THE

ORATIONS

OF

MARCUS TULLIUS CICERO

TRANSLATED BY

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VOL. II.

THREE ORATIONS ON THE AGRARIAN LAW, THE FOUR AGAINST CATILINE, THE ORATIONS FOR RABIRIUS MURENA, SYLLA, ARCHIAS, FLACCUS, SCAURUS ETC. ETC.

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CONTENTS.

	PAGE
Fragments of the Oration for M. Tullius	1
——— for M. Fonteius	16
Oration for A. Cæcina	35
——— in defence of the proposed Manilian Law	77
——— for A. Cluentius	104
Fragments of the Oration for C. Cornelius	188
——— against C. Antonius and L. Catinna	194
First Oration concerning the Agrarian Law	202
Second Oration concerning the Agrarian Law	213
Third Oration concerning the Agrarian Law	257
Oration for C. Rabirius	263
First Oration against L. Catilina	278
Second Oration against L. Catilina	292
Third Oration against L. Catilina	303
Fourth Oration against L. Catilina	317
Oration for L. Murena	330
——— for P. Sylla	374
——— for A. L. Archias	411
——— for L. Flaccus	424
First Oration after Cicero's return	470
Second Oration after Cicero's return	491
Oration against P. Clodius and C. Cœlio	502
——— for M. Æmilius Scaurus	505

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CICERO'S ORATIONS.

THE FRAGMENTS WHICH REMAIN OF THE SPEECH OF M. T. CICERO ON BEHALF OF MARCUS TULLIUS.[1]

THE ARGUMENT.

Marcus Tullius had a farm; and a man of the name of Publius Fabius had bought another farm bordering on it. On the farm of Tullius there was a large field which Fabius coveted greatly; and as he could not obtain it by bargain, or by any legal process, (though he does seem to have tried this latter expedient,) he arms a gang of slaves, and sends them to take possession of the land: they murder Tullius's slaves, and demolish and burn the villa which he had there. After all this, Tullius prosecutes Fabius for the damage done. So that, as it seems, this speech ought rather to be called a speech against Publius Fabius than a speech on behalf of Marcus Tullius.

FORMERLY, O judges, I had determined to conduct this cause in a different manner, thinking that our adversaries would deny that their household was implicated in such a violent and atrocious murder. Accordingly, I came with a mind free from care and anxiety, because I was aware that I could easily prove that by witnesses. But now, when it has been confessed, not only by that most honourable man, Lucius Quintius, but when Publius Fabius himself has not hesitated to admit the facts which are the subject of this trial, I come forward to plead this cause in quite a different manner from that in which I was originally prepared to argue it. For then

[1] This Oration is in a very imperfect and corrupt state. It is only lately that even what we have of it has been discovered in the North of Italy. It has been edited with great care by C. Beier, who has, however, gone rather beyond the province of an editor in filling up *lacunæ* of several lines at a time to complete what he considers must have been Cicero's meaning. Those additions of his I have generally thought it better to omit from the translation, as they rest on no authority, and as this work professes only to be a translation of Cicero himself.

my anxiety was to be able to prove what I asserted had been done. Now all my speech is to be directed to this point, to prevent our adversaries from being in a better position, merely because they have admitted what they could not possibly deny though they greatly wished to do so. Therefore, as matters stood at first your decision was more difficult, but my defence was easy. For I originally rested my whole case on the evidence; now I rest it on the confession of my adversary; and to oppose his audacity in acts of violence, his impudence in a court of justice, may fairly be considered as the task of your power, not of my abilities.—For what is easier than to decide on the case of a man who confesses the fact? But it is difficult for me to speak with sufficient force of that which cannot be by language made out worse than it is in reality, and cannot be made more plain by my speech than it is by the confession of the parties actually concerned.

As, therefore, on account of the reasons which I have stated, my system of defence must be changed, I must also forget for a little time, in the case of Publius Fabius, that lenity of mine which I practised at the previous trial, when I restrained myself from using any arguments which might have the appearance of attacking him, so much that I seemed to be defending his reputation with no less care than the cause of Marcus Tullius. Now, since Quintius has thought it not foreign to the subject to introduce so many statements, false for the most part and most wickedly invented, concerning the life and habits and character of Marcus Tullius, Fabius must pardon me for many reasons, if I do not now appear to spare his character so much, or to show the same regard for it now as I did previously. At the former trial I kept all my stings sheathed; but since, in that same previous trial, he thought it a part of his duty to show no forbearance whatever to his adversary, how ought I to act, I, a Tullius for another Tullius, a man kindred to me in disposition not less than in name? And it seems to me, O judges, that I have more need to feel anxious as to whether my conduct will be approved in having said nothing against him before, than blamed for the reply I now make to him. But I both did at that time what I ought to have done, and I shall do now what I am forced to do. For when it was a dispute about money matters, because we said that Marcus Tullius had

sustained damage, it appeared foreign to my character to say anything of the reputation of Quintus Fabius; not because the case did not open the door to such statements. What is my conduct then? Although the cause does require it, still, unless when he absolutely compels me against my will, I am not inclined to condescend to speak ill of him. Now that I am speaking under compulsion, if I say anything strong, still I will do even that with decency and moderation, and only in such a way that, as he could not consider me hostile to him at the former trial, so he may now know that I am a faithful and trustworthy friend to Marcus Tullius.

One thing, O Lucius Quintius, I should wish to obtain from you, which, although I desire because it is useful for me, still I request of you because it is reasonable and just,—that you would regulate the time that you take to yourself for speaking, so as to leave the judges some time for coming to a decision. For the time before, there was no end to your speech in his defence; night alone set bounds to your oration. Now, if you please, do not do the same; this I beg of you. Nor do I beg it on this account, because I think it desirable for me that you should pass over some topics, or that you should fail to state them with sufficient elegance, and at sufficient length; but because I do think it enough for you to state each fact only once. And if you do that, I have no fear that the whole day will be taken up in talking.

The subject of this trial which comes before you, O judges, is, What is the pecuniary amount of the damage inflicted on Marcus Tullius by the malice of the household of Quintus Fabius, by men armed and banded together in a violent manner. Those damages we have taxed; the valuation is yours; the decision given is that the amends shall be fourfold. As all laws and all legal proceedings which seem at all harsh and severe have originated in the dishonesty and injustice of wicked men, so this form of procedure also has been established within these few years on account of the evil habits and excessive licentiousness of men. For when many families were said to be wandering armed about the distant fields and pasture lands, and to be committing murders, and as that fact appeared to concern not merely the estates of individuals, but the main interests of the republic, Marcus Lucullus, who often presided as judge with the greatest equity and wisdom,

first planned this tribunal, and had regard to this object, that all men should so restrain their households that they should not only not go about armed to inflict damage on any one, but, even if they were attacked, should defend themselves by law, rather than by arms: and though he knew that the Aquilian law[1] about damage existed, still he thought, that, as in the time of our ancestors both men's estates and their desires were less, and as their families, not being very numerous, were restrained by fear of important consequences, it very seldom happened that a man would be killed, and it was thought a nefarious and unprecedented atrocity; and therefore, that there was at that time no need of a system of judicial procedure with reference to bodies of men collected in a violent manner and armed; (for he thought that if any one established a law or a tribunal for matters which were not usual, he seemed not so much to forbid them as to put people in mind of them.) In these times, when after a long civil war our manners had so far degenerated that men used arms with less scruple, he thought it necessary to establish a system of judicial procedure, with reference to the whole of a man's household, in the formula, "Which was said to have been done by the household," and to assign judges, in order that the matter might be decided as speedily as possible; and to affix a severe punishment, in order that audacity might be repressed by fear, and to take away that outlet, "Damage unjustly caused."

That which in other causes ought to have weight, and which has weight by the Aquilian law, namely, that damage had been caused by armed slaves in a violent manner,

* * * * * *

Men must decide themselves when they could lawfully take arms, collect a band, and put men to death. When an action was assigned, this alone was to be the point at issue, "whether it appeared that damage had been inflicted by the malice of the household, by men collected and armed acting in a violent manner," and the word "unjustly" was not to be added;

[1] The Lex Aquilia provided for the damages which any one was to pay to the owner, in the case of his having unlawfully killed any slave or quadruped. Actions under this law were limited to damage done by actual contact; though the subject of them was extended afterwards *Vide* Smith, Dict. Ant. p. 313, in voc. *Damni injuria Actio.*

he thought that he had put an end to the audacity of wicked men when he had left them no hope of being able to make any defence.

6 Since, then, you have now heard what this judicial procedure is, and with what intention it was established, now listen, while I briefly explain to you the case itself, and its attendant circumstances.

Marcus Tullius had a farm, inherited from his father, in the territory of Thurium, O judges, which he was never sorry to have, till he got a neighbour who preferred extending the boundaries of his estate by arms, to defending them by law. For Publius Fabius lately purchased a farm of Caius Claudius, a senator,—a farm bordering on that of Marcus Tullius,—dear enough, for nearly half as much again (though in a wretched state of cultivation, and with all the buildings burnt down) as Claudius himself had given for it when it was in a good and highly ornamented condition, though he had paid an extravagant price for it.

* * * * * *

I will add this also, which is very important to the matter. When the commander-in-chief died, though he wished to invest a sum of money, got I know not how, in a farm, he did not so invest it, but he squandered it. I do not very greatly wonder that, hampered as he was by his own folly, he wished to extricate himself how he could. But this I cannot marvel at sufficiently, this I am indignant at, that he strives to remedy his own folly at the expense of his neighbours, and that he endeavoured to pacify his own ill-temper by the injury of Tullius.

7 There is in that farm a field of two hundred acres, which is called the Popilian field, O judges, which had always belonged to Marcus Tullius, and which even his father had possessed. That new neighbour of his, full of wicked hope, and the more confident because Marcus Tullius was away, began to wish for this field, as it appeared to him to lie very conveniently for him, and to be a convenient addition to his own farm. And at first, because he repented of the whole business and of his purchase, he advertised the farm for sale. But he had had a partner in the purchase, Cnæus Accironius, a most excellent man. He was at Rome, when on a sudden messengers came to Marcus Tullius from his villa, to say that

Publius Fabius had advertised that neighbouring farm of his for sale, offering a much larger quantity of land than he and Cnæus Acerronius had lately purchased. He applies to the man. He, arrogantly enough, answers just what he chooses. And he had not yet pointed out the boundaries. Tullius sends letters to his agent and to his bailiff, to go to the procurator of Caius Claudius, in order that he might point out the boundaries to purchasers in their presence. But he * * * * * * refused to do this. He pointed out the boundaries to Acerronius while they were absent; but still he did not give them up this Popilian field. Acerronius excused himself from the whole business as well as he could, and as soon as he could; and he immediately revoked any agreement which he had with Fabius, (for he preferred losing his money to losing his character,) and dissolved partnership with such a man, being only slightly scorched. Fabius in the meantime brings on the farm picked men of great courage and strength, and prepares arms such as were suitable and fit for each of them; so that any one might see that those men were equipped, not for any farming work, but for battle and murder. In a short time they murdered two men of Quintus Catius Æmilianus, an honourable man, whom you all are acquainted with. They did many other things; they wandered about everywhere armed; they occupied all the fields and roads in an hostile manner, so that they seemed not obscurely but evidently to be aware of what business they were equipped for. In the meantime Tullius came to Thurium. Then that worthy father of a family, that noble Asiaticus, that new farmer and grazier, while he was walking in the farm, notices in this very Popilian field a moderate-sized building, and a slave of Marcus Tullius, named Philinus. "What business have you," says he, "in my field?" The slave answered modestly and sensibly, that his master was at the villa; that he could talk to him if he wanted anything. Fabius asks Acerronius (for he happened to be there at the time) to go with him to Tullius. They go. Tullius was at the villa. Fabius says that either he will bring an action against Tullius, or that Tullius must bring one against him. Tullius answers that he will bring one, and that he will exchange securities with Fabius at Rome. Fabius agrees to this condition. Presently he departs.

The next night, when it was near day-break, the slaves of Publius Fabius come armed and in crowds to that house which I have already mentioned, which was in the Popilian field. They make themselves an entrance by force. They attack the slaves of Marcus Tullius, men of great value, unawares, which was very easy to do; and as these were few in number and offered no resistance, they, being a numerous body well armed and prepared, murdered them And they behaved with such rancour and cruelty that they left them all with their throats cut, lest, if they left any one only half dead and still breathing, they should get the less credit. And besides this, they demolish the house and villa. Philinus, whom I have already mentioned, and who had himself escaped from the massacre severely wounded, immediately reports this atrocious, this infamous, this unexpected attack to Marcus Tullius. Tullius immediately sends round to his friends, of whom in that neighbourhood he had a numerous and honourable body. The matter appears scandalous and infamous to them all.

* * * * * *

Listen, I entreat you, to the evidence of honest men touching those affairs which I am speaking of. Those things which my witnesses state, our adversary confesses that they state truly. Those things which my witnesses do not state, because they have not seen them and do not know them, those things our adversary himself states. Our witnesses say that they saw the men lying dead; that they saw blood in many places; that they saw the building demolished. They say nothing further. What says Fabius? He denies none of these things. What then further does he add? He says that his own household of slaves did it. How? By men armed, with violence. With what intention? That that might be done which was done. What is that? That the men of Marcus Tullius might be slain. If, then, they contrived all these circumstances with this intention, so that men assembled in one place, and armed themselves, and then marched with fixed resolution to an appointed place, chose a suitable time, and committed a massacre,—if they intended all this and planned it, and effected it,—can you separate that intention, that design, and that act from malice? But those words "with malice are added in this form of procedure with reference to the man

who does the deed, not to him to whom it is done. And that you may understand this, O judges, attend, I beg of you, carefully. And, in truth, you will not doubt that this is the case.

If the trial were assigned to proceed on this ground, that the fact to be proved was, "That it had been done by the household," then if any household itself had been unwilling to appear personally in the slaughter, and had either compelled or hired the assistance of other men, whether slaves or free men, all this trial, and the severe justice of the prætor, would be at an end. For no one can decide that, if the household were not present at a transaction, in that transaction the household itself committed damage with men armed, in a violent manner. Therefore, because that could be done, and done easily too, on that account it was not thought sufficient for investigation to be made as to what the household itself had done, but as to this point also, "What had been done by the malice of the household." For when the household itself does anything, men being collected together and armed, in a violent manner, and inflicts damage on any one, that must be done by malice. But when it forms a plan to procure such a thing to be done, the household itself does not do it, but it is done by its malice. And so by the addition of the words "by malice" the cause of both plaintiff and defendant is made more comprehensive. For whichever point he can prove, whether that the household itself did him the damage, or that it was done by the contrivance and assistance of that household, he must gain his cause.

