Vilnius University Press

Contents lists available at Vilnius University Press

Literatūra
2022, vol. 64(3), pp. 54–65

ISSN 0258-0802 eISSN 1648-1143
DOI: https://doi.org/10.15388/Litera.2022.64.3.5

Loci as Subject of Derision: Between Cicero's Rhetorical Theory and Practice

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Abstract. There is no doubt that commonplaces, so called *topoi*, or *loci*, played a very important role both in the ancient rhetorical theory and in practice. They conform to the main part of invention in the rhetorical treatises, such as *Rhetorica ad Herennium*, Cicero's *De Inventione*, *Topica* etc., and they enable an orator to develop his argument in any desirable direction (*in utramque partem*), and sometimes become the main tool of rhetorical strategy. In his *Orator*, Cicero claims, that an accomplished speaker, whom he tries to delineate as an ideal, will be perfectly familiar with commonplaces and be able to treat them critically and manipulate according to his purposes. In this paper, on the ground Cicero's Verrine speeches, I shall analyze how the orator predicts his opponents' *topoi* and presents them in a different light, and by criticizing or even by mocking them, he diminishes them in order to strengthen his own arguments. In some cases, e.g. in the Fifth Book of the *Actio secunda in Verrem* (*Verr*. 2.5), this becomes the main strategy of speech, and corresponds to the methods delineated in the *Orator* 49.
Keywords: Cicero, rhetorical theory, *topoi*, *loci*, Verrine speeches, *Orator*, irony.

Loci kaip pajuokos objektas: tarp Cicerono retorikos teorijos ir praktikos

Anotacija. Neabejotina, kad bendrosios vietos, vadinamos *topoi* arba *loci*, buvo labai svarbios antikinės retorikos teorijoje ir praktikoje. Jomis buvo grindžiama viena iš penkių retorikos dalių – invencija, išdėstyta retorikos traktatuose: *Retorika Herenijui*, Cicerono *Apie medžiagos suradimą*, *Topika* ir kt. Tinkamas *loci* naudojimas leido oratoriui plėtoti argumentus norima kryptimi, o kartais tapdavo svarbiausiu retorinės strategijos įrankiu. Veikale *Oratorius* Ciceronas teigia, kad tobulas oratorius privalo būti puikiai susipažinęs su bendrosiomis vietomis – gebėti kritiškai jas vertinti ir manipuliuoti jomis pagal poreikį.

Straipsnyje, remiantis Cicerono kalbų prieš Verį pavyzdžiais, nagrinėjama, kaip oratorius nuspėja, kokiomis bendrosiomis vietomis gali pasinaudoti jo priešininkas, ir, užbėgdamas už akių, parodo jas nepalankioje šviesoje. Dar daugiau – kritikuodamas ir išjuokdamas priešininko *loci*, oratorius sumenkina jų veiksmingumą ir taip sustiprina savo argumentus. Kartais, kaip Antrojo posėdžio prieš Verį penktojoje knygoje *Apie bausmes* (*Verr*. 2.5), tai tampa svarbiausia kalbos strategija ir atitinka *Oratoriuje* numatytus *loci* panaudojimo būdus (*Or*. 49).
Reikšminiai žodžiai: Ciceronas, retorikos teorija, *topoi*, *loci*, *Verinės*, *Oratorius*, ironija.

The research "*Loci* as Subject of Derision: Between Cicero's Rhetorical Theory and Practice" has been made as a part of the project *The Sources of Ancient Rhetoric* (2021–2024), supported by the Lithuanian Research Council. The material of this paper was first presented at The Twenty-Third Biennial Conference of the International Society for the History of Rhetoric (ISHR) *Topics and Commonplaces in Antiquity and Beyond*, Radboud University, Nijmegen, 2–6 August, 2022. I profited from valuable comments and questions from the audience, as well as presentations of other participants.

Received: 20/08/2022. **Accepted:** 30/09/2022.

