individual types of exception-moves which can be made against individual response-moves. In this account of types of exception-moves I have for the most part relied on four primary sources, Thomasius, Hanschius, Felwinger, and Sanderson, due to their more detailed treatments of exceptio.

Exception-moves to nego

A direct exception to a simple response nego with no justification is constituted by a proof of the premise denied; the common rules of proof, opponens est semper teneri ad probationem and affirmanti incumbit probatio, are usually interpreted in such a way that the Opponent is required to prove his claim. Hanschius also mentions that in making an exception to nego the Opponent can prove a denied premise indirectly, presumably by assuming its negation and deriving a contradiction or absurdity.¹⁶⁴

There is, nevertheless, some reluctance in some major sources, namely Hanschius and Sanderson, to adhere strictly to the common rules of proof. Hanschius, for instance, allows the Opponent to request a justification from the Respondent if no justification is given in the responsio; this gives the Opponent the opportunity make an exception to the denial by attacking the justification for the denial rather than the denial itself, which requires proof of the denied premise. Sanderson mentions this same rule. In Sanderson the Respondent is allowed to make a simple denial in the response without a justification, and, Sanderson stresses, the Respondent is under no obligation to prove the denial because the rules of proof say that he is merely obligated to defend and not prove. But in the exceptio the Opponent can request a justification for a simple denial, and the Respondent is obligated to give it.¹⁶⁵ Sanderson's reason for allowing this loophole to the rules of proof is that "any

¹⁶⁴Hanschius (1718) p. 67: Ad negationem integrae praemissae excipat: vel probando eam e vestigio sive directe, si minus fuerit manifesta, sive indirecte, ducendo ad absurdum; vel rogando causam negationis, eamque deinceps novo argumento infringendo.

¹⁶⁵Sanderson (1589) p. 57: Sed Respondenti, ubi aliquod negandum deprehenderit, satis erit simpliciter negasse. Nec enim ab eo exigenda est ordinariè ratio negationis: cujus est defendere, non probare; & rationes alterius solvere, non suas assignare. Sed quia, ut dici solet, stultus quivis unus plus negare potest, quàm decem sapientes probare; nec finis ullus esset disputationis, si liceret Respondenti pro libitu suo negare sine fine: propterea Respondens in aliquibus casibus tenetur assignare rationem suae negationis, si ab Opponente requiratur...

stupid man can deny more than then wise men can prove". This way around the rules of proof is certainly not intended as a deceptive means at the Opponent's disposal to throw the burden of proof on the Respondent, but rather a way to move on in a disputation in which an intransigent Respondent denies without providing justification. The move introduces the possibility that a ratio for a denial of the Respondent can be scrutinized in the exceptio rather than a ratio for a premise of the Opponent.

Thomasius mentions that if the denial has attached to it a justification, which is not an instantia, the Opponent can make an exception either by attacking the justification or by providing a new argument for the premise which has been denied.¹⁶⁶ Thomasius' example of a "new justification" is the following: the premise denied is "Majerus is the wisest philosopher" and the justification is that "he hold many false opinions". The Opponent attacks the justification for the denial by appealing to an authority Daniel Rahtrecht, who says in an elegy, "I admire this that the father of nature gave to you all things to know in the manifold coming to be of things."¹⁶⁷ The example is not very interesting in itself, but it does give us an idea of how rationes for and against a premise are introduced into the disputation. In this example Thomasius gives it is not clear how the rationes on each side are to be evaluated. None appears to constitute a knock down proof.

¹⁶⁶Thomasius (1677) p. 184: Si Respondens simpliciter assertionem aliquam Opponentis negaverit, additâ ratione: Opponens aut assertionem suam novâ ratione stabiliet, aut contra Respondentis rationem excipiet, aut utrumque faciet; Respondens vicissim aut rationem istam, aut hanc exceptionem, aut utramque franget.

¹⁶⁷Ibid. p. 184: Exemplum novae rationis: Negaverat Respondens n. 146. Majerum esse sapientissimum Philosophum, quia multas habeat opiniones falsas. Regeret Opponens. Imò verò sapientissimus ille fuit. Sic enim Daniel Rahtrecht, P. L. in Elegiâ ad ipsum, Septimanae Philosophicae praefixa: Hoc miror, tibi proventu multiplice rerum. Quod Naturae parens omnia nosse dedit.

Hanschius mentions that exceptions against a denial supported by an instantia can be of three sorts. Either the instantia can be attacked because it is unclear, or it can be shown to be irrelevant to the argument and granted without consequence, or a restriction to the universal premise can be made which excludes the instantia.¹⁶⁸ The two latter ways to make exceptions to instantiae are commonly mentioned in other sources, the first way is not. Felwinger, for instance, also mentions the exceptions of showing that the instantia is impertinent and the move of restricting the attacked universal premise.¹⁶⁹

In Thomasius, however, a rather unusual example of an exception to an instantia is given, in which the Opponent appears to attack the truth of the instantia. In the example the universal premise to be attacked is "Whatever Michael Majerus holds is probably true." The instantia is that "Michael Majerus holds that "all the fables of the ancients are images of chimerical things".¹⁷⁰ Although it appears that Thomasius understands this to be the full instantia it is clear that it must be understood that this instantia works as an attack on the premise only if it is assumed that "all the fables of the ancients

¹⁶⁸Hanschius (1718) p. 67-8: In specie si instantiam ad majorem attulerit Respondens videat opponens, (a) an ea sit perspicua (b) an, si in Syllogismum eandem conjiciat, major & minor verae existant, (c) addat ad majorem aliquam restrictionem, qua addita nullam amplius data instanita locum inveniatur.

¹⁶⁹Felwinger (1659) p.34: Si à Respondente data fuerit instantia ad propositionem, videndum est, ut vel ostendatur impertinenter eam esse adductam; vel contrahatur nostra propositio & fiat specialior, ut instantia excludatur.

¹⁷⁰Thomasius (1677) p.185-86: Instantiam Respondentis labefactabit Opponens, negando aut assumptum instantiae, aut absurditatem conclusionis: Respondens contrà, quod negavit alter, defendere laborabit. Instantiae exemplum repete ex n. 143. Cùm illud Majeri exploderetur tanquàm absurdum: omnes veterum fabulas involucria esse Chymicarum rerum. Regeret ergò Opponens absurdum id esse inficiaturus: Nihil efficitur hâc instaniâ. Nam & hic rectè sensisse puto Majerum. Macrobius nemo reprehendit, qui lib. I. Saturn. e. 17. omnes Deos ad unum Solem refert. Cur Majerum reprehendimus, qui omnes veterum fabulas refert ad unam Chymiam?

are images of chimerical things" is probably false. The Opponent makes an exception to this instantia by denying that the instantia affects the argument, or in Thomasius terminology, by denying "the absurdity of the conclusion"; this is achieved by granting that "Michael Majerus holds that "all the fables of the ancients are images of chimerical things" but denying that what Majerus holds is probably false, i.e. maintaining that it is probably true. Strictly speaking the Opponent has not shown that the instantia is impertinent. Rather he has attacked the truth of the proposed instantia with the exception, if the exception is stated fully. Thomasius, however, appears to consider "denying the absurdity of the conclusion" to be equivalent to "granting that the instantia is impertinent."

Exception-moves to *distinguo*

Hanschius mentions six ways in which an exception can be made to a distinction: "the Opponent should escape a distinction either (a) by showing that it knows no foundation in the nature of the thing itself, but rather is repugnant to it, (b) that it does not work against the thing proposed, (g) that it does not suffice to remove the difficulty, (d) that it rests on a false hypothesis, (e) or that it is obscure and cannot sufficiently explain the members [of the distinction], (z) that it is repugnant to the laws of good distinction" (Ad distinctionem excipiat vel (a) ostendendo, illam nullam in natura rei fundamentum agnoscere, quin potius ei repugnare, (b) non facere ad propositum, (g) non sufficere tollendae difficultati, (d) inniti falsae hypotesi, vel (e) esse obscuram nec membra sufficienter posse explicari, (z) repugnare legibus bonae distinctionis...) Hanschius does not bother to explain each of these ways to make exceptions to distinctions. Of these six ways (a) and (z) are frequently mentioned in other sources.

Felwinger mentions more generally attacking the distinction itself or assuming the distinction for use in an argument against the thesis, which is a move Hanschius neglects to mention.¹⁷¹ Thomasius, on the other hand, says that the Opponent can either attack the "application" of the distinction or the distinction itself or both.¹⁷² Felwinger and Thomasius thus recognize, (a) and add two more ways to attack distinctions, granting the distinction and using it against the thesis and attacking the "application" of the distinction.

Thomasius provides an example of the Opponent attacking the distinction itself, as well as an account of how the Respondent might respond to the attack. The distinction made by the Respondent is between "singular opinions" and "common opinions". Again the argument solved by the distinction is "Whatever Michael Majerus holds is probably true, Michael Majerus holds that "every animal is a brute", therefore, "every animal is a brute is probably true." The Respondent applies the distinction to the argument and in so doing "limits" the universal premise so the following argument results: "Whatever Michael Majerus holds which is a common opinion is probably true, "every animal is a brute" is a common opinion, therefore, "every animal is a brute" is probably true." The Respondent solves the argument by denying the minor premise from the argument to which the distinction is applied.

¹⁷¹Felwinger (1659) p.34: per distinctionem responsum fuerit, videndum, ut vel distinctio destruatur, vel assumatur, & contra respondentem usurpetur.

¹⁷²Thomasius (1677) pp. 186-87: 186. Si distinxerit Respondens, quae quidem optima salvandi argumentum ratio est, Opponens aut ipsam distinctionem oppugnabit, aut applicationem ejus, aut utrumque faciet; Respondens vicissim sua contra has exceptiones tuebitur. 187. Ad ipsius distinctionis impugantionem illud quoque refert, si explicatio membrorum ejus reprehendatur. Caeterum ipsa distinctio quam optimè potest impugnari, ostendendo, peccare illam contra distinguendi, dividendive regulam aliquam. Ubi ex adverso Respondentis officium erit, probare, contra regulam nihil esse ad se peccatum.

The Opponent makes an exception to the distinction not by showing that the distinction has been misapplied, which would presumably entail showing that terms in the argument have been inconsistently distinguished, but he attacks the distinction itself, i.e. he endeavors to show the distinction has no basis.¹⁷³ Earlier the Respondent gave definitions of the terms of the distinction. A "common opinion" was defined as "a received opinion" whereas a singular opinion is "an opinion contrary to the common opinion of publicly well-known philosophers." The Opponent claims in the exception that there is no such distinction because "there is nothing which has not been said before, therefore, whatever Majerus holds has already been held before by another and thus no opinion of his is singular but all are common." The Respondent responds, quite reasonably, that it is false that whatever has been said has been said before, thus denying that the Opponent has destroyed the distinction. The Respondent is clearly in the right in this case, but Thomasius does not provide an evaluation of the exchange between Opponent and Respondent in this example.

Hanschius' sixth way to attack a distinction, namely, claiming that it does not follow the rules of proper distinction, is mentioned in a few other authors. Again, the topic of distinctions, and here the laws for good distinctions, is quite complex and deserves its own study. Sanderson, however, does mention three general laws of good distinction which are worth a brief look. The three laws are: (1) the distinction should not be exceedingly general (2) the members of the distinction should be opposites (3) the distinction should be formulated in proper and scholastic terms (p. 60ff. : Sed quoniam solvuntur pleraque argumenta non aliter, quàm distinctionibus:

¹⁷³Ibid., p. 187: 188. Ergò distinctionem n.144 inter opinioniones Majeri singulares & communes, sic impugnet Opponens: Nego rectè sic distingui, quia membrum distinctionis alterum repugnat distinctio: siquidem nulla Majeri opinio est singularis. Quod inde probo, quia nihil dicitur, quod non dictum sit prius, E. Quicquid statuit Majerus, id ante ipsum & alius statuerat, & sic nulla ejus opinio est singularis, sed omnes sunt communes.

intererit vel plurimùm cujusvis disputaturi, praecipuas aliquot Distinctionis leges cognovisse...1. Distinctio non sit nimium generalis...2. Distinctionis membra sint opposita...3. Distinctio terminis propriis & Scholasticis concipiatur...) The first and second laws are quite general. By the second law Sanderson does not mean that the members of the distinction must be strict opposites but merely that one member of the distinction cannot include the other member (Vitiosa proinde illa est, cujus una pars cum reliquâ concidit, aut in ipsa oncluditur.). The third law presupposes not only that "proper and scholastic terms" are suitable vehicles for distinctions but that these terms must be used to obey the laws of good distinction. Sanderson's preference for the use of "scholastic terms" in making distinctions appears to stem from a desire for clarity and brevity in disputation rather than dogma that scholastic distinctions are the only good distinctions that can be made; he responds to those who would ridicule scholastic "barbarism" saying that "one Scotus or Thomas resolves difficult matters by means of this kind of brief barbarism, and more easily than one hundred Ciceros or Lipses in so many pages" (unus tamen Scotus, aut Thomas, objectas difficultates brevi ejusmodi Bararismo faciliùs dissolvat, atque etiam feliciùs; quàm centum Cicerones aut Lipsis aliquot pagellis).

Schneider recommends a three step analysis of a distinction. The first step an exploration of the "foundation" of the distinction, and if the distinction can be shown to have no foundation it should be rejected. Next, the meaning of the members of the distinction should be investigated as many times as the meaning is not clear. Lastly, the application of the distinction should be evaluated (p. 73-74: Sic ergo congruit responsioni, per distinctionem adhibitae, talis exceptio, quae primo fundamentum distinctionis explorat, ut, si eo carverit, reiici mereatur. Deinde sensus membrorum distinguendum, quoties latet, indagandus est. Ac tandem applicatio, quoniam distinctionis usum ostendit, perpendatur.)

Exception-moves to retorsio, inveriso, and argumentum in contrarium

In the case of an indirect response, and here by "indirect response" the sources I have in mind, Hanschius and Felwinger, mean a response by retorsio or inversio, it is usually recommended that the Opponent make an exception by demanding that the Respondent either respond to the matter or the form of the original argument, since a retorsio or inversio cannot solve the argument. Hanschius is quite explicit about this, although it is not clear whether or not by "indirect response" Hanschius means inversions which aim to prove a premise false or the thesis true.¹⁷⁴ Hanschius does also mention that the Opponent may attack a retorsion "by showing that his objection is not a weak one", which presumably entails providing some further supporting argument for the objection but not an attack against the retorsion which does not solve the objection.

Both Hanschius and Felwinger also mention explicitly a move in which the Respondent does not solve the argument but brings in extraneous matters which serve as a confirmation of the thesis.¹⁷⁵ These extraneous

¹⁷⁴Ibid. p.65: Si responsio fuerit indirecta, in genere excipiat, hac ipsa oppositum argumentum non solvi, petatque ut respondeatur ad argumentum directe... ad retorsionem vel compensationem instet, ostendo illam nullam esse vel invalidam, inprimis si fuerit autoritas, suamque objectionem hac ratione nondum esse solutam...

¹⁷⁵Ibid. p. 65: ad theseos confirmationem excipiat, argumentum affere pro thesi confirmanda vel allatum in thesibus uberius declarare, non esse argumentum oppositum solvere, adeoque sibi nondum esse satisfactum. ; Felwinger (1659) p.33: Observet Opponens, an ad forma, an ad materiam sit responsum, an prorsus aliena solutionis loco sint allata. Si enim aliena afferat Respondens, regerat interrogans, responsum ad rem non facere, addatque rationem, urgeatque respondentem ut ad alterutram praemissarum respondeat. Accidit namque interdum, ut aliqui respondeant quidem ad rem, nec tamen ad materiam, nec ad formam, sed solum contrarium argumentum opponant, atque sic ad conclusionem respondeant, quod quidem respondentis ultimum refugium esse...Hoc si fiat, Opponens non acquiescat, sed urgeat, ut argumentum vel concedat, vel ejus falsitatem ostendat: cum argumentum in contrarium adferre, non sit solvere, sed solum sententiam suam probare.

matters Felwinger calls "contrary arguments", which are clearly understood as arguments proving the thesis; Hanschius calls this move "confirmation" of the thesis. In the exceptio the Opponent is allowed to move to dismiss such arguments on the grounds that they do not solve his argument.

Thomasius provides an example in which the Opponent makes an exception to an inversion by denying a premise in the inversion and supporting that denial with an argument of sorts. Thomasius thus neglects Hanschius' point, that inversion does not solve the Opponent's original argument, and appears to lead the Opponent and Respondent into a process in which the Opponent offers reasons for accepting the denied premise and the Respondent reasons for rejecting it. Let us repeat the example of inversion examined earlier: the original argument is, "Whatever Michael Majerus holds is probably true, Michael Majerus holds that "every animal is a brute", therefore, "every animal is a brute" is probably true." The argument is inverted by the Respondent, a type of inversion identified by Reuschius as an "imperfect inversion": "Whatever Michael Majerus holds, which is a singular opinion, is probably false, Micheal Majerus hold that "every animal is a brute" and "every animal is a brute" is a singular opinion, therefore, "every animal is a brute" is probably false." In the exception to the inversion the Opponent attacks the major premise by claiming that the singular opinions of Majerus are not false because "who does not know that the learned men of our time, to which I add Majerus on his own merit, have corrected the widely accepted errors of many ages."¹⁷⁶

¹⁷⁶Thomasius (1677) p. 185: Si respondens retorserit argumentum invertendo: hanc Opponens retorsionem elidet; Respondens elisionem infirmabit hoc aut simili modo. Retorsio talis erat n. 145. Quicquid statuit Majerus, tanquam opinionem singularem, id probabiliter falsum est. Hinc retorsioni sic occurreret Opponens: Ego verò singulares etiam Majeri opinioniones non illicò falsas habeo. Quis enim nescit, viros doctos aevi nostri, quibus Majerum suo merito aggrego, multorum seculorum receptissimos passim errores correxisse?

Exception-move to concedo totum argumentum

In making an exception to the move concedo totum argumentum, the Opponent must establish that the conclusion of his original argument does in fact contradict the thesis. Schneider mentions that this can be accomplished by a "declaration" of the premisses and a "drawing" of a conclusion.¹⁷⁷ This appears to be merely a clarification of the argument which includes a demonstration of sorts that the argument does indeed contradict the thesis.

Miscellaneous exception-moves

In most sources formal questions concerning the validity of the Opponent's argument are settled by an exchange between the Opponent and Respondent in the assumptio or responsio. In this exchange the Respondent is obligated to prove that the argument is invalid if the claim of invalidity is challenged by the Opponent. Hanschius mentions a possible departure from this procedure if the Opponent concedes the premisses but denies the formal consequence. In this case, rather than force the Respondent to prove the invalidity of the argument the Opponent can move by assuming the contradictory of the conclusion as a premise along with one of the premisses conceded by the Respondent and concluding a contradiction.¹⁷⁸ This move

¹⁷⁷Schneider (1718) p.77: Ad concessionem vero totius argumenti, a respondente factam, excipiat opponens eo modo: ut praemissas suas declaret, ac in primis veram contradictionem, quae in conclusione latet, evolvat.

¹⁷⁸Hanschius (1718) p. 67: Si directe fuerit responsum ad formam, ostendat regulam syllogisticam non esse violatam; quod si respondens concessis praemissis, tamen in neganda consequentia persistat, deducat eundem ad absurdum, ponendo conclusionis contradictoriam in prima & secunda figura loco minoris, in tertia loco majoris, & inferendo conclusionem alteri praemissarum a Respondente concessarum contradicentem, ut agnoscere cogatur Respondens, aut sine fundamento se negasse consequentiam aut imprudenter concessisse praemissas...

does not demonstrate that the original argument of the Opponent is valid, but does show that either the argument is valid, which the Respondent has denied, or that the Opponent has conceded a false premise.

Felwinger mentions two rather interesting exception-moves which do not appear to be exceptions to any particular type of response-move. The Opponent can assume the response of the Respondent and use it in conjunction with an obviously true proposition to deduce an absurdity or he can assume the response and use it in another argument against the thesis.¹⁷⁹ Felwinger does not mention which particular response-moves he has in mind in connection with these exceptions. Clearly both these moves could be used as exceptions to distinguo. It does not seem that these moves could be used against a simple nego response.

Felwinger also allows the Opponent to inquire into matters beyond the scope of the subject of the disputation for the purpose of informing or exploration.¹⁸⁰ Felwinger says nothing more about this rule, but it is certainly intended to give the Opponent some flexibility to inform the Respondent or audience of relevant matters and even to steer the disputation to relevant topics which the Opponent might consider in need of exploration. Schneider, on the other hand, mentions a general rule that every exception must "fit" the response, to avoid attributing to the Respondent what he does not hold.¹⁸¹ The

¹⁷⁹Felwinger (1659) p.34-35: (18) Opponens respondentis responsionem assumat, & additâ propositione manifestâ illum ad absurdum deducat, vel ad contradictionem, quod idem videtur. (19) & si potest, responsionem datam pro sua sententia assumat.

¹⁸⁰Ibid. (1659) p. 35: Est etiam interdum Opponenti concessum, quaerere id quod est extra scopum praesentem sed informationis causa, vel etiam explorationis.

