

A GREAT ORATOR MISLAID

I

Ser. Sulpicius Rufus (*cos.* 51) has seldom gone short of approbation: not only noble and patrician but the first jurist to reach the consulate since Q. Scaevola. When Cicero in 63 spoke in defence of Murena he deprecated and derided the claims of legal erudition. Seventeen years later, composing in dialogue form a history of Roman eloquence, he made handsome amends to Servius, at some length (*Brutus* 150 ff.).

After matching M. Antonius with L. Crassus, the pair of masters who dominated the epoch preceding his own, the expositor brings Crassus into comparison with the jurist Q. Mucius Scaevola (by happy coincidence they shared the *fascēs* in 95). Each was far from incompetent in the science professed by the other. Whereupon the alert Brutus was moved to intervene with a question: might not a similar parallel for excellence obtain between Cicero and Ser. Sulpicius, likewise coeval?

The artful device insinuates a long excursus, breaking the chronological order of the whole treatise. Together from early youth and together at Rhodes, the two friends practised the same ‘exercitationes’. In oratory Servius might perhaps have become ‘par principibus’. He preferred the law: in fact he excelled Scaevola and all predecessors, so Cicero affirms, to the ingenuous surprise of the interlocutor.

Servius had made a sagacious choice between the two civilian arts. In oratory (first in rank and estimation at Rome) Servius achieved enough for a lawyer and a consul: ‘quantum esset et ad tuendum ius civile et ad obtinendam consularem dignitatem satis’ (*Brutus* 155).

The *Brutus* furnishes ready and vivid verdicts on speakers of the time. Five consular Lentuli are put on show for style and manner, from Clodianus and Sura to the savage and minatory Crus. All dead, it is true, and they benefit from much indulgence. For Servius no writing of Cicero acclaims a public occasion when the consul displayed his talent – and no appeal to an oration of any kind. For the eloquence of Servius the friend falls back on what the legal works disclose: ‘et litterarum scientiam et loquendi elegantiam’ (153). Posterity is defrauded, the earnest student at a loss.

II

Compensation accrues in a late season. Quintilian conveys no fewer than thirteen references to a Servius or a Servius Sulpicius. The first four need not detain: the *Pro Murena* and the *Ninth Philippic* – that is, the commemoration of Servius who died early in 43 during the mission to negotiate with Marcus Antonius the proconsul of Gallia Cisalpinga.¹

The fifth alludes briefly to legal studies: ‘Scaevolae Servioque Sulpicio est etiam facundiae virtus’ (12. 3. 9). Naming Scaevola, the notice derives patently from the *Brutus* and it reflects the argument there expounded. Mere ‘facundia’ (be it noted in passing) is not enough to put a jurist among the masters of style and eloquence. Cicero did not think so, and the professor would concur.

Next, a speech of Servius Sulpicius ‘pro Aufidia’. Three references. The first offers a sentence in quotation (4. 2. 106), the second is manifestly corrupt (6. 1. 20), the third carries a precious detail: Messalla as the prosecutor (10. 1. 22).

¹ *Pro Murena* (4. 1. 75; 11. 1. 69); *Phil.* 9 (3. 8. 5; 7. 3. 18).

Quintilian knew that speech. The *Pro Aufidia* is also quoted by Festus (p. 140 L). Not inappropriate, given the affinity between jurists and antiquarian writers. Furthermore, the lady called Aufidia: according to the *Digest* the jurist numbered among his pack of disciples two Aufidii, Tucca and Namusa.²

The date of that famous oration was worth ascertainment. One of the three notices in Quintilian registers the prosecutor. The question thus turns upon the age of Messalla Corvinus, upon his occupations and those of the eminent consular.

Corvinus went to Athens to perfect his education in the spring of 45 and was back at Rome in June of the next year.³ How much time elapsed before he joined Cassius and Brutus is not clear. The first indication comes at a late date. In June or July of 43 he took a dispatch from Cicero to Brutus: the letter commends his proficiency as a speaker.⁴ *Nobiles* were quick and precocious.