You see that the prætors in these last years have interposed between me and Marcus Claudius with the insertion of this clause,—"From which, O Marcus Tullius, Marcus Claudius, or his household, or his agent, was driven by violence." And what follows is according to the formula in the terms in which the prætor's interdict ran, and in which the securities were drawn up. If I were to defend myself before a judge in this way,—to confess that I had driven men out by violence—to deny that there was malice in it,—who would listen to me? No one, I suppose; because, if I drove out Marcus Claudius by violence, I drove him out by malice; for malice is a necessary ingredient in violence; and it is sufficient for Claudius to prove either point,—either that he was driven out with vio-

lence by me myself, or that I contrived a plan to have him driven out with violence. More, therefore, is granted to Claudius when the interdict runs thus, "from which he was driven by violence, by my malice," than if it had merely said, "whence he was driven by me by violence." For, in this latter case, unless I had myself driven him out, I should gain my cause. In the former case, when the word "malice" is added, whether I had merely originated the design, or had myself driven him out, it is inevitable that it should be decided that he had been violently driven out by me with malice.

The case in this trial, O judges, is exactly like this, and, indeed, identical with it. For I ask of you, O Quintius, if the point in question were, "What appeared to be the pecuniary amount of the damage done by the household of Publius Fabius, by armed men, to Marcus Tullius," what would you have to say? Nothing, I suppose; for you confess everything, both that the household of Publius Fabius did this, and that they did it violently with armed men. As to the addition, "with malice," do you think that that avails you, that by which all your defence is cut off and excluded? for, if that addition had not been made, and if you had chosen to urge, in your defence, that your household had not done this, you would have gained your cause if you had been able to prove this. Now, whether you had chosen to use that defence, or this one which you are using, you must inevitably be convicted; unless we think that a man is brought before the court who has formed a plan, but that one who has actually done an action is not; since a design may be supposed to exist without any act being done, but an act cannot exist without a design. Or, because the act is such that it could not be done without a secret design, without the aid of the darkness of night, without violence, without injury to another, without arms, without murder, without wickedness, is it on that account to be decided to have been done without malice? Or, will you suppose that the pleading has been rendered more difficult for me in the very case in which the prætor intended that a scandalous plea in defence should be taken from him? Here, now, they do seem to me to be men of very extraordinary talent, when they seize themselves on the very thing which was granted to me to be used against them; when they use rocks and reefs as a harbour and an anchorage. For they wish the word "malice" to be kept in the shade; by

which they would be caught and detected, not only since they have done the things themselves which they admit having done, but even if they had done them by the agency of others.

I say that malice exists not in one action alone, (which would be enough for me,) nor in the whole case only, (which would also be enough for me,) but separately in every single item of the whole business. They form a plan for coming upon the slaves of Marcus Tullius: they do that with malice. They take arms: they do that with malice. They choose a time suitable for laying an ambush and for concealing their design: they do that with malice. They break open the house with violence: in the violence itself there is malice. They murder men, they demolish buildings: it is not possible for a man to be murdered intentionally, or for damage to be done to another intentionally, without malice. Therefore, if every part of the business is such that the malice is inherent in each separate part, will you decide that the entire business and the whole transaction is untainted with malice? What will Quintius say to this? Surely he has nothing to say, no one point, I will not say on which he is able to stand, but on which he even imagines that he is able. For, first of all, he advanced this argument, that nothing can be done by the malice of a household. By this topic he was tending not merely to defend Fabius, but to put an end utterly to all judicial proceedings of this sort. For if that is brought before the court with reference to a household, which a household is absolutely incapacitated from doing, there is evidently no trial at all; all must inevitably be acquitted for the same reason. If this were the only case, (it would be well, indeed, if it were,) but if it were the only case, still you, O judges, being such as you are, ought to be unwilling that an affair of the greatest importance, affecting not only the welfare of the entire republic but also the fortunes of individuals—that a most dignified tribunal, one established with the greatest deliberation, and for the weightiest reasons, should appear to be put an end to by you. But this is not the only thing at stake. * * *

* * the decision in this case is waited for with so much anxiety as shows that it is expected to rule not one case only, but all cases. * * * * *

Shall I say that violence was done by the household of Publius Fabius? Our adversaries do not deny it. That

damage was done to Marcus Tullius? You grant that—I have carried one point. That this violence was done by armed men? You do not deny that—I have carried a second point. You deny that it was done with malice; on this point we join issue. * * * * *

Nor, indeed, do I see any need of looking for arguments by which that trivial and insignificant defence of his may be refuted and done away with. And yet I must speak to the statements which Quintius has made; not that they have anything to do with the matter, but that it may not be thought that anything has been granted by me, merely because it has been overlooked.

You say that inquiry ought to be instituted whether the men of Marcus Tullius were slain wrongfully or no. This is the first inquiry that I make about the matter,—whether that matter has come before the court or not. If it has not come, why then need we say anything about it, or why need they ask any questions about it? But if it has, what was your object in making such a long speech to the prætor, to beg him to add to the formula the word "wrongfully," and because you had not succeeded, to appeal to the tribunes of the people, and here before the court to complain of the injustice of the prætor because he did not add the word "wrongfully." When you were requesting this of the prætor,—when you were appealing to the tribunes, you said that you ought to have an opportunity given to you of persuading the judges, if you could, that damage had not been done to Marcus Tullius wrongfully. Though, therefore, you wish that to be added to the formula of the trial, in order to be allowed to speak to that point before the judges; though it was not added, do you nevertheless speak to it as if you had gained the very thing which was refused to you? But the same words which Metellus used in making his decree, the others, whom you appealed to, likewise used. Was not this the language of them all,—that although that which a household was said to have done by means of men armed and collected in a violent manner, could not possibly be done rightly, still they would add nothing? And they were right, O judges. For if, when there is a refuge open to them, still slaves commit these wickednesses with the greatest audacity, and masters avow them with the greatest

shamelessness, what do you think would be the case if the prætor were to decide that it is possible that such murders should be committed lawfully? Does it make any difference whether the magistrates establish a defence for a crime, or give people power and liberty to commit crime? In truth, O judges, the magistrates are not influenced by the extent of the damage, to assign a trial in this formula. For if it were the case, the magistrates would not give recuperators rather than a judex,[1]—not an action against the whole family, but against the one who was proceeded against by name; nor would the damages be estimated at fourfold, but at double; and to the word "damage" would be added the word "wrongfully." Nor, indeed, does the magistrate who has assigned this trial depart from the provisions of the Aquilian law about other damage, in cases in which nothing is at issue except the damage. And to this point the prætor ought to turn his attention.

In this trial, you see the question is about violence; you see the question is about armed men; you see that the demolition of houses, the ravaging of lands, the murders of men, fire, plunder, and massacre are brought before the court. And do you wonder that those who assigned this trial thought it sufficient that it should be inquired whether these cruel, and scandalous, and atrocious actions had been done or not; not whether they had been done rightly or wrongfully? The prætors, then, have not departed from the Aquilian law which was passed about damage; but they appointed a very severe course of proceeding in the case of armed men acting with violence. Not that they thought that no inquiry was ever to be made as to the right or the wrong; but they did not think it fit that they who preferred to manage their business by arms rather than by law should argue the question of right and wrong. Nor did they refuse to add the word "wrongfully" because they would not add it in other cases; but they did not think that it was possible for slaves to take arms and collect a band rightfully. Nor did they refuse because they thought, that if this addition were made, it would be possible to persuade such men as these judges that it had not been wrongfully done, but because they would

[1] We are not acquainted with the difference between the judex and the recuperatores. *Vide* Smith, Dict. Ant p. 529, v. *Judex* in init.

not appear to put a shield in the hands of those men in a court of justice, whom they had summoned before the court for taking those arms which they did take.

The same prohibitory law about violence existed in the time of our ancestors which exists now. "From which you, or your household, or your agent have this year driven him, or his household, or his agent, by violence." Then there is added, with reference to the man who is being proceeded against, "When he was the owner;" and this further addition also, "Of what he possessed, having acquired it neither by violence, nor secretly, nor as a present." The man who is said to have driven another away by violence has many pleas of defence allowed him, (and if he can prove any one of them to the satisfaction of the judge, then, even if he confesses that he drove him out by violence, he must gain his cause,) either that he who has been driven out was not the owner, or that he had got possession from him himself by violence, or by stealth, or as a present. Our ancestors left so many pleas of defence, by which he might gain his cause, even to the man who confessed himself guilty of violence.

Come, now, let us consider another prohibitory law, which has also been now established on account of the iniquity of the times, and the excessive licentiousness of men.

* * * * * *

And he read me the law out of the Twelve Tables, which permits a man to kill a thief by night, and even by day if he defends himself with a weapon; and an ancient law out of the sacred laws, which allows any one to be put to death with impunity who has assaulted a tribune of the people. I imagine I need say no more about the laws.

And now I, for the first time in this affair, ask this question:—What connexion the reading of these laws had with this trial? Had the slaves of Marcus Tullius assaulted any tribune of the people? I think not. Had they come by night to the house of Publius Fabius to steal? Not even that. Had they come by day to steal, and then had they defended themselves with a weapon? It cannot be affirmed. Therefore, according to those laws which you have read, certainly that man's household had no right to slay the slaves of Marcus Tullius.

"Oh," says he, "I did not read it because of its bearing on

that subject, but that you might understand this, that it did not appear to our ancestors to be anything so utterly intolerable for a man to be slain." But, in the first place those very laws which you read, (to say nothing of other points,) prove how utterly our ancestors disapproved of any man being slain unless it was absolutely unavoidable. First of all, there is that holy law which armed men petitioned for, that unarmed men might be free from danger. Wherefore it was only reasonable for them to wish the person of that magistrate to be hedged round with the protection of the laws, by whom the laws themselves are protected. The Twelve Tables forbid a thief—that is to say, a plunderer and a robber—to be slain by day, even when you catch him, a self-evident enemy, within your walls. "Unless he defends himself with a weapon," says the law; not even if he has come with a weapon, unless he uses it, and resists; "you shall not kill him. If he resists, *endoplorato*," that is to say, raise an outcry, that people may hear you and come to your aid. What can be added more to this merciful view of the case, when they did not allow that it might be lawful for a man to defend his own life in his own house without witnesses and umpires?

Who is there who ought more to be pardoned, (since you bring me back to the Twelve Tables,) than a man who without being aware of it kills another? No one, I think. For this is a silent law of humanity, that punishment for intentions, but not for fortune, may be exacted of a man. Still our ancestors did not pardon even this. For there is a law in the Twelve Tables, "If a weapon escapes from the hand" * * If any one slays a thief, he slays him wrongfully. Why? Because there is no law established by which he may do so. What? suppose he defended himself with a weapon? Then he did not slay him wrongfully. Why so? Because there is a law * * * * *

Still it would have been done by violence. * * Still in that very spot which belonged to you, you not only could not lawfully slay the slaves of Marcus Tullius, but even if you had demolished the house without his knowledge, or by violence, because he had built it in your land and defended his act on the ground of its being his, it would be decided to have been done by violence, or secretly. Now, do you yourself decide how true it is, that, when your household had no power to

throw down a few tiles with impunity, he had power to commit an extensive massacre without violating the law. If, now that that building has been demolished, I myself were this day to prosecute him on the ground "that it was done by violence, or secretly," you must inevitably either make restitution according to the sentence of an arbitrator, or you must be condemned in the amount of your security. Now, will you be able to make it seem reasonable to such men as these judges, that, though you had no power of your own right to demolish the building, because it was, as you maintain, on your land, you had power of your own right to slay the men who were in that edifice?

"But my slave is not to be found, who was seen with your slaves. But my cottage was burnt by your slaves." What reply am I to make to this? I have proved that it was false. Still I will admit it. What comes next? Does it follow from this that the household of Marcus Tullius ought to be murdered? Scarcely, in truth, that they ought to be flogged; scarcely, that they ought to be severely reprimanded. But granting that you were ever so severe; the matter could be tried in the usual course of law, by an every-day sort of trial. What was the need of violence? what was the need of armed men, of slaughter, and of bloodshed?

"But perhaps they would have proceeded to attack me." This, in their desperate case, is neither a speech nor a defence, but a mere guess, a sort of divination. Were they coming to attack him? Whom? Fabius. With what intention? To kill him. Why? to gain what? how did you find it out? And that I may set forth a plain case as briefly as possible, is it possible to doubt, O judges, which side seems to have been the attacking party?—Those who came to the house, or those who remained in the house? Those who were slain, or those, of whose number not one man was wounded? Those who had no imaginable reason for acting so, or those who confess that they did act so? But suppose I were to believe that you were afraid of being attacked, who ever laid down such a principle as this, or who could have this granted him without extreme danger to the whole body of citizens, that he might lawfully kill a man, if he only said that he was afraid of being hereafter killed by him?

[The rest of this oration is lost.]

THE FRAGMENTS WHICH REMAIN OF THE SPEECH OF M. T. CICERO ON BEHALF OF MARCUS FONTEIUS.

THE ARGUMENT.

Fonteius had been prætor of Gallia Narbonensis for three years, and was accused now by the people of the province, and by Induciomarus, one of their princes, of great oppression and exaction in his government, and especially of imposing an arbitrary tax upon their wines. There were two hearings of this cause, but we have only this one speech of Cicero's with reference to it remaining; and this is in a very mutilated state.

I. * * For I defend Marcus Fonteius, O judges, on this ground, and I assert that after the passing of the Valerian law, from the time that Marcus Fonteius was quæstor till the time when Titus Crispinus was quæstor, no one paid it otherwise. I say that he followed the example of all his predecessors, and that all those who came after him, followed his. What, then, do you accuse? what do you find fault with? For because in these accounts, which he says were begun by Hirtuleius, he misses the assistance of Hirtuleius, I cannot think that he either does wrong himself, or wishes you to do wrong. For I ask you, O Marcus Plætorius, whether you will consider our case established, if Marcus Fonteius, in the matter respecting which he is now accused by you, has the man whom you praise above all others, namely Hirtuleius, for his example; and if Fonteius is found to have done exactly the same as Hirtuleius in the matters in which you commend Hirtuleius? You find fault with the description of payment. The public registers prove that Hirtuleius paid in the same manner. You praise him for having established these peculiar accounts. Fonteius established the same, with reference to the same kind of money. For, that you may not ignorantly imagine that these accounts refer to some different description of debt, know that they were established for one and the same reason, and with reference to one and the same sort of money. For when * * * *

II. * * * * * No one—no one, I say, O judges—will be found, to say that he gave Marcus Fonteius one sesterce during his prætorship, or that he appropriated one out of that money which was paid to him on account of the treasury. In no account-books is there any hint of such a robbery; among all the items contained in them there will not be found one trace of any loss or diminution of such monies. But all those men whom we ever see accused and found fault with by this sort of inquiry, are overwhelmed with witnesses; for it is difficult for him who has given money to a magistrate to avoid being either induced by dislike of him, or compelled by scrupulousness, to mention it; and in the next place, if the witnesses are deterred from appearing by any influence, at all events the account-books remain uncorrupted and honest. Suppose that every one was ever so friendly to Fonteius; that such a number of men to whom he was perfectly unknown, and with whom he was utterly unconnected, spared his life, and consulted his character; still, the facts of the case itself, the consideration of the documents, and the composition of the account-books, have this force, that from them, when they are once given in and received, everything that is forged, or stolen, or that has disappeared, is detected. All those men made entries of sums of money having been received for the use of the Roman people; if they immediately either paid or gave to others equally large sums, so that what was received for the Roman people was paid to some one or other, at all events nothing can have been embezzled. If any of them took any money home * * *

III. Oh, the good faith of gods and men! no witness is found in a case involving a sum of three million two hundred thousand sesterces! Among how many men? Among more than six hundred. In what countries did this transaction take place? In this place, in this very place which you see. Was the money given irregularly? No money at all was touched without many memoranda. What, then, is the meaning of this accusation, which finds it easier to ascend the Alps than a few steps of the treasury; which defends the treasury of the Ruteni with more anxiety than that of the Roman people; which prefers using unknown witnesses to known ones, foreign witnesses to citizens; which thinks that it is establishing a charge more plainly by the capricious evi-

dence of barbarians than by documents written by our fellow citizens? Of two magistracies, each of which is occupied in handling and dealing with large sums of money, the triumvirate[1] and the quæstorship, such accurate accounts have been rendered, that in those things which were done in the sight of men, which affected many men's interests, and which were set forth both in public and private registers, no hint of robbery, no suspicion of any offence can possibly arise. The embassy to Spain followed, in a most disturbed time of the republic; when, on the arrival of Lucius Sylla in Italy, great armies quarrelled about the tribunals and the laws; and in this desperate state of the republic * * *

If no money was paid, of what sum is that fiftieth a part?