¹⁸¹Schneider (1718) p.73: De hoc sciendum est, omnem exceptionem debere conformem esse responsioni, ne sententia aliena respondenti unquam adfingatur.

rule explicitly excludes irrelevant matters from being introduced in the exceptio, a rule which Felwinger would obviously reject.

An important constraint on the Opponent in the exceptio is not to offer foolish exceptions if the Respondent has given a satisfactory response. Felwinger states this rule quite explicitly,¹⁸² and it appears to be understood in many other sources. This rule is analogous to the rule obligating the Respondent to concede those premises of the Opponent's argument which are true. These rules are clearly intended to aid in achieving the primary aim of the modern method, the investigation of truth.

¹⁸²Felwinger (1659) p.35: Si verò argumento satisfactum est, amplius urgendo Opponens molestus nequaquam sit.

Chapter 11: Praeses

There are typically three personae involved in a disputation in the modern method, Respondent, Opponent, and praeses. Many of the duties of the Respondent and Opponent have been treated in previous chapters devoted to various parts of the modern method. In this section the duties of the praeses will be briefly examined.

In some sources the praeses goes by other names, although "praeses" is certainly the most common; others names include "moderator", "the honorary Respondent" (honorarius respondens), used by Keckermann, and "the superior Respondent" (superior respondens), used by Timpler. In Keckermann and Timpler the names "honorarius respondens" and "superior respondens" are used because the praeses has duties to aid the Respondent, which conform closely to the Respondent's own duties. The conformity of duties of praeses and Respondent can be seen very early in some 16th century sources, such as Goclenius,¹⁸³ and appears in many German second scholastic sources throughout 17th and 18th centuries. For instance, Felwinger says that the Respondent considered "generally" encompasses both the Respondent and praeses although specifically they are distinguished (p.7: Respondens, qui potest accipi vel generaliter, quatenus etiam Praesidem complectitur; vel specialiter, quatenus Praesidi contradistinguitur...); and Langius says that the Respondent and praeses are like "one persona" (p.14: Et quandoquidem Praeses cum Respondente unam quasi personam constituit...) To provide some

¹⁸³Goclenius (1587) p.107: Sed Praeses proponentis seu respondentis nomine continetur, cum hujus opera in resumendis objectis utitur, aut ejusdem themata tuetur.

explanation of this close relationship between praeses and respondens an examination of the individual duties of the praeses is required.

Not all sources agree on what the praeses duties are to be; however, a general fourfold classification of duties can be abstracted from the primary sources: (1) pedagogical duties, i.e. duties to inform and teach the participants and auditors of the disputation. (2) duties of "moderating": these duties are of two kinds, to keep "order" in the disputation, i.e. to prevent the disputation of extraneous matters, and to prevent provocation of anger and ill-will. (3) duties of responding and opposing, i.e. duties to help the Respondent and Opponent with arguments and responses. (4) duties to conclude, i.e. duties to bring the disputation to some kind of conclusion. This classification of the praeses' duties is my own. Of these four kinds of duties instances of (2) and (3) are found in almost all the primary sources which treat the duties of the praeses. Pedagogical duties are stressed in some sources, such as Felwinger. Duties to conclude are usually left unmentioned, and in Sanderson, the source I have examined which discusses this duty, it is not entirely clear what is meant by "concluding the disputation". Let us go through these four kinds of duties by examining some examples: the sources which I have primarily relied on in this account of the praeses' duties are Felwinger, Sanderson, Schneider, Keckermann and Timpler.

Pedagogical duties

Pedagogical duties of the praeses, although not particularly relevant to the logical and philosophical significance of disputation, deserve some mention. In Felwinger, these duties extend primarily to the auditors of the disputation. Felwinger mentions one duty of this sort wherein the praeses is required to explain further a response, when the response is sufficient, to

inform and teach the auditors.¹⁸⁴ Also, according to Felwinger, for the benefit of the auditors, the praeses is required to explain the Opponent's opinion if the opinion of the Opponent is more probable than the opinion of the Respondent, and to confirm the Opponent's opinion as well as to defend the Respondent's opinion.¹⁸⁵

Duties of responding and opposing

Duties of responding and opposing are mentioned in Keckermann, Sanderson, Timpler, Felwinger, and Schneider. According to Sanderson, the praeses should come to the aid of either the Opponent or the Respondent when there is need; his duties with regard to the Opponent are to correct invalid arguments and to help him "if he weakly demands", which presumably concerns strengthening weak premises in the Opponent's argument. But, Sanderson stresses, his duties are "especially" to help the Respondent, to correct him if he denies something he should not deny, to explain his response if it is obscure, and to add something to the response to make it "appear" to the auditors to be stronger.¹⁸⁶

¹⁸⁴Felwinger (1659) p.65:(5) Respondentis responsio si sufficiens est, nihilominus Praeses uberius explicet, quia Praesidis est non solum respondere, sed etiam docere & auditorium informare...

¹⁸⁵Ibid. p.66: (10) Benè autem notet Praeses, ut si assumptio respondentis fuerit probabilis, & tamen sententia contraria probabilior, probabiliorem Auditoribus explicet, eandemque confirmet, sic tamen, ut excuset non solum respondentem, sed etiam ejus sententiam defendat.

¹⁸⁶Sanderson (1589) pp. 64-65: Officia Moderatoris, sive Praesidis, sunt ista...II. Adjuvare disputantes ubi opus fuerit: Opponentem quandoque formando ejus Argumentum, aut confirmando, si ille aut frigidè urgeat, aut debite concludat. Sed Respondentem praecipue adjuvare debet. Corrigendo eum si aliter neget quàm oporteat; Explicando ejus responsionem, si sit obscurior; Addendo ei aliquid, si non sit satis plena; Illustrando eam, ut firma & apposita appareat auditoribus: Aliam afferendo, si data à Respondente non satisfaciat objecto.

Keckermann and Timpler mention similar duties with regard to helping the Respondent but not the Opponent. The two general duties, according to Timpler, are "1. he should approve and commend a true solution [to the argument]: clarify an obscure [solution]: complete an imperfect [solution]: correct a false [solution]. 2. he should free a respondent bound by the arguments of the Opponent by all the means allowed." (p.850. Subsidium à Praeside recte praestabitur Respondenti. 1. si solutionem eius veram approbet & commendet: obscuram illustret: imperfectam perficiat: falsam corrigat. 2. si eum argumentis opponentis constrictum exsolvat, omnibusque modis licitis defendat.) The praeses, on Timpler's view, is thus devoted to support the Respondent with any permissible means. A similar characterization of the praeses duties to the Respondent can be found in Keckermann.¹⁸⁷ No mention is made in these two sources of possible support to the Opponent; the praeses appears to be straightforwardly conceived as a "superior" or "honorary" respondens; these duties of the praeses are certainly the reason why Keckermann and Timpler refer to the praeses with these names.

In other sources, however, the duties of the praeses also extend to the Opponent. In Felwinger, for instance, the praeses is not only required to strengthen the arguments of the Opponent rather than "repudiate them outright",¹⁸⁸ but also, if the Opponent abandons an argument, which can still

¹⁸⁷Keckermann p.472: De auxilio, altero praesidis officio, hic est Canon: Si respondens deficiat, solidorem & firmiorem responsionem praeses afferat, sine tamen pudore respondentis: Si verò respondens tolerabilem responsionem dederit, eam collaudet, & aliquanto uberius explicet in gratiam auditorii.

¹⁸⁸Felwinger (1659) p.64: (3) Neque facile repudiet Praeses argumenta opponentis, etsi leviora sint, sed potius monstret, quò modo magis sint roboranda; non verò jubeat, ut argumenta sua in chartam conjecta publicè in disputationis actu edat. Hoc enim modo animus Opponentis offenditur ac perturbatur, atque ut in postremum ab opponendi munere absteineat, deteretur. Adjumentum verò quod à Praeside in argumento roborando affertur & animum reddit opponentem, & auditorum iudicium acuit.

be pressed by giving exceptions and instantiae to a response, then the praeses is required to provide exceptions and instantiae.¹⁸⁹ In Sanderson also the praeses has the duty to "aid" both disputants. Schneider, in an apparent critical comment on sources like Keckermann and Timpler, emphasizes that the praeses has duties to both the Opponent and Respondent, and for this reason, Schneider says, some have held that the praeses and respondens are one persona "by a certain common fiction" (p.246: Equidem Praeses ac Respondens fictione quadam pro una persona habentur...)

There is some justification given in Felwinger and Schneider for the praeses intervention on the behalf of the Respondent and Opponent. In Felwinger the justification is contained in the little remark that the praeses is like "the head of the respondent", who corrects faults in the response "for the sake of truth".¹⁹⁰ In Schneider a similar justification is given for the duty that the praeses correct formal errors in the Opponent's argument overlooked by the Respondent (p.246). The praeses clearly functions in these capacities as the guarantor of the validity of the Opponent's argument and the proper evaluation of the premises. This kind of help given to the Respondent thus provides safeguards against a disputation ending in a refutation of a thesis by an unsound argument, or even by a valid argument with plausible or true premises which are not properly examined. The aid the praeses gives to the Opponent in constructing arguments appears to be less involved, although the text in Felwinger does indicate that the help received from the praeses can be quite substantial. It appears, however, that a more important consideration to these theorists was the defense of a thesis against bad arguments rather than

¹⁸⁹Ibid. (1659) p.65 :(8) Si argumentum aliquod ab opponente deseratur, quod tamen ulterius urgeri potest, in gratiam auditorum Praeses exceptiones & instantias addat, iisdemque respondentem exercent, & auditores informet.

¹⁹⁰Ibid. (1659) p.65: Si vitiosa, corrigat quia illo superior, & ejus quasi caput est: Deinde excuset propter respondentem ne animum despondeat: corrigat propter veritatem.

proof of a true antithesis. Nevertheless, in both Felwinger and Schneider the praeses is obligated to provide the Opponent with some help to strengthen his arguments, which should improve the chances that a false thesis will be refuted; but this outcome does not appear to be guaranteed to the same extent that a defense of a true or probable thesis is.

Duties of moderating

What I have called duties of "moderating" are nothing more than duties to keep the disputation from drifting onto irrelevant topics and to prevent the disputants from becoming angry. Sanderson, Timpler and Keckermann mention the first of these two duties; Keckermann says that the praeses has the duty "to guide" the disputation so that irrelevant terms are not introduced into the disputation.¹⁹¹ Sanderson phrases the duty in much the same way.¹⁹² The duties which concern the controlling of tempers can be found in Felwinger.¹⁹³ These include seeing to it that the Respondent is not offended by an Opponent's "immodesty", and allowing the Respondent the

¹⁹¹Keckermann (1612) p.472 :Officia honorarii respondentis seu praesidis duo sunt: regere & succurrere. De rectione hic est Canon: Diligenter praeses attendat, utrum ad rem disputetur, & an in re permaneat, id est, intra disputationis terminos: quod si non fiat, moneat officii tum opponentem, tum respondentem.

¹⁹²Sanderson (1589) pp. 64-65: Officia Moderatoris, sive Praesidis, sunt ista I. Formam tueri legitimae disputationis inter Opponentem, & Respondentem: hoc est rixas & tumultus compescere; curare ut utraque pars semet intra debitas metas contineat, ut in quaestione permaneat, ne termini mutantur, ne diverticula quaerantur, aliaque id generis.

¹⁹³Felwinger pp.63-66: Imprimis itaque Praesidis officium erit. (1) videre, ne immodestiâ Opponentis respondens offendatur. (2) Praeses non statim interrumpat discursus disputantium, sed tamdiu auscultet, donec vel ad ipsum fiat provocatio, vel responsione respondens destituatur, vel denique fervor disputationis nimius, autortatis interpositionem requirat. Velitationes enim illae ingenium exercent, iudicium acuunt, loquendi facultatem perficiunt. Itaque non debet Praeses statim argumentum prolatum solvere, sed respondenti loquendi moram concedere...

time to make his response without interruption, unless he abandons the response or tempers flare.

Duty of concluding

Sanderson mentions that the praeses should conclude the disputation when time has expired and to provide some decision on the question at issue with a repetition and summary of the disputation.¹⁹⁴ I have not seen this duty of the praeses to "decide" a question, which presumably means to decide and winner and a loser, in other sources. Even in Felwinger, who provides a rather elaborate treatment of eleven duties of the praeses, this duty is lacking. Sanderson does not explain what is meant by a "decision" of the question; a decision may not be intended as a final judgement on the truth or falsity of the thesis but merely a judgement on which side presented the best case. In any case, with the exception of Sanderson, the role of the praeses as the determiner of the outcome of disputation has not been found.

¹⁹⁴Sanderson (1587) p.65: III. Disputationem concludere: idque si tempus patiat, cum brevi aliquâ decisione quaestionis, & repetitione summaria totius disputationis.

Chapter 12: Onus probandi in medieval and post-medieval Roman law

In post-medieval disputation rules for the burden of proof emerge as important and much debated issues of disputation theory. By contrast, generally in disputation theory prior to the post medieval period, in the Aristotelian Topics, the medieval quaestio disputata and obligationes, the question of the burden of proof is never raised. It can be shown that important influences on the post-medieval disputatio with regard to the onus probandi were the medieval and post-medieval commentators on Roman law, rather than the historically prominent sources on disputation.¹⁹⁵ Medieval commentary on the various Roman codes having to do with onus probandi is quite substantial, not to be outdone by numerous post-medieval commentaries and dissertations. A book could be written on the medieval legal commentary alone, to say nothing of the influence of the medieval jurists on post-medieval disputation and jurisprudence. A very good secondary source is F. Leonard, Die Bewieslast, Berlin 1904 (there also exist several Italian sources which I have not examined).¹⁹⁶ In the first four chapters of his work Leonard surveys theory of the burden of proof from early Roman law to modern German law.

¹⁹⁵The connection between legal theory and disputation has already been seen by Olaso in an independent study of Leibniz on the ars disputandi, see Ezequiel de Olaso, "Leibniz et l' art de disputer," Studia Leibnitiana 4 (1975): 207-28.

¹⁹⁶See Vincenzo Giuffrè, Necessitas Probandi, Milano 1982. Giuffrè provides a good bibliography of sources on the burden of proof, most of which are by Italian legal theorists, e.g. L. De Sarlo, "Ei incumbit probatio qui dicit, non qui negat", Spunti di storia e di dogmatica sulla regola in diritto romano, in AG. 114 (1935) 184 ss.; G. Longo, "Onus probandi", in AG. 149 (1955) 61 ss. = Ricerche romanistiche (Milano 1966 73 ss. (si cita da AG.)).

These chapters are rich with references and exhibit careful scholarship.¹⁹⁷ There is brief mention of the influence of medieval debates on burden of proof on post-medieval writers; among the latter are Brunnemmanus and Böhmerus, who also wrote logic and disputation.¹⁹⁸ A review of Leonard's study and the many medieval and post-medieval legal sources relevant, directly or indirectly, to the post-medieval disputatio would be an undertaking far beyond the limits of this chapter, but some treatment of these sources is necessary to provide a minimal background to post-medieval debates on burden of proof in the ars disputandi. In this chapter I will confine myself to critical textual commentary of a few medieval and post-medieval texts on the burden of proof, particularly passages in the 12th century legal commentator Odofredus, and an interesting text from a post-medieval source, Hugo Donellus, a famous 16th legal theorist. This treatment ignores some important medieval jurists, such as Azo and Irneius, and regrettably leaves untouched the many post-medieval legal dissertations on the burden of proof which I have not yet examined.¹⁹⁹ This chapter therefore represents the first stage of a study which remains to be completed. Before I begin a very brief examination of Odofredus and company, I will briefly consider why the question of the onus probandi does not arise in the Aristotelian Topics and I will provide some further support that the discussions concerning onus probandi in post-medieval disputation were influenced by the Roman legal tradition rather than medieval disputation theory.

¹⁹⁷Leonhard (1904) pp. 9-48.

¹⁹⁸Ibid. p. 40-41. The works of these authors on logic and disputation are: Johannes Brunnemannus, Enchiridion logicum (Francofurti, 1653) pp. 409-422; Justus Henningus Böhmerus, Ad methodum disputandi et conscribendi disputationes juridicas (Halae Saxonum, 1730). I have not yet seen the works on the burden of proof by the aforementioned authors.

¹⁹⁹Two such dissertations which have recently come into my hands are Christian Thomasius, De onere probandi in actione negatoria (Halae Magdeburgicae, 1732), and Johannes Walman, De directa probatione negativae (??,1698).

The Aristotelian Topics and the Medieval Disputatio

An important reason why the onus probandi is an issue in the modern method is this: when Opponent and Respondent are at odds over some claim, i.e. when the Respondent denies a premise or a formal implication and the Opponent moves to challenge the denial, the disputation comes to an impasse which cannot be overcome in an orderly way without rules determining which of the parties must prove. Although I have seen no primary source make this remark it is certainly an important practical reason for adopting rules which govern onus probandi.

The Aristotelian question method is constructed in such a way that the kind of impasse which makes onus probandi an issue for the modern method does not arise. In the method of the Topics VIII a Questioner poses propositions (protaseis) which can be accepted, denied, or distinguished by the Answerer. If a proposition is denied the Questioner is not allowed to use it in an argument against the thesis of the Answerer, thus a denied proposition is merely dismissed from consideration and no conflict between the Questioner and Answerer results, even if the dialogue has the nature of an agon. Ideally, however, a dialogue should be the controlled, cooperative task of dialecticians, and Aristotle goes to some lengths to give proper rules for answering which ensure that in such a dialogue the answer and questioner do not come to loggerheads over any protasis.²⁰⁰

²⁰⁰Among these rules are that the answerer must grant to the questioner all those relevant propositions which are more plausible than the desired conclusion (159b-160a) and that the answerer must support the denial of a universal proposition with an instantia upon request (160b).

Furthermore, in both an agon and a cooperative dialogue, when the questioner finally moves to advances an argument against the thesis, the premisees of the argument have already been granted by the answerer. If the premisees formally imply the desired conclusion, which appears to be what Aristotle understands by "necessary premisees" ($\epsilon\kappa$ $\acute{\epsilon}\nu\alpha\gamma\kappa\alpha\sigma\alpha\iota$, 155b29-35), the answerer must accept the result. Aristotle does not entertain the possibility that the answerer could reply "I deny that the form is good". When the questioner moves to prove the answerer is helpless.²⁰¹

In the modern method, however, the Respondent's duty is to solve arguments by attacking premisees rather than to respond to individual propositions. Thus in case a premise is denied the premise is not dismissed but rather the Opponent and Respondent are brought to a point of disagreement which must be resolved if the disputation is to continue. Also, an asserted formal implication in disputation can be denied by the Respondent in the modern method, which raises the issue who is obligated to prove the form good or bad as the case may be. Aristotle simply does not acknowledge that the Answerer can move in such a way.

A contrast between medieval disputation theory, considered quite generally, and post-medieval disputation on the burden of proof is a topic which is quite involved, and cannot be properly examined here. This is due to the complexity of the various methods of medieval disputation and, with regard to commentary on medieval disputation practices, the lack of reprinted primary sources. Medieval disputation methods include the ars obligatoria, quaestio disputata, quaestio quodlibetalis, and disputation practices described

²⁰¹According to Lorenzen, in Normative Ethic and Logic (1968) [2nd ed. (1984)p.30], Aristotle's endeavoring to arm the Questioner with a means to respond to such a move was a possible motivation for the invention of the formal logic of the Prior Analytics.

in the Thesaurus philosophicorum manuscripts,²⁰² which to my knowledge are the only reprinted medieval manuscripts which treat disputation. With regard to this body of medieval disputation literature I know of no discussion of the onus probandi in any of the reprinted primary sources, whether they constitute examples of one these disputation methods or commentary on disputation practice, like that found in the Thesaurus manuscripts. I have not yet made sufficient researches to explain the reasons for the apparent neglect of the onus probandi in sources on medieval disputation. But, excluding the appearance of manuscripts which prove otherwise, it can be reasonably claimed that the post-medieval disputatio did not inherit the issue of the onus probandi from prior medieval sources on disputation.

There is an obvious analogy between the officia of the Opponent and the Respondent in the modern method as "arguer" and "defendant" and the roles of "plaintiff" and "defendant" in Roman law. As Olaso has pointed out, Leibniz recognized this analogy and treated the issue of the onus probandi in academic disputation against the background of similar debates in legal theory.²⁰³ But Leibniz's awareness of the connection between onus probandi in disputation and law is nothing unusual, Dannhawerus, who wrote a few decades before Leibniz, his influential source discussion of the onus probandi in Idea boni disputatori et malitiosi sophistae (1632), pp. 94-102, explicitly mentions the legal theorist Wesenbecius in his critical discussion of the rules of proof and shows in his treatment of onus probandi that the issues of onus probandi in law and disputation are related. The most telling sign, however, is that a very common and much discussed rule of proof in the modern method, affirmanti incumbit probatio, referred to by Felwinger as regula illa vulgari, is borrowed straight from the medieval legal tradition. This evidence gives good

²⁰²De Rijk (1980).

