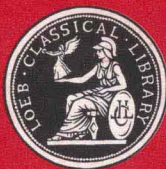


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CICERO
THE VERRINE ORATIONS
VOLUME I



Translated by
L. H. G. GREENWOOD

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VOLUME I

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WITH AN ENGLISH TRANSLATION BY

L. H. GREENWOOD

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PREFACE

THIS edition of the Verrine Orations is not intended as a serious contribution to the improvement of the text. The textual notes have therefore purposely been kept as few and short as possible. The present text is, however, not identical with any already published. It is printed, with many changes, from that of Nobbe. As against Nobbe, the consensus of C. F. W. Müller's Teubner edition and Sir W. Peterson's Oxford edition has usually been accepted without comment; but not always, nor without consideration. I have admitted one or two conjectures of my own; these are carefully noted. Peterson's book remains indispensable for all those who are concerned to assure themselves of the "best readings" and the reasons for them. I have not adopted by any means all his changes; nor, I hope, either adopted or rejected any of them without due consideration; and the more important of them I have acknowledged. The short account of the manuscript authorities, in my Introduction, is based upon his Latin introduction to his

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edition and on his numerous articles on the subject in the *Classical Review* and elsewhere. My punctuation often differs slightly from his, but still more often and more widely from Müller's, as any modern English edition must, in this respect, differ from any German one.

For the explanatory notes I am considerably indebted to Long's edition (1862), especially in the otherwise almost wholly neglected first three books of the *actio secunda*.

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IN the late summer of the year 70 B.C. Gaius Verres, governor of Sicily during the three preceding years, was prosecuted at Rome by Cicero, on behalf of the Sicilian people. Technically the charge was one of extortion. The province, like a plaintiff in a purely civil suit, sued for the restitution of some £400,000, and brought its claim before the *quaestio de pecuniis repetundis*, "the (court of) inquiry into moneys claimed back." But in effect the case was a criminal prosecution for general misgovernment and oppression. The accused, if convicted, would not only have to pay damages; he would be sentenced to the loss of his *caput*, his rights as a Roman citizen.

It is not strange that such cases were no new thing in Rome. During the actual term of office of a Roman provincial governor, he could not be removed. No one in his province could dispute his authority; and the control that could be exercised over him from Rome was little in theory and less in practice. Once out of office, he could be brought to justice; but the chances, even for the worst offender, of avoiding this, or at least of securing acquittal, were always too great, and the deterrent was not serious. It is less surprising that oppression was common than that it was not still commoner. The case of Verres excited unusual interest in Rome; but this was not due either

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to the nature of his misconduct or to its magnitude. It was due partly to the personal struggle between the advocates, in which Cicero tried, and, as it proved, tried successfully, to wrest from the older Hortensius his acknowledged pre-eminence among Roman pleaders. It was due, far more, to the bearing of the case on a political crisis of this year, a crisis that forms an interesting episode in the constitutional history of the Republic.

The main body of Roman citizens, though in theory the sovereign power in the Roman state, was never to any great extent sovereign in practice. From the time of the first Punic War the real control of government lay with the Senate, and more and more as time went on, for over a century. Constitutionally the Senate was no more than an advisory committee to help the executive magistrates; in practice, the magistrates acted, and the popular assemblies voted, in accordance with its decrees. Its members were members of the great ancient Roman families, patrician or plebeian, which were only slowly added to, or in part replaced, by other families that rose to wealth as the empire extended. These other families for the most part remained outside the senatorial class; their members neither held the higher magistracies nor sat in the Senate; their political powers were, ostensibly, only those of all Roman citizens. But their class, the *equester ordo*, possessed collectively, and they possessed individually, great financial and social importance; and in the series of attacks upon senatorial ascendancy which opened with the attempted reforms of Tiberius Gracchus and culminated in the Marian revolution, the Knights counted for much. Their motive was

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jealousy of the powers and privileges of the senatorial class ; they were not moved, any more than the various leaders of the opposition were moved, by any belief in or desire for real democracy. But the rule of the Senate and the senatorial magistrates was sufficiently incapable and corrupt to give the opposition plausible justification for its assaults.