* * * * * *

Since his cause is not the same as that of Verres

* * * * * *

a great quantity of corn from Gaul; infantry, and a most numerous army from Gaul, a great number of cavalry from Gaul * * *

That after this the Gauls would drink their wine more diluted, because they thought that there was poison in it

* * * * * *

I. * * * * that in the time of this prætor Gaul[2] was overwhelmed with debt. From whom do they say that loans of such sums were procured? From the Gauls? By no means. From whom then? From Roman citizens who are

[1] There were several sorts of *triumviri* who were concerned in the pecuniary affairs of the state: the *triumviri mensarii*, who were a sort of bankers, but who seem to have been permanently employed by the state, in whose hands we read, that not only the ærarium, but also private individuals deposited sums of money which they had to dispose of; (*Vide* Smith, Dict. Ant. p. 613, v. *Mensarii*;) the *triumviri monetales*, who had the whole superintendence of the mint, and of the money that was coined in it; and the *triumviri capitales*, who, among their other duties, enforced the payment of fines due to the state, and the *triumviri sacris conquirendis donisque persequendis*, who seem to have had to take care that all property given or consecrated to the gods was applied to that purpose, and who must therefore have been responsible for its application. *Vide* Smith, Dict. Ant. p 1009, v. *Triumviri*.

[2] The passages preceding this figure do not occur in old editions; they were found in the Vatican by Niebuhr, and published by him in 1820. They are still in a very corrupt state. The Roman figures at the heads of the subsequent chapters are those which occur in all older editions, in which the oration began here.

trading in Gaul. Why do we not hear what they have got to say? Why are no accounts of theirs produced? I myself pursue and press the prosecutor, O judges; I pursue him, I say, and I demand witnesses. In this cause I am taking more pains and trouble to get them to produce their witnesses, than other advocates for the defence usually take to refute them. I say this boldly, O judges, but I do not assert it rashly. All Gaul is filled with traders,—is full of Roman citizens. No Gaul does any business without the aid of a Roman citizen; not a single sesterce in Gaul ever changes hands without being entered in the account-books of Roman citizens. See how I am descending, O judges, how far I seem to be departing from my ordinary habits, from my usual caution and diligence. Let one set of accounts be produced, in which there is any trace whatever which gives the least hint of money having been given to Fonteius; let them produce out of the whole body of traders, of colonists, of publicans, of agriculturists, of graziers, but one witness, and I will allow that this accusation is true. O ye immortal gods! what sort of a cause is this? what sort of a defence? Marcus Fonteius was governor of the province of Gaul, which consists of those tribes of men and of cities, some of whom (to say nothing of old times) have in the memory of the present generation carried on bitter and protracted wars with the Roman people; some have been lately subdued by our generals, lately conquered in war, lately made remarkable by the triumphs which we have celebrated over them, and the monuments which we have erected, and lately mulcted, by the senate, of their lands and cities: some, too, who have fought in battle against Marcus Fonteius himself, have by his toil and labour been reduced under the power and dominion of the Roman people. There is in the same province Narbo Martius,[1] a colony of our citizens, set up as a watch-tower of the Roman people, and opposed as a bulwark to the attacks of those very natives. There is also the city of Massilia, which I have already mentioned, a city of most gallant and faithful allies, who have made amends to the Roman people for the dangers to which they have been exposed in the Gallic wars, by their service and assistance; there is, besides, a large number of Roman citizens, and most honourable men.

[1] Narbo Martius is the present town of Narbonne.

38499

II. Of this province, consisting of this variety of people, Marcus Fonteius, as I have said, was governor. Those who were enemies, he subdued; those who had lately been so, he compelled to depart from the lands of which they had been deprived by the senate. From the rest, who had been often conquered in great wars, on purpose that they might be rendered obedient for ever to the Roman people, he exacted large troops of cavalry to serve in those wars which at that time were being carried on all over the world by the Roman people, and large sums of money for their pay, and a great quantity of corn to support our armies in the Spanish war. The man who has done all these things is now brought before a court of law. You who were not present at the transactions are, with the Roman people, taking cognisance of the cause; those men are our adversaries who were compelled to leave their lands by the command of Cnæus Pompeius; those men are our adversaries who having escaped from the war, and the slaughter which was made of them, for the first time dare to stand against Marcus Fonteius, now that he is unarmed. What of the colonists of Narbo? what do they wish? what do they think? They wish this man's safety to be ensured by you; they think that theirs has been ensured by him. What of the state of the Massilians? They distinguished him while he was among them by the greatest honours which they had to bestow; and now, though absent from this place, they pray and entreat you that their blameless character, their panegyric, and their authority may appear to have some weight with you in forming your opinions. What more shall I say? What is the inclination of the Roman citizens? There is no one of that immense body who does not consider this man to have deserved well of the province, of the empire, of our allies, and of the citizens.

III. Since, therefore, you now know who wish Marcus Fonteius to be attacked, and who wish him to be defended, decide now what your own regard for equity, and what the dignity of the Roman people requires; whether you prefer trusting your colonists, your traders, your most friendly and ancient allies, and consulting their interests, or the interests of those men, whom, on account of their passionate disposition, you ought not to trust; on account of their disloyalty you ought not to honour. What, if I produce also a

still greater number of most honourable men to bear testimony to this man's virtue and innocence? Will the unanimity of the Gauls still be of more weight than that of men of such great authority? When Fonteius was governor of Gaul, you know, O judges, that there were very large armies of the Roman people in the two Spains, and very illustrious generals. How many Roman knights were there, how many military tribunes, how many ambassadors came to them! what eminent men they were, and how frequently did they come! Besides that, a very large and admirably appointed army of Cnæus Pompeius wintered in Gaul while Marcus Fonteius was governor. Does not Fortune herself appear to have intended that they should be a sufficient number of sufficiently competent witnesses of those things which were done in Gaul while Marcus Fonteius was prætor? Out of all that number of men what witness can you produce in this cause? Who is there of all that body of men whose authority you are willing to cite? We will use that very man as our panegyrist and our witness. Will you doubt any longer, O judges, that that which I stated to you at the beginning is most true, that there is another object in this prosecution, beyond causing others, after Marcus Fonteius has been overwhelmed by the testimonies of these men, from whom many contributions have been exacted, greatly against their will, for the sake of the republic, to be for the future more lax in governing, when they see these men attacked, who are such men that, if they are crushed, the empire of the Roman people cannot be maintained in safety.

IV. A charge has also been advanced that Marcus Fonteius has made a profit from the making of roads; taking money either for not compelling people to make roads, or for not disapproving of roads which had been made. If all the cities have been compelled to make roads, and if the works of many of them have not been passed, then certainly both charges are false,—the charge that money has been given for exemption, when no one was exempted; and for approval, when many were disapproved of. What if we can shift this charge on other most unimpeachable names? not so as to transfer any blame to others, but to show that these men were appointed to superintend that road-making, who are easily able to show that their duty was performed, and performed

well. Will you still urge all these charges against Marcus Fonteius, relying on angry witnesses? When Marcus Fonteius was hindered by more important affairs of the republic, and when it concerned the republic that the Domitian road should be made, he entrusted the business to his lieutenants, men of the highest characters, Caius Annius, Bellienus, and Caius Fonteius. So they superintended it; they ordered what seemed necessary, as became their dignity, and they sanctioned what seemed well done. And you have at all events had opportunities of knowing these things, both from our documents, from documents which you yourselves have written, and from others which have been sent to you, and produced before you; and if you have not already read them, now hear us read what Fonteius wrote about those matters to his lieutenants, and what they wrote to him in answer.

[*The letters sent to Caius Annius the Lieutenant, and to Caius Fonteius the Lieutenant; also, the letters received from Caius Annius the Lieutenant, and from Caius Fonteius the Lieutenant, are read.*]

I think it is plain enough, O judges, that this question about the road-making does not concern Marcus Fonteius, and that the business was managed by these men, with whom no one can find fault.

V. Listen now to the facts relating to the charge about wine, which they meant to be the most odious, and the most important charge. The charge, O judges, has been thus stated by Plætorius: that it had not occurred to Fonteius for the first time when he was in Gaul to establish a transit duty on wine, but that he had thought of the plan in Italy, before he departed from Rome. Accordingly, that Titurius had exacted at Tolosa fourteen denarii for every amphora[1] of wine, under the name of transit duty; that Portius and Numius at Crodunum had exacted three victoriati; that Serveus at Vulchalo had exacted two victoriati; and in those districts they believe that transit duty was exacted by these men at Vulchalo, in case of any one turning

[1] The amphora contained nearly six gallons; a denarius, as has been said before, was about eightpence-halfpenny; so that this duty was, as nearly as may be, one and eightpence a-gallon. A victoriatus was half a denarius.

aside to Cobiamachus, which is a small town between Tolosa and Narbo, and not wishing to proceed so far as Tolosa. Elesiodulus exacted only six denarii from those who were taking wine to the enemy.[1] I see, O judges, that this is a charge, important both from the sort of crime imputed, (for a tax is said to have been imposed on our produce, and I confess that a very large sum of money might have been amassed by that means,) and from its unpopular nature; for our adversaries have endeavoured to make this charge as widely known as possible, by making it the subject of their conversation. But I think that the more serious a charge is, which is proved to be false, the greater is the wickedness of that man who invented it; for he wishes by the magnitude of the accusation to prejudice the minds of those who hear it, so that the truth may afterwards find a difficult entrance into them. * * * * *

[*Everything relating to the charge about the wine, to the war with the Vocontii, and the arrangement of winter quarters, is wanting.*]

VI. * * * But the Gauls deny this. But the circumstances of the case and the force of arguments prove it. Can then a judge refuse belief to witnesses? He not only can, but he ought, if they are covetous men, or angry men, or conspirators, or men utterly void of religion and conscience. In fact, if Marcus Fonteius is to be considered guilty just because the Gauls say so, what need have I of a wise judge? what need have I of an impartial judge? what need is there of an intelligent advocate? For the Gauls say so. We cannot deny it. If you think this is the duty of an able and experienced and impartial judge, that he must without the slightest hesitation believe a thing because the witnesses say it; then the Goddess of Safety herself cannot protect the innocence of brave men. But if, in coming to a decision on such matters, the wisdom of the judge has a wide field for its exercise in considering every circumstance, and in weighing each according to its importance, then in truth your part in considering the case is a more important and serious one than mine is in

[1] The whole of this passage is very corrupt; the last line or two so hopelessly so, and so unintelligible, that perhaps it would have been better to have marked them with asterisks instead of attempting to translate them.

stating it. For I have only to question the witness as to each circumstance once, and that, too, briefly, and often indeed I have not to question him at all; lest I should seem to be giving an angry man an opportunity of making a speech, or to be attributing an undue weight to a covetous man. You can revolve the same matter over and over again in your minds, you can give a long consideration to the evidence of one witness; and, if we have shown an unwillingness to examine any witness, you are bound to consider what has been our reason for keeping silence. Wherefore, if you think that to believe the witnesses implicitly is enjoined to a judge, either by the law or by his duty, there is no reason at all why one man should be thought a better or a wiser judge than another. For judgment formed by the mere ears is single and simple enough; it is a power given promiscuously to all in common, whether they are fools or wise men. What, then, are the opportunities which wisdom has of distinguishing itself? When can a foolish and credulous auditor be distinguished from a scrupulous and discerning judge? When, forsooth, the statements which are made by the witnesses are committed to his conjectures, to his opinion, as to the authority, the impartiality of mind, the modesty, the good faith, the scrupulousness, the regard for a fair reputation, the care, and the fear with which they are made.

VII. Or will you, in the case of the testimonies of barbarians, hesitate to do what very often within our recollection and that of our fathers, the wisest judges have not thought that they ought to hesitate to do with respect to the most illustrious men of our state? For they refused belief to the evidence of Cnæus and Quintus Cæpio, and to Lucius and Quintus Metellus, when they were witnesses against Quintus Pompeius, a new man; for virtuous, and noble, and valiant as they were, still the suspicion of some private object to be gained, and some private grudge to be gratified, detracted from their credibility and authority as witnesses. Have we seen any man, can we with truth speak of any man, as having been equal in wisdom, in dignity, in consistency, in all other virtues, in all the distinguishing qualities of honour, and genius, and splendid achievements, to Marcus Æmilius Scaurus? And yet, though, when he was not on his oath, almost the whole world was governed by his nod, yet, when he was

on his oath, his evidence was not believed against Caius Fimbria, nor against Caius Memmius. They, who were the judges, were unwilling that such a road should be opened to enmities, as for every man to be able to destroy by his evidence whoever he hated. Who is there who does not know how great was the modesty, how great the abilities, how great the influence of Lucius Crassus? And yet he, whose mere conversation had the authority of evidence, could not, by his actual evidence, establish the things which he had stated against Marcus Marcellus with hostile feelings. There was—there was in the judges of those times, O judges, a divinely-inspired and singular acuteness, as they thought that they were judges, not only of the defendant, but also of the accuser and of the witness, as to what was invented, what was brought into the case by chance or by the opportunity, what was imported into it through corruption, what was distorted by hope or by fear, what appeared to proceed from any private desire, or any private enmity. And if the judge does not embrace all these considerations in his deliberation, if he does not survey and comprehend them all in his mind,—if he thinks that whatever is said from that witness-box, proceeds from some oracle, then in truth it will be sufficient, as I have said before, for any judge to preside over this court, and to discharge this duty, who is not deaf. There will be no reason in the world for requiring any one, whoever he may be, to be either able or experienced, to qualify him for judging causes.