²⁰³Olaso (1975) pp.214-18.

reasons for believing that questions pertaining to onus probandi made their way into the post-medieval disputatio through the issue of onus probandi in Roman legal tradition. This will become even more clear after exposure to some of the issues of onus probandi in Roman legal theory. In what follows critical commentary on texts by the 12th century jurists Odofredus and Accursius on the onus probandi is provided, as well as brief commentary on a text by the post-medieval jurist Donellus.

Textual commentary on legal sources

The fundamental rule of the burden of proof in early Roman law, as well as medieval, is that the plaintiff, not the defendant has the burden of proof (semper necessitas probandi incumbit illi qui agit). This rule is often reformulated as ei incumbit probatio qui dicit non qui negat, where the plaintiff is understood to be the party "affirming" and the defendant the one "denying".²⁰⁴ There are two formulations of the rule ei incumbit probatio qui dicit non qui negat, which frequently occur, namely, that the one "affirming" is obligated to prove (affirmanti incumbit probatio), and that the one "denying" is not (non neganti incumbit probatio). These two rules are treated by medieval commentators to apply independently to both plaintiff and the defendant at various stages of court proceedings.

The rule affirmanti incumbit probatio initially obligates the plaintiff to prove his case in the statement of the intentio, the case brought before the court by the plaintiff, whereas the defendant need not prove his initial denial in court. But, the burden of proof shifts to the defendant, who responds with

²⁰⁴Leonhard (1904) p. 11. dig. h. t. de probatione 23, 3 l. 21, inst. 2, 20 de leg. § 4, cod. h. t. de probatione 4, 19 c. 20, c. 8, dig. h. t. l. 2; cf. cod. 8, 35 (36) de exceptione c. 9, cod. h. t. c. 19, cod. 4, 4 de proh. sequestr. c. un.

an exceptio, a countercase against or "exception" to the intentio, because he makes "affirmations" in arguing his case. The burden of proof shifts again to the plaintiff when he makes affirmations in his replicatio, and to the defendant again in the subsequent exceptio, which is called a duplicatio (Gaius) or a triplicatio (Ulpian).²⁰⁵

Odofredus distinguishes between two applications of the rule affirmanti incumbit probatio in this courtroom process. On the one hand the rule determines that the plaintiff prove the case brought before the court, and on the other hand that the plaintiff and defendant prove any affirmation made in the course of the trial. In Odofredus these two applications of the rule are explained by a distinction between the one who affirms originaliter and the one who affirms accidentaliter. The plaintiff must originally affirm his case and therefore originally incurs the burden of proof. But the defendant is not thereby free from the burden of proof because in his exceptio he makes affirmations, and in so doing assumes the burden of proof accidentaliter.²⁰⁶

This distinction in Odofredus is closely analogous to two different senses of the burden of proof in modern law. In one sense the prosecutor or plaintiff has the burden of proving the issue brought to court, and in another sense the burden of proof can shift from plaintiff to defendant as evidence is brought forth in favor of the plaintiff's case and the defendant's countercase (see Sir Ilbert, Op. cit. p. 15) Rescher names these two conceptions of burden

²⁰⁵For a brief summary of this procedure see Sir Courtenay Peregrine Ilbert, "Evidence", Encyclopaedia Britannica (11th ed.), Vol. 10, p. 15.

²⁰⁶Odofredus, Iuris utriusque...(Lugduni, 1852) p.159-60: et bene intelligatur [incumbit probatio] idest onus probandi est actor originaliter: ut si ego actor peto a te in libello mihi dari vel fieri tu negas: mihi actori incumbit onus probandi mihi debere dari vel fieri... est actor ex accidenti si peto .x. tu dicis non debeo quia solum originaliter negas sed accidentaliter affirmas unde probas sicut actor quia actor qui dicit originaliter, quia in exceptione reus efficitur actor nam agere is videtur qui exceptione utitur...

of proof "initiating I-burden of proof" and "evidential E-burden of proof" (Dialectics, pp. 28-30). The E-burden of proof is determined by the "evidential weight" of the case or countercase in question; if in the case or countercase sufficient evidence is brought to establish a presumption in favour of its claim the burden of proof shifts to the opposing party. Odofredus' twofold application of affirmanti incumbit probatio seems to be motivated from similar grounds as the I-burden/E-burden of proof distinction, but rather than introduce the notion of presumption to justify the shifts in the burden of proof the rule affirmanti incumbit probatio is applied.

In later medieval commentators the negative rule non neganti incumbit onus probandi is treated as a possible justification for exception from the burden of proof in court. The commentary on the rule concerns both possible counterexamples and various attempts to accommodate them. There appear to be two principal ways in which a "denying party" in court may take on the burden in proof. The first way is if a presumption exists against the denying party. The second way is if the denial made by the party is an "implicit affirmative." Unless one of these two conditions holds the one denying is not obligated to prove. In what follows I examine one example of an exception to non neganti incumbit onus probandi by presumption and a very sketchy account of a threefold distinction between denials of fact, denials of law and denials of quality, which are viewed as relevant to the issue of whether or not a denial has an implicit affirmative. Some examples in Odofredus which could be examined in connection with these distinctions are quite complex and at times, in my judgement, confused. I will therefore avoid a detailed account of these examples and the distinctions they are intended to support.

An example given by Odofredus in which a presumption exists against the one denying, a presumption which throws the burden of proof on to the denying party, is this: A wife seeks some property from her husband. The

husband claims that the property is his own, and the wife denies. The wife, although she is apparently the party making a denial, has the burden of proof in this case because the law presumes that the property in question is the husband's. Odofredus explains that other things being equal, the actor, which is the husband, should have the burden of proof, but the respective cases are not equal because a presumption of law exists against the wife. She must therefore prove contrary to the rule non neganti incumbit probatio.²⁰⁷

This example is unclear in two respects. In the first place it is unclear which party is the defendant and which is the plaintiff. Odofredus intends that the husband is the plaintiff, but it is the wife who "demands" something from the husband. Second, the rule non neganti incumbit probatio applies awkwardly in this example, since the wife, whether or not we consider her the defendant, is affirming something in her case, namely that the property in question is "from another source" (aliunde). By proving this affirmation it would seem that she thereby proves the denial that the property in question is not her husband's. The distinction here between "the one affirming" and "the one denying" seems clouded, since the wife is both denying and affirming something, and needs to prove an affirmation in the course of proving the denial.

This example shows, I think, how confusing the rule non neganti incumbit probatio can be in determining the burden of proof. The move to justify acceptance of the burden of proof on the basis of presumption rather than affirming and denying is conceptually neater and along the lines of

²⁰⁷Ibid. p. 160: Sed videtur contra et videtur quod neganti incumbit onus probandi , et ideo dicit lex si mulier constante matrimonio quaesivit aliquod et maritus dicat quod quaesitum est bonis suis, mulier neget, et dicit quod aliunde quaesivit ipsa que negat debet probare...quia lex praesumit aliquod pro agente contra convetus; ut quia lex praesumit quod uxor quaesiverit ex bonis mariti, hoc casu mulier debet probare...

modern theory on the burden of proof in law.²⁰⁸ But Odofredus does not develop any systematic account of the shift in the burden of proof in terms of establishing presumptions against a litigant. This presumption is a simple presumption of law which straightforwardly applies.

The other way in which the one denying may be obligated to prove is if the denial implies an affirmative. Odofredus provides the following example: A son denies that his father can testify because he is not sane, and he thereby affirms that his father is insane. So, although he has made a denial, the denial contains an "implicit affirmative", which the son ought to prove by the rule affirmanti incumbit probatio. This example is contrasted with the denials "I never saw you" or "I deny that I owe you", which do not imply something affirmative, and, therefore, need not be proved.²⁰⁹ The latter examples are classified as "denials of fact" which are different types of denials from the former which is later classified as a "denial of law".²¹⁰

The distinction of denial of law and the denial of fact is used as an important tool to determine the burden of proof, but outside of the various examples given in the sources I have not found any explicit theoretical basis

²⁰⁸See Rescher (1975) pp. 30-41.

²⁰⁹Ibid. p. 160: Ad quod vos dicetis dupliciter et uno modo sic aut negativa habet in se implicitam affirmativam aut non: siquidem habet in se implicitam affirmativam ut quia filius dicit patrem testatorem non fuisse sane mentis pro hoc affirmans furiosum patrem esse: unde debes probare patrem furiosum esse...si autem negativa non habet in se implicitam affirmativam. ut si peras a me .x. dico nunquam vidi te: imo nego me debere vel dico non numerasti mihi: hoc casu qui negat non debet probare ut hic quia factum negantis.

²¹⁰Odofredus adds the additional justification that in the former denial a presumption exists against the son who denies his father's sanity, since insanity is unnatural (contra naturam); therefore, the son is obligated to prove even though he makes a denial. Again a presumption of law is mentioned as an alternative reason for allocating the burden of proof, but the matter is not developed.

for the distinction. Debate also existed among the commentators whether or not certain denials were denials of law or denials of fact. Odofredus provides an account of such a debate between Joannes (probably Johannes Bassianus) and Azo in his commentary which I will pass over.²¹¹

Denial of quality is recognized as a third type of denial. Odofredus gives the examples, "I deny that you are worthy", "I deny that you are suitable", and "I deny that you are of good character". In such cases it is said that the presumption regularly is against the one denying. For instance, if I deny that you are of good character because you are a bad person I am ought to prove that you are a bad person because the presumption is that people are good.²¹² Odofredus does not mention that in this example a denial appears to imply something affirmative, but merely emphasizes that the presumption is normally against someone making a denial of quality. A denial of quality seems to be exclusively a denial that a person has a certain quality of character e.g. "I deny that you are a good person." The examples clearly indicate that the Aristotelian category of quality is not at issue here.

A further distinction is made between simple denials of fact and denials of fact determined by time and place. The former denials need not be proved, but the latter type of denials, Odofredus claims, contains something affirmative. This "tacit affirmative" makes it possible to prove such denials although not directly but indirectly (per medium).²¹³ This is not explained by

²¹¹Odofredus p.161.For an account of the distinction between denials of fact and denials of law see Leonard (1907) pp. .34-39.

²¹²Ibid. p. 161: siquidem nego aliquem idoneum moribus quia dico tu non es bone conuersationis: tu es turpis persona hoc casu quia nego te bone conuersationis debeat probare: quia libet presumitur bonus.

²¹³Ibid. p. 161: Est negativa facti ut quia dico et cetera et ista non habet determinationem loci vel temporis vel non continet implicatam affirmativam: aut habet. siquidem non habet determinationem loci vel temporis...peto a te .x. tu negas quod mutuaui tibi: hoc casu qui negat non debet probare...nisi sit presumptio contra negantem. Si autem negativa habet in se

Odofredus, but it is clear what is meant, namely, that if someone claims to have done something at a certain time at a certain place he can prove that he did something else at that time and was at a different place. Similar examples are found in both Dannhawerus and Donnelus, the former a post-medieval logican and the latter a post-medieval jurist. In Dannhawerus the example is that if I deny that I was in Rome on such and such a day but I can prove that I was not in Rome by showing that I was in Heidelberg.

An important move is made here from speaking of what ought to be proved (debet probari) to what can be proved (potest probari). Odofredus nowhere says that simple denial of fact cannot be proved, but the claim that denials of fact with time and place determinations can be proved seems simply to mean that they are easier to prove. Odofredus could have added that if a defendant does not prove such a denial with time place determinations this is prima facie grounds for assuming a presumption against him. But in this case rather than base the justification to prove on a presumption against the one denying he seems to say that the one making such a denial should prove it because it is easy to prove.

The notion that denials, or at least some denials, cannot be proved has a long history in Roman law dating back to Cicero (de p. orat. c. 30). In the codes of Maximilian and Diocletian is found cum per rerum naturam factum negantis probatio nulla sit (cod. h. t. c. 23) Leonhard points out that a common interpretation of this rule is that the defendant, who is the one denying in criminal and civil cases, need not prove his denials but merely attack the grounds of the plaintiff's proof. Thus nulla probatio here does not

determinationem loci vel temporis...peto a te .x. qua tibi numerasti tali anno et tali die et in tali loco: si tu negas te non fuisse in illo loco illa die: debes hoc probare quia ista negativa debet habere adiectionem loci vel temporis. et licet non possit probari directo probatur per medium.

mean "that there is no proof" but that "there is no need of proof". Leonard notes, the reduction of matters of law to "the nature of things" is common among Roman jurists, but here this reduction is not supported by any theory about the nature of negations. The rule simply claims that the defendant need not prove those things which the plaintiff cannot and he denies. This interpretation is very clear in Placentinus.²¹⁴

A later 16th century commentator, Hugo Donellus, provides a contrasting interpretation of negantis per rerum naturam nulla est probatio. Donellus recognizes that some say that if per rerum naturam is interpreted as "according to the convention of law", then the doctrine can be accepted without doubt because the law holds that the one denying need not prove, but that the doctrine is false if per rerum naturam means "the nature of things" because of numerous counterexamples of denials that can be proved.²¹⁵ Donellus provides three examples in which the one making a denial can prove the denial. In one example a creditor claims he made a contract with a Titius in Ephesus on the first of January. If Titius denies the claim he can prove his denial by providing evidence that he was in Rome on that day. Donellus points out that this example, as well as the other two which I will pass over, show that the one denying can prove the denial by various means, which seems to demonstrate that per rerum naturam cannot mean strictly by "the nature of things"²¹⁶

²¹⁴Placentinus, Summa codicis (Torino, 1962) p.149: Negantis enim factum per rerum naturam, id est per causarum consuetudinem, nulla est probatio, non dico quod non possit probare, sed dico quod non compellitur probare. Ex quo enim causae fuerunt, institutum est, ut probationis onus, actoris, non rei sit munus.

²¹⁵Donellus, Hugo, Opera omnia (Macertatae, 1830), Vol. 7, p. 1093: Haec ratio in difficultatem iucidit, ex eo, quod dicitur, nullam esse probationem per rerum naturam. Si diceretur nullam esse probationem jure, res careret dubitatione, sed falsum videtur esse, nullam esse probationem per rerum naturam, et aperte refelli videtur exemplo...

²¹⁶ Ibid. p. 1093: uti traditur: quoties factum circumscriptum est certo loco et tempore, et quis id factum negat, is qui negat per rerum naturam probare potest quod negat. Exempli caussa,

But, Donellus claims, an interpretation of per rerum naturam as "according to the convention of law" will not do, because to speak of "the nature of things" is to speak of the power and potential of things which are immutable and determined by God. But the convention of law is mutable and determined by man. Therefore to speak of the nature of things is not to speak of the convention of law.²¹⁷

Donellus goes on to give an interesting literal interpretation of negantis per rerum naturam nulla est probatio. He claims that the doctrine is "most true" if correctly understood to mean that there is no proof of a denial in the nature of things insofar as it denies (or insofar as it simply denies). He goes through the three prior examples of denials which can be proved and shows that although they can be proved the denials themselves cannot be proved but rather other affirmations prove the denials indirectly. For instance, no testimony nor evidence can prove that I did not make a contract with you on the first of January. The most a witness could say is that he did not see me make a contract, and the most evidence could show is that there is no evidence that I made a contract, but that does not prove that I did not make a contract. If, however, it can be shown that I was in Rome on that day the alledged

creditor dicit, se contraxisse Ephesi cum Titio Calendis Januarii illo anno: si reus negat, id probare potest hoc modo, si dicat se eo die Romae fuisse. Nam per rerum naturam fieri non potest, ut utroque in loco eodem tempore fuerit.

²¹⁷Ibid. p. 1094: Haec res movit plerosque, cum aliter se expedire non possent, ut haec verba per rerum naturam, interpretarentur, secundum consuetudinem judiciorum... Constat, rerum naturam dici vim et potestatem rebus a natura, id est, a Deo inditam, quae est immutabilis, ex qua vi et potestate consuetudo agendi in rebus nascitur... Ordo autem judiciorum ab hominibus constitutus est, non natura... neque rerum idem valet, atque judiciorum...Itaque per rerum naturam significat: ut res a Deo creatae et ordinatae sunt, negantis nulla probatio est : quae sententia verissima est, si recte accipitur. Est autem hic sensus. Negantis quatenus negat, seu quatenus solum negat, neque quidquam affirmat praetera, probatio nulla esse potest per rerum naturam.

contract was made I can prove the denial by the proof that I was in Rome. But in that case I prove the affirmation that I was in Rome on that day.²¹⁸

In this example, as well as in the other two which have been passed over, Donellus explains that what follows as a consequent, namely the denial, is different from what "principally is", which is an affirmation; what we look at in making proof is what "principally is" and not what follows as a consequent. The denial, therefore, cannot be proved insofar as it is a denial, but must be proved through something which principally is, which must be an affirmation.²¹⁹

Besides the sort of view found in Odofredus that denials of fact with time place determinations cannot be proved directly but only indirectly, in Accursius, for instance, is found a quite interesting and apparently philosophical argument on the proof of affirmations and negations,

²¹⁸Ibid. pp. 1094-95: Quod facile ita demonstratur. Nam haec negatio non probatur, nisi instrumentis, aut testibus, qui idem affirmant, quod negamus. At nulli testes possunt affirmare, me Calend. Januar. te cum non contraxisse. Possunt quidem dicere, se non vidisse, non interfuisse, cum contraherem: sed dicere me non contraxisse, non possunt, ut certum affirmant. Quanvis autem mille testes producam, qui dicant, se non vidisse, cum contraherem: non tamen ideo consequens est, me non contraxisse. Fieri enim potest, ut aliqui viderint, qui non producuntur. Fieri etiam potest, ut nulli viderint; et tamen contraxerim. Similiter et de instrumentis dicendum est: quanvis 100. instrumenta proferam eo die inter nos interposita, in quibus nihil scriptum sit de eo contractu... non tamen efficitur, me non contraxisse. Nam potest aliud instrumentum esse, quod non profertur. Fieri etiam potest: ut sine instrumento contraxerimus. At qui negat, potest probare, quod negat, si prius contrarium aliquid affirmet, et probet. Quo probato recte colligitur contrarium falsum esse: sed tunc probatio non est probatio negantis, sed affirmantis, non negationis probatio, sed affirmationis... Possum probare, me Calend. Jan. te cum non contraxisse hic: sed ita, si dicam me eo die fuisse Romae, et ita prius affirmem aliquid, quod probem. Unde colligitur, me hic eo die non fuisse.

²¹⁹Ibid. p 1095: Nec obstat, quod ex ea affirmationis probatione sequitur negationis probatio. Nam id per consequens, caeterum principaliter nihil hic probatur, nisi affirmatio. In rebus autem spectamus id, quod principaliter sit, non quod per consequens.

"what is affirmed, is, and thus can be proved by differentia and species, but what is denied, is not, and thus cannot be proved, because it has no species or differentia; but it is certainly allowed that it is true that what is not proved by species and differentia nevertheless is proved by other means, e.g. by a medium." (quia quod affirmatur, est, et ita potest probari per differentias et species. Sed illud quod negatur, non est, et sic non potest probari, cum non habeat species vel differentias. Sed certe licet sit verum quod illud non probatur per species vel differentias tamen probatur per alia ut per medium)²²⁰

Accursius does not elaborate further on this justification for the view that denials of fact cannot be proved. What distinguishes this argument of Accursius is the introduction of being and non-being into the discussion, which appears to establish some relation between philosophical views on "being" and legal debates on the burden of proof; but if some doctrine on non-being is intended to justify the claim that denials of fact cannot be proved the doctrine is nowhere explained; Accursius nakedly asserts that what is affirmed "is" and therefore has species and differentiae from which proof can be assumed and what is denied is not and therefore does not have any species and differentiae from which to assume proof. Leonard offers no help to explain the import of Accursius' mention of being and non-being. He does mention, however, that the jurist Irneius held that it is impossible to prove denials and that Accursius modifies this view with the claim that denials can be proved indirectly (p. 36). The argument that denials cannot be proved because they are not and therefore have no species or differentia probably descends from earlier commentators which I have not seen.

²²⁰Accursius, Accursii Glossa in Codicem (Augustae Taurinorum, 1963) p.100 (de probat. c. 23).

Chapter 13: Onus probandi in the modern method

Current research has shown rather clearly that disputation theorists in the 16th and 17th century took up debates on the onus probandi from those carried on previously in the Roman legal tradition. In this chapter I will examine rules and some strategies on onus probandi in the modern method. The source I will focus on initially is Dannhawerus, Idea boni disputatori et malitiosi sophistae (1632), an influential source on the onus probandi whose remarks on onus probandi are quoted by several other later sources, including Calovius and Schneider, and criticised in the unusual dissertation of Jacobi. The text in Dannhawerus also clearly shows that debates over rules for the burden of proof in disputation are related to, and in some ways dependent on, debates on onus probandi in legal contexts. As far as the role of the burden of proof in the modern method is concerned, it is learned from Dannhawerus that the fundamental rule for determining the onus probandi is opponens est semper teneri ad probationem. This rule is supported in various ways including an interpretation of the common rule affirmanti incumbit probatio as "the one contradicting is obligated to prove." In a second section I will examine affirmanti incumbit probatio in more depth, and discuss some strategies used to throw the burden of proof on to the Respondent by legitimate and illegitimate applications of this rule.