One of those measures of Tiberius Gracchus which remained effective was the re-constitution of the Extortion Courts. These were already in more or less permanent existence to try claims and charges brought against the senatorial governors of provinces. Membership of them was now confined to the equestrian order. It was reasonably held that senatorial offenders should not be tried by senatorial judges for offences which those judges had had, or would like in future to have, the opportunity of committing themselves ; and that equestrian judges would be more likely to punish, and so to discourage, oppression of provincials by governors. In practice, there was little or no improvement ; senatorial governors and equestrian financiers combined to fleece the provincials on the basis of a division of the plunder, and the equestrian court was never likely to convict a governor who had taken the natural steps to secure an acquittal. Though, therefore, the senatorial order would have liked to recover control of the Extortion Courts, want of will as well as want of power made them acquiesce for some fifty years in the tenure of this judicial power by the Knights alone.

Ten years before the prosecution of Verres, the constitution imposed on Rome by Sulla the dictator had given to the Senate, in theory now as well as in

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practice, almost complete supremacy in the state. It was only one detail of his settlement that membership of the Extortion Court, as of the new criminal courts which he instituted, was confined to senators. Justice in the Extortion Court was administered no better for the change. Oppression in the provinces was less, not more, severely punished, and therefore increased rather than diminished. This fact would not of itself cause great discontent in Rome ; what mattered was that the Knights had lost more by the change than the Senators had gained. As soon as the opportunity arose, the senatorial monopoly was sure to be challenged, and by the year 70 the opportunity had arisen.

The permanence of Sulla's settlement could only be secured if all senators, however powerful, wealthy and ambitious, would sacrifice their personal aims to the common maintenance of the supremacy of their order. It is doubtful if Sulla himself expected this to happen ; in any case, he was hardly dead before it became clear that this would not happen. Under the open or secret leadership of ambitious persons like Pompeius and Crassus and Caesar, senators deserting for their own ends the cause of the Senate, the "popular" opposition began to revive. Unity of purpose, coupled with effective control of the legions, would have enabled the Senate to crush, one by one as they arose, the attempts made to reverse this or that detail of the Sullan constitution. Possessing neither advantage, the Senate was soon revealed less autocratic in fact than in theory. The election of Pompeius and Crassus as consuls for the year 70 was the first striking success of the opposition. A second followed promptly : with the support of the

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consuls, the great powers of the tribunes of the plebs, reduced by Sulla almost to nothing, were restored to them. A third was being threatened when Cicero addressed the senatorial Extortion Court as prosecutor of Verres : a bill was already "promulgated" providing that membership of the criminal courts, the Extortion Court included, was no longer to be the monopoly of senators, who were only to constitute one-third of the whole. The menaced privilege was in itself, for reasons already given, not a thing for which the senatorial majority were ready to fight to the last ; but they were ready to do much to retain it, both for its own sake and because of what its loss would signify in the party struggle. This was the crisis that gave the case of Verres exceptional interest. The court may or may not have been composed, as Cicero naturally declares it is composed, of unusually honest men eager to punish and remedy grave injustice. The important fact was that it was composed of members of that senatorial order whose supremacy was being threatened, at that moment, as it had never been threatened since Sulla's death. In the issue now pending, the verdict might turn the scale ; Cicero insists that it certainly would. He pays compliments to the high character of the judges, but his appeal is to their interests. He urges, again and again, that if this court does not convict this governor, the people will be forced to conclude that no court composed of senators will ever convict any governor, however guilty, who has money to spend on bribery ; and that the consequence will be the loss by the Senate of its present monopoly control of the courts.

That this danger was real the sequel proved ;

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Verres was not acquitted, but the already promulgated bill became law nevertheless, and the Senate's monopoly was ended. The court had, to be sure, no very fine opening for a display of its incorruptibility. The case was too hopelessly black against the accused for either himself or his advocate to care to face it out, and he condemned himself to exile, flying from Rome to Massilia before the court could condemn him. Even had he been willing to await the verdict, the nation's opinion of senatorial courts might well have remained unchanged; it might well have been thought that the acquittal of such a man would have been so unspeakable a scandal that his conviction could bring his judges no great credit. Cicero himself expresses no confidence that a conviction will prevent the bill's passing, but only his certainty that an acquittal will ensure its passing; the chance, he implies, is a slender one, though not on that account to be thrown away.