VIII. Had then those Roman knights, whom we ourselves have seen, who have lately flourished in the republic, and in the courts, so much courage and so much vigour as to refuse belief to Marcus Scaurus when a witness; and are you afraid to disbelieve the evidence of the Volcæ and of the Allobroges? If it was not right to give credence to a hostile witness, was Crassus more hostile to Marcellus, or Scaurus to Fimbria, on account of any political differences, or any domestic quarrels, than the Gauls are to Fonteius? For of the Gauls, those even who stand on the best ground have been compelled once and again, and sorely against their will, to furnish cavalry, money, and corn; and of the rest, some have been deprived of their land in ancient wars, some have been overwhelmed and subdued in war by this very man. If those men ought not to be believed who appear to say anything covetously

with a view to some private gain, I think that the Cæpios and Metelli proposed to themselves a greater gain from the condemnation of Quintus Pompeius, as by that they would have got rid of a formidable adversary to all their views, than all the Gauls hoped for from the disaster of Marcus Fonteius, in which that province believed that all its safety and liberty consisted.

If it is proper to have a regard to the men themselves, (a thing which in truth in the case of witnesses ought to be of the greatest weight,) is any one, the most honourable man in all Gaul to be compared, I will not say with the most honourable men of our city, but even with the meanest of Roman citizens? Does Induciomarus know what is the meaning of giving evidence? Is he affected with that awe which moves every individual among us when he is brought into that box?

IX. Recollect, O judges, with how much pains you are accustomed to labour, considering not only what you are going to state in your evidence, but even what words you shall use, lest any word should appear to be used too moderately, or lest on the other hand any expression should appear to have escaped you from any private motive. You take pains even so to mould your countenances, that no suspicion of any private motive may be excited; that when you come forward there may be a sort of silent opinion of your modesty and scrupulousness, and that, when you leave the box, that reputation may appear to have been carefully preserved and retained. I suppose Induciomarus, when he gave his evidence, had all these fears and all these thoughts; he, who left out of his whole evidence that most considerate word, to which we are all habituated, "I think," a word which we use even when we are relating on our oath what we know of our own knowledge, what we ourselves have seen; and said that he *knew* everything he was stating. He feared, forsooth, lest he should lose any of his reputation in your eyes and in those of the Roman people; lest any such report should get abroad that Induciomarus, a man of such rank, had spoken with such partiality, with such rashness. The truth was, he did not understand that in giving his evidence there was anything which he was bound to display either to his own countrymen or to our accusers, except his voice, his countenance, and his audacity. Do you think that those nations are influenced in

giving their evidence by the sanctity of an oath, and by the fear of the immortal gods, which are so widely different from other nations in their habits and natural disposition? For other nations undertake wars in defence of their religious feelings; they wage war against the religion of every people; other nations when waging war beg for sanction and pardon from the immortal gods; they have waged war with the immortal gods themselves.

X. These are the nations which formerly marched to such a distance from their settlements, as far as Delphi, to attack and pillage the Pythian Apollo, and the oracle of the whole world. By these same nations, so pious, so scrupulous in giving their evidence, was the Capitol besieged, and that Jupiter, under the obligations of whose name our ancestors decided that the good faith of all witnesses should be pledged. Lastly, can anything appear holy or solemn in the eyes of those men, who, if ever they are so much influenced by any fear as to think it necessary to propitiate the immortal gods, defile their altars and temples with human victims? So that they cannot pay proper honour to religion itself without first violating it with wickedness. For who is ignorant that, to this very day, they retain that savage and barbarous custom of sacrificing men? What, therefore, do you suppose is the good faith, what the piety of those men, who think that even the immortal gods can be most easily propitiated by the wickedness and murder of men? Will you connect your own religious ideas with these witnesses? Will you think that anything is said holily or moderately by these men? Will your minds, pure and upright as they are, bring themselves into such a state that, when all our ambassadors who for the last three years have arrived in Gaul, when all the Roman knights who have been in that province, when all the traders of that province, when, in short, all the allies and friends of the Roman people who are in Gaul, wish Marcus Fonteius to be safe, and extol him on their oaths both in public and in private, you should still prefer to give your decision in unison with the Gauls? Appearing to comply with what? With the wishes of men? Is then the wish of our enemies to have more authority in your eyes than that of our countrymen? With the dignity of the witnesses? Can you then possibly prefer strangers to people whom you know, unjust men to

just ones, foreigners to countrymen, covetous men to moderate ones, mercenary men to disinterested ones, impious men to conscientious ones, men who are the greatest enemies to our dominions and to our name, to good and loyal allies and citizens?

XI. Are you then hesitating, O judges, when all these nations have an innate hatred to and wage incessant war with the name of the Roman people? Do you think that, with their military cloaks and their breeches, they come to us in a lowly and submissive spirit, as these do, who having suffered injuries fly to us as suppliants and inferiors to beg the aid of the judges? Nothing is further from the truth. On the contrary, they are strolling in high spirits and with their heads up, all over the forum, uttering threatening expressions, and terrifying men with barbarous and ferocious language; which, in truth, I should not believe, O judges, if I had not repeatedly heard such things from the mouths of the accusers themselves in your presence,—when they warned you to take care, lest, by acquitting this man, you should excite some new Gallic war. If, O judges, everything was wanting to Marcus Fonteius in this cause; if he appeared before the court, having passed a disgraceful youth and an infamous life, having been convicted by the evidence of virtuous men of having discharged his duties as a magistrate (in which his conduct has been under your own eye) and as a lieutenant, in a most scandalous manner, and being hated by all his acquaintances; if in his trial he were overwhelmed with the oral and documentary evidence of the Narbonnese colonists of the Roman people, of our most faithful allies the Massilians, and of all the citizens of Rome; still it would be your duty to take the greatest care, lest you should appear to be afraid of those men, and to be influenced by their threats and menaced terrors, who were so prostrate and subdued in the times of your fathers and forefathers, as to be contemptible. But now, when no good man says a word against him, but all your citizens and allies extol him; when those men attack him who have repeatedly attacked this city and this empire; and when the enemies of Marcus Fonteius threaten you and the Roman people; when his friends and relations come to you as suppliants, will you hesitate to show not only to your own citizens, who are mainly influenced by glory and praise,

but also to foreign tribes and nations, that you, in giving your votes, prefer sparing a citizen to yielding to an enemy?

XII. Among other reasons, this, O judges, is a very great reason for his acquittal, to prevent any notable stain and disgrace from falling on our dominion, by news going to Gaul, that the senate and knights of the Roman people gave their decisions in a criminal trial just as the Gauls pleased; being influenced not by their evidence, but by their threats. But in that case, if they attempt to make war upon us, we must summon up Caius Marius from the shades below, in order that he may be equal in war to that great man, that threatening and arrogant Induciomarus. Cnæus Domitius and Quintus Maximus must be raised from the dead, that they may again subdue and crush the nation of the Allobroges and the other tribes by their arms; or, since that indeed is impossible, we must beg my friend Marcus Plætorius to deter his new clients from making war, and to oppose by his entreaties their angry feelings and formidable violence; or, if he be not able to do so, we will ask Marcus Fabius, his junior counsel, to pacify the Allobroges, since among their tribe the name of Fabius is held in the highest honour, and induce them either to be willing to remain quiet, as defeated and conquered nations usually are, or else to make them understand that they are holding out to the Roman people not a terror of war, but a hope of triumph.

And if, even in the case of an ignoble defendant, it would not be endurable that those men should think they had effected anything by their threats, what do you think you ought to do in the case of Marcus Fonteius? concerning whom, O judges, (for I think that I am entitled to say this now, when I have almost come to the termination of two trials,) concerning whom, I say, you have not only not heard any disgraceful charge invented by his enemies, but you have not even heard any really serious reproach. Was ever any defendant, especially when he had moved in such a sphere as this man, as a candidate for honours, as an officer in command, and as a governor, accused in such a way, that no disgraceful act, no deed of violence, no baseness originating either in lust or insolence or audacity, was attributed to him, if not with truth, at least with some suspicious circumstances giving a reasonable colouring to the invention?

XIII. We know that Marcus Æmilius Scaurus, the most eminent man of our city, was accused by Marcus Brutus. The orations are extant by which it can be seen that many things are alleged against Scaurus himself; no doubt falsely; but still they were alleged against him and urged against him by an enemy. How many things were said against Marcus Aquillius on his trial? How many against Lucius Cotta? and, lastly, against Publius Rutilius? who, although he was condemned, still appears to me to deserve to be reckoned among the most virtuous and innocent men. Yet that most upright and temperate man had many things attributed to him on his trial, which involved suspicion of adultery, and great licentiousness. There is an oration extant of a man, by far (in my opinion, that is,) the ablest and most eloquent of all our countrymen, Caius Gracchus; in which oration Lucius Piso is accused of many base and wicked actions. What a man to be so accused! A man who was of such virtue and integrity, that even in those most admirable times, when it was not possible to find a thoroughly worthless man, still he alone was called Thrifty. And when Gracchus was ordering him to be summoned before the assembly, and his lictor asked him which Piso, because there were many of the name, "You are compelling me," says he, "to call my enemy, Thrifty." That very man then, whom even his enemy could not point out with sufficient clearness without first praising him; whose one surname pointed not only who he was, but what sort of man he was; that very man was, nevertheless, exposed to a false and unjust accusation of disgraceful conduct. Marcus Fonteius has been accused in two trials, in such a way, that nothing has been alleged against him from which the slightest taint of lust, or caprice, or cruelty, or audacity can be inferred. They not only have not mentioned any atrocious deed of his, but they have not even found fault with any expression used by him.

XIV. But if they had either had as much courage to tell a lie, or as much ingenuity to invent one, as they feel eagerness to oppress Fonteius, or as they have displayed licence in abusing him; then he would have had no better fortune, as far as relates to not having disgraceful acts alleged against him, than those men whom I have just mentioned.

You see then another Thrifty,—a thrifty man, I say, O judges,

and a man moderate and temperate in every particular of his life; a man full of modesty, full of a sense of duty, full of religion, depending on your good faith and power, and placed in your power in such a way as to be committed wholly to the protection of your good faith.

Consider, therefore, whether it is more just that a most honourable and brave man, that a most virtuous citizen, should be given up to the most hostile and ferocious nations, or restored to his freedom, especially when there are so many circumstances which cooperate in entreating your favourable disposition in aid of this man's safety. First of all, there is the antiquity of his family, which we are aware proceeds from Tusculum, a most illustrious municipality, and whose fame is engraved and handed down on monuments of the exploits of its members; secondly, there have been continual prætorships in that family, which have been distinguished by every sort of honour, and especially by the credit of unimpeachable innocence; besides that, there is the recent memory of his father, by whose blood, not only the troop of Asculum, by whom he was slain, but the whole of that social war has been stained with the deep dye of wickedness; lastly, there is the man himself, honourable and upright in every particular of his life, and in military affairs not only endued with the greatest wisdom, and the most brilliant courage, but also skilful through personal experience in carrying on war, beyond almost any man of the present age.

XV. Wherefore, if you do require to be reminded at all by me, O judges, (which, in truth, you do not,) it seems to me I may, without presuming too much on my authority, give you this gentle hint,—that you ought to consider that those men are carefully to be preserved by you, whose valour, and energy, and good fortune in military affairs have been tried and ascertained. There has been a greater abundance of such men in the republic than there is now; and when there was, people consulted not only their safety, but their honour also. What, then, ought you to do now, when military studies have become obsolete among our youth, and when our best men and our greatest generals have been taken from us, partly by age, and partly by the dissensions of the state and the ill-fortune of the republic? When so many wars are necessarily undertaken by us, when so many arise suddenly and unex-

pectedly, do you not think that you ought to preserve this man for the critical occasions of the republic, and to excite others by his example to the pursuit of honour and virtue? Recollect what lieutenants Lucius Julius, and Publius Rutilius, and Lucius Cato, and Cnæus Pompeius have lately had in war. You will see that at that time there existed also Marcus Cornutus, Lucius Cinna, and Lucius Sylla, men of prætorian rank, and of the greatest skill in war; and, besides them Caius Marius, Publius Didius, Quintus Catulus, and Publius Crassus, men not learned in the science of war through books, but accomplished and renowned by their achievements and their victories. Come now, cast your eyes over the senate-house, look thoroughly into every part of the republic; do you see no possible event in which you may require men like those? or, if any such event should arise, do you think that the Roman people is at this moment rich in such men? And if you carefully consider all these circumstances, you will rather, O judges, retain at home, for yourselves and for your children, a man energetic in undertaking the toils of war, gallant in encountering its dangers, skilful in its practice and its discipline, prudent in his designs, fortunate and successful in their accomplishment, than deliver him over to nations most hostile to the Roman people, and most cruel, by condemning him.

XVI. But the Gauls are attacking Fonteius with hostile standards as it were; they pursue him, and press upon him with the most extreme eagerness, with the most extreme audacity. I see it. But we, O judges, you being our helpers, with many and strong defences, will resist that savage and intolerable band of barbarians. Our first bulwark against their attacks is Macedonia, a province loyal and well affected to the Roman people. which says, that itself and its cities were preserved, not only by the wisdom, but even by the hand of Fonteius, and which now repels the attacks and dangers of the Gauls from his head, as it was defended itself from the invasion and desolation of the Thracians. On the opposite side stands the further Spain, which is able in this case not only to withstand the eagerness of the accusers by its own honest disposition, but which can even refute the perjuries of wicked men by its testimonies and by its panegyrics. And even from Gaul itself most faithful and most important assist-

ance is derived. As an assistance to this unhappy and innocent man, the city of the Massilians has come forward, which is labouring now, not only in order to appear to requite with proper gratitude the exertions of the man by whom it has been preserved, but which also believes that it has been placed in those districts for that very object, and with that express destiny, to prevent those nations from being able to injure our countrymen. The colony of Narbonne fights equally on behalf of the safety of Marcus Fonteius, which, having been lately delivered from the blockade of the enemy by this man, is now moved at his misery and danger. Lastly, as is right in a Gallic war—as the principles and customs of our ancestors enjoin—there is not one Roman citizen who thinks he requires any excuse for being eager in this man's behalf. All the publicans of that province, all the farmers, all the graziers, all the traders, with one heart and one voice, defend Marcus Fonteius.