Ser. Sulpicius Rufus was abroad in 47, residing for a time at Samos. In 46/5 he governed Achaëa for Caesar; in 44 he was absent from Rome from early May until late September; and he died in late January of 43. The season in which Servius and Corvinus spoke in the case of Aufidia is therefore circumscribed. The oration has been assigned with confidence to 44, to the end of that year.⁵

On that showing a youth of twenty confronts a sexagenarian consular in the season of renewed disturbance before or after Caesar's heir made his first march on Rome. Not to be ruled out. Perhaps Servius disliked inactivity of any sort. On Samos he gave instruction to Brutus in 'ius pontificium' (*Brutus* 156), and he left books to the total of nearly a hundred and eighty. Again, duty prescribes the defence of a client or friend of the family. Anything can happen – except (as has been asserted) the *Pro Aufidia* excluding (and therefore serving to date) the marriage of Servius' son to a sister of Messalla Corvinus.⁶

III

The five further passages in Quintilian now invite inspection, or rather demand it.

(1) 10. 1. 116. A list of signal performers proceeds from Caelius Rufus and Licinius Calvus to Cassius Severus. In between falls the item 'et Servius Sulpicius insignem non inmerito famam tribus orationibus meruit'.

(2) 12. 10. 11. There can arise an 'ingens proventus' of splendid orators flourishing about the same time. The author specifies their qualities of mark. Thus 'dignitatem Messalae, sanctitatem Calvi, gravitatem Bruti, acumen Sulpici, acerbitem Cassi reperiemus'. Hence Servius Sulpicius, possessing 'acumen', shares a label with Julius Caesar (cf. 10. 1. 114). Further, as before, Servius has a late position, preceding the great Cassius Severus of the Augustan age.

(3) 10. 5. 4. Translation affords useful training for orators. Messalla was a notable example. And there is no doubt about the value to be got from translating verse. That was the only type of 'exercitatio' practised by Sulpicius, so it is said.

(4) 10. 7. 30. Most orators bring notes with them to court, to be equipped against emergencies. Some however improvise, and the 'commentarii' are composed later, 'in libros digesti'. Thus Servius Sulpicius, 'cuius tres orationes extant'.

² *Dig.* 1. 2. 44.

³ *Ad Att.* 12. 32. 3; 15. 17. 2.

⁴ *Ad M. Brutum* 20. 1; 23. 1f. Both passages were neglected by R. Hanslik, *RE* VIII A, 166f.

⁵ Thus R. Hanslik, *op. cit.* 133, 137.

⁶ Such is the argument of R. Hanslik, *op. cit.* 137. The marriage is revealed only by Jerome, *Adv. Iov.* 1. 46: from Seneca, *De matrimonio*.

(5) 9. 4. 38. To avoid a nasty clash of sounds (a 'stridor') Servius Sulpicius used to suppress 's' before a following consonant: 'quod reprehendit Luranius, Messala defendit'.

IV

This Luranius is a total enigma, and the name might be corrupt. Some suppose 'Veranius'.⁷ It is pardonable to avoid entanglement with certain writers, a Veranius, a Veranius Flaccus (or for that matter a Granius Flaccus); and one need not bother to indicate that 'Luranius', even if attested sparsely or never, is in itself unobjectionable, because of 'Lurius'.⁸

It is Messalla who should excite profitable interest in this context. He had an exacting taste in matters of grammar and orthography. As Quintilian states, he composed whole treatises about single words (1. 7. 35); and he is cited 'in libro de S littera' (7. 23). All in all, Messalla was 'Latini utique sermonis observator diligentissimus'.⁹

A certain preoccupation with words, with orthography, with purity of language, will not be denied to a lawyer or a legal writer, whether ancient or modern. Servius and Messalla concord admirably – but for one impediment, their time of life.

V

A suspicion begins to percolate. The man who delivered the famous *Pro Aufidia* is not the elderly consular acquiring sudden glory within a few months of his decease. It is the homonymous son.

As a valid argument for the parent stands the fact that Festus quoted the oration (p. 140 L). It is balanced or annulled by a neglected item in the same compiler, concerning the definition of 'municeps'. After quoting Aelius Gallus the text proceeds with 'at Servius filius aiebat' (p. 126 L).

That item might be waived. Oratory is the point at issue. Cicero's amicable assessment in the *Brutus* was an exercise in that congenial technique to which Plutarch devotes an essay: self-laudation without incurring dispraisal. Cicero did not intend to promote his friend the jurist anywhere near the front rank of orators. He was satisfied with eloquence adequate to serve a lawyer and a consul – and he cited no oration.