The theory of *topoi* or *loci*[1] stretches from the sophists of the 5 BC through Roman rhetoric into modern rhetorical theory. Devised by the Greeks, it was developed by Roman rhetoric in its earliest examples (*Rhetorica ad Herennium* and Cicero's *De Inventione*) and later, in more or less details, in Cicero's treatises *De Oratore, Orator, Topica*, and *De Partitione Oratoria*. After Aristotle, Cicero is by far the most influential theoretical writer on the rhetorical topic (Mortensen 2008, 31). It is scarcely surprising that most studies on Ciceronian *topoi* focus on the theoretical part of question. To mention just some main trends of investigations, scholars try to detect and investigate all passages in Cicero's treatises related to the *locus communis*[2], trace the influence of Greek sources (mainly Aristotle, Teophrastus, Hermagoras) to the Ciceronian doctrine on this question (Rubinelli 2006; Hirsch 2022; Ahn 2022), treat the question from philosophical perspective[3], define different meanings of the terms *loci*, *loci communes*, *loci propria* in Cicero's usage (Mortensen 2008), and examine Ciceronian theory in a wider context and its influence to later epochs[4].

In this article, I shall pay more attention to the correlation between Ciceronian rhetorical theory and practice, i.e., his rhetorical treatises and orations. More precisely, on the examples of Verrine speeches, I shall show that the orator, relying on his knowledge of rhetorical precepts and practical skills, is able to predict his opponent's tactic in choosing some *loci*, and by criticising and mocking them subvert his opponent's strategy.

It is well known, that *loci* conform to the main part of invention as from them "everything that can be discovered and invented for any speech is derived"[5] (*ex quibus omnia ad omnem orationem inventa ducuntur – De Or.* 2.147), and they enable an orator to develop his argument in any desirable direction. Cicero metaphorically compares the *loci* with areas of hunting, in which one chases and tracks down the arguments (*regiones, intra quas venere et pervestiges, quod quaeras – ibid.*), and in another place – with gold buried in the earth in many places, which can be easily revealed, if one is able to recognize some indications of them and to dig properly (*De Or.* 2.174)[6].

This is a part of rhetorical education by no doubt necessary to everyone, even to an average orator. Not to use it properly in a speech means to provoke criticism of one's opponent. For instance, in *Rosc. Am*. 38, Cicero hastily assaults the prosecutor Erucius for not developing his argument properly enough, because he did not explain all *probabile*

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[1] To avoid the confusion of multiple synonymous terms, in the present article I will use the terms *locus/loci* for both the Greek and Latin context, and not divide topics into *loci*, *loci communes*, *loci proprii* etc. For the more precise usage of terms, see Rubinelli 2008, 31–56.

[2] As F. A. Cornelius did in her Master thesis, 1896, but the treatment is not sufficient both in depth and scope. The most comprehensive treatment of the *loci* of Cicero has occurred in commentary by T. Reinhardt 2003 on Cicero's *Topica*.

[3] For example, Ochs (1989, 217–27) theorizes a philosophical system of topical invention in Cicero; Michel (1960, 201–34), explores the relationship between *locus communis* and *thesis*; Bittner (1999, 245–56), looks at the relationship between rhetorical and dialectic concepts of the *locus* in Cicero.

[4] For the more detailed bibliography on the subject as well as on the influence of the Ciceronian rhetoric in the Middle Ages and Renaissance, see Mortensen 2008, 32–34, notes 3, 7, and 9.

[5] Transl. by James M. May and Jakob Wisse (2001).

[6] *ut enim si aurum cui, quod esset multifariam defossum, commonstrare vellem, satis esse deberet, si signa et notas ostenderem locorum, quibus cognitis ipse sibi foderet et id quod vellet parvo labore, nullo errore, inveniret.*

ex vita and all the circumstances of the case in order to prove such incredible crime as parricide; i.e., Erucius did not follow the precepts of rhetoric about the *loci* as prescribed in *Rhet. Herr*. 2.5, and *De Inv*. 2.37, 45, 50. This means that in the hands of an average orator, the *loci* do not play their role. As Cicero asserts in *De Invetione* 2.50, although *loci* are common to many cases, they are not *communes* to all orators. It demands a long and daily practice (*multa in exertatione*) in order to develop the ability to speak on every topic ornately and with gravity (*ornate et graviter*)[7]. In other words, *non omnia omnes possumus*, to use the famous verse of Lucilius and Vergil.

Another major quotation on the subject comes from the *Orator*, which, to my mind, can be treated as the ultimate expression of Cicero's rhetorical theory.