XVII. But if Induciomarus himself, the leader of the Allobroges, and of all the rest of the Gauls, despise such powerful aid as this which we have, shall he still tear and drag away this man from the embrace of his mother, a most admirable and most miserable woman, and that, too, while you are looking on? especially when a vestal virgin on the other side is holding her own brother in her embraces, and imploring, O judges, your good faith, and that of the Roman people; she who has been, on behalf of you and of your children, occupied for so many years in propitiating the immortal gods, in order now to be able to propitiate you when supplicating for her own safety and that of her brother. What protection, what comfort, will that unhappy maiden have left, if she loses this her brother? For other women can bring forth protectors for themselves—can have in their homes a companion and a partner in all their fortunes; but to this maiden, what is there that can be agreeable or dear, except her brother? Do not, O judges, allow the altars of the immortal gods, and of our mother Vesta, to be reminded of your tribunal by the daily lamentations of a holy virgin. Beware lest that eternal flame, which is now preserved by the nightly toils and vigils of Fonteia, should be said to have been extinguished by the tears of your priestess. A vestal virgin is stretching out towards you her suppliant hands, those same hands which she

is accustomed to stretch out, on your behalf, to the immortal gods. Consider how dangerous, how arrogant a deed it would be for you to reject her entreaties, when, if the immortal gods were to despise her prayers, all these things which we see around us could not be preserved. Do not you see, O judges, that all of a sudden, Marcus Fonteius himself, brave as he is, is moved to shed tears at the mention of his parent and his sister?—he who never has known fear in battle, he who in arms has often thrown himself on the ranks and numbers of the enemy, thinking, while he was facing such dangers, that he left behind him the same consolation to his relatives that his own father had left to him; yet now, for all that, is agitated and alarmed, lest he should not only cease to be an ornament and an assistant to his family, but lest he should even leave them eternal disgrace and ignominy, together with the bitterest grief. Oh how unequal is thy fortune, O Marcus Fonteius! If you could have chosen, how much would you have preferred perishing by the weapons of the Gauls rather than by their perjuries! For then virtue would have been the companion of your life, glory your comrade in death; but now, what agony is it for you to endure the sufferings caused by their power and victory over you, at their pleasure, who have before now been either conquered by your arms, or forced to submit against their will to your authority. From this danger, O judges, defend a brave and innocent citizen: take care to be seen to place more confidence in our own witnesses than in foreigners; to have more regard for the safety of our citizens than for the pleasure of our enemies; to think the entreaties of her who presides over your sacrifices of more importance than the audacity of those men who have waged war against the sacrifices and temples of all nations. Lastly, take care, O judges, (the dignity of the Roman people is especially concerned in this,) to show that the prayers of a vestal virgin have more influence over you than the threats of Gaul.

THE ORATION OF M. T. CICERO IN BEHALF OF AULUS CÆCINA.

THE ARGUMENT.

Marcus Fulcinius, of Tarquinii, who had lived as a banker at Rome, had died, leaving his property to his wife Cæsennia and his son; the son also died, and divided his property between his wife and his mother. The property was sold, and Cæsennia employed Sextus Æbutius, her agent, to buy one of the farms for her. She afterwards married Cæcina, and died, bequeathing her property to him. When Cæsennia was dead, Æbutius pretended that he had bought the farm in question for himself. Cæcina endeavours to enter on the land, but is driven off by Æbutius at the head of a band of armed slaves. He applies to the prætor, and obtains an interdict;[1] Æbutius defends himself on many pleas, and especially on the ground that Cæcina being a municeps of Volaterra, a town which had been disfranchised by Sylla, could not become the heir of Cæsennia. This trial took place A. U. C. 689.

I. If shameless impudence had as much power in the forum and in the courts of law, as audacity has in the country and in desolate places, then Aulus Cæcina would now, in this trial, yield to the impudence of Sextus Æbutius as much as he has already yielded to his audacity in committing deeds of violence. But he thought that it became a considerate man not to contend in arms about a matter which ought to be decided by law; and he thought that it became an honest

[1] An interdict was a sort of provisional decree obtained from the prætor, chiefly in cases where the dispute is about possession, or quasi possession. The terms which he uses are called *decretum* when he orders any thing to be done, and *interdictum* when he forbids anything to be done. The mode of proceeding was, for the party aggrieved to state his case to the prætor, which was the foundation of his demand of an interdict. If the defendant admitted the plantiff's case before the interdict was granted, or submitted to it after it was granted, the dispute was at an end. If he was dissatisfied with the interdict, he also might in his turn apply to the prætor. Whenever the prætor's original interdict did not terminate the case, he directed a further inquiry before a judex or recuperators. There were also one or two other causes for, and descriptions of, interdict. *Vide* Smith, Dict. Ant. p. 521, v *Interdictum*.

man, to defeat by law and judicial proceedings the man with whom he had declined contending in arms and violence. And Æbutius appears to me to have been most especially audacious in assembling and arming men, and most especially impudent in his legal measures. Not only in that he has dared to come before the court, (for that, although it is a scandalous thing to do in a clear case, still is an ordinary course for wicked and artful men to adopt,) but because he has not hesitated to avow the very act which he is accused of; unless, perhaps, his idea was this,—if ordinary[1] violence according to precedent had been used, he would not have had any superior right of possession; but as the violence was committed in a way contrary to all law and precedent, Arius Cæcina fled in alarm with his friends. And so in this count, if he defends his cause according to the custom and established principles of all men, he thinks that we shall not be his inferiors in managing our case; but if he departs from all usage, the more impudently he conducts himself, the more likely to succeed shall he be: as if dishonesty had as much influence in a court of justice as confidence in a scene of violence, or as if we had not yielded at that time the more willingly to his audacity, in order now with the greater ease to resist his impudence. Therefore, O judges, I come now to plead the cause in this trial on a very different plan from the one I adopted at first. For then the hope of our cause depended on the arguments I could use in our defence; now it rests on the confession of our adversary;—then I relied on our witnesses; now I rely on theirs. And about them I was formerly anxious lest, if they were wicked men, they should speak falsely,—lest, if they were thought honest men, they should establish their case; now I am very much at ease on the subject. For, if they are good men, they assist me by saying that on their oaths, which I, not being on my oath, am urging in accusation. But if they are not so respectable, they do me no injury, since, if they are believed, then the very facts which we urge in accusation are believed;

[1] The usual course on claiming possession of disputed property was for the claimant to present himself with his friends in the land, and then to be driven off by the occupant. This violence was *vis moribus facta*. On this the claimant appealed to the prætor. But Æbutius had driven Cæcina off with armed men, and had used unnecessary and actual violence. This was *vis contra jus moremque*.

and if credit be not given to them, then credit is refused to the witnesses of our adversary.

II. But when I consider the way in which they are conducting their case, I do not see what more impudent thing can be said; when I consider your hesitation in giving your decision, I am afraid that what they seem to have been doing shamelessly, may have been done cunningly and wisely; for if they had denied that violence had been committed by armed men, they would easily have been convicted in a plain case by most unimpeachable witnesses: if they had confessed it, and defended a deed which can never be rightfully done, as having been done by them at that time legally, they hoped—what, indeed, they gained—that they should give you cause to deliberate, and inspire you with proper hesitation and scrupulousness in deciding: and also, though that is a most scandalous thing, they thought that the trial in this case would appear to be not about the dishonesty of Sextus Æbutius, but about the civil law. And in this case, if I had to plead the cause of Aulus Cæcina alone, I should profess myself a sufficiently capable defender of it, because I had behaved with the greatest good faith and diligence; and when these qualities are found in an advocate, there is no reason, especially in a plain and simple matter, for requiring any extraordinary ability. But as I have now to speak of those rights which concern all men,—which were established by our ancestors, and have been preserved to this time; while, if they were taken away, not only would some part of our rights be diminished, but also that violence, which is the greatest enemy to law, would seem to be strengthened by that decision,—I see that the cause is one requiring the greatest abilities, not in order to demonstrate what is before men's eyes, but to prevent (if any mistake is made by you in so important a matter) every one from thinking that I have been wanting to the cause, rather than that you have to your religious obligations.

Although I am persuaded, O judges, that you have not now doubted about the same cause twice, on account of the obscure and uncertain state of the law, so much as because this trial appears to affect that man's personal character; and on that account you have delayed condemning him, and have also given him time to recollect himself. And since that

custom has now become a usual one, and since good men,—men like yourselves,—do the same when sitting as judges, it is, perhaps, less blameable. But still it appears a thing to be complained of, because all judicial proceedings have been devised either for the sake of putting an end to disputes, or of punishing crimes, of which the first is the least important object, because it is less severe on individuals, and because it is often terminated by some friendly mediator. The other is most formidable, because it relates to more important matters, and requires not the honorary assistance of some friend, but the severity and vigour of a judge. That which was the more important, and on account of which judicial proceedings were most especially instituted, has been long abolished by evil customs. For the more disgraceful a thing is, the more severely and the more promptly ought it to be punished; and yet those things which involve danger to a man's character are the slowest to be punished.

III. How, then, can it be right, that the same cause which prompted the institution of legal proceedings, should also cause the delay that exists in coming to a decision? If any one, when he has given security,—when he has bound himself by one word, does not do what he has rendered himself liable to do, then he is condemned by the natural course of justice without any appeal to the severity of the judge. If a man, as a guardian, or as a partner, or as a person in a place of trust, or as any one's agent, has cheated any one, the greater his offence is, the slower is his punishment. "Yes, for the sentence is a sentence of infamy." "Ay, if it arise from an infamous action." See, then, how iniquitously it happens, that because an action is infamous, therefore a discreditable reputation should attach to it, but that a scandalous action is not to be punished, because, if it were, it would involve a loss of reputation. It is just as if any judex or recuperator were to say to me, "Why, you might have tried it in an inferior court,—you might have obtained your rights by an easier and more convenient process; therefore, either change your form of action, or else do not press me to give my decision." And yet he would appear more timid than a bold judge ought to appear, or more covetous than it is right for a wise judge to be, if he were either to prescribe to me how I should follow up my own rights, or if he were to

be afraid himself to give his decision in a matter which was brought before him. In truth, if the prætor, who allows the trials to proceed, never prescribes to a claimant what form of action he wishes him to adopt, consider how scandalous a thing it must be, when the matter is so far settled, for judge to ask what might have been done, or what can be done now, and not what has been done. However, in this case we should be complying too much with your good nature if we were willing to recover our rights by any process different from that which we are adopting. For now, what man is there who thinks that violence offered by armed men ought to be passed over; or who can show us a more moderate way of proceeding in so atrocious a case? In the case of offences of such a nature, that, as they keep crying out, criminal trials and capital trials have been established on their account, can you find fault with our severity when you see that we have done nothing more than claim possession of our property by virtue of the prætor's interdict?

IV. But whether you have as yet had your reputation endangered, or whether the doubts about the law have hitherto made the judges slow in giving their decision; the former reason you yourselves have already removed, by the frequent adjournments of the trial; the other I will myself this day take away, that you may not hesitate any longer about our disputing about the common law. And if I shall appear to go rather further back in tracing the origin of the business than either the state of the law which is involved in this trial, or the nature of the case compels me to, I beseech you to pardon me; for Aulus Cæcina is not less anxious to appear to have acted according to the strictest law, than he is to obtain what by strict law is his due.

There was a man named Marcus Fulcinius, O judges, of the municipality of Tarquinii, who, in his own city, was reckoned one of the most honourable men, and also had a splendid business at Rome as a banker. He was married to Cæsennia, a woman of the same municipality, a woman of the highest rank and most unimpeachable character, as he both showed while he was alive by many circumstances, and declared also by his will at his death. To this Cæsennia he had sold a farm in the district of Tarquinii, at a time of great commercial embarrassment; for as he was employing the dowry of his

wife, which he had received in ready money, he took care, in order that she, being a woman, might have abundant security, to charge her dowry on that farm. Some time afterwards, having given up his banking business, Fulcinius buys some lands which are contiguous, and adjacent to this farm of his wife's. Fulcinius dies; (for I will pass over many circumstances of the case, because they are unconnected with the subject of this action;) in his will he makes his son, whom he had by Cæsennia, his heir; he bequeaths Cæsennia a life-interest in all his property, which she is to enjoy with his son. The great honour paid her by her husband would have been very agreeable to the woman, if she had been allowed to enjoy it long; for she would have been enjoying her property in common with him whom she wished to be the heir of her property, and from whom she herself was receiving the greatest enjoyment of which she was capable. But of this enjoyment she was prematurely deprived by the act of God; for in a short time the young man, Marcus Fulcinius, died; he left Publius Cæsennius his heir; he bequeathed to his wife an immense sum of money, and to his mother the greater part of his landed property; and, accordingly, the women divided the inheritance.

V. When the auction of the inheritance was appointed to take place, Æbutius, who had long been supported by Cæsennia though a widowed and solitary woman, and who had insinuated himself into her confidence by the system of undertaking (not without some profit to himself) all the business which the woman had to transact, and all her disputes—was employed at that time also in this transaction of selling and dividing the property. And he always pushed and thrust himself in in such a way as to make Cæsennia of opinion, that she, being a woman unskilled in business, could not get on well in any matter in which Æbutius was not concerned. The character that you know, from daily experience, O judges, belongs to a flatterer of women, an agent of widows, an over-litigious defender, eager for strife, ignorant and stupid among men, but a shrewd and clever lawyer among women; this was the character of Æbutius. For all this was Æbutius to Cæsennia. In case you should ask, Was he any relation? no one could be more entirely unconnected with her—Was he a friend, recommended to her by her

father or her husband? Nothing of the sort. Who then was he? He was such a man as I have just been depicting—a voluntary friend of the woman, united with her, not by any relationship, but by a pretended officiousness, and a deceitful eagerness in her behalf; by an occasional assistance, seasonable rather than faithful. When, as I had begun to say, the auction was fixed to take place at Rome, the friends and relations of Cæsennia advised her—as, indeed, had occurred to her of her own accord,—that, since she had an opportunity of buying that farm of Fulcinius's which was contiguous to her own ancient property, there would be no wisdom in letting such an opportunity slip, especially as money was owing to her from the division of the inheritance, which could never be invested better. Therefore the woman determines to do so; she gives a commission to buy the farm—to whom? to whom do you suppose? Does it not at once occur to every one that this was the natural business of the man who was ready to transact all the woman's business, of the man without whom nothing could be done with proper skill and wisdom? You are quite right—the business is entrusted to Æbutius.

VI. Æbutius is present at the sale—he bids—many purchasers are deterred, some from goodwill to Cæsennia, some by the price—the farm is knocked down to Æbutius; Æbutius promises the money to the banker, which piece of evidence that excellent man is using now to prove that the purchase was made for himself. As if we either denied that it had been knocked down to him, or as if there were at the time any one who doubted that it had been bought for Cæsennia, when most men actually knew, nearly all had heard, and when even these judges might conjecture, that, as money was due to Cæsennia from that inheritance, it was exceedingly advantageous for her that it should be invested in farms; and since those farms which were especially desirable for the woman were being sold, and since he was bidding whom no one wondered to see acting for Cæsennia, no one could possibly suspect was buying them for himself. When this purchase had been made, the money was paid by Cæsennia; and of this that man thinks that no account can be produced, because he himself has detained her account-books, and because he has the account-books of the banker in which the

money is entered as having been paid by him, and credit is given to him for it, as having been received from him; as if it could have been properly done in any other manner. When everything had been settled in this way, as we are now stating in this defence of ours, Cæsennia took possession of the farm and let it; and not long afterwards she married Aulus Cæcina. To cut the matter short, the woman died, having made a will. She makes Cæcina her heir to the extent of twenty-three twenty-fourths of her fortune; of the remaining twenty-fourth she leaves two-thirds to Marcus Fulcinius, a freedman of her first husband, and one-third she leaves to Æbutius. This seventy-second part of her property she meant to be a reward to him for the interest he had taken in her affairs, and for any trouble that they might have caused him. But he thinks that he can make this small fraction a handle for disputing the whole.