Dannhawerus, Idea boni disputatori et malitiosi sophistae (1632)

Dannhawerus raises the question of the burden of proof at a certain stage in the disputation. The Opponent must have presented an argument whose conclusion contradicts the thesis; the material of the argument must be exactly understood; and, it is stressed, the "form of what is argued", which I take to be the general structure of the disputation, should be carefully observed so that the Opponent has constructed an argument and the Respondent has moved to solve what the Opponent has constructed. When the Respondent and Opponent meet at a point of disagreement after their initial duties have been fulfilled in the objectio and responsio the question arises, "cui incumbit probatio, affirmanti an neganti?"²²¹

In the investigation of this question Dannhawerus clearly has in mind who should prove the points of disagreement on the "matter" of the argument, i.e. the premises of the Opponent's arguments. Five conclusions or answers are provided addressing the question, which is phrased in such a way that the authority of affirmanti incumbit probatio is straightaway brought to issue. In what follows I consider the content of each of Dannhawerus' conclusions and how it relates to some other German second scholastic sources.

²²¹Dannhawerus (1632) pp. 97-98: Postquam recte contradixit, tum pro suâ sententiâ pugnabit alterutrum efficiendo ut vel suam conclusionem oppositam thesi demonstrat esse veram, vel respondentis thesin falsitatis convincat: illâ quidem parte agit proprie quod opponens debet, hâc verò nonnihil ad castra respondentis abit, cujus est praecipue ea quae iam composita sunt énalÊein,opponentis verò est componere. Ut igitur recto pede progrediatur ad veritatem, formam argumentandi in numerato habere oportet, ne ullâ parte in eam impingat, secus in omni aliâ inventionem oleum & operam perdidit. Materiam, cujus potior pars praemissae sunt & principia, exactè intelligere debet, exque eâ argumentabitur, & quantum potest, suae assertioni lucem faenerabitur. Cum verò frequenter disputari audiamus, Cui incumbit probatio, affirmanti an neganti?

The first conclusion is not so much a conclusion but advise and the statement of a rule: the advise is that no one should accept the burden of proof unless forced by law to do so; the rule is that the Respondent is not forced to prove by law, but only has the duties of "turning back contrary arguments". Dannhawerus emphasizes that "there is no need for the Respondent to elaborately defend and demonstrate his theses," so he should not do so and run the risk of accepting the burden of proof. Dannhawerus thus explicitly accepts that rule that the Respondent is not obligated to prove, but implicitly a rule is accepted which allows the Respondent to prove if he wishes.²²²

This well-known officium of the Respondent to defend theses is found in almost all the sources I have seen. Geulincx, for instance, uses the term defendens rather than respondens and stresses that the defendens fulfills his duty by "solving" and "confuting" the arguments of the Opponent.²²³ The rule derived in a sense from the officium, that Respondent never must prove, is also very common. A very strong statement of the rule is found in Wendelinus, who says that it is "the privilege of the Respondent" that he not be held to provide an argument for an affirmation or denial.²²⁴

²²²Ibid., p. 98: operae precium fuerit hunc quoque scrupulum eximere. Notentur autem hae conclusiones. 1. Molem probationis nemo debet facile suscipere, nisi teneatur jure, stultitiae enim damnandus est, inquit Wesenb. in paratit. 1. 22. digest. tit. 3. de probat. & praesum. qui tàm grave onus ac sumtuosum nemine imponente aut cogente in se reciperet... nam 1. cederet de suo jure atque nonnihil iniquus esset in seipsum, si sit respondens: cui satis est hostem arcere posse & evertere argumenta contraria, sua verò operosè munire ac demonstrare non opus. 2. Subjiceret se periculo sine causâ, sicut & Athelta rectius facit ictus excipiendo ac defendendo quam contrarios inferendo quod hoc non careat periculo. 2. Subjiceret se periculo sine causâ...

²²³Geulincx (1663) p.112: Agendum igitur praecipue de officio Defendentis et Opponentis. Et prior quidem est Defendens, non qua defendens sed qua Thesin constituens: primum enim oportet Thesin esse, si disputatio celebranda sit; quam Defendens ponere tenetur. Alioqui Defendens, qua Defendens, posterior Opponente: prius enim est rationes contra Thesin afferre (quod Opponentis est) quam illas diluere et confutare (quod Defendentis est).

²²⁴Marcus Fridericus Wendelinus, Logicae institutiones tironum adolescentum (Amstelrodami, 1654) p. 354: Privilegium Respondentis pro opponente hoc est: quod

The second conclusion is the following,

"whoever is not exempt from the burden of proof by presumption (per praesumptionem) is obligated to prove, since the duties (partes) of the Respondent are always more favorable than the Opponent just as the duties of the defendant in court are more favorable, and he [the Respondent] is in some way in possession of the truth, and there is presumption that nothing that has been allowed to be defended by him is absurd or false, therefore, by law the Respondent is never held to prove. He, therefore, releases himself from his debt if he solves the arguments advanced against [the thesis]." (pp.98-99: Is tenetur probare qui non praesumptionem ab hoc munere exemptus est, cum partes Respondentis, sicut in foro rei, semper magis sint favorabiles, & ipse quodammodo sit in possessione veritatis, nec praesumptio sit quicquam permissum fuisse ab eo defendi, quod absurdum sit aut falsum, ideò Respondens de jure nunquam tenetur probare. Is, igitur, si argumenta in contrarium allata diluit, aere suo se exolvit...

The details of the analogy between the favourable duties of the Respondent and defendant in court are not explained, but it would seem that the duties of the defendant in court are more favorable because the defendant is "the one denying" and therefore does not have the burden of proof at the onset of proceedings by ei incumbit probatio qui dicit non qui negat. The Respondent in the disputation, however, according to Dannhawerus, is exempt from the burden of proof "by presumption", and this entails that he is "in some way in possession of the truth", which implies that the thesis is in some way presumed to be true. There is also a further presumption that nothing which is

Respondens nec affirmationis nec negationis suae rationem reddere opponenti tenetur: Contrà verò opponens probare tenetur, quicquid ipse contra Respondentem affirmat vel negat, & quicquid à Respondente ipsi negatur.

absurd or false has been proposed by the Respondent, which is a necessary presumption if the thesis is to be presumed true; both these presumptions serve as justifications for the law that the Respondent never needs to prove. Dannhawerus in this so-called second conclusion has merely repeated the law that the Respondent is never obligated to prove; the only new information given is that two reasons for the law are the above presumptions made in the Respondent's favor.²²⁵

In the third conclusion Dannhawerus discusses the possibility of role reversal. Although the Respondent is never obligated to prove he may be forced to accept the burden of proof if he assumes the role of the Opponent. This can happen easily, he remarks, because the duties of the Respondent and the Opponent are not distinguished in such a way that they may not be exchanged back and forth. In fact, Dannhawerus says, it is often "honorable" if the Respondent relinquishes his "right" not to prove and assumes the Opponent's role for the sake of bringing an end to a dispute, just as a defendant in court takes on the role of the plaintiff when he proves something.²²⁶

Dannhawerus does not give the conditions under which it would be honorable or fair for the Respondent to accept the Opponent's role. Other sources do mention that the Respondent can prove his thesis or a denial if he

²²⁵Dannhawerus' claim that the thesis is a praesumptio is uncommon. The only other source I have seen which makes this claim is Schneider, who appears to be following Dannhawerus; Schneider (1718) p.57: Alterum, quod ab opponente subeundum est officium, in probatione versatur, a qua se liberare nequit, tum quia auctor dubii est; tum quia contra se erroris quamdam suspicionem excitavit, in quasi possessione ac veri praesumptione respondente adhuc se tuente.

²²⁶Dannhawerus (1632) p. 99: Tenetur probare si provinciâ suâ relictâ opponentis officium induat, quod facile fieri potest, cum non possint haec officia ita distingui, ut non ultrò citròque permulentur, quin hoc ut faciat saepe illi honorificum est, & ob finiendas tandem lites aequum... sic in foro reus personam actoris induit, quando aliquid probat.

so desires, but this is not necessary and the Respondent should do so only if he has a solid proof in hand to bring an end to the disputation. Examples of this can be found in the Theodicy of Leibniz in the "Summary of the Controversy Reduced to Formal Arguments". Leibniz often remarks in his denials that "I might confine myself to that [the simple denial]" (Answer to Obj. V) or "I might content myself with asking for its proof" (Answer to Obj. II), but goes on to prove his denial because he feels that he has a solid proof.²²⁷

The fourth conclusion is another assertion of the rule that the Respondent is never obligated to prove in terms of the common rule affirmanti incumbit probatio. Dannhawerus says that the rule can "always" be admitted if by "affirming" is understood "contradicting", then, since the Opponent is always "contradicting", he must always prove.²²⁸ This is consistent with the law of disputation that the Respondent is obligated merely to defend the thesis and need not prove his denials or his thesis unless he assumes the role of the Opponent. Dannhawerus does not explain clearly what is meant by "contradicting". Schneider and Calovius, who are probably following Dannhawerus, give similar interpretations of affirmanti incumbit probatio.²²⁹ It appears that the Opponent is "always" contradicting because he is always advancing arguments; although it is possible that a role reversal occur in which the Respondent assumes the duties of the Opponent thereby becoming the party who "contradicts".

²²⁷Leibniz, Theodicy (La Salle 1985) p.379, 384.

²²⁸Dannhawerus (1632) p.99: Admittere possumus affirmanti semper incumbere probationem, si affirmantem latè accipias pro contradicente, sicut in syllogismo disjunctivo tollere dicitur qui contradicit, sive id affirmando praestet sive negando. Et quia opponens semper est contradicens, semper ipsi erit probandum...

²²⁹Schneider (1718) p. 57; Calovius (1687) p. 478.

Jacobi (p.10) attacks Dannhawerus on this point and claims that those who would distinguish the Opponent from the Respondent on the grounds that the Opponent contradicts beg the question because retorsio is contradicting. In light of Jacobi's criticism our account of "contradicting" may seem a bit simplistic. It does indeed appear that a retorsio or inversio, whether the argument concludes the negation of the antithesis, i.e. the thesis, or the negation of a premise, is an instance of "contradicting" in the sense of "advancing arguments". Dannhawerus, like most others, does not explain whether or not the Respondent runs the risk of role reversal in proposing a retorsio or inversio. As mentioned earlier, Syrbius and Jacobi are the only two sources I have found which point out that the burden of proof should shift to the Respondent if he moves with inversio/retorsio.

Role reversal and the shift in the burden of proof is also discussed by Wendelerus, who says that when the Respondent assumes the role of the Opponent he proposes "new arguments" (novas rationes), which I understand to be arguments with "new premises".²³⁰ If the Respondent proposes such counter-arguments, it would seem that he "contradicts" on Schneider's account, and therefore has the burden of proof by the rule affirmanti incumbit probatio.

Prücknerus holds what amounts to a similar view to Dannhawerus and company, although he justifies by a distinction between the Respondent considered formaliter and materialiter. The Respondent considered formaliter "responds", i.e. dissolves arguments advanced by the Opponent, but in this

²³⁰Wendelerus (1650) p.22: Hae personae saepissime possunt confundi, ita ut Respondens in Opponentem degeneret, & hic vicissim in Respondentem, vel ob Respondentis imperitiam, vel Opponentis fraudem. Prius committitur, quando solutione argumentorum non est contentus, novasq; rationes affert, eas; argumento Opponentis opponit. Quo ipso suam transilit metam, atq; nudum Opponenti objicit latus. Nam Opponens, hâc occasione datâ, ubi rationes â Respondente allatas examinabit, ibi nolens volens cogetur Respondens opponere, adeoq; fiet, ut Respondens officio Opponentis & hic Respondentis, fungatur.

role he is not obligated to prove. But the Respondent considered materialiter "teaches", and in this role he is obligated to prove by confirming some doctrine with an argument. In this case the Respondent relinquishes his role as the Respondent and takes on the habitus of the Opponent, and along with it assumes the burden of proof.²³¹ Thus in the role of "teaching" the Respondent does not attack the arguments of the Opponent but establishes some doctrine, whether it be a denial or a thesis.

The fifth and final conclusion of Dannhawerus is that "it is false that strictly speaking the one affirming is always held to prove". At first glance this "conclusion" is remarkable because directly prior to it Dannhawerus accepted the rule affirmanti incumbit probatio. From the text it is clear, however, what Dannhawerus wants to claim is false is the familiar doctrine of Roman law negantis per rerum naturam nullam probationem, as he understands it to be interpreted by a contemporary legal theorist Wesenbecius.²³² In the rather difficult argument that follows it is not clear whether or not Dannhawerus is really concerned with the issue of the burden of proof in disputation. It appears that his primary concern is to refute the kind of interpretation Wesenbecius gives of negantis per rerum naturam nullam probationem, which Wesenbecius wants to serve as a justification for

²³¹Andreas M. Prücknerus, Libellus de artificio disputandi (Erfurti 1656) pp. 160-61: Respondens duplici modo potest considerari: (1) formaliter, quantenus est respondens, & sic non tenetur probare, quoniam is nullam propositum aliud habet, quam illud, quod afferit, sustinere & defendere, defendere autem non est argumentis id confirmare, sed argumenta ea, quibus impugnatur, dissolvere. Quod si itaque argumenta in contrarium allata solverit, officiô suô functus est. Sicut enim Opponentis est componere, ita & Respondentis est, ea, quae composita sunt énalÊein ac dissolvere: (2) materialiter, ut docens, hoc est, ut docere aliquid instituit, & sic tenetur probare, suamque doctrinam ratione aliquâ confirmare, tum enim relictâ suâ provinciâ...opponentis habitum induit, cujus proprie est docere, & argumentis suam assertionem stabilire. Doceri namque nihil potest, nisi argumentis id stabiliatur.

²³²Dannhawerus (1632) p. 99-100: Falsum est affirmantem strictè sumto vocabulo semper teneri ad probandum, nec admitti per omnia potest quod Wesebecius I. supra cit. scribit, negantis per rerum naturam nullam esse probationem.

affirmanti incumbit probatio. Wesenbecius' own interpretation of the doctrine is not at all clear. It is justified by a curious argument, which is quite reminiscent of Accursius' argument for the same doctrine.

"As it is said there are no genera and propria of non-being, no qualities or differentiae...from which definition, and thus proofs must be taken: because proof is nothing other than the true definition or demonstration of some fact. Therefore, the one who asserts has the burden of proof, that is, he who founds [his case] on some fact which the adversary denies."

As in the argument of Accursius, it is not clear what non-being, and, in this case, its lack of "genera, propria, qualities, and differentiae" mean. Danhawerus' first three arguments against negantis per rerum naturam nullam esse probationem seem to assume that whatever the doctrine is it implies that no denials can be proved, but it is not clear that one can get this from the text in Wesenbecius.²³³ The first argument is said to be "from reason" (ex ratione), in which Danhawerus claims that "he ought to prove who is to make his opinion estimable (probam), whether it is affirmative or negative." This rather weak remark is buttressed by a second argument "from absurdity" (ab absurdo), which states that if negative propositions cannot be proved then all the moods of syllogistic which have negative conclusions, such as Celarent, Camestres etc., would be superfluous, but they are not, therefore, negative

²³³See Matthaeus Wesenbecius, In Pandectas Iuris Civilis et Codicis Iustiniani libros viiiij. commentarii (Lugduni 1597) p. 693-94: Imponitur autem ei qui allegat, dicit, agit aliquid in iudicio... non verò ei qui negat: quia Negantis per rerum naturam nulla est probatio...(nisi iuris negationem allegat...) cum naturaliter id quod negatur, probari nequeat.. Non entis, ut loquuntur, nulla sunt genera & propria, nullae qualitates aut differentiae...à quibus sicuti definitiones, ita etiam probationes sumendae sunt: quia probatio nihil aliud est, quam vera facti alicuius definitio & demonstratio. Alleganti igitur incumbit probatio, hoc est, se fundanti in aliquo facto, quod adversarius negat.

propositions can be proved.²³⁴ Dannhawerus assumes here that the view he is attacking holds that all negative propositions cannot be proved. The only source which proposes something like this view is Donnelus, but even Donnelus' claim that a denial cannot be proved insofar as it is a denial is obviously immune from Dannhawerus' attack.

The third argument "from the law itself" (ex ipso jure) merely provides an example of how a denial of fact with time place determinations can be proved indirectly (per medium), e.g. someone can prove that he was not in Rome on a certain day by proving that he was in Heidelberg. (This is similar to the examples was cited earlier in Odofredus and Donellus.) Dannhawerus is apparently arguing against the view that all denials cannot be proved, and introduces the example of the denial which can be proved "indirectly" as a counterexample; this example is given authority because the law itself recognizes that such a denial can be proved.

Dannhawerus finally attacks the argument found in Wesenbecius directly which he paraphrases in the following way,

"there are no genera, or differentia, or qualities of non-being from whence a proof [of non-being] can be assumed; negation is non-being; [therefore, there are no genera, or differentia, or qualities of negation from whence a proof can be assumed.]"²³⁵

²³⁴Dannhawerus (1632) pp. 99-100: Contrarium probatur, 1. ex ratione, Is probare debet, cujus est suam sententiam probam facere, at non solum affirmantis id est, sed negantis. Ergo, 2. ab absurdo: modi figurarum negativi, ut Celarent, Camestres, &c. essent supervacanei, quia negativae conclusiones non possent argumentationem subire. 3. ex ipso jure...negationem limitatem ad certas circumstantias probari debere, veluti si quis hoc vel illo die non fuerit Romae, probatur per medium concludens, quia fuit Heidelbergae Sic probari potest mihi non esse sovlando & alia.

²³⁵Ibid., p. 100: nec obstat non entis nulla esse genera aut differentes, aut qualitates unde

This syllogism, which is reconstructed from the passage in Wesenbecius, is attacked by denying both the premises. Both denials are supported by philosophical doctrines whose proper interpretation I would like to pass over. Briefly, in denying the major he makes two claims: (i) that the accidents of non-being are intentional and not real and, (ii) that by "non-being" should be understood "false proposition". He refers to Post. An. 71b25-6 to support the first objection and to Meta. ch.3, 8. for support of the second. His reason for denying the major is that "negation is a formal judgement of mind concerning some diverse state of affairs and fundamentally this diversity is not nothing."²³⁶ It is not clear what Dannhwerus means by these two justifications for the denial of the major premise, nor can I make much sense of his references to the Aristotelian texts. But, setting aside the content of these remarks, it is clear that in his attack on Wesenbecius Dannhwerus considers debates concerning rules for the burden of proof in disputation to be closely related to similar debates in legal contexts. In this particular attack Danhwerus aims to refute a very literal interpretation of negantis per rerum naturam nullam esse probationem, which might be used as an attack on the rule that the Opponent must always prove, since on a very strict, literal interpretation of negantis per rerum naturam nullam esse probationem denials advanced by the Opponent cannot be proved.

In his final remarks on the burden of proof Dannhwerus considers an Opponent who maintains that many negations cannot be proved; this seems to

probatio sumeretur. Negatio est non ens.

²³⁶Ibid. p.100: major quia non entis sunt accidentia intentionalia, licet non realia, quando Aristoteles I. 1. post. anal. c.2. (unde procul dubio haec objectio dimanavit) scribit $\neg \text{m} \rightarrow \text{n}$ $\neg \text{p}$ $\rightarrow \text{stasi}$ y a i , non ens non potest sciri aut demonstrari, per non ens intelligit propositionem falsam, ut patet non solum ex toto contextu, verum etiam ex loco parallelo, 1. Metaph. c. 3. t. 8. Ita non entis non est probatio scilicet quod sit ; est tamen, quod non ist.

be a limitatio of the prior claim that no negations can be proved. An example is given in which an Opponent argues that:

Dogma not mentioned in scripture is not divine.

Dogma concerning purgatory is not mentioned in scripture.

[Therefore, dogma concerning purgatory is not divine.]

The Respondent then denies the minor and the Opponent throws up the question "Quomodo minor probabitur?". The minor premise seems to be a very good example of a denial of fact; and it appears that by this example Dannhawerius is answering an Opponent who might deny that no denial can be proved but hold that some denials of fact cannot be proved.

The Respondent is said to be in the horns of a dilemma because if he proposes a place in scriptures where purgatory is mentioned he is in danger of making himself the Opponent, but if he says nothing he exposes himself to laughter. Presumably Dannhawerius accepts that this denial cannot be proved, which is false, unless "provable" is taken to mean "provable in a short space of time"; certainly one could go through Scriptures line by line and prove the denial. But, Dannhawerius claims that the Respondent can propose a place in scripture where purgatory is mentioned and remain the Respondent. It is said that such a reference does not "prove" what the Respondent wants, but brings a text to the eyes of the Opponent who must either prove that the text is not relevant or move on with his argument.²³⁷ This reference proposed by the

²³⁷Ibid. p.100-101: *Dices multas negationes probari non posse, e.g. dogma non legitur in scripturâ, id non est divinum. Sed dogma de purgatorio non legitur in scripturâ Ergo. Quomod. ais, minor probabitur? Resp. Dicam; hoc modo. Si alicubi legeretur maximè in illis locis, quae de inferno agunt, at ibi non legitur... Quid verò inquires tunc faciet Respondens? aut proponet locum ubi legitur, aut nihil respondebit? si prius, incautus ex se faciat opponentem, si posterius risui se exponat. Resp. proponet locum ubi legitur, sed manebit respondens, non enim probat, sed textum ad oculum ostendit ac illustrat, jam opponenti incumbit probare, textum hunc illud non probare, quod ipse velit. Relinquitur igitur opponentem, quâ opponens est semper teneri ad probandum, sive argumentum neget sive ajat.*

Respondent is not called an instantia, although it looks very much like one. The significance of the example is that Dannhawerus does hold that the Respondent in some denials should offer a ratio for a denial, but that this ratio need not constitute a proof, which could reverse the roles in the disputation. We have seen in other sources, such as Hanschius and Sanderson, the Respondent's proposal of a ratio for a denial can sometimes be required if demanded by the Opponent; furthermore any ratio given is open to attack. Hanschius and Sanderson, like Dannhawerus, stress that the respective duties of Respondent and Opponent should be upheld and role reversal is to be avoided; but none of these sources explains sufficiently how the Respondent is to avoid accepting the burden of proof when a ratio for a denial is given.