Assiduous study set its mark on the jurist. Habits acquired in youth, not discarded during the mature years, may persist to old age. By contrast the man of 'insignis fama' in Quintilian. For sole 'exercitatio' he relied on the translating of poets. He looks like a spirited improviser (no notes when he went into court). By character and comportment in the various walks of life, the old jurist carried the label of a notorious 'cunctator'.¹⁰

As concerns the age of Servius Sulpicius (the orator produced by Quintilian), and his acme, the two passages that register lists appear to be decisive (10. 1. 116; 12. 10. 11). Servius escapes the vicinity of Cicero. He is lodged after Calvus or after Brutus. Each time before Cassius Severus.

⁷ The emendation of Bergk. Not registered in the O.C.T. edition (1970).

⁸ The Italian volumes of *CIL* show no specimen. Nor can Africa oblige, often the last refuge of rarities. Africa has about sixty Lurii. 'Veranius' is indeed seductive.

⁹ Seneca, *Controv.* 2. 4. 8.

¹⁰ *Ad fam.* 8. 8. 3 (Caelius Rufus).

VI

The youthful Servius, 'adolescens ingeniosus et bonus', helped the parent when late in 63 he indicted the successful rival for the consulship. His birth may fall in 81 or 80. If so, he is close coeval to D. Brutus, who is described as his 'consobrinus' (*Ad fam.* 11. 7. 1). Decimus took over through adoption the name of a Postumius Albinus, the last of that patrician house.¹¹ Rational conjecture suggests that, like Servius, Decimus had for mother a Postumia.¹²

In 50 (to be presumed the year of his quaestorship) Decimus was at Rome, paying court to a lady who had divorced her husband during his absence abroad (*Ad fam.* 8. 7. 2). In the spring of that year both Cicero and Atticus conceived hopes of annexing Servius for Tullia (*Ad Att.* 5. 21. 14). This widow (who had run through two husbands) and her powerful mother had a contrary notion. They wanted a more dynamic character, the dreadful Dolabella.

The wife selected for Servius emerges as a Valeria, sister to Messalla Corvinus, on solitary attestation.¹³ The patriciate in decline was closing its ranks. This appropriate match may belong in 50 or not much later.

When the war came the old jurist, cautious during a retarded consulship (which he reached with help from the proconsul of Gaul), now declined to follow Magnus and the Republic – and his wife Postumia was an influence on the other side. The son also evaded action or hazard in the dangerous years and in the sequel to the Ides of March. He was at Rome early in February 43, but did not attend the session of the Senate that paid honour to the deceased parent.¹⁴ Apart from brief mention in a letter of June addressed to Decimus Brutus (*Ad fam.* 11. 24. 2) he appears to fade out. Some have been disposed to wonder whether he perished in the Proscriptions.¹⁵ That fate is unlikely. Birth tends to protect the *nobiles* – as when the Triumvirs put Messalla Corvinus on the list and failed to keep him there.

VII

A satire of Horace, composed in or about the year 35, presents a group of persons not alien to eloquence: Pollio, te, Messalla, tuo cum fratre simulque | vos, Bibule et Servi, simul his te, candide Furni (1. 10. 85f.).

About the identity of Servius, no doubt should obtain.¹⁶ The brother of Messalla is L. Gellius Poplicola (*cos.* 36): the half-brother, born to Messalla Niger (*cos.* 61) by his first wife.¹⁷ Nor is the presence of (L. Calpurnius) Bibulus any mystery. Surviving the field of Philippi, Bibulus and Corvinus at once transferred their allegiance to Marcus Antonius.

There is something more, the identity of Corvinus' first wife, presumably the lady

¹¹ Münzer, *RE Supp.* v, 370.

¹² R. Syme, *Sallust* (1964), p. 134. In 63 the wife of D. Junius Brutus (*cos.* 77) was a Sempronia (*Cat.* 25).

¹³ Jerome, *Adv. Iov.* 1. 46. Given his age (about thirty) and mortality at Rome an earlier wife is not excluded.

¹⁴ *Phil.* 9. 12: 'adfectus luctu non adest'. Servius was omitted from *MRR* (1952), cf. *Historia* 4 (1955), 70 = *Roman Papers* (1979), pp. 289f. He may have been quaestor in 50 or 49.