VII. In the first place he ventured to say that Cæcina could not be the heir of Cæsennia, because he had not the same rights as the rest of the citizens, on account of the disasters and civil calamities of the Volaterrans. Did he, therefore, like a timid and ignorant man, who had neither courage enough, nor wisdom enough, not think it worth while to enter on a doubtful contest about his rights as a citizen? did he yield to Æbutius, and allow him to retain as much as he pleased of the property of Cæsennia? No; he, as became a brave and wise man, put down and crushed the folly and calumny of his adversary. As he was in possession of the estate, and as Æbutius was exaggerating his seventy-second share unduly, Cæcina, as heir, demanded an arbitrator, for the purpose of dividing the inheritance. And in a few days, when Æbutius saw that he could not pare anything off from Cæcina's property by the terror of a law-suit, he gives him notice, in the forum at Rome, that that farm which I have already mentioned, and of which I have shown that he had become the purchaser on Cæsennia's commission, was his own, and that he had bought it for himself. What are you saying? you will say to me;—does that farm belong to Æbutius which Cæsennia had possession of without the least dispute for four years, that is to say, ever since the farm was sold, as long as she lived? Yes, for the life-interest in that farm, and its produce, belonged to Cæsennia, by the will of her husband.

As he was thus artfully planning this singular kind of action, Cæcina determined, by the advice of his friends, to fix a day on which he would go to offer to take possession, and be formally driven off the farm. They confer on the subject; a day is agreed on to suit the convenience of both parties; Cæcina, with his friends, comes on the appointed day to the castle of Axia, from which place the farm which is now in question is not far distant. There he is informed by many people that Ebutius has collected and armed a great number of men, both free-men and slaves. While some marvelled at this, and some did not believe it, lo! Ebutius himself comes to the castle. He gives notice to Cæcina that he has armed men with him, and that, if he comes on the property he shall never go away again. Cæcina and his friends agreed that it was best to try how far they could proceed without personal danger. Then they descend from the castle—they go to the farm. It seems to some to have been done rashly; but, as I think, this was the reason,—no one supposed that Ebutius would really behave as rashly as he had threatened.

VIII. Accordingly Ebutius places armed men at every entrance by which people could pass, not only to that farm about which there was the dispute, but also to the next farm, about which there was no dispute at all. And therefore, at the first step, when he was about to enter on his ancient farm, because from that one he could come very near to the other, armed men in crowds opposed him. Cæcina being repulsed from that spot, still went as he could towards that farm, from which, according to their agreement, he was to be formally ejected by force. A row of olive-trees in a straight line marks the extreme boundary of that farm. When they came near them, Ebutius was there with all his forces, and he summoned his slave, by name Antiochus, to him, and with a loud voice ordered him to kill any one who entered within that line of olives. Cæcina, a most prudent man in my opinion, appears nevertheless to have shown in this affair more courage than wisdom. For though he saw that multitude of armed men, and though he had heard that expression of Ebutius which I have mentioned, still he came nearer, and was entering within the boundaries of that section which the olive-trees marked out, when he was put to flight by the assault of Antiochus in arms, and by the darts and onset of

the rest. At the same time his friends and assistants all take to flight with him; being greatly alarmed, as you heard one of them state in his evidence. When these things had been done in this manner, Publius Dolabella the prætor issued his interdict, as is the custom, "concerning violence, and armed men," ordering, without any exception, that he should restore the property from which he had ejected Cæcina. He said, that he had restored it. Securities were entered into to stand a trial. The cause is now before you for your decision.

IX. It was most especially desirable for Cæcina, O judges, to have no dispute at all; and, in the next place, not to have one with so wicked a man; and, in the third place, if he had a dispute at all, not to have it with so foolish a man as this. For, in truth, his folly assists us almost as much as his wickedness injures us. He was wicked, inasmuch as he collected men, armed them, and, with them collected and armed, committed deeds of violence. In that he injured Cæcina; but by the same conduct also he benefited him. For he took with him evidence of the very deeds which he did so wickedly, and that very evidence he brings forward in this case. Therefore I have made up my mind, O judges, before I come to make my defence, and to summon my own witnesses, to make use of his confession and his witnesses. What is it that he confesses, and confesses so willingly, that he seems not only to admit it, but even to boast of it, O judges? "I summoned men; I collected them; I armed them; I prevented you from entering on the farm by fear of death, by threatening you with personal danger; by the sword," says he, "by the sword." (And he says this in open court.) "I drove you away and routed you." What more? What say the witnesses? Publius Vetilius, a relation of Æbutius, says that he was with Æbutius as his assistant, with several armed slaves. What more does he say?—That there were many armed men there. What more?—That Æbutius threatened Cæcina. What shall I say of this witness, O judges, except this, that you must not believe him the less because he does not seem to be a thoroughly respectable man, but that you must believe him, because his evidence goes to establish the very facts that are most unfavourable to his cause? Aulus Terentius, a second witness, convicts not only Æbutius but himself also. He says this against Æbutius, that there were

armed men; but concerning himself he makes this statement, that he ordered Antiochus, the slave of Æbutius, to attack Cæcina with the sword if he came on the land. What more shall I say of this man? against whom, indeed, I did not wish to say anything, though I was begged by Cæcina to do so, that I might not seem to accuse him of a capital crime; but now I am in doubt how to speak of him, or how to be silent about him; since he, on his oath, makes this statement about himself. After them, Lucius Cælius not only stated that Æbutius was there with a large force of armed men, but also that Cæcina had come thither with a very limited train.

X. Shall I at all disparage this witness? I beg you to believe him as much as you believe my witnesses. Publius Memmius followed; who mentioned his having done a great kindness to the friends of Cæcina, in giving them a passage through his brother's farm, by which they could escape, when they were all in a state of great alarm and consternation. I will here give my public thanks to this witness for having shown himself merciful in his conduct, and conscientious in giving his evidence. Aulus Atilius and his son Lucius Atilius stated that there were armed men there, and that they also brought their slaves armed. They said this also; that when Æbutius was threatening Cæcina, Cæcina then and there required of him to let his ejection be accomplished in the regular form. Publius Rutilius stated the same thing, and he stated it the more willingly, in order to have credit attached to his evidence in a court of justice. Besides these, two more witnesses gave evidence, saying nothing about the violence, but speaking only of the original business and of the purchase of the farm. There was Publius Cæsennius, the seller of the farm, a man with a body of greater weight than his character; and Sextus Clodius, a banker, whose surname is Phormio, a man no less black and no less presuming than that Phormio in Terence; neither of these said anything about violence, nor about anything else which had any reference to this trial. But the tenth witness, the one who had been reserved for the last, a senator of the Roman people, the pride of his order, the flower and ornament of the courts of justice, the model of ancient piety, Fidiculanius Falcula, gave his evidence also. But though he came forward so eagerly and

violently that he not only attacked Cæcina with his perjuries, but seemed to be angry with me also, I made him so tranquil and gentle that he did not dare, as you recollect, to say a second time even how many miles his farm was distant from the city. For when he had said that it was fifty-three miles[1] off, the people cried out with a laugh, that that was exactly the distance. For all men recollected how much he had received on the trial of Albius. What shall I say against him except that which he cannot deny?—that he came on the bench during a criminal trial, though he was not a member of that tribunal, and that, while sitting on that bench, though he had not heard a word of the cause, and though there was an opportunity of adjourning the decision, he still gave his sentence, "that the case was proved;" that as he chose to decide without having inquired into the matter, he preferred condemning to acquitting; and that, inasmuch as, if there had been one damnatory vote fewer, the defendant could not have been condemned, he came forward, not so much for the purpose of investigating the case, as of insuring a conviction. Can anything worse be said against any man, than that he was induced by a bribe to condemn a man whom he had never seen nor even heard of? Or, can any allegation be made against a man on more certain grounds than one which even he, against whom it is made, cannot attempt to invalidate, not even by signs? However that witness, (in order that you might easily understand that he was not present in mind while their case was being stated by that party, and while their witnesses were giving their evidence, but that he was thinking of some criminal,) though every witness before him had stated that there were many armed men with Æbutius, said, (though he stood alone in his statement,) that there were no armed men at all. At first, I thought that the cunning fellow was well aware of what the cause was in need of, and only made a mistake because he was contradicting all the witnesses who had spoken before him; when all of a sudden, according to his usual custom, he forgets his previous state-

[1] Some think that the number of miles here ought to be *forty*. In the trial of Cluentius, Cicero imputes to all the judges that they had been bribed with *forty* thousand sesterces; and of these judges Falcula was one; so that the laughter of the people must have been excited by a similarity of number between the sesterces and the miles.

ment, and says that his slaves were the only armed men there.

XI. What can you do with such a man as this? Must you not grant to him sometimes to escape from the odium due to his excessive wickedness by the excuse of his prodigious stupidity? Did you not, O judges, believe these witnesses when you considered the case not proved? But there was no question that they were speaking the truth. When there was a multitude collected together, and arms, and weapons, and instant fear of death, and visible danger of murder, was it doubtful to you whether there seemed to have been any violence committed, or not? In what circumstances can violence be possibly understood to exist, if it does not exist in these? Or did that defence of his seem to you a very sufficient one, "I did not drive you out, I opposed your entrance; I did not suffer you to come on the farm at all, but I opposed armed men to you, in order that you might understand that, if you set your foot on the farm, you would immediately perish?" What do you say? Does not the man who was terrified and put to flight, and driven away by force of arms, appear to have been turned out? We will examine hereafter into the appropriate expression; at present let us prove the fact, which they do not deny, and let us inquire into the law of the case, and the proper method of proceeding by law under such circumstances.

This fact is proved, which is not denied by the opposite party, that Cæcina, when he had come on the appointed day, and at the appointed time, in order that a formal and regular ejectment might take place, was driven away and prevented from entering by open violence, by men collected together in arms. As this is proved, I, a man unskilled in law, ignorant of matters of business and of law-suits, think that I can proceed in this way, that I can obtain my rights and prosecute you for the injury I have sustained, by means of the interdict which I have obtained. Suppose that I am mistaken in this, and that I cannot possibly obtain what I wish by means of this interdict. In this affair I wish to take you for my master. I ask whether there is any legal proceeding open to me in this case, or whether there is not. It is not right for men to be summoned together on account of a dispute about possession; it is not right for a multitude to

be armed for the sake of preserving a right; nor is there anything so contrary to law as violence; nor is there anything so irreconcilable with justice as men collected together and armed.

XII. And as the law is such, and the circumstances of the case such, that it appears above all others worthy of being brought under the notice of the magistrates, I ask again whether there is any legal proceeding open to me in this case, or whether there is not. Will you say that there is not? I wish to hear. Is a man, who in time of peace and tranquillity has collected a band, prepared his forces, got together a great number of men, armed them, equipped them,—who has repelled, put to flight and driven off, by arms, and armed men, and terror, and danger of death, unarmed men who had come at a time agreed upon to go through an ordinary legal form;—is such a man to say, "Yes, indeed, I have done everything which you say; and my conduct was turbulent, and rash, and hazardous. What then; I did it all with impunity; for you have no means of proceeding against me by civil action before the prætor?" Is it so, O judges? Will you listen to this? and will you permit such a thing to be said before you more than once? When our ancestors were men of such diligence and prudence as to establish every requisite law, not only for such important cases as this, but for even the most trivial matters, and to prosecute all offences against them, will you allow that they overlooked this class of cases, the most important of all; so that, if people had compelled me to depart from my home by force of arms, I should have had a right of action, but as they only prevented me from entering my home, I have none? I am not yet arguing the particular case of Cæcina, I am not yet speaking of our own particular right of possession. I am resting my complaint wholly on your defence, O Caius Piso Since you make this statement, and lay down this principle, "that, if Cæcina, when he was actually in his farm, had been driven from it, then it would have been right for him to be restored by means of this interdict; but now he can by no means be said to have been from a place where he has not been; and, therefore, we have gained nothing by this interdict;" I ask you, if, this day, when you are returning home, men collected in a body, and armed, not only prevent you

from crossing the threshhold and from coming under the roof of your own house, but keep you off from approaching it—from even entering the court yard,—what will you do? My friend Lucius Calpurnius reminds you to say the same thing that he said before, namely that you would bring an action for the injury. But what has this to do with possession? What has this to do with restoring a man who ought to be restored? or with the civil law? * * * *
I will grant you even more. I will allow you not only to bring your action, but also to succeed in it. Will you be any the more in possession of your property for that? For an action for injury done does not carry with it, even if successful, any right of possession; but merely makes up to a man for the loss he sustains through the diminution of his liberty, by the trial and penalty imposed upon the offender.

XIII. In the mean time, shall the prætor, O Piso, be silent in so important a matter? Shall he have no power to restore you to the possession of your own house? He who is occupied for whole days in repressing deeds of violence, and in ordering the restitution of what has been obtained by such deeds; he who issues interdicts about ditches, about sewers, in the most trifling disputes about water or roads, shall he on a sudden be struck dumb? Shall he in a most atrocious case have nothing which he can do? And when Caius Piso is prevented from entering his own house, from coming under his own roof,—prevented, I say, by men collected in a body and armed,—shall the prætor have no power of assisting him according to established regulations and precedents? For what will he say? or what will you demand after having sustained such a notable injury? No one ever issued an interdict in the terms, "whether you were prevented by violence from coming." That is a new form; I will not say an unusual one, but a form absolutely unheard of. "Whence you were driven." What will you gain by this, when they make you the same answer that they now make me; that armed men opposed you and prevented you from entering your house; moreover, that a man cannot possibly be driven out of a place, who has not entered into it? I am driven out, say you, if any one of my slaves is driven out. Now you are right, for you are altering your language, and appealing to justice. For if we choose to adhere to the words themselves,

how are you driven out when your servant is driven out? But it is as you say—I ought to consider you yourself as driven out, even if you were never touched. Is it not so? Come now, suppose not even one of your slaves was driven from his place, if they were all kept and retained in the house; if you alone were prevented from entering, and frightened away from your house by violence and arms; will you in that case have this right of action which we have adopted, or some other form, or will you have no action at all? It neither becomes your prudence nor your character to say that, in so notable and so atrocious a case, there is no right of action. If there be any other kind of action which has escaped our notice, tell us what it is. I wish to learn. If this be the proper form, which we have employed, then, if you are the judge, we must gain our cause. For I have no fear of your saying in the same cause, and with the same interdict, that you ought to be restored, but that Cæcina ought not. In truth, who is there to whom it is not clear, that the property, and possessions, and fortunes of all men will be again brought back into a state of uncertainty if the effect of this interdict is made in any particular more obscure, or less vigorous? if, under the authority of such men as these judges, the violence of armed men should appear to be approved by a judicial decision? in a trial in which it can be said that there was no question at issue about arms, but that inquiry was only made into the language of the interdict. Shall that man gain his cause before your tribunal, who defends himself in this manner, "I drove you away with armed men, I did not drive you out;" so that the fact is not to depend on the equity of the defence, but on the correctness of a single expression? Will you lay it down that there is no right of action in such a case as this? that there is no method established for inquiring who has opposed a person with armed men, who has collected a multitude, and so prevented a man not only from effecting an entrance, but even from all access to a property?