> 44. **noverit igitur hic quidem orator** quem summum esse volumus **argumentorum et rationum locos**. 46. <...> in hac Aristoteles adulescentis non ad philosophorum morem tenuiter disserendi, sed **ad copiam rhetorum**, in utramque partem ut ornatius et uberius dici posset, exercuit; idemque **locos** (sic enim appellat) **quasi argumentorum notas** tradidit, unde omnis in utramque partem traheretur oratio. 47. faciet igitur hic noster <...> ut, quoniam loci certi traduntur, **percurrat omnes, utatur aptis, generatim dicat**; ex quo emanent etiam qui communes appellantur loci. **nec vero utetur imprudenter hac copia, sed omnia expendet et seliget**. <...> 48. **iudicium igitur adhibebit** nec inveniet solum quid dicat sed etiam expendet. <...> sed ut segetes fecundae et uberes non solum fruges verum herbas etiam effundunt inimicissimas frugibus, sic **interdum ex illis locis aut levia quaedam aut causis aliena aut non utilia gignuntur**. 49. quorum nisi ab oratoris iudicio **dilectus magnus adhibebitur**; quonam modo ille **in bonis haerebit et habitabit** suis aut **molliet dura aut occultabit quae dilui non poterunt atque omnino opprimet**, si licebit, **aut abducet animos aut aliud afferet quod oppositum probabilius sit** quam illud quod obstabit?
>
> "The orator we intend to be best will therefore know the categories of proof and argumentation. <…> Aristotle used this to inculcate in the young not the philosophical habit of precise discussion but the rhetorical abundance that enables one to argue both sides of an issue elaborately and richly; he also taught the 'topics' (as he called them), a kind of shorthand for arguments by which any speech could be applied to either side of an issue. Our orator <...> will be sure to run his mind over all the well-defined topics he has learned, use appropriate ones, and speak in the generalized way that produces the so-called 'commonplaces'. He will not use his resource imprudently but will wight and select everything he says. <…> He will use his judgment, then, and ponder what he should say, not just happen upon it. <…> but just as rich and fertile farmland yields not only crops but also weeds very harmful to crops, so these topics sometimes produce trivial or irrelevant or useless arguments. If an orator does not judiciously cheese his arguments, how in the world will he linger and dwell on pluses, or mitigate the minuses, or disguise and even entirely suppress (if possible) what cannot be refuted, or distract his listeners, or adduce an

[7] *quare **non**, ut causarum, sic **oratorum quoque multorum communes loci sunt**. Nam **nisi** ab iis, **qui multa in exercitatione** magnam sibi verborum et sententiarum copiam conparaverint, **tractari non poterunt ornate et graviter**, quemadmodum natura ipsorum desiderat.* (*Inv.* 2.50)

"Therefore, though these are topics 'common' to many cases, they are not common to many orators. For they can not be treated with elegance and dignity, as their very nature requires, except by those who through long practice have acquired a vast store of words and ideas." (Transl. by H. M. Hubbell)

alternative that–once put in place–will be more convincing than the opposing argument?"[8]

Two aspects of the question should be noted here, which will be verified later on the examples from Ciceronian rhetorical practice, namely, the Verrine speeches. First, an ideal orator, whom Cicero tries to describe in his work, should be familiar with topics of reasoning and argument (*argumentorum et rationum locos*). These *topoi*, or *loci*, come from the tradition of Aristotle as a term (*sic enim apellat*) and a tool of training not as much for philosophical dispute (*non ad philosophorum morem tenuiter disserendi*), but, according to Cicero, in order to develop the abundant style of the rhetoricians (*ad copiam rhetorum*), as they teach to speak *in utramque partem* richer and more abundantly (*ornatius et uberius*). Besides, the *topoi* help to find arguments, because they are "a kind of sign or indication of the arguments (*locos… quasi argumentorum signa*) from which a whole speech can be formed on either side of question". On the other hand, – and this is the feature of a really capable orator – he will use them critically and ingeniously (*adhibebit iudicium*, *dilectus magnus adhibebitur*)[9]. For, just as fertile soil produces sometimes noxious weeds, so the arguments derived from these *loci* are sometimes inconsequential, insignificant, and useless (*interdum ex illis locis aut levia quaedam aut causis aliena aut non utilia gignuntur*). That is why a really eloquent person will make a strict selection, linger and dwell on the strong points, conceal or even suppress entirely the weak ones, or distract the attention of the audience, or present his arguments in a sequence that seems more advantageous, etc.

To sum up, the doctrine of *loci* and, more broadly, of the art of rhetoric in general, is the first and necessary ground for the orator, although not easily attained and often not properly used. Secondly, a truly eloquent speaker is not limited to knowledge of rhetorical technique, but draws his argumentation from the field of philosophy. Without philosophical knowledge and training, no one can speak thoughtfully and eloquently on such topics as religion, death (to follow Lambinus' *lectio*), piety, good and evil, virtues and vices, etc. (*Or*. 118). I shall not dwell longer on this well-known Ciceronian concept of the combining of rhetoric with philosophy, which he developed in his theoretical works and realized in his personal training, education and practice. As he claims in his famous phrase, he himself came and became what he is *non ex rhetorum officinis, sed ex Academiae spatiis* (*Or*. 12).