¹⁵ Münzer, *RE* IV A, 862. Also Shackleton Bailey on *Ad Att.* 5. 4. 1 ('probably').

¹⁶ Only 'vielleicht' in Münzer (loc. cit.) and in the commentary of Kiessling-Heinze (ed. 9, 1958).

¹⁷ Messalla Potitus (suff. 29) has been proposed by R. Hanslik, *RE* VIII A, 136. It is preferable to regard him as a son of Rufus (*cos.* 53).

revealed by an inscription as 'Calpurnia M. f.'.¹⁸ Calpurnii with 'Marcus' for *praenomen* are not common. Corvinus' wife might be a daughter of M. Piso (*pr.* 44). Better, a daughter of M. Bibulus (*cos.* 59). She bore a son in 36, namely Messallinus. Death or divorce ended the marriage, perhaps in the season of Actium.¹⁹

Finally, Furnius. His father was absent, proconsul of Asia about this time. Both are on record as orators of signal distinction.²⁰

The group thus congregated avows a Republican and Antonian nexus. It is also a family party. Corroboration accrues from Pedius, named along with Messalla Corvinus for forensic activity earlier in the poem (10. 28).²¹ His father, consul suffect as colleague to Caesar's heir in August of 43, had married a Valeria: a sister to Corvinus, or rather a half-sister.²²

Servius Sulpicius in this congenial company encourages the notion that *Pro Aufidia* falls in the period 39–33. The case may have come up in the sequel of the Proscriptions. After 40 Rome of the Triumvirs, with no little discomfort, offered an interlude, a resumption of polite studies, and hence perhaps an incentive to a late developer. Brutus and Calvus were not by so much senior to Servius, but they had gone a long way; and the son of the jurist nowhere found mention among eager disciples of Cicero such as P. Crassus.

Servius leaves no later trace. His Valeria was remembered with honour because she declined further matrimony. A daughter was the poetess 'Servi filia Sulpicia'.²³ A son emerges casually as an assistant to Messalla Corvinus when he took up the charge of the aqueducts in 11.²⁴ His name, Postumius Sulpicius, attracts the student of Roman nomenclature. It declares an ancestry – and the end of two patrician families.²⁵

VIII

To resume. On proper scrutiny the thirteen *testimonia* in Quintilian divide sharply, to disclose two persons of contrasted achievement. The first is advertised in two Ciceronian orations; and, a master of legal science comparable to Scaevola, he is conceded 'facundiae virtus'.

The second Servius Sulpicius is a performer of renown, 'cuius tres orationes extant'. His only method of 'exercitatio' was the translation of Greek poetry; and when he appeared in court he did not bother to bring notes with him. Like Messalla Corvinus, he had views about the letter 's'. Furthermore, Servius earns a place beside M. Brutus and Licinius Calvus. The two notices to that effect indicate his age and his period.

The texts speak. No call therefore to invoke evidence external to Quintilian such as the role of Servius in early youth at the prosecution of Murena, his marriage to

¹⁸ *ILS* 5989. There is also the title of 'Calpurnia Corvini', published in *Bull. Comm.* (1889), 208.

¹⁹ For the hypothesis about the sister of L. Bibulus see further *History in Ovid* (1978), pp. 119f. The son of Corvinus by his second wife, i.e. Cotta (*cos.* A.D. 20), was born c. 14 B.C.

²⁰ *PIR*², F 590 f.

²¹ The word 'Poplicola' in the same line attaches to Pedius, cf. (against Münzer), E. Fraenkel, *Horace* (1957), p. 135. Apart from that brief comment the section devoted to *Sat.* 1. 10 reveals no interest in any of the people.

²² The marriage emerges from Pliny, *HN* 35. 21. The son is identified as Q. Pedius, quaestor urbanus in 41 (*ILS* 3201). Hence a clue to the age of the mother.

²³ Another daughter might be discovered in 'Sulpicia Ser. f.' who married a Cassius (*ILS* 3103). This lady is generally held a daughter of the jurist. Thus Münzer, *RE* IV A, 878 f. (with the family stemma).

²⁴ Frontinus, *De aq.* 99.

²⁵ By his proper style surely 'Ser. Sulpicius Postumius'. One of the earliest instances of the gentilicium of a mother or grandmother used as a cognomen.