XIV. What, then, shall we say? What force is there in this, or what difference is there between the cases?—whether, when I have got my foot within the boundaries, and taken possession as it were by planting a footstep on the ground, I am then expelled and driven out; or whether I am met with

the same violence, and the same weapons, not only before I can enter on the land, but before I can see it, or breathe its atmosphere? What is the difference between one case and the other? Can there be such a difference, that he, who has expelled a man who has once entered, can be compelled to make restitution, but that he who has driven a person back when seeking to enter, cannot be compelled? See, I entreat you in the name of the immortal gods, what a law you are proceeding to establish for us,—what a condition for yourselves, and what a code for the whole state. In injuries of this kind there is one form of proceeding established, the one which we have adopted, that by interdict. If that is of no avail, or has no reference to this matter, what can be imagined more careless or more stupid than our ancestors, who either omitted to institute any form of proceeding in so atrocious a business, or else did institute one which fails to embrace in proper language either the fact, or the principle of law applicable to the case. It is a dangerous thing for this interdict to be dissolved. It is a perilous thing for all men, that there should be any case of such a nature that, when deeds of violence have been committed in it, the injustice should not be able to be repaired by law. But this is the most disgraceful thing of all, that most prudent men should be convicted of such egregious folly, as they would be if you were to decide that such a case as this, and such a form of legal proceeding as is requisite, never once occurred to the minds of our ancestors.

We may complain then, he says. Still Æbutius is not touched by this interdict. How so? Because violence was not offered to Cæcina. Can it be said in this cause, where there were arms, where there was a multitude of men collected, where there were men carefully equipped and placed in appointed places with swords, where there were threats, dangers, and terrors of death, that there was no violence?

"No one," says he, "was slain, or even wounded." What are you saying? When we are speaking of a dispute about a right of possession, and about an action at law between private individuals, will you say that no violence was done, if actual murder and slaughter did not take place? I say that mighty armies have often been put to flight and routed by the mere terror and charge of the enemy, not only without

the death of any one, but even without one single person being wounded.

XV. In truth, O judges, that is not the only violence which reaches our persons and our lives, but that is even a much greater one, which, by threatening us with the danger of death, often drives our minds, agitated by fear as they are, from their steady position and condition. Therefore, wounded men often, when they are enfeebled in body, still do not succumb as to their courage, and do not leave the place which they have determined to defend; but others, though unwounded, are driven away: so that there is no doubt but that the violence which is done to a man whose mind is frightened, is much greater than that which is done to him whose body is wounded. And if we say that those armies have been routed by force, which have fled through fear, and often from only some slight suspicion of danger; and if we have both seen and heard of troops being put to flight, not only by the dash of shield against shield, nor by bodily conflict, nor by blows interchanged hand to hand, nor by the showering of missile weapons from a distance, but often by the mere shout of the soldiers, by their warlike array, and the sight of the hostile standards; shall that, which is called violence in war, not be called violence in peace? And shall that which is thought vigorous conduct in military affairs, be considered gentle in transactions of civil law? And shall that which has its influence on armed battalions, not appear to move a body of men in the garb of peace? And shall a wound of the body be a greater proof of that violence which we complain of, than alarm of mind? And shall we inquire strictly what wounds were inflicted, when it is notorious that people were put to the rout? For your own witness stated this, that when our party were flying through fear, he had pointed them out the way by which they might escape. Does no violence appear to have been offered to men who not only fled, but who even asked of a stranger which way they could flee with safety? Why, then, did they flee? Out of fear. What did they fear? Violence, of course. Can you then deny the first facts when you admit the last? You confess, that they fled because they were frightened; you say the cause of their flight was that which we all understand,—namely, arms, a multitude of men, an attack and onset of armed men. When all this is admitted to

have taken place, shall violence be denied to have been offered?

XVI. But all this is common enough, and there is plenty of precedent for it in transactions of our ancestors' time; that, when people came to assert their rights by force, if either party beheld armed men ever so far off, they should at once depart, having called on their companions to bear witness to the fact; and then they had a right to proceed to trial, and to require the securities to be given according to the following formula:—"If no violence had been offered contrary to the edict of the prætor." Is it so? Is it enough for proving violence to have been offered, to know that there are armed men; but not enough for proof, to fall into their hands? Shall the sight of armed men avail to prove violence, and shall their onset and attack not avail? Shall a man who departs quietly find it more easy to prove that violence has been offered to him, than a man who has fled from it? But I say this. If, when first Æbutius told Cæcina, when in the castle, that he had collected men and armed them, and that, if he came thither, he would never go away again, Cæcina had at once departed, you ought not to have doubted whether violence had been offered to Cæcina. But if, as soon as he had beheld the armed men, he had then departed, you would have doubted still less. For everything is violence, which, by means of danger, either compels us to depart from any place, or prevents our approaching any place. But if you determine otherwise, take care lest what you determine amounts to this, that no violence has been offered to a man who goes away alive,—take care lest you prescribe this to all men, in all disputes about possession, to think that they have a right to do battle, and to engage in actual combat, lest, just as in battle punishments are appointed for cowards by the generals, so, in courts of justice, the cause of those men who have fled may have a worse appearance than that of those men who have striven on to the last. As we are speaking of law, and of legal disputes between men, when in these matters we speak of violence, a very little violence must be considered enough. I have seen armed men—as few as you please—that is great violence. I departed, being alarmed at the weapon of one individual; I was driven away and put to flight. If you establish this rule, there will not only be no instance here-

after of any one wishing to have a battle for the sake of possession, but there will be no instance even of any one resisting. But if you refuse to think anything violence where there has been no slaughter, no wounding, no bloodshed, then it will follow that men ought to be more anxious about establishing their ownership, than about saving their lives.

XVII. Come now, in the matter of violence I will make you yourself the judge, O Æbutius. Answer, if you please. Was Cæcina unwilling to come on his farm, or was he unable? As you say that you opposed and repelled him, surely you will admit that he wished to do so. Can you then say that it was not violence which hindered him, when, by reason of armed men, he was unable to come to a place, when he wished to come there, and had gone out with that intention? For, if he was by no means able to do what he was exceedingly desirous to do, beyond all question some violence or other hindered him, or else tell me why, when he wished to come on the land, he did not come. Now, then, you cannot deny that violence was offered. The question now is, how he was driven away who was prevented from approaching. For a man who is driven away must manifestly be removed and thrust down from the place which he is occupying. And how can that happen to a man who absolutely never was in the place at all from which he says that he was driven? What shall we say? If he had been there, and if, under the influence of fear, he had fled from the place when he saw the armed men, would you then say that he had been driven away? I think so. Will you then, who decide disputes with such care and such subtlety, by expressions and not by equity,—you who interpret laws, not by the common advantage of the citizen, but by their letter,—will you be able to say that a man has been driven away who has never been touched? What! Will you say that he has been thrust down from his place? For that was the word which the prætors used formerly to use in their interdicts. What do you say? Can any one be thrust down who is not touched? Must we not, if we will stick to the strict letter, understand that that man only is thrust down on whom hands are laid? It is quite inevitable, I say, if we wish to make words and facts tally exactly with each other, that no one should be decided to have been thrust down, unless he be understood to have had hands laid on him, and so to have

been removed and pushed headlong down by personal violence. But how can any one have been treated so, unless he has been removed from a higher place to a lower one? A man may have been driven away, he may have been put to flight, he may have been cast out; but it is absolutely impossible for any one to have been pushed down, not only who has never been touched, but who, if he has been touched, has been touched on even and level ground. What then? Are we to think that this interdict was framed for the sake of those men alone, who could say that they had been precipitated from high ground? for those are the only people who can properly be said to have been driven down.[1]

XVIII. Shall we not, when the intention, and design, and meaning of the interdict is thoroughly understood, think it the most excessive impudence, or the most extraordinary folly, to haggle about a verbal mistake? and not only to pass over, but even to desert and betray the real merits of the case, and the common advantage of all the citizens? Is this doubtful, that there is not such an abundance of words,—I will not say in our language, which is confessedly poor, but not in any other language either,—as to enable every imaginable thing and circumstance to be expressed by its own fixed and appropriate name? Is it doubtful that we have no need of words when the matter, for the sake of which words were first invented, is thoroughly understood? What law, what resolution of the senate, what edict of a magistrate, what treaty, or covenant, (to return to men's private affairs,) what will, what judicial decision, what bond, what formula of bargain or agreement cannot be invalidated and torn to pieces, if we choose to bend facts to words, and leave out of the question the intention, and design, and authority of those who wrote them? In truth, even our familiar and daily discourse will cease to have any coherence, if we are to spend all our time in word catching. Lastly, there will be no such thing at all as any domestic rule, if we grant this to our slaves, that they are to obey the letter of our commands, and not attend to what may be

[1] The whole of this is quite untranslateable, so as to give in English the sense which the Latin bears. The truth is, that it is a sort of play on the word *dejicio*, which is the Latin word used, and which not only means to drive away, its technical and proper meaning here, but also to throw *down*, which is the meaning which Cicero harps upon.

gathered from the spirit of our expressions. Must I produce instances of all these things? Do not different examples in each separate class occur to every one of you, which may be a proof that right does not depend only on the strict words of the law, but that words are meant to be subservient to the intentions and purposes of men? In a most elegant and fluent manner did Lucius Crassus, by far the most eloquent of all men, a little before we came into the forum, defend this opinion in a trial before the centumviri;[1] and with great ease, too, though that very sagacious man, Quintus Mucius, was arguing against him, did he prove to every one that Marcus Curius, who had been left a certain person's heir in the case of the death of a posthumous son who was expected, ought to be the heir, though the son was not dead, never, in fact, having been born. What? was this case sufficiently provided for by the terms of the will? Certainly not. What was the thing, then, that influenced the judges? The intention; and if it could be understood though we were silent, we should not employ words at all: because it could not, words have been invented, not to hinder people's intentions, but to point them out.

XIX. The law commands the property in land to be determined by two years' possession. But we adopt the same principle also in the case of houses, which are not mentioned at all in the law. If a road is not properly made, the law allows a man to drive a beast of burden wherever he likes. Can it be understood from this, that if a road in the Bruttii be out of repair, a man may, if he pleases, drive his beast through the Tusculan farm of Marcus Scaurus? There is a right of action against a vendor who is present, according to this formula, "Since I behold you before the court." ... Now the blind Appius could never have availed himself of this

[1] The origin, constitution, and powers of the centumviri are exceedingly obscure; they were judges, but they differed from other judges in being a definite body or collegium. According to Festus three centumviri were chosen out of each tribe, so that their actual number must have been a hundred and five. Their powers were probably limited to Rome, and at all events to Italy. It appears that they had cognisance of both civil and criminal matters. It was the practice to set up a spear in the place where the centumviri were sitting, and accordingly the word *hasta* or *hasta centumviralis*, is sometimes used as equivalent to *judicium centumvirale*. *Vide* Smith, Dict. Ant. p. 212, v. *Centumviri*.

form of action, if men adhered to words with such strictness, as not to consider the matter for the sake of which the words are used. If a person's heir had been stated in his will to be the minor Cornelius, and if Cornelius were twenty years old, according to your interpretation he would lose his inheritance. Many such cases occur to me at present, and still more to you, I am quite sure. But not to dwell on too many such points, and not to wander too far from where we set out, let us consider this very interdict which is now before the court; for by that very document you will understand, that if we determine that the law depends on its precise words, we shall lose all the advantage of this interdict, while we wish to be very acute and clever. "Whence you, or your household, or your agent . . ." Suppose your steward by himself had driven me away, your household would not, as I suppose, have driven me away, but only a member of your household. Would you then have a right to say that you had made the necessary restitution? No doubt; for what can be more easy than to prove to all those who understood the Latin language, that the name of a household does not apply to one single slave? But suppose you have not even one slave besides the one who drove me away; then you would cry out, "If I have a household, I will admit that you were driven away by my household." Nor is there any doubt, that, if we are influenced in our decisions by the mere letter of the law, and not by the facts, we must understand a household to consist of many slaves, and we must admit that one slave is not a household. The expression certainly does not only require this, but even compels it. But let all consideration of law, and the effect of the interdict, and the intention of the prætor, and the wisdom and authority of prudent men, reject this defence and treat it as worthless.

XX. What, then, are we to think? Cannot those men speak Latin? Yes, they speak it sufficiently to make their intentions understood. As their object was that you should replace me in my property, whether it was you yourself who drove me away, or any one of your relations, or of your servants, or of your friends, they did not specify the number of servants, but classed them all under one name as your household. But if it were any one of your children who did it, he is called your agent; not that every one is, or is called our agent, who is employed in the transaction of some of our busi-

ness, but because in this matter, where the intention of the interdict was clearly ascertained, they did not think it worth while to examine too curiously into the exact applicability of every word. For the principles of equity are not different in the case of one servant from what they are in the case of many; there is no different law for this single case, according to whether it was your agent who drove me away,—such a man as is legitimately considered the agent of one who is not in Italy, who is absent on business of the state, being for the time a sort of master, that is, a deputy possessing the rights of another, or whether it was one of your labourers, or neighbours, or clients, or freedmen,—or any one else who committed that violence and wrought that expulsion at your request, or in your name. Wherefore, if the same principles of law prevail with respect to replacing a man in his property who has been driven from it by violence, when that is once understood, it certainly has nothing to do with the matter, what is the exact force of each word and name. You must replace me just as much if your freedman drove me away, though he was not appointed to manage any of your business, as if your agent did it; not that every one is an agent who transacts any of our business, but because it is of no importance to the matter to inquire into that point. You must replace me just as much if one slave of yours drove me away, as if your whole household did it; not that one slave is the same as a household, but because the question is, what action has been done, not, in what language every point is expressed. Even (to depart still further from the exact wording of the law, though there is not the least atom of departure from equity,) if it was no slave of yours at all who did it, but if they were all strangers or hired people, still they will be comprehended under the description and name of your household.