Concerning the man whom circumstances made, for the moment, so notable a personage, we know nothing more than Cicero tells us, except the bare facts of his flight, condemnation, and exile, and his death, as an exile still, among those proscribed by Mark Antony in 43. To summarize those facts here seems needless. Except his father and his son, we know of no one who bore his name of Verres. We do not know whether this name was his *nomen* or his *cognomen*; if it was the latter, we do not know what his *nomen* was. His father was a senator; apart from that, not a word of his antecedents is given us. Undoubtedly a bad magistrate and a bad man, he was no doubt something less incredible than the monster depicted by his prosecutor. His passion for

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Greek art was not the insincere and foolish pretence that Cicero would have it believed; nor was he exceptionally incompetent and silly. Of course Cicero says the worst possible of him at every turn; allowances and deductions must be made. When all is done, he cuts a sorry figure; and it is strange that he was suffered to oppress Sicily for three years, and that political considerations gained him, even in that age, so many responsible and respectable supporters.

Of the various schemes adopted to secure his acquittal Cicero gives us a full account. One of them led to the *Divinatio*, four months before the trial began. Supported by all the Sicilian cities but Syracuse and Messina, Cicero applied for leave to prosecute only to find that he must first establish his superior fitness against Caecilius, a rival prosecutor, put forward by Verres' own supporters, and meant to fail, either through lack of competence, or by playing into the hands of the defence, or both together. The court that decided between the two claimants simply heard the speeches of each on his own behalf, and settled the issue by "guess-work"; the word *divinatio*, properly describing the mental process by which it reached its verdict, was extended to cover the whole procedure, and narrowed again to describe the speech made by each claimant. The danger of Cicero's having to give way to his rival may or may not have been serious; we have no means of estimating it. In any case, it was surmounted.

Having failed to set up a rival prosecutor, Verres' friends next set up a rival prosecution. Delay would be valuable, for many circumstances pointed to a better chance of success for them if the case could

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be postponed to the following year. It was decided to prosecute, on a similar charge before the same court, an ex-governor of the province of Achaea, and by being ready to begin this case before Cicero was ready with his, to secure the time of the court for the rest of the year. Plainly, the prosecutor could require the hearing to begin as soon as he liked; and Cicero was ready so long before his opponents had expected that their own preparations had barely begun.

One last resource was open to them. They could not delay the opening of the case, but they might delay its conclusion; and if no verdict were reached that year, a completely fresh trial would be required before a fresh court the year following. To meet this danger, Cicero had to depart from the usual procedure, and to do a thing which it is plain he was legally entitled to do, and for which he tells the court that he can plead actual precedent. There is some obscurity about the exact nature of his innovation.

In the usual procedure, the prosecutor opened with a long speech, which was answered by a long speech for the defence. Each of these speeches may have been followed by speeches from the junior counsel (*subscriptores*) on the same side: we know little of the way in which such persons took part in the proceedings. When all the speeches on both sides were over, the witnesses gave their evidence; first those for the prosecution, then those for the defence. Each of the advocates was allowed to cross-examine his opponent's witnesses; and there was also a debate (*altercatio*) between the opposing advocates, but where this occurred—whether before or after all the evidence was given, or even perhaps after the evidence of each separate witness—we

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cannot tell. There was then an adjournment, *comperendinatio*; the name implies an interval of one day, but this may not have been the actual fact. The *actio secunda* began, like the *actio prima*, with long speeches from both advocates; after which, the hearing of further evidence was certainly possible, whether usual or not; and it may be that all the features of the *actio prima* were or might be reproduced. Then the verdict followed.

What Cicero was able to do, whether in virtue of recognized usage or by special favour of Glabrio the president of the court, was to rearrange the procedure of the *actio prima*. He broke up his long consecutive speech into a series of short ones, each of which dealt with one specific charge; and after each of these he called the witnesses concerned to give their evidence. He thus debarred Hortensius from making a long opening speech, but gave him in exchange the chance of making a similar series of short speeches, not merely later on when calling his own witnesses, but also, it would seem, immediately, by replying to Cicero's short speeches as well as by cross-examining Cicero's witnesses. In the *actio secunda* the procedure was to be the normal one; it was only the *actio prima* that would be affected.