Messalla's sister, his presence along with Messalla at a notable congregation in Rome of the *Triumvirs*.

If the dichotomy is accepted, momentous consequences ensue. A new magnitude emerges to strengthen and adorn the annals of Roman eloquence.

On any count Quintilian was guilty of inadvertence. To Quintilian, as to the world of education ever after, Servius Sulpicius was a known and potent name, rendered illustrious in two compositions of classic renown, the *Pro Murena* and the *Ninth Philippic*.²⁶ Quintilian amalgamated the jurist and the orator – or else he fancied that no reader could fail to keep them apart.²⁷

IX

The father obscures the son. Homonyms in the Roman aristocracy are an annoyance to a reader if the author has not been careful to furnish unobtrusive guidance.²⁸ Error about identities may afflict the incautious and persist for a long time. Worse things can happen to a professor of rhetoric. Quintilian twice quoted the *Invectiva in Ciceronem*. He took it for a composition of Sallust.²⁹

Education and the training of young orators was Quintilian's theme, a task nobly achieved. Despite his preoccupation with Cicero, he evinces little concern with the historical setting of the speeches. Asconius is nowhere named. The Patavine scholar had a keen interest in men and families – and he was alert to bogus orations.³⁰

The survival of speeches and their transmission from age to age is an entertaining topic. According to Cassius Severus, 'orationes Sallustii in honorem historiarum leguntur'.³¹ The low estimate provokes curiosity. On the showing of Asconius, the harangues delivered by the tribune of the plebs in 52 were spirited products.³² Violence and hostility to Cicero should have appealed to Cassius Severus.

Papers of Sallust might have passed to his grand-nephew, the minister of state, and thence to the eloquent Passienus Crispus. The notion is of some relevance to Servius the orator, nowhere on record as such before the testimony of Quintilian. The three speeches (it is not inconceivable) were a fairly recent discovery. The family and descendants of Messalla Corvinus might carry the answer. Or again, Licinius Mucianus who in the reign of Vespasian was collecting speeches and documents from the closing epoch of the Republic.³³

X

Servius the jurist and Servius the orator entail brief epilogue on a minor but cognate problem, namely the writing of erotic verse. Ovid adduces a Servius as honourable precedent (*Tristia* 2. 441). Further, Pliny. When defending a blameless activity he had recently taken up, he comes out with a catalogue of fifteen illustrious names (5. 4. 3). It is not in strict chronological order, but Servius Sulpicius follows Q. Scaevola. Pliny, it is clear, had the consular jurist in mind.

For guidance (or perhaps to enhance perplexity) the Ovidian passage should be quoted in full:

²⁶ Quintilian quotes or cites *Pro Murena* twenty-four times, the other oration only twice.

²⁷ If so, he miscalculated, as the unanimity of modern scholarship declares and certifies.

²⁸ For Tacitus on Pisones, *JRS* 46 (1956), 17ff. = *Ten Studies in Tacitus* (1970), pp. 50ff.

²⁹ Quintilian 4. 1. 68; 9. 3. 89.

³⁰ Asconius 84 (speeches of Sergius Catilina and C. Antonius).

³¹ Seneca, *Controv.* 3, praef. 8.

³² Asconius 33. Sallust and two colleagues 'inimicissimas contiones de Milone habebant, invidiosas etiam de Cicerone'.

³³ Tacitus, *Dial.* 37. 2f.

nec minus Hortensi, nec sunt minus improba Servi
carmina. quis dubitet nomina tanta sequi?

Now Hortensius is the orator and consul, with poems on various attestation. Moreover, to learned and innocent alike, the phrase 'nomina tanta' implies consular rank for Servius as well as for Hortensius. None the less several scholars opt for the son.³⁴

Those men may be right. To Ovid, writing in A.D. 9 and referring to a past that was Republican and already remote, the one name might gently create a prepossession about the other. His testimony forfeits utility. If certain indications in Quintilian are held valid, the father of the poetess becomes the better candidate. Not that it matters much. The safe and judicious will refuse to pronounce for either, while conciliatory critics (whose operations are normally suspect) may have both.

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³⁴ Thus Münzer, *RE* IV A, 862; Schanz-Hosius, *Gesch. der r. Lit.* II⁴ (1935), p. 273; Anon. in *OCD*² (1970), p. 1022 (with no argument).