In conclusion the following points should be made concerning Dannhawerus treatment of the burden of proof:

(i) The rule opponens est semper teneri ad probationem is a rule of proof which Dannhawerus is willing to propose unequivocally, and most of his five conclusions constitute defenses against objections to this rule. The defenses of this rule include: (a) presumptions that the Respondent is in some way in possession of the truth and that the Respondent does not propose theses which are absurd or false. (b) an interpretation of affirmanti incumbit probatio that obligates the one contradicting to prove, which, according to Dannhawerus, is always the Opponent, unless the Respondent moves to argue which he need not do. (c) arguments against those who would maintain that denials made by the Opponent in his argument cannot be proved by the rule negantis per rerum naturam nullam esse probationem .

(ii) There is obvious influence from post-medieval legal sources on Dannhawerus' discussion of the burden of proof. This influence is seen most

clearly in (a) the two presumptions made in favor of the Respondent, especially the presumption that the Respondent is in some way in possession of the truth, which is explicitly analogous to the "favorable circumstances" of the defendant in court who need not prove by the rule ei incumbit probatio qui dicit non qui negat (b) the argument against negantis per rerum naturam nullam esse probationem, in which Dannhawerus shows that he is aware of legal discussion concerning the proof of denials of fact with time place determinations, although his interpretation of negantis per rerum naturam nullam esse probationem is based on a dubious extrapolation from Wesenbecius.

(iii) Dannhawerus leaves several important questions unanswered, among them, (a) the Respondent must in some cases offer some reason for his denial but this reason can be given in such a way that it falls short of "proof" which could result in a role reversal. What distinguishes a ratio of this lesser sort from a ratio which constitutes proof? (b) the Respondent certainly cannot deny every premise of the Opponent with impunity. But what constraints are to apply to the kind of denials the Respondent can make without some penalty? (c) Is the respondent obligated to prove by affirmanti incumbit probatio if he moves by retorsio or inversio?

Affirmanti incumbit probatio and the transfer of the onus probandi

The rule affirmanti incumbit probatio is a common rule of proof, which most sources are willing to accept, but, as we have seen in Dannhawerus, there appears to be a reluctance to accept the rule in an unqualified sense because of the possible conflict with the rule opponens est semper teneri ad probationem. This was seen in Dannhawerus by the interpretation of affirmanti incumbit probatio as contradicens incumbit probatio, where contradicens is always the Opponent. Calovius and Schneider

follow Dannhawerus interpreting it in the same way.²³⁸ The general acceptance of the rule, however, and the need for interpretation to make it consistent with the fundamental rule of proof opponens est semper teneri ad probationem opens the door for what Dannhawerus and company would consider certain abuses of the rule. Also some other sources do not accept the Dannhawerian interpretation of affirmanti incumbit probatio, and use the rule as a justification for certain strategies to transfer the burden of proof from Opponent to Respondent.

One tactic is to use negative premisees in an argument which the Opponent knows the Respondent will deny. The Opponent then claims that the one affirming has the burden of proof not the one denying, and proposes that the Respondent prove. Dannhawerus, Schneider, and Calovius, of course, would reply that the Opponent is "contradicting" and therefore "affirming" even when he uses negative premisees, and that therefore this move constitutes an abuse of affirmanti incumbit probatio.

Felwinger mentions two possible means of escape for the Respondent in the event the Opponent uses this trick. If the Opponent has denied principles or things which are known manifestly the Respondent can claim that he violates the principle negans et disputans i.e. contra principia non est disputandum . Or the Respondent can deny the premisees obliquely with such phrases as "I do not concede your hypothesis" or "Your negative hypothesis is false". In this case Felwinger claims the negative hypotheses in the Opponent's argument have the force of affirmations. Although this is not

²³⁸Also see Bathasar Cellarius, Libellus de consequentia (Helmstadii 1658) p.133. Cellarius maintains that the Opponent is obligated to prove regardless of whether or not the thesis of the Respondent is affirmative or negative. In both cases the Opponent is urging the contradiction of the thesis and the Opponent is obligated to provide some reason (fidem) for us to accept the contradiction. This is a restatement of the view explained more fully by Dannhawerus. The remark that the Opponent must prove regardless of the status of the thesis is obviously aimed , I think, at the literal interpretation of rule affirmanti incumbit probatio.

explained, it is clearly another attempt to circumvent a literal interpretation of affirmanti incumbit probatio without rejecting the rule outright.²³⁹

In contrast to the view of Dannhawerus and others, Heine claims that the Opponent can transfer the burden of proof to the Respondent legitimately by using what he calls "negative syllogisms".²⁴⁰ Heine gives four examples of such syllogisms, two of which are,

Whatever is supported by no argument is false.

This or that [your thesis] is supported by no argument.

Therefore, this or that [your thesis] is false.

Whatever cannot be proved by a passage of scripture ought not
to be believed.

This or that article cannot be proved by a passage of scripture.

Therefore, this or that article ought not to be believed

Heine claims that if a premise of this syllogism is denied the Opponent can say that there is no ratio of negation and request that the Respondent either prove the contrary [in the case of the minor] or produce some instantia

²³⁹Felwinger (1659) p.56: Interdum Opponens abutitur regulâ illâ vulgari: Affirmanti incumbit probatio: qui abusus contingit, quando opponens manifestissimè nota & principia negat, vel quando negativam hypothesin suae argumentationis ponit, quae probatione indiget. Tum respondeos urgeat opponentem, ut negationis suae rationem adferat vel penitus rejiciendus est, tanquam contra principia negans & disputans. Imò talis negativa positio habet tum vim affirmationis: quam obliquè negare potest, ac dicere: non concedo hypothesin tuam: vel: falsa est hypothesis tua negativa: probetur ergò.

²⁴⁰Io. Fridericus Heine, Methodus disputandi hodierna ex variis autoribus collecta (Helmstedt 1710) p.36: Id quod sit, si negantibus utitur syllogismis, qui si negantur, respondententi tanquam affirmanti incumbit probatio. Potest etiam dicere, se nullam videre rationem negationis, petere itaque, ut proferatur aliud, aut ut contrarium probetur, aut ut sibi monstretur aliqua instantia.

[in the case of the major], presumably against the universal major. Heine may have something like the doctrine negantis per rerum naturam nullam probationem in mind by the move that there is no ratio of negation, but this is not explained. I don't see how this syllogism will effectively transfer the burden of proof since the major is obviously false and an instantia is easily forthcoming. But providing an instantia need not transfer the burden of proof.

Geulincx discusses syllogisms which appear similar to Heine's negative syllogisms, but Geulincx rejects the syllogisms as "pure trifles" because they presuppose the contradiction of the thesis. The two examples are given:

A false thesis should not be posited
 Your thesis is false
 Therefore, your thesis should not be posited

Whatever is the contradiction of what is true is false
 Your thesis is the contradiction of what is true
 Therefore, your thesis is false

Heine's syllogisms, although they do not strictly presuppose the falsity of the thesis as these syllogisms do, do presuppose something about the thesis which has not been proved. This feature of the syllogisms is what seems to make them compelling examples of how to transfer the burden of proof, since the Respondent may feel obligated to prove that the claim about his thesis is false. But if this is the case then Heine's remark that the burden of proof can be transferred because there is no ratio of negation is irrelevant.

Jacobus Martini remarks that if the Respondent is astute and cannot be beaten, the Opponent may seek to transfer the burden of proof by arguing "from absurdity", which is presumably the use of absurd premises in the

objectio. In this case, if the Respondent wants to refute the Opponent he must instruct the Opponent with arguments directed against the absurdity.²⁴¹ Martini gives no examples, but it may be that he has in mind something like the syllogisms found in Geulincx; although this strategy seems to be more broad in scope, perhaps the offering of bait for the Respondent to accept the role of what Prücknerus would call respondens materialiter.

Buddeus claims that a syllogism with a negative or "infinite" minor premise in the first figure need not be proved by the Opponent, and that if such a premise is denied the Respondent should produce some testimony which proves the thesis with a good consequence.²⁴² Buddeus clearly has in mind some thesis on a religious topic, and the testimony to be produced must come from scripture. But it is not clear why a negative minor or a premise with an infinite term in the first figure need not be proved by the Opponent if denied, and furthermore, why should the denial of such a premise lead the Respondent to offer proof of the thesis. Schneider mentions that Buddeus is less than cautious on this point.

An exception to the rule affirmanti incumbit probatio, which is recognized in many sources, but stressed by Cornelius Martini, whose De

²⁴¹Jacobus Martini (1631) p. 742: Si Respondens est prudens, vel astutus, ut vinci nequeat, eò laborat opponens, ut Opponentis partes assumere cogatur. Hoc verò fieri potest, si opponens ab absurdo argumentetur, si enim tum Respondens Opponentem refutare vult, oportet, ut certis argumentis sit instructus, quae contra illam absurditatem opponat, habetque, opponens, quod petit. Eò autem Respondentem propterea urgeat, quia ad opponendum non est instructus, proptereaque ipsi argumenta deficient & opponens erit victor.

²⁴²Johannes Franciscus Buddeus, Elementa philosophiae instrumentalis (Halaë Saxonum 1709) p. 245: Solet etiam vulgo inter vitia disputantium referri, si respondens aliquid probet, vel probationem ab eo exigat opponens. Sed perperam. Possunt enim existere casus, ubi a respondente recte exigitur probatio, e.g. si opponens minorem faciat negativam, vel infinitam in prima figura: item, si in eodem casu respondens afferat dictum aut testimonium aliquod, ex quo thesis probanda, per bonam consequentiam, elicienda est. Tum enim ut id quod probare cupit, ex dicto illo seu testimonio deducat, recte ab illo exigitur.

analisi logica is cited in several other sources, is that it applies to the matter of the argument and not to the form.²⁴³ If a disputant denies the consequence then that disputant is obligated to prove the consequence false. Jacobus Martini, who obviously follows C. Martini closely, is careful to extend this rule to both the Respondent and Opponent, rather than limit the rule to the Respondent who is usually the party denying the consequence in disputation, perhaps with the possibility of role reversal in mind. This exception to affirmanti incumbit probatio appears to have been commonly held as a legitimate rule of proof.

Another obvious exception to affirmanti incumbit probatio is the thesis, but the sources typically do not comment on the question whether or not the thesis should be proved. The sources which do comment on this question tend to say very little. Cornelius Martini, for instance, brushes off applying affirmanti incumbit probatio to the thesis with the remark that "no disputant is held to prove his theses, but if the Opponent can propose nothing which is not solidly turned back by the Respondent one ought to deem that the Respondent's theses have been sufficiently defended."²⁴⁴ Martini does not explain what "sufficiently defended" means here. It does appear, however, that he holds a view something like Dannhawerus, that the thesis has some kind of special status, although Martini never uses the word praesumptio in describing the thesis. He instead appears to stress that it is a convention that the thesis need not be proved because proving the thesis is not a duty assigned to the

²⁴³Cornelius Martinus, De analysi logica (Helmaestadi 1638) p.170: Qui igitur consequentiam negat, formam esse vitiosam demonstrare debet. Non negamus hanc esse disputantium legem, ut affirmanti incumbit probatio non autem neganti. Sed talis affirmatio & negatio ad materiam pertinet, quae sane probanda illi est, qui eam protulerit, protulerit, inquam, in syllogismo, aliàs ne hoc quidem semper verum est, quod affirmanti incumbit probatio.

²⁴⁴Ibid., p.170: cum nullus disputator theses suas probare teneatur, sed nunc satis eas defendisse censi debeat, si opponens nihil contra adferre possit, quod ei à respondente non solidè refellatur.

Respondent. A few sources do claim outright that the thesis ought to be proved; these sources are treated briefly in a chapter on the definitions of disputation.

Chapter 14: Methodus Megarica

The megarian method (methodus megarica) of disputation receives considerably less mention than the socratic method (the other "minor method" of post-medieval disputation), but enough to merit some special treatment. The method is a product of the historical interest in logic prevalent in early 18th century second scholastic logic literature. The only work solely devoted to the megarian method is a dissertation by Johannes Gaspar, De modo disputandi megarico (Jenae, 1707). This dissertation does not provide an account of an existing practice of megarian disputation, but attempts to explain a method of disputation, which the author claims exists in ancient sources, including Euclid, Plato, the Stoics, and Zeno, among others. Even after a close look at Gaspar's dissertation it is not entirely clear in what sense the "megarian method" is a full-fledged method of disputation. This I will now explain.

An ancient source important to the exposition of the megarian method in Gaspar's dissertation is the Vitae of Diogenes. A principle, which appears to be considered a fundamental principle for the megarian method is taken from the life of Euclid in Diogenes: Princeps, qui huc faciat, Laertu locus habetur in vita Euclidis, & ita habet: ταυτε ἐπιδεικνῆσιν ἡνωσάτο, Ὅτι κατὰ Λαέρτα, ἐλλὰ κατ' ἡπίφορᾶν, versio a Meibomio emendata haec est: utebatur probationibus non his, quae assumptiones, sed quae per conclusiones fiunt. The revision of the principle by Meibomius, a source unknown to me, "utebatur probationibus non his, quae assumptiones, sed quae per conclusiones fiunt," appears to become commonly associated with the megarian method, which is made evident by the mention of this principle in Schmidt's description of the megarian method.²⁴⁵ Gaspar rightly questions what is the meaning of this principle and spends a few pages trying to answer. The most revealing part of this answer comes in an explanation of what "kat' ἡπίφορᾶν" means. Here Gaspar provides us with a revealing account of what the megarian method is, which comes along with a quotation from Gassendus, a quotation also mentioned by Schmidt,²⁴⁶

"One should observe that "kat' ἡπίφορᾶν" is a word proper to the Stoics, for which Aristotle uses "συνεπαγωγή", this, however, denotes inference... But here it is asked not undeservedly, in what way can some thesis be attacked by inference? It can easily be responded, if one is attentive, that the absurdity of some conclusion of the thesis, from which [the absurdity of the thesis] is

²⁴⁵Johannes Schmidt, Diversis disputandi processibus (Jenae, 1716) p.8: Antiquissimo simul & pervagatissimo hui disputandi mori proximus est Euclidis novae sectae conditoris, qui teste Laërtio in vita. utebatur probationibus non his, quae per assumptiones, sed quae per conclusiones fiunt, quod Gassnedus ita explicat: (a) Solitus est ceterorum demonstrationes non sumtionibus impugnare sed conclusionibus duntaxat; nimirum quasi consecutiones forent satis conspicuae, illationes congrerebat, Ergo, Ergo, Ergo

²⁴⁶See Petrus Gassendus, Opera omnia, tomus primus, (Lugduni, 1658) p. 40.

inferred, is imputed, because from what is true what is false does not follow, but from one absurdity cannot not follow many [absurdities]. If, therefore, some conclusions, which are false and absurd, are derived from the thesis, it is with reason concluded that the thesis from which [these things] follow is not free from falsity. Petrus Gassendus hints at this when he writes, "we know mainly two things from Laertus. One is that Euclid used to attack the demonstrations of some not by assumptions but by strictly by conclusions, certainly as if the affects were sufficiently clear, he used to bring together inferences "therefore, therefore, therefore, etc.""²⁴⁷

This characterization of *kat' ḥipiforān* appears to account for the primary feature of what Gaspar and others like Schmidt understood as the megarian method, namely, to demonstrate the falsity of a thesis by deriving falsities and absurdities from it. Although from a logical point of view one absurdity would do to demonstrate the falsity of a thesis, an apparent feature of this method is that many absurd conclusions are drawn; in this way one would follow Euclid in "bringing together inferences therefore, therefore, therefore."

But if this is the only essential feature of the megarian method then how does it differ from indirect argument against a thesis? *Prima facie*, there is no difference other than that deriving not one absurdity or falsity from the thesis but many. Gaspar and others who mention the megarian method fail to

²⁴⁷Johannes Gaspar, *De modo disputandi megarico* (Jenae, 1707) p.8-9: observat: epiphora proprium Stoicis vocabulum, pro quo Aristoteles sumperasma, hoc autem cum illationem denotet... Ceterum quomodo per illationem thesis aliqua possit impugnari, hic non immerito quaeritur? responderi facile potest, si attendatur, quod conclusionis alicuius absurditas thesi, ex qua inferebatur, imputetur, cum ex vero falsum non sequatur, ex uno autem absurdo non possint non consequi plura. Si itaque eliciantur ex thesi quaequam conclusiones, quae falsae & absurdae sunt, merito colligitur, neque thesin, ex qua profluxerunt, carere falsitate. Innuat hoc Petrus Gassendus (g) quando scribit: Duo fere solum novimus ex Laërtrio; unum quod soleret Euclides ceterorum demonstrationibus non sumtionibus impugnare, sed conclusionibus duntaxat, nimirum quasi consecutiones satis forent perspicuae, illationes congerebat, Ergo, Ergo, Ergo. &c.

mention this comparison with indirect arguments against the thesis, which leads one to believe that there is some other feature of the megarian method to distinguish it from mere indirect argument, but I have not determined what this feature is.

In Reuschius, for instance, a similar characterization is given of the megarian method, which Reuschius also refers to as the "apagogic method",²⁴⁸

"In the apagogic or megarian method of disputation one deduces conclusions from the assertions of the Respondent, which are in the end clearly false, so that in this way the falsity of the assertion of the adversary is inferred."²⁴⁹

Again in Reuschius the megarian or apagogic disputation method appears to be mere indirect argument attacks on the theses, or "assertions", of the Respondent; however, it again appears that in the method one employs more than one indirect attack.

A very brief mention of the megarian method is made by Baumeister which appears to add something to what is found in Gaspar, Schmidt, and Reuschius. Baumeister says that in the megarian method the Respondent deduces the Opponent to an absurdity and the Opponent deduced the Respondent to an absurdity.²⁵⁰ Furthermore Baumeister hints that "sometimes

²⁴⁸Aicham Aloysius uses "apogogice" as an alternate term for "indirecte", see *Logica tironum usibus accomodata* (Ulmae, 1778), p. 222.

²⁴⁹Reschius (1734) p.878: In disputandi methodo apagogica, seu megarica, ex respondentis assertionibus ducatur conclusiones, quae tandem aperte sunt falsae, ut hinc inferatur falsitas assertionis adversarii.

²⁵⁰Baumeister, *Institutiones philosophicae rationalis*, (Vienna, 1775) §527: Nonnunquam vero in disputando apogogice proceditur, ita, ut opponens respondentem et respondens opponentem ad absurdum deducat, quae methodus vocatur megarica. Also see Ioachim Daries, *Introductio in artem inveniendi* (Jenae, 1742), p. 772: vel in disputando proceditur apogogice, dum

one procedes" in this way in disputing, which indicates that this method of disputation was practiced. This kind of disputation practice, however, is not described in Gaspar's work. In fact, Gaspar claims that the megarian method is useful both for the examination of received truths and for the discovery of new truths;²⁵¹ but Baumeister's method necessarily cannot have such aims since, if the Opponent and Respondent hold contradictory positions, which they presumably do, the Opponent and Respondent would aim to demonstrate that the same proposition is both true and false. Baumeister's method must be intended as some kind of sophistic game, Gaspar's method, on the other hand, is clearly not intended as such a game.

In conclusion, therefore, it is clear that the interest in the so-called megarian method of disputation originated in the late 17th and early 18th century during a time of intense interest in ancient sources on logic, and that the "method", however it was conceived, is a product of an historical interest in this period and not a legacy of prior disputation practice. But an examination of Gaspar's dissertation reveals that it does not seem that there are solid grounds for distinguishing the megarian method from simple indirect argumentation against a thesis. For this reason I find it difficult to justify the contention, which is certainly advanced by Gaspar, that the megarian method is a complete method of disputation. Gaspar does not explain a body of rules for this supposed disputation method; it appears that the method is identified merely by the manner in which a thesis is to be attacked. The Baumeister characterization of megarian disputation does appear to suggest that some method of disputation in which each party deduced the other to an absurdity

opponens respondentem & respondens opponentem ad absurdum deducit, quae methodus vocatur megarica.