I will now turn to examples of the Verrine speeches in which Cicero disparages the use of *loci* by his opponents and, while criticizing or even ridiculing them, degrades them in order to strengthen his own arguments.

In the *Divination against Caecilius* (*In Q. Caecilium Divinatio*) 27–46, Cicero, assuming the role of a teacher, lays out questions of rhetoric to his adversary, Q. Caecilius Niger (another pretender for a role of prosecutor in Verres' trial), and converts the Divination's speech into a kind of rhetoric textbook. The episode is well-known and has been investigated by many scholars in various aspects. Alain Michel calls it the *second traité de la rhétorique cicéronienne* (Michel 1960, 74–75); Christopher Craig (1985, 442–446;

[8] Transl. by Robert A. Kaster.

[9] Cf. Cic. *Part*. 8: *Immo vero scrutabimur et quaeremus (sc. argumenta) ex omnibus (sc. locis), sed* ***adhibebimus iudicium*** *ut levia semper eiiciamus, non numquam etiam communia praetermittamus et non necessaria.*

1993, 57–61), Beth Innocenty (Innocenti 1994, 355–338) and Ann Vasaly (1993, 125; 2002, 87) touch it in their study of dilemma and vivid description; Paola Dalsasso explores the associations with theatre (Dalsasso 2014, 49–62). I myself have elsewhere (Kučinskienė 2010, 63–77) examined the relation of this episode to the theory of rhetoric of that period, the echoes of this episode in Cicero's later works of rhetoric, and the relation of this episode to the other speeches against Verres.

In his instructions in rhetoric, Cicero does not attempt to present his material systematically and consistently, but only touches on the main topics of rhetoric *en passant*[10]. He assumes that his audience will understand his hints by slight allusions to topics that should be recognized as coming from the school of rhetoric. With subtle jest, Cicero pretends to teach his opponent "the very rudiments of schoolboy rhetoric" (Craig 1985, 444), thereby defiantly and patronizingly descending to the level of the "schoolboy" Caecilius. Thus, the orator consciously appeals to the enlightenment of the public, enclosing a circle of educated people like Cicero himself and his audience, and consciously excluding Caecilius from this circle.

In the form of *prolepsis* (*anticipatio*, *occupatio*, *praesumptio*, *praemunitio*)[11], Cicero anticipates the question of his own abilities and qualities: *Fortasse dices: Quid ergo? haec in te sunt omnia?* (*Div. Caec*. 40). In response comes Cicero's famous confession of his psychological and physical anxieties and trembling every time before entering the courtyard and beginning to speak (*Div. Caec*. 41). In this consciousness of his own imperfection, quite in a Socratic way, Cicero proves his superiority and shows the stupidity of Caecilius, who is not even aware of his shortcomings. And here comes the first episode concerning the use of *loci*, or something that can be gleaned from textbooks: Caecilius has neither cares nor worries; he feels sufficiently prepared if he has learned by heart a few phrases from some old speech:

> *Tu horum nihil metuis, nihil cogitas, nihil laboras: si quid ex vetere aliqua oratione,* ***Iovem ego Optimum Maximum, aut Vellem, si fieri potuisset, iudices****, aut aliquid eius modi ediscere potueris, praeclare te paratum in iudicium venturum arbitraris.* (*Div. Caec*. 43)
>
> "You have no such fears, no such thoughts, no such anxieties. You imagine that if you can learn by heart a phrase or two out of some old speech, like 'I beseech almighty and most merciful God' or 'I could wish, gentlemen, had it only been possible' you will be excellently prepared for your entrance into court." (Transl. by L. H. G. Greenwood)

It is interesting to note that the first phrase *Iovem ego Optimum Maximum* comes from the Greek tradition of incantation at the beginning of speech, e.g., *De Corona* by Demos-

[10] E.g., in two paragraphs Cicero very fractionally hints about the main parts of rhetorical theory: *inventio* and *dispositio* (*Putasne te posse... ea... criminibus et oratione distinguere?* (*Div. Caec.* 38), *elocutio* (*causa non solum exponenda, sed etiam graviter copioseque agenda est* (*Div. Caec.* 39), *memoria* and *actio* (*tamen esset magnum tantam causam, tam exspectatam, et diligentia consequi et memoria complecti et oratione expromere et voce ac viribus sustinere* (*Div. Caec.* 39).

