

## Theology as Legal Rhetoric: Judicial Reasoning in Ambrose of Milan's *De Spiritu Sancto*

While Ambrose's treatise *De Spiritu Sancto* (C.E. 381) has often been considered a sort of manual for the instruction of his pupil, the Emperor Gratian (r. 375–383), closer investigation of both the external sources and the internal form reveals that it is better understood as a piece of judicial rhetoric. This paper argues that Ambrose brings to bear on a tense political-ecclesiastical situation the rhetorical and legal tools at his disposal from his Roman (and pagan) cultural heritage. Thus, this study provides confirmation of the thesis put forward by Caroline Humfress (2007) that Christian bishops of late antiquity easily and unselfconsciously assimilated Roman law and its attendant rhetorical practices, pagan though their origins were, into ecclesiastical law and discourse. The paper also highlights the often-underappreciated influence classical rhetoric had on Christian theology at a formative juncture in its history.

The paper proceeds in two sections. First, I briefly describe the historical situation of the treatise, showing that the Bishop of Milan stood in the position of an advocate, vying for the favor of Gratian against his Homoian ("Arian") opponents. In this, I take the side of several revisionist historians (Gottlieb 1973; McLynn 1994; Williams 1995). They argue against not a few modern scholars (Palanque 1933; Homes Dudden 1935; Paredi 1964; Savon 1997) who understand Ambrose's relationship to Gratian as teacher-to-student. The latter group of historians adopts the perspective of Paulinus' *Vita Ambrosii*, which portrays the Milanese bishop moving breezily from success to success by virtue of his sweet speech and impeccable character. The revisionists approach this text more skeptically. By relying instead on other sources, they find reason to emphasize the insecure nature of Ambrose's relationship to Gratian. I extend their perspective to *De Spiritu Sancto*, a text left largely unexamined in the literature. I argue that while Ambrose could take heart that Gratian had recently returned a basilica he had previously

sequestered for “Arian” use, it was probably only due to the influence of Theodosius, whose law against “Arians” (*Codex Theodosianus* 16.5.6) had recently made their confession illegal (at least in theory). In these circumstances, Ambrose could not assume the emperor’s ongoing goodwill. Therefore, he had to muster all his rhetorical skill to press the pro-Nicene case.

The second part of the paper examines the rhetorical form of *De Spiritu Sancto*, finding that it bears many marks of judicial rhetoric as discussed in the major rhetorical handbooks of Quintilian and Cicero, albeit with modifications appropriate to the Christian content and setting. For instance, Ambrose begins with an *exordium* that can be described as an “insinuation” (*insinuatio*), a tactic that Cicero advises should be used in cases when the jury is unsympathetic (*De inventione* 1.17.23). In the body of the argument, Ambrose deploys stasis theory, which can be seen in several ways. The first issue the bishop deals with is conjectural, i.e. the question of whether or not the Holy Spirit is a creature. Furthermore, the proofs that Ambrose deploys come from the “legal text” that both he and his opponents appealed to: the Bible. In this context, the bishop of Milan uses strategies for disputing written documents (*scripta*)—as distinct from general reasoning (*ratio*)—as prescribed in the rhetorical handbooks (e.g. Cicero, *De inventione* 1.12.17). For example, Ambrose often seeks to discriminate between “letter and intent” (*scriptum et sententia*) in contested passages.

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