²⁵¹Gaspar (1707) p.21: Neque in veritatibus receptis examinandis solum usus methodi nostrae conspiciendus; in novis quoque adinveniendis imprimis sese exerit.

was practiced, but this method is not mentioned in Gaspar's nor Schmidt's dissertations.

Chapter 15: Definitions of disputation

Definitions of disputation are commonplace in German second scholastic tracts and treatises on disputation. In most cases these definitions provide little more than terse descriptions of what disputation was considered to be. Definitions are, nevertheless, worthy of consideration, because in them are mentioned topics which need elaboration; two such topics which will be discussed in this chapter are limitations to the kinds of subjects which can be treated in disputation and the aims of disputation, the most important of which is the investigation of truth. An interesting discussion of definitions occurs in Felwinger, who cites four other definitions found in Rennemanus (1605), Jacobus Martini (1631), Salzhuberus, and Bartholinus, and provides his own definition with about four pages of commentary. None of these sources, including Felwinger, is mentioned in Risse's Bibliographica logica. Unfortunately, I have been unable to find the works of Salzhuberus and Bartholinus, so all that is known from them are the definitions quoted by Felwinger. Here I will go through this text in Felwinger using the first definition given, that of Rennemanus, as a centerpiece for comparison. An examination of these definitions will lead to a discussion of the aforementioned topics of disputation.

Felwinger initially remarks that the word "disputatio" is a metaphor borrowed from gardeners, who trim trees and amputate useless and rotted branches. The word "disputatio" is thus transferred to contexts of disputation because in disputation falsity is "amputated" and "separated" from the truth.²⁵²

²⁵²Felwinger (1659) p. 1: Sciendum igitur ab initio est, vocabulum Disputationis Metaphoricum esse, sumptumq'; ab Hortulanis, sive arborum putatoribus, qui arbores putare.

This metaphor appears in many sources, including the Spanish humanist Vives, as well as numerous German second scholastics such as Keckermann, Heine, Widebugius and Wendelinus.²⁵³ Wendelinus cites Varro as the source for the metaphor; this is almost certainly wrong. Given the early appearance of this metaphor in Vives and its literary flavor, the metaphor almost certainly has humanist origins.²⁵⁴ The metaphor itself is an obvious play on words "dis" and "putare", which to my knowledge has no factual basis,²⁵⁵ something which Felwinger and company appear to be entirely unaware of.

In the next paragraph Felwinger remarks that disputation has not been uniformly defined by all, he then states definitions of disputation given by Rennemannus, Martini, Salzhuberus and Bartholinus, and lastly his own. Felwinger does not provide commentary on the four definitions which would explain the sense in which the definitions are not "uniform". Below in a footnote the text containing the five definitions is provided.²⁵⁶ In what

& inutiles atq; noxios ramos & stolones amputare solent. Idem fieri solet in Disputationibus, ubi falsitas á materia proposita, & veritate. amputatur, h.e. separatur.

²⁵³ Keckermann (1614) p.458; Vives, (1581) p.68; Heine (1710) ; Widebugius (1684), A2.

²⁵⁴Wendelinus, Marcus F., Logicae institutiones tironum adolescentum (Amstelrodami, 1654) p. 346.

²⁵⁵The big Lewis and Short Latin Dictionary says that the verb "disputare" was originally used in mercantile language to mean "to calculate a sum by going over its items". The original meaning of the verb was transferred to other contexts and the verb came to mean "examine" "discuss" or "contend with words".

²⁵⁶Felwinger (1659) pp.2-3: Cognitâ vocabuli significatione accedamus ad definitionem ejus, quae non uniformiter ab omnibus constituitur. Henningus Rennemanus in tract. de. Legitima ratione recte disputandi, the. VI. ita definit: Disputatio est actus literarius, quo quaestio dubia & non inutilis, ab altero asserente, altero verò illi contradicente, sic ritè disseritur: ut ex contradictionis per argumenta contraria mutuâ collisione tandem veritas investigetur. Jacobus Martini definit: quod sit, Placida de re proposita collatio, vel investigandae veritatis, vel ingenii excitandi, vel tentandi gratiâ instituta. Salzhuberus verò: Est artificiosa & ingenua alicujus vocabuli, vel rei disceptatio, veritatis vel indagandae, vel exercendi ingenii causâ, ab uno, vel pluribus, instituta & suscepta... Bartholinus inquit: Disputatio est collatio sententiarum, quâ alter pro viribus propositum defendere nititur, alter impugnare, veritatis

follows I will use the definition of Rennemanus as a point of comparison with which to discuss various features of the definitions.

Rennemanus defines disputation as follows: "disputation is a literary act by which a doubtful and not useless question is asserted by one and contradicted by another, so it is rightly said: that the truth is investigated from a contradiction through contrary arguments compared to one another in collision." (Disputatio est actus literarius , quo quaestio dubia & non inutilis, ab altero asserente, altero verò illi contradicente, sic ritè disseritur: ut ex contradictionis per argumenta contraria inter se comparata mutua collisione tanem, veritas investigetur.)

The identification of disputation as a "literary act" (actus literarius) is generally uncommon in definitions of disputation. In his little work Rennemanus appears to be aware of this and explains that by "literary act" he means an act which is "learned", one which requires skill with letters. In the definitions of Martini, Bartholinus, and Felwinger, disputation is identified as a kind of collatio, a word with wide meaning which might be translated "discussion". Felwinger stresses in his definition that disputation is a "skillful discussion" (collatio artificiosa), which distinguishes disputation as controlled rule, governed discussion requiring skill as opposed to "common chattering or contentious vociferousness."²⁵⁷ Salzhuberus also uses the word "artificiosa" in his identification of disputation as "skillful and candid dispute of some subject or word". The characterization of disputation as "skillful discussion", rather than general discussion distinguishes disputation as a rule-governed discussion activity requiring skill as opposed to everyday, undisciplined

declarandae ergò. Nobis placet definitionem Disputationis formare talem: Disputatio est artificiosa de aliquo sententiarum argumentis & rationibus oppositis munitarum inter se collatio. veritatis gratiâ instituta.

²⁵⁷Felwinger (1657) p.4: Dicitur, quod sit Collatio artificiosa; quo ipso distinguitur, à plebeja garulitate & dicacitate, sive vociferatione contensiosa...

discussion. Of the various forms of "skillful" discussion recognized in German second scholastic sources the modern or syllogistic method of disputation is one; other disputation methods recognized in various sources, and discussed in other chapters, are the socratic method, megarian method, and disputation by dialogue.

After the identification of disputation as a "literary act", Rennemanus says that in disputation "a dubious and not useless question is asserted by one and contradicted by another." The object of disputation, identified as a quaestio by Rennemanus, is referred to in various ways by in the other definitions. Martini calls it a "matter which has been proposed" (res proposita); Salzhuberus says the dispute can be about "some word or subject" (alicujus vocabuli, vel rei disceptatio); Bartholinus and Felwinger call the objects of disputation "sententiae". German second scholastics typically use very loose terminology to refer to the object of disputation, although "thesis" is certainly preferred. The distinctions Aristotle makes at Topics104a5-105a19 between "dialectical problem", and "thesis" are ignored, and the Latin "quaestio", "thesis" and "problema" tend to be used interchangeably; this is something that Keckermann recognizes explicitly.²⁵⁸

In Rennemanus' definition a thesis must be "doubtful" and "not useless". The requirement that the quaestio or thesis under discussion must be "doubtful" (dubia) is almost universal in second scholastic sources; it also occurs in Felwinger's definition. Although it does not appear in any of the other definitions Felwinger quotes, in Jacobus Martini, the only other source

²⁵⁸Keckermann (1614) p.459: Problema est materia, quae disputationi subiicitur. Variis nominibus solet disputationis materia appellari; interdum dicitur quaestio, interdum problema à probālesyai quia scilicet, obiicitur disputando, interdum controversia; item y°siw & status controversiae...

Felwinger quotes which has been examined, the requirement that the object of disputation be doubtful is contained in the definition of "thesis": "nothing other than a short opinion which briefly expressing a doubtful matter" (Thesis itaque nihil est aliud quam brevis sententia, rem disputabilem breviter complectens). This definition of "thesis" is borrowed by Felwinger word for word.

The origin of the requirement that the object of disputation be doubtful is without question Aristotelian Topics104a5-105a19, where Aristotle provides definitions of "dialectical proposition", dialectical problem", and "thesis".²⁵⁹ Nowhere in the Aristotelian text, however, is it strictly said that the object of dialectic, whether it be a thesis in the strict sense, i.e. a paradoxical opinion of a famous philosopher, or a dialectical problem, must be "doubtful" (in the Aristotelian text the Greek equivalent of the Latin "dubia" appears to be "ἡ ἐπιπορευμένη", see 104a7), rather the "aporetic" nature of the object of a dialectical dispute is implied by certain conditions on what should be proposed for debate in a proper dialectical dispute. The conditions for a dialectical problem run as follow: (i) the problem must not suggest an obvious falsehood (104a5) (ii) the problem must not suggest an obvious truth (104a7) (iii) the problem must concern something on which either people have no opinion or the masses hold a contrary opinion to philosophers or philosophers to the masses (104b3)(iv) the problem must not concern simple sense experience (e.g. whether or not the snow is white)(105a5) (v) the problem must not violate accepted moral standards (e.g. whether or not one should honor the Gods or one's parents)(105a5). The common second

²⁵⁹Timpler (1612) gives a condensed statement of the common requirements for thesishood, which obviously mirror for the most part the Aristotelian treatment of dialectical problem, p. 849: Primariae conditiones sunt. 1, ne sit manifeste falsum, sed vel verum, seu versimile. 2, ne plane sit manifestum & certe; sed dubium & controversum. 3, ne pugnet cum pietate & bonis moribus. 4, ne sit inutile, ineptum & ridiculum; sed utile & grave. 5, ne captum mentis humanae excedat. &c.

scholastic requirement that a thesis be doubtful seems to be implied by the Aristotelian conditions (i) and (ii). From a philosophical point of view these two conditions imply at least the Aristotelian conditions (iv) and (v), and perhaps condition (iii), if one assumes that every problem which is not controversial in some way is obviously true or false; nevertheless second scholastic sources often mention (iv) and (v) as conditions for a thesis. Condition (iii), for whatever reason, is not common in second scholastic sources.

Rennemanus' other requirement for a thesis, that it be "not useless" or "useful" (utilis), if the double negative is eliminated, is far more difficult to account for both theoretically and historically. This requirement has no explicit precursor in the Topics. Aristotle does mention that some dialectical problems are useful for the sake of choice and avoidance, but Aristotle is silent on how disputation is to be used to sharpen deliberation in practical matters where choice or avoidance are at issue (104b1). Prudential usefulness is certainly not a necessary condition for a dialectical problem in the Topics, and Aristotle does not say explicitly whether or not a dialectical problem is useful in some broader sense.

A good deal could be said here about what some second scholastic sources consider to constitute a "useful thesis", but I will pass over it. In the German second scholastic sources I have examined the notion of a "useful thesis" appears to be understood quite broadly to include any thesis whose confirmation or refutation would add to or further confirm current knowledge. Conditions for such "useful theses" are rarely spelled out explicitly.

In Wendelerus a rather interesting list of "useless theses" is given, which deserves some comment. Wendelerus distinguishes "useful theses", which "necessarily result in a certain conclusion" from questions which are either "useless simpliciter" or "useless in some respect". Questions which are

useless simpliciter "lack use and purpose" and those which are useless in some respect "have no use in current science". Wendelerus provides a rather interesting list of such useless questions. I merely reproduce the list here, which, unfortunately, Wendelerus does not comment on,

Utiles quaestiones sunt, quae necessariae, & ad certum finem consequendum faciunt. Inutiles, quae usu & fine destituuntur; suntque quae vel simpliciter inutiles, quae planè nullius ponderis, vel secundum quid. Planè inutiles sunt, disputare de, Scholasticorum haecceitatibus, de singularizationibus; In Physicis de Caelo Empireo, de hypothesis impossibilibus: quomodo Aristoteles hoc vel istud vocabulum acceperit? quomodo amica in contradictionibus conciliatio sit invenienda? In Logicis de ordine, num primo loco de Genere, num de Specie sit agendum? Secundum quid inutiles, quae usum in praesenti disciplinâ non habent: ut in Metaphysicâ de genere disputare, num sit sapientia, vel scientia? in Physics de conceptu coporis, num sit univocus ad inferiora, num analogicus, num aequivocis? An terra, & quorsum moveretur, si abstraheretur à suo centro? Unde, si motus caeli incepisset, num ab ortu, num ab occasu? Utrum, si daretur vacuum, per illud corpus moveri posset? In Logicis, num sit Ars? An objectum sint notiones secunda? An Praedicabilia sint entia rationis? Haec sive affirmantur, sive negentur, ad finem disciplinae nihil conferent.

The various questions which are useless simpliciter, for instance, "questions about haecceities of the Scholastics" and "in what way does Aristotile understand this or that word?", do not appear to be determined by any obvious criterion; they are certainly not useless in the sense of being nonsensical. Questions which are useless in some respect, however, are questions concerning metaphysics, physics, the nature of logic and the nature of matters pertaining to logic, such as praedicabilia and second intentions. These questions are said to have no use in current science (quae usum in praesenti disciplinâ non habeat). Wendelerus appears to intend to quite generally exclude from disputation any question of metaphysics, physics, and the nature of logic on the grounds that such questions are useless in some such way as this. Unfortunately, this doctrine is not developed further.

In the definitions of Rennemanus and Felwinger, the aim of disputation is said to be the "investigation of truth"; in both these definitions it is also said that truth is to be investigated "by contrary arguments". That the primary aim of disputation is the investigation of truth is stressed in scholastic sources from the 16th century all the way to treatments of disputation in neo-scholastic logic textbooks. Other aims are also mentioned, of which the investigation of truth is the most important; these include the exercise of the intellect, teaching, and testing of the young (mental exercise and teaching are both mentioned as aims of disputation in Martini's definition).²⁶⁰ Here I will only be concerned with how the modern method achieves the aim of investigating the truth; other aims of disputation will be overlooked in this study.

The investigation of truth in these definition is said to be investigated "by contrary arguments"; Rennemanus elaborates further that "truth is investigated from a contradiction through contrary arguments compared to one another in collision." Rennemanus statement seems to imply that in disputation two arguments are given, the conclusions of which contradict one another. In the method of disputation Rennemanus endorses in his little treatise, it is not clear in what manner these contrary arguments are to be given. On the one hand it is the duty of the Respondent is to merely defend his thesis and the Opponent's duty is to attack with arguments which contradict the thesis, but, in a description of the Respondent and Opponent Rennemanus seems to suggest that the Respondent defends theses by proposing

²⁶⁰These different aims are relevant to Aristotle's famous fourfold classification of dialogue at *Sophistici Elenchi* 165a37-b12, didactic, periphrastic, dialectical, and eristic. Some sources, such as Felwinger (1659) and the Jesuit Marcelus (1658), explicitly mentions this classification in distinguishing different kinds of disputation. But these different kinds of disputation do not appear to require distinct methods or techniques to achieve their various ends.

arguments.²⁶¹ Generally speaking in the modern method the Respondent is not obligated to prove the thesis by the common rules of proof affirmanti incumbit probatio and semper opponens tenetur probari; the Opponent, on the other hand, is always obligated to prove by these rules.

Felwinger's mentioning of the investigation of truth by contrary arguments is even more puzzling, because Felwinger explicitly says that the Respondent does not have to prove the thesis and even does not have to justify a simple denial if he wishes to follow the rules of the disputation "rigorously". Felwinger does provide a sample disputation at the end of his book in which an ekthesis occurs at the onset of the disputation. In the ekthesis arguments are given in favor of the thesis. However, the arguments in the ekthesis do not come under scrutiny, and, therefore, are not proposed as proof justifying the truth of the thesis. They seem to be given merely to recommend the thesis to the audience.

Calovius is another source which reveals the puzzling nature of the claim that in disputation the truth is investigated by contrary arguments. Calovius make the claim that direct formal contradiction is essential to disputation, which also appears to be implied in the definition of Rennemanus.²⁶² This is first supported by the very strong statement that

²⁶¹Rennemanus (1605) : Causae Efficientes quae tendunt eò despiciendae: quae ex definitione colliguntur duae necessario cunctae: nimirum altera adferens: contradicens altera. Quarum illam Defendens vel Respondens, ut vulgo: alteram vero Opponens vel Oppugnans in se recipit. Ille qui cujusdam quaestionis adsertionem adversus contradicentium rationes argumentis quantum datur firmissimis propugnandum, in medium producit: iste qui se ad productae quaestionis adsertionem, evidentibus, quantum potest contradicendo rationibus, oppugnandum accingit.

²⁶²Calovius (1687) p.443: Maximum autem momentum disputationis situm est in directâ, & formali sententiarum contradictione; quum nequeant argumenta ventilari, & disceptatione examinari, nisi factâ prius oppositione. Etenim disputatio nihil aliud est, quam sententiarum diversarum collatio ponderatis utrinque argumentis gratiâ veritatis investiganda instituta.

arguments cannot be aired and examined in disputation without contradiction, which follows from a definition of disputation as "discourse of diverse opinions by arguments being weighed on both sides instituted for the sake of investigating the truth." By "diverse opinions" Calovius appears to mean "contradictory opinions".

Calovius certainly does not consider his definition of disputation arbitrary, rather it appears that disputation so defined serves the end of disputation, the investigation of truth. The truth is investigated "by arguments being weighed on both sides", which, like the "contrary arguments" of Rennemanus' definition, apparently means that arguments are given for the thesis, on the one hand, and the contradictory of the thesis on the other. In that case the aim of the disputation on Calovius' view is not only to attempt to prove the antithesis but also to investigate the truth of both the thesis and the antithesis by weighing arguments on both sides. But in his treatise Calovius explicitly adopts the common rules of proof, which say that the Opponent and not the Respondent is obligated to prove;²⁶³ in addition, Calovius is one source which is quite explicit on the issue of role confusion between Opponent and Respondent and warns that any such role confusion is bad disputation.²⁶⁴

The dilemma which presents itself from the definition of Calovius can be stated in the following way: how can one "investigate" or "confirm" the

²⁶³Ibid., p.473-74.

²⁶⁴Ibid., p. 411: *Disputantium munia confundenda non sunt, utut nonnulla ipsis sint communia. Adhuc de materia delectu egimus: nunc de formâ, & disputandi processu erit dispiciendum. Consistit autem disputatio in dial^ojei, ideoque ad eandem distinctae requiruntur personae inter quas, instituitur diâlejw, & collatio. Quarum una impugnat alterius sententiam, altera vero sententiam suam adversus alterius argumenta tuetur & defendit., ista opponentis, haec Respondentis nomine venit: quod istius sit huic argumentis sese opponere, & hujus illi ad opposita arguementa respondere.*

truth of the thesis and accept the common rules of proof? This dilemma is not acknowledged by Calovius, but it is pointed out by the little known Jacobus Jacobi, who argues that the Respondent is obligated to prove the thesis, because a defense of the thesis against arguments cannot prove the truth of the thesis.²⁶⁵ Jacobi is curiously the only source I have found who raises this point.

The problem of how to prove or provide grounds for accepting the truth of the thesis given the rules of proof, which do not obligate the Respondent to prove, even haunts Leibniz in the Theodicy. Leibniz attempts to use the rules of proof to construe a way in which one can justify acceptance of the mysteries of faith in disputation without proving them outright. Leibniz ends up maintaining that the successful defense of the mysteries of faith in disputation justifies one in accepting the mysteries as true, and that the Respondent need not prove the mysteries because he is not obligated to prove. Leibniz clearly blunders. Kant's insight in the Critique, that both the of the mysteries of faith and their denials can be successfully defended in disputation, is almost too obvious. On Leibniz's view we would apparently be justified in believing the mysteries and their denials if we could defend both in disputation; but Leibniz recognizes that we could defend denials of the mysteries insofar as the mysteries themselves cannot be proved. It is hard to understand how a logician such as Leibniz failed to see this problem. If

²⁶⁵Jacobi (1716) p. 8: Quod axioma dum immota sua constat veritate, non potest non esse palam, neutiquam probandi obligationem ab illorum dependere arbitrio, qui conscribendis de methodo disputandi libellis suam elocantes operam, solumque opponentem obligationis probandi vineulis constringentes, respondentem ab hac lege vel plane, vel unico saltim excepto casu immunem, nescio quo solido nixi fundamento, profiteri conantur. Qui tamen viri eruditissimi, si veritati magis quam vanae foran respondentis victoriolae aut gloriolae faventes secundum verum omnis disputationis finem rem trutinassent, vidissent sane, quod saepenumero, si omne probandi onus in opponentem devolvatur, vel plane non vel operose satis & veluti per ambages pateat veritas; ubi tamen ea ex adverso, si modo respondens seposito de immunitate a probando praejudicio dictam subeat obligationem, facillimo negotio posset obtineri. Qus de re plenius planiusque axiomate mox subsequente edocebimur.

Leibniz did take his position in the Theodicy seriously, then he appears to have a problem similar to the one of Calovius, namely, how can one provide grounds for accepting the truth of the thesis when the rules of proof do not allow the thesis to be proved?