[11] Quint. *Inst.* 9.2.16. Cf. Lausberg 1990, 425.

thenes[12], and during the time of Cicero it became hackneyed. The second phrase *vellem, si fieri* is used by Cicero himself in *Pro Sulla* 1: *Maxime vellem, iudices, ut...*

The second episode that concerns us here is presented to Caecilius in the form of a dilemma: if Caecilius can correctly answer Cicero's speech in this preliminary trial of divination, then Cicero will recognize his readiness for the real trial and confrontation with the powerful adversary Q. Hortensius Hortalus:

> *Si enim mihi hodie respondere ad haec quae dico potueris,* ***si ab isto libro, quem tibi magister ludi nescio qui ex alienis orationibus compositum dedit, verbo uno discesseris****, posse te et illi quoque iudicio non deesse et causae atque officio tuo satis facere arbitrabor.* (*Div. Caec.* 47)
>
> "If you show yourself today to be able to reply to what I am now saying; if you use one single expression that is not contained in the book of extracts from other people's speeches with which some schoolmaster has presented you: then I will allow it possible that you will not be failure at the trial too, but do justice to the case and your responsible part in it." (Transl. by L. H. G. Greenwood)

But the negative answer is encoded in the conditional sentence itself, because Caecilius, according to Cicero, has nothing but a book compiled from ready-made phrases by some *magister ludi*, and he does not know how to improvise (*uno verbo discedere*).

It is important to emphasize that Cicero was the first to speak in this divination trial, as far as we can assume from his own words *respondere ad haec quae dico*. This means that he did not hear any of the "ready-made phrases", and did not know what kind of speech his opponent had prepared. But he suggests what arguments his opponent might have used. This ability to predict and anticipate an opponent's strategy shows even more clearly in the Fifth Verrine speech.

To the last book of *Actio secunda in Verrem* Cicero comes after examining in detail Verres' misdeeds in his earlier offices as *quaestor*, *legatus* and *praetor urbanus* in provinces of Asia, Achaea, Pamphylia and the city of Rome (book 1, *De praetura urbana*), and his crimes in office of praetor in Sicily, which are grouped in books according to their type: violation of law in courtroom and government of province (book 2, *De praetura Siciliensi*), financial machinations with corn tithe and corn purchase (book 3, *De frumento*), and especially descriptive part about plunder of art objects in book 4, *De signis*. Technically speaking, the fifth book, *De suppliciis*, of the speech was superfluous. Verres was charged in a trial on extortion according to the *lex Cornelia de repetundis*, and this part of charge had already been at length examined in previous books. Still Cicero finishes his accusation with most powerful and dramatic description of Verres' crimes in the office of general (*imperator*) and his illegitimate punishments of Sicilians and Roman citizens. I believe this is not only for the sake of impressiveness, although, if we treat the fifth book as a peroration of the whole *Actio secunda* speech, it perfectly realizes the rhetorical precept of arousing emotions. But even more important is that Cicero predicts, what strategy of

[12] Demosth. *Cor*. 1: πρῶτον μέν, ὦ ἄνδρες Ἀθηναῖοι, τοῖς θεοῖς εὔχομαι…

defence will be used by his opponent Q. Hortensius Hortalus.

Again, the principle of the rhetorical figure of *prolepsis* is at work here, when the speaker anticipates possible questions or objections to his argument, and poses the question as if to himself and answers it himself. Cicero is a master of *prolepsis*; he is fond of it and uses it rather often in his speeches; he sometimes even develops a series of such questions and answers, and creates the so-called "monologistic dialogue", to use the term of James M. May (1990, 177–180)[13]. Similarly, Cicero anticipates the main argument of the defence, namely, to present Verres as an outstanding general. That is why he, in the very first paragraph of his speech, immediately denounces the topics (*locos*) on which Hortensius will build his defence:

> *Sed quaedam mihi* ***magnifica et praeclara eius defensio ostenditur****; cui quem ad modum resistam* ***multo mihi ante est****, iudices,* ***providendum****. Ita enim causa constituitur, provinciam Siciliam virtute istius et vigilantia singulari dubiis formidolosisque temporibus a fugitivis atque a belli periculis tutam esse servatam. <...>* ***Novi locum; video ubi se iactaturus sit Hortensius****. Belli pericula, tempora rei publicae, imperatorum penuriam commemorabit; tum deprecabitur a vobis, tum etiam pro suo iure contendet ne patiamini talem imperatorem populo Romano Siculorum testimoniis eripi, ne obteri laudem imperatoriam criminibus avaritiae velitis. <...> Eadem nunc ab illis defensionis ratio viaque temptatur, idem quaeritur. Sit fur, sit sacrilegus, sit flagitiorum omnium vitiorumque princeps;* ***at est bonus imperator****, at felix et ad dubia rei publicae tempora reservandus.* (*Verr.* 2.5.1–4)
>
> "But I am aware that a truly noble and impressive plea will be urged in this defence; a plea that I must be ready, well in advance, to counter properly. The argument now being built up is this, that during these years of anxiety and danger the province of Sicily has been safely defended against the revolted slaves and the perils of war by the exceptional courage and vigilance of Verres. <...> I know the type of argument; I see the topics on which Hortensius triumphantly enlarge. He will remind you of the threatening military position, of the national crisis, of the shortage of good generals. <...> This is the line of defence which my opponents tend to adopt now, and the result at which they aim. Granted that Verres is a thief, that he is a sacrilegious thief, that he is a matchless exponent of vice and wickedness of every description: yes, he is a great commander, a fortunate commander whom we must keep to save our country in the hour of its danger." (Transl. by L. H. G. Greenwood)

In the theory of *staseis* or *status* developed by the rhetorician Hermagoras of Temnos (2–1 BC), such a defence corresponded to the *status coniecturalis* defined by Cicero himself: in *De invention*, he recommends to detract the attention of juries from the defendant's crimes by demonstration of his services to the State[14]. We do not have

[13] About the form of dialogue based on *prolepsis*, and its use in Cicero's speeches, see Kučinskienė 2016, 66–72.

[14] *Defensor autem primum, si poterit, debebit vitam eius, qui insimulabitur, quam honorissimam demostrare. id faciet, si ostendet aliqua eius nota et communia officia; <...>* ***si*** *ab eo cum magno* ***aliquid*** *labore aut periculo <...>* ***offici causa aut in rem publicam*** *<...>* ***factum esse*** *dicet*. (*Inv*. 2.35)

"The counsel of the defense, on the other hand, will have to show first, if he can, that the life of the accused has been upright in the highest degree. He will do this if he can point to some services well known to everyone: <...> if he can say that the defendant has performed some service to the state <...>." (Transl. by H. M. Hubbell)

Hortensius' speech *Pro Verre* delivered in the First Session of the trial[15], and possibly never will know anything about its contents nor validity. But Quintilian in his discussion on refutation (*Inst*. 5.13.34–35) mentions Hortensius' strategy among the errors which are often committed by not cautious enough (*parum cautis*) defenders: they give replies which have no relation to the charges made (*non ad proposita respondeant*). Although, as Quintilian admits, sometimes this tactic can be employed in a weak case (*mala causa*) which must be defended by "extraneous remedies" (*adhibitis extrinsecus remediis*), and gives Verres' trial as an example[16].

This testimony, first, makes us believe, that Cicero's provision was right, and Hortensius not only used the *locus* of *bonus imperator* as the main tool of defence in the First Session of the trial (*Actio prima*), but also would have kept the same tactics, if the Second Session (*Actio secunda*) had come about. Secondly, it does not mean at all, that this defence would have been weak and ineffective. We must bear in mind, that Quintilian knows that the case was lost, and Verres decided to go to exile even before the *Actio secunda* had started[17]. Nonetheless, Hortensius must have been quite confident in his chosen strategy.

The same tactics had brought an acquittal to Manius Aquilius, who had been charged on extortion (*de repetundis*) in the province of Sicily in 98 BC, and was defended by the famous orator of that time, M. Antonius. The advocate stressed the military merit of his defendant to the State and, at the end of his speech, tore Aquilius' tunic and showed his scars received from enemies in the Cimbric and the Servile Wars. Cicero suspects Hortensius to use the same argument and, with note of irony[18], says he is afraid of the same outcome of Verres trial: *timeo ne C. Verres propter hanc eximiam virtutem in re militari omnia quae fecit impune fecerit*. (*Verr*. 2.5.3)[19] In such a way, Cicero nullifies the validity of an *exemplum*, which will be successfully used by himself in defence of L. Flaccus (*Flac*. 98).

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[15] See Alexander 176, 46–53.

