

## Chapter 3

# Quintilian and the Public Attainment of Justice

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### Introduction

Even among lawyers, surprisingly little is heard today of Quintilian, one of classical antiquity's greatest exponents of the advocate's art and its most distinguished public teacher. Some of the reasons for this include the now quite general decline of the serious study of rhetoric and oratory, and the immense – but often unrealised and hence rarely examined – influence of unreflecting Historicist doctrine in all branches of learning at the present time, including law and jurisprudence, with the resultant virtual oblivion of the thought and insights of writers deemed unfashionably classical. Another reason lies in the fact that he was a Roman lawyer. With the comparative decline of the study of Roman Law in modern universities and the almost religious fervour with which the so-called Plain English movement has sought to extirpate what remains of the Latin from legal discourse, it is nearly inevitable that a writer like our subject, for all his many excellences and his enduring value as a model advocate, is neglected and remains a closed book to most lawyers practising and pleading today.<sup>1</sup>

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1 Honourable exceptions include those familiar with E Corbett, *Classical Rhetoric for Modern Students* (3rd edn) (New York and Oxford: Oxford University Press, 1990) and similar textbooks on oratory and advocacy which mention Quintilian, usually only in passing within historical chapters where Aristotle and Cicero receive most of the attention. Other works, like GA Kennedy, *Classical Rhetoric and Its Christian and Secular Tradition from Ancient to Modern Times* (2nd edn) (Chapel Hill and London: University of North Carolina Press, 1999), treat of Quintilian in more detail; on the US revival in studies of Quintilian, see JJ Murphy (ed), *Quintilian on the Teaching of Speaking and Writing* (Carbondale: Southern Illinois University Press, 1987) at xlv; S Miller, "Classical Rhetoric and Contemporary Basics" in JJ Murphy (ed), *The Rhetorical Tradition and Modern Writing: Essays Toward the Re-Marriage of Literature and Literacy* (New York: Modern Language Association of America, 1982) at 56.

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