In a few sources, such as Keckermann, Joffre and Zeisoldus, the Respondent is explicitly given the opportunity to prove the thesis. In Keckermann the Respondent is required, in one kind of disputation at least, to provide a "confirmation" (confirmatio) of the thesis prior to the objection of the Opponent.²⁶⁶ The confirmation appears to be a proof of the thesis for which the Respondent must "find middle terms" and "prepare arguments". Keckermann mentions three possible aims for disputation: the investigation of a truth thoroughly unknown, the declaration of a truth not clearly but obscurely known, and the confirmation of a truth almost known but about which we doubt in some way.²⁶⁷ Keckermann does not explain how these three aims of disputation are related to the confirmation of the thesis, nor does he say whether or not the confirmation should be attempted in cases where the thesis is completely unknown or "in some way" doubtful. It could be, therefore, that a confirmation of the thesis is only necessary in those cases where the thesis is already "almost known" to be true.

²⁶⁶Keckermann (1614) p.461: Confirmetur thesis proposita per argumenta primum artificialia, ducta ex natura subiecti & praedicati. 2, etiam inartificialia, sive testimonia & auctoritates. Duo circa hunc Canonem consideranda sunt: 1. Quomodo inveniuntur medii termini pro conclusione probanda. 2. Quomodo copia mediorum terminorum seu argumentorum, sit paranda. quod in nostro Systemate satis luculenter docuimus, ita ut non sit necesse de re aliàs valde utili, sed ibi satis expedita prolixius monere.

²⁶⁷Ibid. p. 548: In nostra verò definitione, finis disputationis paulò explicatus describitur, quod scilicet triplex sit, videlicet 1. Quod investigatio sit veri penitus ignoti. 2. Declaratio veri non planè ignoti, sed tantum obscurè cogniti. Et teritò denique, confirmatio veri, cogniti quidem, sed ita tamen, ut de eo aliquid dubitemus.

Joffre allows the Respondent to "oppose an argument with an argument, that is a proof of his own thesis", if the Respondent cannot solve the argument of the Opponent.²⁶⁸ Zeisoldus claims outright that the Respondent ought not to propose a "bare thesis", but should give arguments for the thesis; he cites as a reason a definition of disputation as the "discourse by means of arguments to bring into the light unknown truth or to confirm what is known etc."²⁶⁹ Zeisoldus thus accepts a definition of disputation very similar to the one Calovius offers but he appears to avoid the aforementioned dilemma by rejecting outright that the common rules of proof are consistent with the definition.

A later source, Jacobus Feverlinus, mentions that in his academy the Respondent always proposes truths for disputation which are thought out for a long time beforehand. The Opponent tries to oppose the true thesis with arguments for a false antithesis.²⁷⁰ The consequence of this rule, Feverlinus notes, is that no new truths can be discovered in disputation (p. 5: Ergo veritatis novae inventio quoad these ventilandas praecipuas finis disputationum Academicarum esse nequit.). Feverlinus definition of disputation is also peculiar insofar as there is no mention of the requirement

²⁶⁸Petrus Joffre, Ars syllogistica (Tabariae, 1717) p. 208: Si argumentum sit ipsi insolubile, statim opponat argumentum argumento, idest probationem suae Theseos: quam si Adversarius evertere non possit, tunc neuter alteri cedere tenetur.

²⁶⁹Johannes Zeisoldus, Processus disputandi Sperlingianus (Jenae 1651) § 62: Boni Disputatoris est, non nudam thesin ponere, sed eam rationibus munitam dare ...Qui enim non probat thesin suam, quam probare tenetur, is non disputat. *Disputare enim*, est collatio argumentis veritatem ignotum in lucem proferre, aut notam confirmare, &c.

²⁷⁰Feverlinus, Jacobus W., Regulae praecipuae bonae disputationis academicae (Göttingae, 1747) p. 5: Disputationes nostrae Academicae sunt inter simulantes dissensum: nempe Respondens, eiusque Praeses, publicis Doctor, veritates diu praemeditatas, imo Dissertationibus elaboratas, proponere solent: Opponens, plerumque auditor Praesidis, falsam antithesin argumentis suis speciossimam sistere conatur.

that the thesis must be doubtful.²⁷¹ The investigation of truth is consequently disregarded as a purpose of disputation and only the confirmation of truth and pedagogical purposes are mentioned.²⁷²

²⁷¹Ibid. (1747) p.3: Disputatio est colloquium duorum literatorum dissentientium de thesi aliqua, quam alter per antithesin huiusque probationes impugnare, alter vero, ostendendo defectus illarum probationum, defendere nititur.(

²⁷²Ibid. (1747) p.5: Sunt alii fines egregii horum certaminum, nimirum confirmatio in veritate iam agnita, atque exploratio & exercitatio facultatum intellectus memoriae, ingenii, & iudicii.

Postscript

It is difficult to draw conclusions from an exploratory study of such a vast number of sources which span a period of two hundred years or so. There are two different types of conclusions one could try to draw, one having to do with the historical matters and the other having to do with philosophical and logical issues. Historical questions which need further study are: what are the historical origins of the modern method? what relations if any does the development and prevalence of the modern method in Germany have to do with the reforms in logical education in the 16th century spurred on by Humanists and Ramists? Questions of a philosophical or logical nature which need further consideration are: is the modern method an effective method by which to evaluate the truth of a doubtful proposition? what is the full extent of the metaphysical and logical presuppositions to the modern method? how does the method relate to contemporary developments in theories of dialogue, dialogical logic, and "informal logic"? can we learn anything about how to dispute from the modern method?

In this little conclusion I cannot begin to answer any of these questions in any depth. There are, however, two general points I would like to make in closing, an historical one and a logico-philosophical one.

There is without question some Humanist-Ramist influence on the post-medieval disputatio despite its Aristotelian flavor. Indeed the Ramist influence on some of the sources mentioned, such as the systematics Keckermann and Timpler, is well-known. It is not an easy matter, however, to pinpoint precisely what the Ramist influence is on the disputatio. Ong has claimed that Ramus injected into the study of logic in the 16th century a tendency to resort to diagrammatic conceptual schemes, which contributed to

the demise of medieval dialectic in the mid-16th century.²⁷³ In some sources on disputation we do occasionally find diagrams outlining the disputatio,²⁷⁴ but this is quite rare. Many tracts on disputation are nothing more than very simple manuals for how to dispute, and some provide numbering of the rules, but there is no attempt to systematize the disputatio diagrammatically. Indeed, it would be strange to find this because the disputatio is by its very nature dialogue, logic in action, so to speak. The quantity and nature of the post-medieval literature on disputation shows that the logic of dialogue not only does decay in the mid-16th and early 17th century, but it flourishes as never before. It is indeed true that the logical sophistication of the later disputatio never reaches the heights of medieval dialectic, but the theoretical inquiry into how to dispute takes on a new and lively character, which leads to the treatment of issues in disputation theory which are not discussed in the more logically sophisticated medieval sources.

There are a number of logical and philosophical problems with the modern method, the most glaring of which is how the method can investigate the truth of a thesis given rules of proof which do not require that an attempt be made to prove the thesis. But I would like to conclude on a positive note so I will overlook the negative points which could be raised.

The modern method without question provides us with a complex and interesting approach to how to conduct a disputation. The method attempts to accommodate both concerns of formal logic, albeit the logic of the time was quite simple, and epistemic concerns to organize a coherent method in which the truth of a doubtful proposition was to be examined. What the modern

²⁷³W. Ong, Ramus, Method and the Decay of Dialogue, Harvard 1958.

²⁷⁴A good example of this is Röttenbeccius (1709), which contains an elaborate diagram of Thomasius' method of disputation given in Erotemata logica (1677).

method represents perhaps, is the first attempt in the history of logic to articulate in some detail a method of "critical thinking", which aims at a rational evaluation of some matter of doubt between two parties. The modern method is in a way the ancestor of so-called contemporary "informal logic", which attempts to incorporate epistemic considerations into a kind of logical framework, which is used to analyze and evaluate arguments "as they occur in natural language in the real marketplace of persuasion on controversial issues in politics, law, science, and all aspects of daily life."²⁷⁵ Logicians put off by the lack of rigor in what is known as "informal logic" but sympathetic with its goals may find some post-medieval authors, such as Thomasius or Hanschius, interesting reading.

Annotated Bibliography: Primary Sources before 1900

This bibliography provides a list of the editions of those primary sources published before 1900 which were used in preparing the dissertation. In most cases if a reprint was used, the first edition of the work is listed, and in brackets the date, place of publication, and editor of the reprint are cited. If the first edition of the work was not used, the year of publication of the first edition listed in Risse's Bibliographica logica is put in brackets. The sources of all non-reprinted works are cited after the listing of the work. The following library code is used:

- 1 Berlin Staatsbibliothek
- 7 Göttingen Universitätsbibliothek
- 12 München Universitätsbibliothek
- 20 Würzburg Universitätsbibliothek
- 21 Tübingen Universitätsbibliothek
- 22 Bamberg Staatsbibliothek
- 29 Erlangen Universitätsbibliothek

²⁷⁵D. Walton, Informal Logic, preface ix.

- 35 Hannover Landesbibliothek
 37 Augsburg Stadtbibliothek
 HRC Harry Ransom Research Center, University of Texas at Austin.
- Aicham, Aloysius, Logica tironum usibus accomodata (Ulmae, 1778). Ex HRC.
De veritate per disputationem invenienda, 221- 24.
- Albertus, Magnus, Ad logicam pertinentia (Venetiis, 1523). Ex HRC.
 p.269: Sequitur octavus liber Topicorum cuius primus tractatus de dialectica prout est obviativa ex parte
opponentis.
- Angeloni, Dominicus, Institutiones logicae (Neapoli, 1772). Ex HRC.
 Not in Risse. De methodo disputandi, pp. 182-86; De
scholastica disputandi methodo, pp. 204-12; De utilitate disputationis,
 213-15.
- Arnauld, Antoine, (ed. J. Fr. Buddeus) Logica sive ars cogitandi (Halaе Magdeburgicae, 1704). Ex 29.
 Brief mention of disputation on 278-79.
- Baumeisterus, Fridrick Christianus, Institutiones philosophia rationalis (Wittebergae, 1749). Ex 29. [first publ. 1735].
De modo disputandi, pp. 288-92. Wolffian. See Logik der Neuzeit p. 638: "Ungewöhnliche Verbreitung fand Baumeister mit seinem pädagogisch geschikten, aber inhaltlich bescheidenen Lehrbuch."

Bechmannus, Fridemannus, Institutiones logicae (Jenae, 1667). Ex. 29. [first publ. 1664].

p. 587: in dialectica a. juxta Veterum disputandi modum, est interrogans & respondens, vel ut hodiè disputant, opponens & respondens, quorum alter alteri problema dialecticum proponit, u[n]de eo disputatio instituat ex probabilibus seu hominum opinioni consentaneis.

Becker, Peter, Prima logicae rudimenta (Rostochii, 1708). Ex HRC.

De disputatione, 49-54.

Benetus, Ciprianus, Clara et non minus compendiosa introductio ad logicam, (Romae, 1509). Ex. HRC.

See last 10 pages: Sequitur tractatus de ordine disputandi et cautelis.

Bierling Conradus Frid. Ern., Dissertatio de varii disputandi modis (Rintelii, ??). Ex 12.

Not in Risse. Mentioned in Bibliography of Wolff.

Bilfinerus, Georgius Bernhardus, Praecepta logica (Jena, 1742). Ex 29.

[first publ. 1739].

De arte disputandi, 221-46. Wolffian.

Bohemus, Johannes M, Ratio solvendi argumenta sophistica (Dresdae, 1663).

Ex 29. [first publ. 1642].

Provides rules and advice on how to respond to fallacious arguments in disputation.

- Böhmerus, Justus Henningius, Ad methodum disputandi et conscribendi disputationes juridicas (Halae Saxonum, 1730). Ex 22.
Not in Risse. Latest printing of full treatise on disputation found.
- Brunnemannus, Johannes, Enchiridion logicum ex Aristotele (Francofurti, 1653). Ex 1. [first publ. 1639].
- Buddeus, Johannes Franciscus, Elementa philosophiae instrumentalis (Halae Saxonum, 1709). Ex 29. [first publ. 1703].
See 228-57. Reference to
- Burgersdicus, Franciscus, Institutionem logicarum (Amstelaedami, 1685).
Ex 29. [first publ. 1626].
De syllogismo dialectico, pp.218-23. De inventione argumentorum dialecticorum; sive de regulis topicis, 224-27. Some commentary on Topica VIII. Logik der Neuzeit, p. 516: "Dem Buch vorangeschickt ist, wie bei Keckermann, eine pragmatische Sichtung der Geschichte der Logik zur systematischen Rechtfertigung des eigenen Standpunktes."
- Burkhauser, Nicolaus S.J., Institutiones logicae (Wirceburgi, 1771). Ex 22.
[first publ. 1770].
De ratione disputandi, 325-30.
- Butschanyus, Matthias, Institutiones logicae (Gottingae, 1761). Ex 22.
De disputatione, § 129-§ 134, 243-59.
- Buttnerus, M. Christoph. Andreae, Cursus philosophicus (Halae Magdeburg, 1734). Ex.29. [first publ. 1730].

Calovius, Abraham, De methodus docendi & disputandi

(Rostchii, 1637). Ex 35.

Full treatise on disputation. Published early in Calovius career around the time he became professor of Theology at Königsberg. He is perhaps better known as professor of Theology at Wittenburg from 1650. This rather interesting work is not mentioned in the bibliography of Felwinger nor that of Schneider.

Carbo, Ludovicus, Introductionis in logicam sive totius

logicae (Venetiis, 1597). Ex 35.

Cardillus, Villalpando Gaspar, Commentarius in Aristotelis

Topica de ratione disputandi libellus (Compluti, 1569). Ex HRC.

Casus, Johannes, Summa veterum interpretum in universam dialecticam Aristotelis (Francofurti, 1589). Ex 1.

1584].

[first publ.

Cellarius, Bathasar, Libellus de consequentia (Helmstadii,

7.

1658). Ex

De nonnullis circa opponentem & respondentem in genere, 123-46. De nonnullis in specie respondentem concernentibus, 146-64. Mentioned in bibliography of Felwinger.

Claubergius, Johannes, Logica vetus et nova (Sulzbaci, 1685). Ex 22. [first publ. 1654].

See 185-90.

Clericus, Joannes, Opera philosophica (Amstelodami, 1704).

29.

Ex

De socratica disceptandi methodo, 231-41. Mentioned in several other works as a source for the "socratic method".

Coke, Zachary, The art of logick (London, 1654) [reprint: Menston, 1969].
See 205-211.

Corsinus, Eduardus, Institutiones philosophicae ad usum scholarum piarum (Venetiis, 1743). Ex 20. [first publ. 1731].

De controversis instituendis, sive de methodo disputandi, 276-93; De methodo respondendi, 293-306.
Logik der Neuzeit, vol 2, p. 355: "Ein absonderliches Zerrbild der Logik stellt auch das Lehrbuch von Corsinus dar, der als Piarist ohne traditionelle Ordensbindung eklektisch die Lehren unorthodoxer Scholastiker von der Art Du Hamels, zweitrangiger Thomisten, wie Mailhat, sowie Descartes' zu einem unklaren, von ciceronischen Phrasen durchsetzten Kauderwelsch vermengt."

Corvinus, Christianus Io. Ant., Institutiones philosophis rationalis (Jenae, 1739). Ex 22. [first publ. 1738].
De methodo disputandi, 344-51.

Crousaz, Jean Pierre de, Logica systema (Genevoo, 1724). Ex. HRC.
De disputandi methodo, 673-78.

Crusius, Christian August, Weg zur Gewißheit (Leipzig, 1747) [reprint: Hildesheim, 1965].
See 1033-40.

Dannhawerus, Johannes Conradus, Idea boni disputatori et sophistae (Argentorati, 1632). Ex 29. malitiosi
Full treatise on disputation. Mentioned in several later sources including the bibliographies of Felwinger and Schneider.

Daries, Ioachim Georgus, Introductio in artem inveniedi (Jenae, 1742). Ex 12. [first publ. 1732].
See 770-74.

- Donellus, Hugo, Opera omnia (Macertatae, 1830)
[Commentar. de Jure Civil. lib. 28 (Frankfurt, 1595)].
- Dupasquier, Sebastianus, Summa philosophiae Scholasticae et Scotisticae (Lugduni, 1692). Ex 12.
Leges disputationis philosophicae, 77-79.
- Eckhardus, Tobia M., Ars rationis seu elementa logicae
(Quedlinburgi, 1714). Ex 1.
- Eckius, Joannes, Elementarius dialectica (Augustae Vindelicorum, 1518).
Ex 12. [first publ. 1517].
- Einzing, Joannis Martini, Philosophia rationalis seu logica theoreticus atque, ac practica (Landsbergae Licum, 1791). Ex 29. ad
De methodo inveniendi veritatem per disputationem, 481-98.
- Eitzen, Paulus, Rudimenta artis dialecticae (Witebergae, 1574). Ex 1.
- Everardus, Nicholaus, Centum modi argumentandi (Venetiis, 1539). Ex 29.
- Federus, Iohannes Georgius Henricus, Institutiones logicae et metaphysicae (Gottingae, 1797). Ex 29. [first publ. 1777].
De iusta disputandi docendi methodo, 145-48.

- Felwinger, Johannes Paulus, Brevis commentatio de disputatione complectens totam methodum disputandi (Altorphi, 1659). Ex 29.
Not in Risse. Full treatise on disputation. Contains earliest known bibliography of works on disputation, 89-90.
- " " Philosophia Altdorphina (Noribergae, 1644). Ex 29.
- Feverlinus, Jacobus Wilhelm, Reguale praecipuae bonae disputationis academicae [dissertatio] (Göttingae, 1747). Ex 1.
Not in Risse. Rather unusual dissertation mentioned in the bibliography of Wolff.
- Flacius, Matthias, Compendium logicae (Rostochii, 1595). Ex 1.
[first publ. 1593].
This edition is not in Risse.
- Fonseca, Pedro de, Institutionum dialecticarum libri octo (Olyssipone, 1564) [reprint: Universidade de Coimbra, 1964, ed. Joaquim Ferreira Gomes.]
- Freytag, Franciscus, Dialectica nova sive introductio in philosophiam (Osnabrugi, 1706). Ex 35.
- Gassendus, Petrus, Opera omnia...tomus primus quo continentur sytagmatis philosophici (Lugduni, 1658). Ex 29.
Logica Euclidis, seu Megarica, 40-42.

- Genovesi, Antonio, Elementorum artis logicocriticæ (Colonia Agrippinae, 1753). Ex HRC. [first publ. 1745].
De ratione, veritatem per disputationem investigandi, 166-79.
- Gerhardus, Ephraïmus, Delineatio philosophia rationalis (Jenae, 1709). Ex 7.
- Geulincx, Arnoldus, Tractatus de officio disputantium (1663) [reprint: Opera philosophica Band II (Hagae, 1892)]
Tractatus de officio disputantium, 112-22.
- Goclenius, Rodolphus, De legitima disputandi ratione in Rudolphus Snellius, Commentarius...in Dialecticam P. Rami.. (Herbornae, 1587). Ex 29.
De legitima disputandi ratione, 107-20.
- Grant, Erhardus, Parva logica seu dialectica (Capell. Aulica et Campestri, 1746). Ex HRC & 29. [first publ. 1736].
De modo disputandi, 250-56.
- Grosserus, Samuel, Pharus intellectus sive logica electiva (Lipsiae et Budissae 1737). Ex HRC & 29. [first publ. 1697].
De disputatione, 267-92.
- Gundingius, Nicolaus Hieronymus, Via ad veritatem (Halae Magdeburgicae, 1713). Ex 20.
De vera methodo convincendi ac confutandi dissentientes, 130-36; De dialogo, 136-45.
- Guntherus, M. Io. Casparus, Dissertatio de modo disputandi megarico (Jenae, 1707). Ex 12.
 Only known work devoted solely to "megarian disputation".

Hanschius, Michael Gottlieb, Idea boni disputatoris (Lipsiae, 1713). Ex 29.
Not in Risse. Full treatise on disputation.

Hartmann, Johannes A., Dissertatio philosophica de officio eorum qui cum adversariis veritatem communicare volunt (Marburgi Cattorum,??).
Ex 21.
Not in Risse.

Hauser, Petrus Bertholdus S.J., Elementa philosophiae ad rationis et experientiae (Augustae Vind. & Oeniponti, 1755). Ex 20.
De methodo disputandi, 375-425.

Heereboord, Adrianus, Logica erotematica (Lugduni Batavorum, 1658). Ex 1.
See 295-99.

Heine, Firericus Ioannes, Methodus disputandi hodierna (Helmstadii, 1710). Ex 21.
Not in Risse. Interesting little book on disputation.

Heineccius, Johannes Gottlieb, Elementa philosophiae (Neapoli, 1765). Ex 12.
[first publ. 1728].
De ratione, veritatem per disputationem investigandi, 125-34.

Herberth, Bardo, Elementa logicae eclecticae (Fuldae, Wirceburgi et Bambergae, 1773). Ex 22.
De modo disputandi, 353-57.