[16] *quod unum aliquando recipi potest, cum mala causa adhibitis extrinsecus remediis tuenda est, ut cum peculatus reus Verres fortiter et industrie tuitus contra piratas Siciliam dicitur.* (Quint. *Inst*. 5.13.35)

"This last, and this alone, may occasionally be acceptable, when a bad Cause has to be defended by palliatives introduced from elsewhere, as when Verres, accused of peculation, is said to have shown courage and energy in defending Sicily against pirates." (Transl. by D. A. Russell)

[17] "It is highly probable that Verres fled Rome before the second phase of his trial began. Verres himself attended only the first two days of the *Actio prima* (2.1.20). He apparently stayed in Rome, though, during both the obligatory adjournment and the *ludi* that followed." (Frazel 2004, 132) Nonetheless it is strongly credible that, as Frazel argues, the speech of *Actio secunda* "would have been largely composed before the proceedings ended so abruptly" (Frazel 2004, 128). Thus, we can assume with some certainty that strategy which forms the argument of speech in its written form correspond the initial project or the prosecutor. Even in *Divinatio in Caecilium* and, even more, in the speech of *Actio prima* there can be traced some indications that Cicero prefigures his future speeches, foreseeing the strategy and tactic of accusation that will become especially important in the second speech against Verres, see (Kučinskienė 2010, 70–72).

[18] Irony (*ironia*, εἰρωνεία, *dissimulatio*, *inversio verborum*, Lausberg 1990, § 582–585) is understood here as a figure of thought which inverts the meaning of a sentence or phrase, so that one thing is said, but another meant (*<...> dissimulatio est, cum alia dicuntur ac sentias, <...> cum aliter sentias ac loquare*, *De Or*. 2.269; cf. *De Or*. 3.203; *Or*. 137).

[19] "I do fear that outstanding merit of Gaius Verres in the military sphere may gain him impunity for doing all the things that he has done." (Transl. by L. H. G. Greenwood) Cicero puts this episode of Aquilius' trial once more in the mouth of M. Antonius himself (*De Or*. 2.194–195), and mentions it again several times (*Brut.* 222, *Off.* 2.50; *Planc.* 39).

In fact, Cicero is well aware of the force that arguments of military glory can have in a court of extortion. According to Thomas Frazel, "the magnificent and brilliant defense of *bonus imperator* draws upon fundamental Roman virtues, thereby nearly guaranteeing a victory in the courtroom" (Frazel 2009, 128).

In the hands of such an experienced orator as Hortensius, the successful amplification of Verres' military exploits and his competent defence of the province in the face of danger of the Third Servile War might outweigh his other misdeeds in Sicily. Then all the accusations in the fourth book of Verres embezzling works of art would have lost their weight in the eyes of the jury. We can assume that Cicero himself would have used exactly the same tactics, had he been in the position of advocate, as he did in 59 BC in the defence of L. Flaccus on a charge *de repetundis* in province of Asia. In any case, by announcing the future strategy of his opponent at the very beginning of the speech (*Novi locum; video ubi se iactaturus sit Hortensius*), Cicero makes Hortensius' project worth nothing and demonstrates his own skills with success.

Besides, let us note, Cicero starts the fifth book with an ironic exaggeration of Verres' military valour (*hanc eximiam virtutem*). Already in the *Divination against Caecilius*, i.e., the initial stage of the trial, Cicero, in his instruction to his opponent, pointed out to mockery as one of the powerful weapons in Hortensius' defence[20]. In response, Cicero demonstrates his own skills in irony and derision, which becomes one of the main tools of accusation throughout the whole Verrine speeches, and especially the final book of the *Actio secunda*[21].

This is what Cicero does – he simply replaces one *locus* with another, the topic of the *bonus imperator* with another, the *tyrannus*. This topic – to show a person as a *tyrannus*, *rex*, *dominus*, is well known both in Greek and Roman rhetoric. Treatises on rhetoric recommends it in a list of *loci* which is suitable device to arouse in the peroration indignation of public (*Rhet. Her*. 2.49, *Inv*. 1.102). But Cicero does not limit himself to the peroration, but spreads the topic throughout the whole speech[22]. The association is created not only by calling Verres *tyrannus*[23], but, even more, by depicting his features – *vis*, *libido*, *superbia*, *crudelitas* – which are characteristics of a *tyrannus*, recognizable to Cicero's audience (or, to say more precisely, readers) from dramas, historiography, philosophy[24]. In the Verrine speeches, Cicero fruitfully exploits this topic, as it suits very well to the Sicilian context: he ingeniously plays with a comparison of Verres and famous Sicilian tyrants of the past – Dionysius the Elder of Syracuse and Phalaris of Acragas[25].