The advantages of this plan to Cicero he himself states candidly (*Actio Prima*, §§ 53, 54). (1) The whole time occupied by the trial would be shortened, so that a verdict could be reached within the present year. It is not quite plain how the time would be shortened; for it may seem that the time saved by dropping the two continuous opening speeches might be spent on the short speeches, on both sides, in connexion with the separate charges and the wit-

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nesses' evidence on them. We can only suppose that a closer knowledge of the recognized procedure would show that the shortening of the time did follow as a necessary consequence. If there was no legal limit to the length of time that might be spent on the continuous opening speeches, it would be an advantage to prevent the defence spinning theirs out to an altogether abnormal length.^a (2) The defence would not be able to reply, for the first time, after a long recess, when Cicero's arguments were already half-forgotten and the emotion aroused by his eloquence had subsided. (3) Cicero counted upon public opinion to keep the judges in the path of honesty ; and this opinion would be reinforced in August by the crowds of summer visitors to Rome, drawn there by the census, by the elections, and by the festivals. And, though Cicero naturally does not say so, he may have thought that (4) the evidence of his witnesses would be so overwhelming that the defence would be abandoned, as did in fact happen.

The consequence for us of this new procedure is that the *actio prima* speech preserved to us is merely a short explanatory preface to the *actio* proper. The short speeches that introduced the separate blocks of evidence, though they did not only state, but also commented upon, the particular charges, depended too much on the evidence itself to be worth preserving, especially as the ground is covered, partly if not wholly, by the *actio secunda* speech. There is no reason to suppose that the *divinatio* and *actio prima* speeches are not substantially the speeches actually delivered by Cicero. We cannot tell how

^a This seems to be hinted at in § 31, "deinde se ducturos et dicendo et excusando facile ad ludos Victoriae."

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far he, or any other ancient orator, when revising his speeches for publication, would allow himself to change or improve what he had in fact said.

Since not even the *actio prima* was completed, of course no *actio secunda* took place ; the condemnation and assessment of damages followed Verres' flight immediately. Therefore the *actio secunda* speech, though it may represent in its general contents the short speeches, some of which were actually delivered in the *actio prima*, was never delivered as the connected whole which is what we have. But it does not follow that it was entirely composed "as a rhetorical exercise." Cicero may have hoped that such a speech would never be needed, but he could not be sure of this. He must therefore have composed a rough draft of it before the *actio prima* began ; and unless he could count on a long enough *comperendinatio* to give him time for his "fair copy," he must have gone far towards making that too. In the speech as actually published, he has been careful to keep up the similitude of a speech actually delivered ; this was inevitable if the form of a speech was to be kept at all. It may be granted that a certain air of unreality is given by the necessary though fictitious assumption that Verres had not fled but continued to stand his trial. But this is a superficial detail ; in substance and even in form, the *secunda* speech was composed, in advance, for delivery in court ; and the substance of some of it was delivered, in detached pieces, as part of the *actio prima*. Its interest is therefore surely not greatly lessened by the fact that it was never delivered in court just as it stands. We should have lost more than we should have gained by its conversion into a historical monograph.

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THE TEXT AND MANUSCRIPTS

The manuscript authorities for the text may be classified in four groups as follows :

1. The Vatican Palimpsest (*V*), written in the 3rd century or a little later. This is extant in some 50 fragments, none more than 12 sections long, and most of them about 3 or 4 sections long, of the *Actio Secunda*. As much our oldest authority, it is of high value, in spite of many imperfections.

2. (i.) The Cluni or Holkham ms. (*C*), of the 9th century. This only covers three passages of *Actio Secunda*, Book ii., about a quarter of the whole book. For these it is the best authority ; but its value goes further. It originally contained all Books ii. and iii., and was used by the writer of

(ii.) the Lagomarsinian ms. 42 (*O*) of the 15th century, which is consequently valuable for these two books, though not for the rest of the speeches ; and also by

(iii.) “Nannius,” “Fabricius,” and “Metellus,” 16th century scholars whose work, now available, allows us to infer, in many doubtful passages, what the Cluni ms. readings (*c*) were.

3. The “Italian” group : the two best of these, covering all the speeches, are

(i.) *Parisinus* 7776 (*p*) of the 11th century, and

(ii.) the good, though late, *Lagomarsinianus* 29 (*q*), of the 15th century, which is closely related to *p*. The earliest printed editions were made from inferior manuscripts of this group.

4. The “Gallican” group. Of these the earliest and best is

(i.) *Regius Parisinus* 7774A (*R*) of the 9th century : from which, or from a closely similar ms., was made