Hollmannus, Samuel Christian, Philosophia rationalis
(Goettingae, 1767).

Ex 29. [first publ. 1746].

See 672-738.

Horneius, Conradus, De processu disputandi (Francofurti,
1633). Ex 37.

Full treatise on disputation. Horneius treats
disputation in a rather broad sense and covers many
areas of logic which are not strictly speaking essential to the
"methodology" of the ars disputandi.

Horvath, Joannes Baptista S.J., Institutiones logicae
(Augustae Vindelicorum, 1772). Ex 22. [first
publ. 1767].

De methodo disputandi, 75-78.

Hotomanus, Franciscus, Dialecticae institutionis libri IV
(Genevae, 1573).

Ex 7.

De dialogorum & dialecticorum methodo, 120-24.

Huhndorff, Ulrich, Institutiones philosophia rationalis,
(Augustae-Vindelicorum, 1747). Ex HRC.

Regulae speciales de methodo disputandi, 90-93.

Hunnaeus, Augustinus, Dialectica (Coloniae, 1562). Ex 29.

De disputatione, 356-61.

" Erroremata de disputatione in Logices prima
rudimenta seu prodigmata (Antwerpiae, 1569).

Ex 1.

Isendoorn, Gisbertus, Logica peripatecia (Darentriae, 1652).
21.

Ex

[first publ. 1645].

- Jacobi, Jacobus Antonius M., Dissertatio... de obligatione probandi (Lipsiae, 1716). Ex 21.
 Not in Risse. Unusual dissertation with references and criticism of some major sources, including Dannhawerus (1632), and Calovius (1637).
- Javellus, Chrysostomus, Logica (Lugduni, 1562). Ex 1.
- Joffre, Petrus, Ars syllogistica (Tabriae, 1717). [personal copy].
 Not in Risse. De methodo disputationis, 203-08.
- Jungius, Joachimus, Logica hamburgensis (Hamburgis, 1638). Ex 29. [first publ. 1635].
 Some discussion of how to treat fallacies in disputation, see 509-90.
- Keckermannus, Bartholomaeus, Systema logica (Genevae, 1614). Ex 29. [first published 1600].
 See 53-56, 457-72, 985-88, 1025-28, 2027-28.
- Keslerus, Andreas, Methodus disputandi (Altdorffi, 1668). Ex 35
 Not in Risse. Full treatise on disputation.
- " " Logicae Photinae examen, seu: Principiorum Logicorum, quae in Photinianorum (Wittebergae, 1642). Ex 35.
- Kochius, Cornelius Dieterico, Programma de modo disputandi socratico (Helmstadi, 1718). Ex 12.
 Not in Risse.
- Korholtus, Christianus, De processu disputandi papistico tractatus (Kiloni, 1685). Ex 12.

Not in Risse. Quo iniqua Romanae Ecclesiae
Doctorum cum Protestantibus de controversiis
Theologicis disceptandi ratio, praesertim vero circulus,
quem illi in probandi committunt, expenditur.

Langius, Ioachim, Genuina methodus disputandi (Hala
 Magdeb., 1719).
 Ex 29.
 Not in Risse. Full treatise on disputation.

Leibniz, Gottfried Wilhelm, Sämtliche Schriften und Briefe,
 Deutschen Akademie der Wissenschaft zu
 Berlin. Darmstadt 1923ff.,
 Leipzig 1938 ff., Berlin 1950 ff.

" " Die philosophischen Schriften, 7 vols, C. I. Gerhardt
 ed. (Berlin, 1857-90). [reprint: Hildesheim 1965].

Locherer, Alpius, Clypeus philosophico-scolasticus
 (Cremsii, 1740). Ex 22.
De modo studendi, in studio proficiendi; ac
privatim & publicè disputandi, 93-97.

Maestertius, Jacobus, Dissertatio de artificio disputandi
juridice (Lugduni Batavorum, 1647). Ex. 12.
 Not in Risse.

Mang, Theodorus, Institutiones logicae et metaphysicae
 (Parisiis, 1789).
 Ex. 22.
De veritate communicanda, 181-88.

Marcelius, Henricus, Ars disputandi (Coloniae, 1658) Ex.22.
 Full treatise on disputation. Quite Aristotelian.

- Marquardt, Conradus Theophilus, Philosophia rationalis
(Regiomonti & Gedani, 1733). Ex 29.
De veritate vindicanda, 201-19.
- Martini, Cornelius, De analysi logica (Helmaestadi, 1638). Ex 29.
[first publ. 1619].
Influential logic textbook which contains many
disputation rules and strategies.
- Martini, Jacobus, Logicae peripateticae per dichotomias in gratiam
Ramistarum resolutae (Wittebergae, 1612). Ex. 29. [first publ.
1608].
De usu dialectico in disputandi & quidem in
specie de officio opponentis, 174-81.
- " " Paedia seu prudentia in disciplinis generalis (??,1631)
Ex 35.
Not in Risse. Full treatise on disputation.
- Musschenbroek, P. van, Institutiones logicae (Lugduni
Batavorum,1748) . Ex 22.
De methodo disputandi, 197-206.
- Neldius, Johannes, Institutio de usu Organi Aristoteliei
(Helmaestadi, 1666). Ex. 29.
See 209-31. Commentary on Aristotelian Topics
including Book VIII.
- Niphus, Augustinus, Dialectica ludrica (Venetiis, 1521). Ex 12.
[first publ. 1520].
De obligationibus, L151-R155.
- Nobilius, Flaminius, Quaestiones logicae variae (Ambergae,
1611). Ex. 29.
[first publ. 1562].

- Odofredus, Iuris utriusque... (reprint: Lugduni, 1852)
- Olaus, Unonius, Excercitum academicarum de processu disputandi (Upsaliae,1642). [personal copy].
- Osterrieder, Hermannus, Logica critica (Augustae Vindelicorum, 1760) Ex 12.
De Methodo Disputandi, 533-42.
- Pacius, Julius, Institutiones logicae (Spirae, 1600). Ex 1. [first publ. 1595].
- Pesch, Tilmannus SJ, Institutiones logicales (Friburgi Brisgovia, 1888). personal copy.
Disputatio scholastica, § 189 - § 194.
- Placentinus, Summa codicis (reprint: Torino, 1962).
- Prücknerus, Johannes, Libellus de artificio disputandi (Erfurti, 1656).
Ex 12. Not in Risse.
- Quadros, Didacus, Palaestra scholastica (Madrid, 1722). Ex 12.
- Reinhardus, Laurentius, Synopsis philosophia rationalis (Erfurti & Lipsiae, 1730). Ex 29.
De ipsa ratione disputandi per syllogismos, 55-57.
De ratione disputandi dialogica, 57-8.
- Reneccius Iacobus, Artificium disputandi praeceptis logicis (Wittebergae, 1609). Ex 21.

- Rennemanus, Henningus, De legitima ratione recte disputandi (Jenae, 1605). Ex 35. Not in Risse.
- Reuschius, Ioannes Petrus, Systema logica (Jenae, 1734). Ex 29.
De convictione, refutatione, disputatione et methodo docendi, 845-88.
- Rötenbeccius, Georgius Paulus, Logica Rötenbeccii contracta sive compendium logices (Norimbergae, 1709). Ex 29.
 Not in Risse. Quartae partis logicae membrum alterum, ubi Jacob Thomasii methodus disputandi peculiari tabula exponitur, 268-69.
- Rudbeckius, Johann, Logica ex optimis et praestanissimis Topicorum Liber Octavus, 246-68. (Arogiae, 1625) Ex HRC.
- Sanderson, Robertus, Logicae artis compendium (Antwerp, 1589) [reprint: Bologna, 1985, ed. Ashworth]
De Tractione Problematis sociali: sive, de Disputatione, 40-67.
- Sanning, Bernard, Scholia philosophia scotiarum (Praguae, 1684). Ex HRC.
- Scharfius, Johannes, Compendium logicae Aristoteleae (Wittebergae, 1624). Ex 29.
- Schegkius, Jacobus, Commentaria in VIII libros Topicorum Aristotelis (Tubingae, 1584). Ex 29.
- Scheiblerus, Christophorus, Epitome logica (Gissae, 1624). Ex. 7.
De Methodo Disputandi, 292-93.

- Schierschmidius, Johannes Iustinus, Philosophia rationalis sive logica
(Lipsiae et Dresdae, 1737). Ex 29.
De refutatione, defensione, et disputatione, 178- 92.
- Schirmerus, Michaelus, Diatriba logica (Freibergae
Hermundurorum, 1681 [first publ. 1621]. Ex 29.
De disputatione conscribenda & defendenda, 9- 49.
- Schmidt, Johannes Andreas, Dissertatio de diversis
disputandi processibus (Jenae, 1716). Ex 12.
Not in Risse.
- Schneiderus, Ioannes Fridemann, Tractatus logicus singularis in
quo processus disputandi (Halae Magdeburgicae,
1718). Ex 29. Not in Risse.
- " " Dissertatio de variis argumentandi methodis
veterum ac recentiorum philosophorum (Halae Magdeb.
??). Ex 12.
Not in Risse.
- Schubertus, Johannes Ernestus, Logica practica (Jena,
1742). Ex 29.
De disputatione, 231-76.
- Stahlius Danieles, Regulae philosophicae (Jenae, 1657). Ex 1.
[first publ. 1616].
- Stapulensis, Faber, In terminorum recognitionem introductio
(Paris, 1504). Ex HRC.
- Sturmius, Johannes, Partitionum dialecticarum (Argentorati,
1566). Ex HRC. [first publ. 1539].

- Syrbius, Iohannes Iacobi, Institutiones philosophiae (Jenae, 1717). Ex 29. [first publ. 1716].
De methodo disputandi syllogistica, 375-89; De dialectica disputandi methodo, 389-95; De scriptis disputandi, 395-401. rationalis
methodo
- Thomasius, Christian, De onere probandi in actione negatoria (Halaë Magdeburgicae, 1732). Ex 12. Not in Risse.
- Thomasius, Iacobus M, Erotemata logica (Lipsiae, 1677). Ex 7.
Processus disputandi, 139-208.
- Timpler, Clement, Logicae systema methodicum (Hanoviae, 1612). Ex 7.
De Disputatione bene instituenda, 842-73.
- Titelmannus, Franciscus, Dialecticae considerationis libri sex (Lugduni, 1557). Ex 12. [first publ. 1533].
- Toletus, Franciscus, Introductio in dialecticam Aristotelis (Coloniae Agrippinae, 1574). Ex 21. [first publ. 1560].
- Trapezuntius, Georgius, De re dialectica libellus (Coloniae, 1545). Ex 29. [first publ. 1533].
- Treuner, Iohannes Philippus, Antiquum interrogandi modum [dissertatio], (Jenae, 1688). Ex 12. Not in Risse.
- Vigelius, Nicolaus, Dialectices iuris civilis libri III (Basileae, 1620). Ex 1.
 Not in Risse.

- Vives, Johannes Ludovicus, De disputatione liber unus
(1581) in Opera omnia Tomus III
(Valentia, 1782). Ex 29.
- Vogt, Antonio, Philosophia rationalis (Heidelbergae, 1764). Ex
HRC.
- Walman, Johannes, De directa probatione negativae
(??,1698). Ex 12.
Not in Risse.
- Weber, Joseph, Logica in usum eorum (Landeshuti,1799). Ex
HRC. [first publ. 1788].
§ 144-48.
- Weisius, Christianus, Nucleus logicae (Gissae, 1712). Ex 29.
[first publ. 1691].
This edition not in Risse. De disputatione, 95-
100.
- " " Curieuße Fargen über die Logica (Leipzig, 1714). Ex
29. [first publ. 1696].
A rather early logic book written in German with
many pages devoted to discussion to various aspects of
disputation.
- Weiss, Matthaeus, Ad logicam sive organum Aristotelis
intoductio (Salsburgi, 1629). Ex. 7.
De ipsa ratione disputandi, 122- 132.
- Wendelerus, Michaelus, Breves observationes genuini
disp[utandi] processus (Wittebergae, 1650). Ex 29.
Not in Risse.

Wendelinus, Marcus Fridericus, Logicae institutiones tironum adolescentum (Amstelrodami, 1654). Ex 29. [first publ. 1648].

De tractione geneticâ thematis conjuncti sociâ, quam disputationem appellamus, 345-56.

Wesenbecius, Matthaeus, In Pandectas iuris civilis (Lugduni, 1597). Boalt Hall Library, University of California at Berkeley.

Wideburgius, Henricus, Dissertatio de recta disputandi ratione (Burgtoriensis, 1684). Ex 12.
Not in Risse.

Wideburgius, M. Io. Bernh., Dissertatio de variis disputandi modis (Helmstadii, 1711). Ex 29.
Not in Risse.

Wildius, Johannes M. , Elementa logicae (Stuttgardiae, 1744). Ex HRC.
De arte disputandi, 279-97.

Wokenius, Franciscus M., Elementa ligicae practicae (Lübdenae, 1720). Ex 29.

Wolffius, Christianus, Philosophia rationalis sive logica (Francofurti et Lipsiae, 1728).

Wolfarthus, Fridericus Paulus, Annotationes logicae dilucidantes Wolfii logicam minorem (Jena, 1740). Ex 29.

Wytttenbach, Daniel Albert, Praecepta philosophia logicae
(Amstelaedami, 1781). Ex HRC.

Zeisoldus, Johannes, Processus disputandi Sperlingianus
(Jenae, 1651) Ex 12.
Not in Risse.

Bibliography: Works after 1900 and Secondary Sources

Angelelli, I., "Techniques of Disputation in the History of Logic", Journal of Philosophy 67 (1970): 800-15.

Ashworth, E. J., "Renaissance Man as Logician: Jose Clichtove (1473-1543) on Disputations", History and Philosophy of Logic, 7 (1986), 15-29.

" " Language and Logic in the Post-Medieval Period, 1974.

Dordrecht

Belnap, N. D., and Steel, JR., T. B., The Logic of Questions and Answers, Yale 1976.

Bird, O., "The Logical Interest of the Topics as Seen in Abelard," Modern Schoolman, 37 (1959): 53-57.

" " "The Formalizing of the Topics in Medieval Logic," Notre Dame, Journal of Formal Logic, 1 138-49.

(1960):

Bochenski, I. M., A History of Formal Logic, Notre Dame 1961.

Boehner, P. , Medieval Logic, Manchester 1952.

Bornscheuer, L., Topik, Frankfurt 1976.

Bromley, S., "Extracurricular Disputation: 1450-1650,"
Quarterly Journal of Speech 34 (1948): 473-76.

Chomsky, N., Aspects of the Theory of Syntax, Cambridge Mass.
 1965.

" " Cartesian Linguistics, Lanham 1966.

Coffey, P., The Science of Logic, 2 vols. London 1912.

Costello, W., S. J., The Scholastic Curriculum at Early
 Seventeenth-Century Cambridge, Cambridge,
 Mass. 1958.

D'Ors, A., "Sobre las "Obligaciones" de Juan de Holanda,"
Anuario Filosofico 21 (1988): 33-70.

De Rijk, L. M., Die Mittelalterlichen Traktate De Modo
 Opponendi Et Respondendi, Münster, 1980.

Edwards, W., The Logic of Iacopo Zabarella (1533-1589),
 Columbia University , Ph. D. Dissertation 1960. University
 Microfilms, Inc., Ann Arbor Michigan, Mic 61-247

Freelely, A. J., Argumentation and Debate, 2nd ed., Belmont
 1966.

Frick, C., S.J., Logica in usum scholarum , Friburgi Brisgoviae
 1919.

Gilby, T. O. P., Barabara Celerant: A Description of Scholastic Dialectic, London, 1941.

Giuffre, V., Necessitas Probandi, Milano 1982.

Glorieux, P., La littérature quodlibétique, 2 vols, Bibliothèque Thomiste, 5, 21, 1925-35.

Green-Pederson, N., J., The Tradition of the Topics in the Middle Ages, Munich 1984.

Hamblin, C., Fallacies, London 1970.

Harrah, D., Communication. A logical model, Cambridge 1963.

Hegselmann, R., Formale Dialektik, Hamburg 1985.

Hintikka, J., The Semantics of Questions and Questions of Semantics (Acta Philosophica Fennica, 28 (1976)) no 4.

" " "The logic of information seeking dialogues: A model," in Konzepte der Dialektik, eds. W. Essler and W. Becker. Frankfurt 1981. 212-231.

" " "Rule, utilities, and strategies in dialogical games," in Cognitive Constraints on Communication, eds. L. Vaina & J. Hintikka. Dordrecht 1983. 277-294.

" " "Logic of conversation as a logic of dialogue," in Philosophical Grounds of Rationality, Intentions, Categories, and Ends, ed. R. Grandy. Minneapolis 1986.

Hintikka J., and Vandamme F., Logic of Discourse and Logic of Discovery, New York and London 1985.

Horn, E., "Die Disputationen und Promotionen an den Deutschen Universitäten," Elfte Beiheft zum Centralblatt für Bibliothekwesen. Leipzig 1893.

Ishiguro, H., Leibniz's Philosophy of Logic and Language, London 1972.

Jason, G. J., "Notes toward a formal conversation theory," Grazer philosophische Studien 10 (1980); 119-139.

Kaufmann, G., "Zur Geschichte der academischen Grade und Disputationen," Centralblatt für Bibliothekwesen No. 11 (1893): 201-25.

Kneale, W., and M. Kneale., The Development of Logic. Oxford 1962.

Kretzmann, N., Kenny, A., and Pinborg, J. (eds), The Cambridge History of Later Medieval Philosophy, Cambridge 1982.

Leonard, Franz, Die Beweislast. Berlin 1904.

Little, A. G. and F. Pelster, Oxford Theology and Theologians. Oxford, 1934.

Lorenzen, P., Normative Logic and Ethics. 2nd ed. Zürich
1984. [contains 67-68 John Locke Lectures first published
in Konstruktive Wissenschaftstheorie (1974).

Lorenzen, P., and W. Kamlah, Logische Propädeutik,
Mannheim 1973.

" " Konstruktive Wissenschaftstheorie, Frankfurt
1974.

Lorenzen, P., and Lorenz, K., Dialogische Logik. Darmstadt
1978.

" ", " " "Die dialogische Begründung von Logikkalkülen," in
Theorie des wissenschaftlichen
Argumentierens, C. F. Gethmann ed., Frankfurt 1980. 43-
69.

Luonela, J., Die Logik im XVII. Jahrhundert in Finnland,
Annales Academiae Scientiarum Fennicae
Dissertationes Humanarum Litterarum. Hesinki 1978.

Mandonnet, P., "Chronologie des questions disputées saint
Aquin'," Revue Thomiste 23 (1928): 267-79. Thomas d'

Mates, B., The Philosophy of Leibniz, New York, Oxford 1986.

Morax, P., "La Joute d'après le huitième livre des
Topiques," in Aristotle on Dialectic, Proceedings of the
Third Symposium Aristotelicum, ed. G. E. L. Owen. Oxford 1968.

Oesterle, J. A., "The Significance of the Universal Ut Nunc", in The Dignity of Science. J. A. Weisheipl (ed.), Washington, D.C. 1961. pp. 27-38.

Olaso, E. de, "Leinbiz et l' art de disputer," Studia Leibnitiana (1975): 207-28. 4

Ong, W., Ramus, Method and the Decay of Dialogue, Harvard 1958.

Perelman, C., Olbrechts-Tyteca, L., La Nouvelle Rhétorique, Paris 1958. Translation: The New Rhetoric. A Treatise on Argumentation, London 1971.

" " Logik und Argumentation, Königsten 1979.

Peterson, P., Geschichte der aristotelischen philosophie im protestantischen Deutschland, Leipzig 1921.

Pinborg, J., Logik und Semantik im Mittelalter, Stuttgart-Bad Cannstatt 1972.

" " "Topik und Syllogistik im Mittlealter," in Sapienter Ordinare: Festgabe fuer Erich Kleinedam, eds. F. Hoffmann, L. Scheffczyk, and K. Feiereis, Leipzig 1969.

Prantl, C., Geschichte der Logik im Abendlande, 4 vols., Leipzig 1870; Graz, Austria 1955.

Rescher, N., Dialectics: A Controversy-Oriented Approach to the Theory of Knowledge, Albany 1977. the

Risse, W., Logik der Neuzeit, 2 vols. Stuttgart 1964.

Spade, P. V., "Roger Swynshed's Obligationes: Edition and Comments," Archives d'histoire doctrinale et du moyen âge 44 (1977): 243-85. littéraire

" " "Richard Laverham's Obligationes: Edition and Comments," Rivista critica di storia della filosofia 33 (1978): 579-90.

" " "Robert Fland's Obligationes: An Edition," Mediaeval Studies 42 (1980): 41-60.

Stump, E., Boethius's De topicis differentiis, Ithaca 1978.

" " "William of Sherwood's Treatise on Obligations," Historiographica Linguistica 7 (1980): 249-61.

" " Dialectic and Its Place in the Development of Medieval Logic, Cornell 1989.

Walton, D., and Woods, J., "Towards a theory of argument," Metaphilosophy 8 (1975): 298-315.

" " Informal Logic, Cambridge 1989.

" " Question-Reply Argumentation, 1989.