To our present investigation, it is especially important to notice, that, in creating the image of *tyrannus*, the orator employs the topic of *bonus imperator* and perverts it by an impressive twist of irony. Cicero does not simply list the various ways in which Verres

[20] *Te vero, Caecili, quem ad modum sit elusurus* (*Div. Caec*. 45). For more detail, see Kučinskienė 2010, 74.
[21] See, e.g., Čitavičiūtė & Kučinskienė 2021, 153–172; Kučinskienė 2018, 229–243.
[22] According to Frazel 2009, 60–62, this is an innovation of Cicero.
[23] *Verr*. 2.1.82, 2.3.20, 25, 115, 2.4.51, 73, 123, 2.5.21, 103, 117, 143.
[24] See Dunkle 1967, 156; Dunkle 1971, 12–20; Vasaly 1987, 217–218; Vasaly 1993, 122–123.
[25] *Verr*. 2.4.73, 123, 2.5.143–145.

was an incompetent magistrate and general, but rather pretends to praise his shrewdness with which he fulfilled his duties. He figures Verres in typical activities of *imperator* and *gubernator* of the province: in a 'military camp', or rather to say, his party-camp surrounded by a host of women (2.5.86), in preventing servile revolt in Sicily (*Verr*. 2.5.10–24), in insuring the readiness and equipment of the fleet (*Verr*. 2.5.43–59), fighting against pirates in a naval battle (*Verr*. 2.5.80–138), etc. In these vivid descriptions saturated with irony, instead of the glorious general, the effeminate, cowardly, lustful and cruel tyrant Verres appears before our eyes. Although the topic is well known from the repertoire of rhetorical *progymnasmata*, Cicero develops it magnificently, with all his power of irony and mockery, dramatic and vivid description, inventive dialogues and other rhetorical devices. In addition, his perfection and superiority over the enemy primarily lie in his ability to predict and anticipate the future moves of his opponent. In this situation, presented by Cicero, Hortensius does not seem much better than the "schoolboy" Caecilius.

Thomas D. Frazel in his study on the Verrine speeches states: "They (i.e., the Romans and Sicilians, who had been so grossly mistreated by Verres) might have not thought that rapacious temple robbers lived only in *progymnasmata*. Indeed, they may have desperately hoped that jury would not dismiss the portrait of Verres as a stock invective or a banal common place, but would give them redress." (Frazel 2009, 223) I would rise a question otherwise. How can you persuade the jury and readers that a "rapacious temple robbers" and cruel tyrants do not exist only in *progymnasmata*? How can you make your speech not sound as a well-known *locus* or trivial abuse of invective? In another words, how can you cross the limits of rhetorical theory and go further beyond it?

Throughout the *Actio secunda*, Cicero seems to be trying to dissociate himself from rhetorical technique. He constantly emphasizes that everything he says, and that can hardly seem credible, is not an *ars* of the prosecutor, but a fact itself: that he does not use the usual and, therefore, trivial means of accusation (*non utar ista accusatoria consuetudine*, 2.5.19); that every crime is not invented by the accuser (*non ab accusatore fictum*, 2.3.141) (Frazel 2009, 223–224). Depicting an ekphrasis of the sadly abandoned fields of Sicily, Cicero assures that this is not an amplification (*Non mehercule augendi criminis causa, iudices, dicam*, 2.3.46); even the first sentence of the fourth book, which is in fact a detailed and an almost pedantic enumeration of the genera of art objects stolen by Verres in Sicily (2.4.1), according to Cicero, is not a kind of "prosecutory talk" (*non accusatorie loqui*) and is not intended to be reinforced (*non... criminis augendi causa*, 2.4.2). Only Cicero could have dared to take the risk of claiming something unbelievable and, at the same time, assuring that he was speaking sincerely; to use manifestly a rhetorical figure and, at the same time, to claim that he was not relying on the rhetorical means. But this is the real perfection of eloquence, when *ars adeo latet arte sua* (Ov. *Met*. 10.252), that it achieves its goal unnoticeably. This is another level of oratory perfection – not only to masterfully use the sources of rhetorical theory with its rules and regulations, but also to go further, breaking these rules and inventively dealing with them, as prescribed in *Orator* 49, quoted at the beginning of this paper.

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