XXI. Continue, now, to follow up the examination of this interdict. "With men collected together." Suppose you collected none, but they all came together of their own accord. Certainly he does collect men together who assembles men and invites them. Those men are collected who are brought together by any one into one place; if they not only were never invited, but if they did not even assemble on purpose at all; if there was no one there who was not there previously, not for the purpose of committing violence, but because they were used to be there for the sake of tilling

the ground or tending the flocks. You will urge in your defence that men were not collected; and, as far as mere words go, you will gain your cause, even if I myself am the judge; but as to facts, you will have no ground to stand on before any judge whatever. For the intention of our legislators was, that restitution should be made in cases where violence had been committed by a multitude, and not by a multitude only if expressly collected for the purpose; but because generally, if there is need of a multitude, men are used to be collected, therefore, the interdict has been framed so as expressly to mention men when collected. And even if there does seem to be any verbal difference, the fact is the same, and the same rule will apply in all cases in which the principle of justice is seen to be one and the same. "Or armed." What shall we say? Whom, if we wish to speak good Latin, can we properly call armed? Those, I imagine, who are prepared and equipped with shields and swords. What then? Suppose you drive any one headlong from his farm with clods of earth, and stones, and sticks; and if you are ordered to replace a man whom you have driven away with armed men, will you say that you have complied with the terms of the interdict? If words are to govern everything,—if causes are to be settled not by reason but by accidental expressions, then you may say that you have done so, and I will agree. You will establish the point, no doubt, that those were not armed men who only threw stones which they took up from the ground; that lumps of turf and clods of earth were not arms; that those men were not armed, who, as they passed by, had broken off a bough of a tree; that arms have their appropriate classification, some for defending, others for wounding; and all who have not those arms, you will prove to have been unarmed. Ay, and when there is a trial about arms, then urge all these arguments; but when there is a trial about law and justice, do not take shelter in such tame and meagre evasions. For you will not find any judge or recuperator who will decide on a man's being armed as if it were his duty to inspect the arms of a trooper; but it will have just the same weight in his mind as if they were most completely armed, if they are found to have been equipped in such a manner as to be able to do violence to life or limb.

XXII. And, that you may more clearly understand of how

small value words are,—if you by yourself, or if any one person had made an onset on me with shield and sword, and I had been driven away by these means, would you venture to say that the interdict spoke of armed *men*, but that in this case there had only been one armed man? I do not believe you would be so impudent. And yet see if you are not far more impudent now. For then, indeed, you might implore the assistance of all men, because men, in deciding on your case, were forgetting the native language; because unarmed men were being decided to be armed; because though an interdict had been framed expressly about many men, the deed had been done by one man only—one man was being decided to be many men. But in causes like this words are not brought before the court, but that fact on account of which these words have been introduced into the interdict. Our legislators intended that restitution should be made, without exception, in every case in which violence had been offered, threatening life or limb. That generally takes place by the agency of men collected together and armed; but though the operation be different, still, if the danger is the same, the case is the same; and then they intended that the law should be the same. For the injury is not greater if inflicted by your household than if inflicted by your steward; nor if it was your own slaves who wrought it, is it greater than if the slaves of others, or people hired on purpose, had done so. It is no worse if your agent did it, than if your neighbour or your freedman was the person; nor if it was the work of men collected together on purpose, than if it was the deed of men who offered themselves voluntarily, or of your regular day-labourers. It is not a more serious injury if inflicted by armed men, than by unarmed men who had as much power to injure as if they had been armed; nor if it were caused by many, than if it were the work of one single armed man. For the facts are in an interdict expressed by the circumstances under which violence usually takes place. If the same violence has been committed under other circumstances, although it may not be comprehended in the strict language of the interdict, it still comes under the meaning and intention, and authority of the law.

XXIII. I now come to that argument of yours, "I did not drive him away, if I never allowed him to approach." I think that you yourself, O Piso, perceive how much narrower

and how much more unreasonable that defence is, than if you were even to employ that other one, "They were not armed,—they had only bludgeons and stones." If, in truth, the option were given to me, who do not profess to be a very fluent speaker, which argument I would prefer advancing in defence, either that a man had not been driven away who had been met on his entrance with violence and arms, or, that those men were not armed, who had neither swords nor shields; as far as proving my case goes, I should consider both the positions equally trifling and worthless; but as for making a speech about them, I think that I might find some arguments to make it appear that those men were not armed who had no shield nor any description of iron weapon; but I should be wholly at a loss if I had to maintain that a man who had been repulsed and put to flight had not been driven away. And in the whole of your defence, that appeared to me the most marvellous thing, that you said there was no necessity for being guided by the authority of lawyers. And although this is not the first time that, nor this the only cause in which, I have heard it, still, I did wonder exceedingly why it was said by you. For other men have recourse to this sort of exhortation when they think they have in their case some reasonable and good point which they are defending. If people are arguing against them relying on the letter and exact words, and (as people say) on the strict law, they are in the habit of opposing to injustice of that sort the name and dignity of virtue and justice. Then they laugh at that expression,—"if, or if not." Then they seek to bring all word-catching, all traps and snares made up of the strict letter of the law, into odium. Then they say loudly that the case ought to be decided by considerations of what is honest and just, and not of cunning and trickey law; that to adhere to the mere text is the part of a false accuser, but that it is the duty of a good judge to uphold the intention and authority of him who framed the law. But in this cause, when you are defending yourself by the wording and letter of the law,—when this is your argument, "Where were you driven from? Do you mean to say that you were driven from a place which you were prevented from approaching? You were kept off, not driven away;"—when this is what you say, "I confess that I collected men,—I confess that I armed them,—I confess that I threatened you with death,—I confess that this conduct

is punishable by the prætor's interdict, if his intention and if equity is to prevail; but I find in the interdict one word under which I can shelter myself. I did not drive you from that place when I only prevented you from coming to it."

XXIV. Are you, in making this defence, accusing those who are sitting on the bench, because they think it right to regard justice rather than the letter of the law? And, while speaking on this point, you said that Scævola had not succeeded in his case before the centumviri, whom I mentioned before on the occasion of his doing the same thing which you are doing now, (though he had some reason for what he was doing, while you have none,) still he did not succeed in any one's opinion in proving the point that he was maintaining, because he appeared by his language to be opposing justice. I marvel that you should have made this statement in this case, at an unfavourable time, and having an effect exactly contrary to what your cause required; and it also appears strange to me that a statement should often be advanced in courts of justice, and should be sometimes even defended by able men, that one ought not to be always guided by lawyers, and that the civil law ought not always to prevail in the decision of causes. For those who argue in this way, if they mean that those who sit on the bench have given some wrong decisions, should not say that we ought not to be guided by the civil law, but by stupid men. If they admit that the lawyers give proper answers, and still say that different decisions ought to be given, that is saying that wrong decisions ought to be given; for it is quite impossible that a decision of the judge on a point of law should be correct when given one way, and an answer of a counsel should be right too when given the other way. It is quite clear that no one has any right to be accounted learned in the law, who decides that an incorrect decision is conformable to law. But sometimes contrary decisions have been given. In the first place, have they been given rightly, or wrongly? If they were given rightly, that was the law which was decided to be so. If they were wrong, then it cannot be doubtful which are to be blamed, the judges or the lawyers. Besides, if any decision has been given on a disputed point, they are not deciding against the opinion of the lawyers, if they give sentence contrary to the decision of Mucius, any more than they would be deciding in

compliance with their authority, if sentence were given according to the precedent of Manilius. Forsooth, Crassus himself did not plead his cause before the centumviri in such a way as to speak against the lawyers; but he urged that the arguments which Scævola brought forward in his defence were not law; and he not only brought forward good arguments to that point, but he also quoted Quintus Mucius, his father-in-law, and many other most learned men, as precedents.

XXV. For he who thinks the civil law is to be despised, he is tearing asunder the bonds, not only of all courts of justice, but of all usefulness and of our common life; but he who finds fault with the interpreters of the law, if he says that they are ignorant of the law, is only disparaging the men, and not the civil law itself. If he thinks we ought not to be guided by learned men, then he is not injuring the men, but he is undermining the laws and justice. So that you must feel that nothing is to be maintained in a state with such care as the civil law. In truth, if this is taken away, there is no possibility of any one feeling certain what is his own property or what belongs to another; there is nothing which can be equal to all men, or is the same in every case. Therefore in other disputes and trials, when the question at issue is, whether a thing has been done or not, whether what is alleged be true or false; and when false witnesses are sometimes suborned, and false documents foisted in; it is possible that sometimes a virtuous judge may be led into error by a seemingly honourable and probable pretence; or that an opportunity may be given to a dishonest judge, of appearing to be guided by the witnesses, or by the documents produced, though in reality he has knowingly given a wrong decision. For questions of law there is nothing of this sort, O judges: there are no forged documents, no dishonest witnesses; even that overgrown power, which has sway in this state, is dormant with respect to cases of this sort; it has no means of attacking the judge, or of moving a finger. For this can be said to a judge by some man who is not so scrupulous as he is influential; "Decide, I pray you, that this has been done or planned; give credit to this witness; establish the genuineness of these documents;"—but this cannot be said, "Decide that if a man has a posthumous son born to him, his will is not thereby invalidated: decide that a thing

is due which a woman has promised without the sanction of her trustee." There is no opening for transactions of this sort, nor for any one's power or influence; in fact,—and this gives questions of law a more important and a more holy character,—a judge cannot be corrupted even by a bribe in cases of this sort. That very witness of yours who dared to say "that he had been seen to do . . . ." in a case where he could by no possibility know even of what the man was accused—even he would not venture to decide that a dowry was due to a husband which the woman had promised without the consent of her trustee. Oh admirable principle, and worthy of being maintained by you on this account, O judges!

XXVI. For, indeed, what is the civil law? A thing which can neither be bent by influence, nor broken down by power, nor adulterated by corruption; which, if it be, I will not say overwhelmed, but even neglected or carelessly upheld, there will then be no ground for any one feeling sure either that he possesses anything, or that he shall leave anything to his children. For what is the advantage of having a house or a farm left one by one's father, or in any way legitimately acquired, if it be uncertain whether you will be able to retain those things which are yours by every right of property? if law be but little fortified? if nothing can be upheld by public and civil law, in opposition to the influence of any powerful man? What is the advantage, I say, of having a farm, if all the laws which have been most properly laid down by our ancestors about boundaries, about possession, and water, and roads, may all be disturbed and changed in any manner? Believe me, every one of you has received a greater inheritance in respect of his property, from justice and from the laws, than from those from whom he received the property itself. For it can happen, in consequence of anybody's will, that a farm may come to me; but it cannot be ensured to me, except by the civil law, that I shall be able to retain what has become my own. A farm can be left me by my father, but the enjoyment of the farm—that is to say, freedom from all anxiety and danger of law-suits—is not left to me by my father, but by the laws. Aqueducts, supply of water, roads, a right of way, comes from my father; but the ratified possession of all these things is derived from the civil law. Wherefore you ought to maintain and preserve that public

inheritance of law which you have received from your ancestors with no less care than your private patrimony and property, not only because this last is fenced round and protected by the civil law, but also because if a man loses his patrimony, it is only an individual who suffers, but if the law be lost, the disaster affects the whole state.

XXVII. In this very cause, O judges, if we do not succeed in establishing this point, that a man is driven away,—if it is evident that he has been repelled and put to flight with violence by armed men,—Cæcina will not lose his property, which, however, he would bear the loss of with a brave spirit, if the occasion required it; he will only not be restored to the possession of it immediately; nothing more. But the cause of the Roman people, the laws of the state, all the property, fortune, and possessions of every one will again become uncertain and doubtful. This will be established, this will be settled by your authority; that, if you hereafter have a dispute with any one about ownership, if you drive him away when he has once entered on his property, you must make restitution; but if, as he is coming to enter, you meet him with an armed multitude, and repel him, put him to flight, and beat him off while still only on his road, then you shall not make restitution. Then you will establish this principle as law and justice, that violence can only exist where there is murder, that it has nothing to do with the intention or the will; that, unless blood be spilt, there has been no violence offered; that it is wrong to say that a man has been driven away, who has been prevented from entering; that no man can be driven away except from a place where he has planted his footsteps. Decide therefore now, whether it is of the greatest importance for the spirit of the law to be adhered to, and for equity to prevail, or for all laws to be twisted according to their literal expressions. Do you, I say, O judges, now decide which of these things appears to you the most desirable. While speaking of this, it happens very conveniently that Caius Aquillius, that most accomplished man, is not here now, who was here a little while ago, and who has frequently been present during this trial; (for if he were present, I should be more afraid to speak of his virtue and prudence; because he himself would feel a degree of modesty at hearing his own praises, and a similar kind of modesty would cramp me while praising a man to his face;) and whose authority, it has

been said, ought not to be too much deferred to in this cause. I am not afraid of saying more in praise of such a man than you yourselves either feel, or are willing to hear expressed before you. Wherefore I will say this, that too much weight cannot be given to the authority of that man whose prudence the Roman people has seen proved in taking precautions, not in deceiving men; who has never made a distinction between the principles of civil law and equity; who for so many years has given the Roman people the benefit of his abilities, his industry, and his good faith, which have been always ready and at their service; who is so just and virtuous a man, that he appears to be a lawyer by nature, not by education; so skilful and prudent a man, that not only some learning, but that even goodness appears to be the offspring of civil law; whose abilities are so great, whose good faith is so pure, that, whatever you draw from thence, you feel you are drawing in a pure and clear state. So that you are entitled to great gratitude from us when you say that that man is the author of our defence. But I marvel why you, when you say that any one has formed an opinion unfavourable to me, produce the man who is my authority for my arguments, but say nothing of him who is yours. But, however, what does the man on whom you rely say? "In whatever terms a law is framed and drawn up * * *"

XXVIII. I met a man of that body of lawyers; as I believe, the very same man by whose advice you say that you are conducting this cause, and arranging your arguments in defence. And when he began that discussion with me, saying that it could not be admitted that a man had been driven from any place unless he had previously been in it, he confessed that the facts and the intention of the interdict were on my side; but he said that I was cut off by its terms, and he did not think it possible to depart from its precise language. When I produced many instances, and alleged even the very grounds of all justice, to prove that in many cases all right and the principles of justice and reason were at variance with the words of the written law; and that that had always prevailed most, which had most authority and justice in it; he comforted me, and showed me that in this cause I had no reason for anxiety, for that the actual words in which the securities were drawn up were on my side, if I considered them carefully. "How so?" said I.—"Because," said he,

"undoubtedly Cæcina was driven away by armed men with violence from some place or other; if not from the place to which he desired to come, at all events from that place from which he fled." What then?—"The prætor," says he, "has enjoined in his interdict that he shall be replaced in that place from which he was driven away, whatever that place may be from which he was driven away. But Ebutius, who confesses that Cæcina was driven away from some place or other, must clearly have forfeited his security, since he falsely says that he has replaced him."

What is the matter, Piso? do you choose to fight about words? Do you think it fit to make the cause of justice and equity, the cause not of our property only, but of every man's property, to depend on a word? I showed what my opinion was; what had been the course pursued by our ancestors; what was worthy of the authority of those men by whom the cause was to be decided; that that was honest, and just, and expedient for all men, that it should be considered with what design and with what intention a law had been established, not in what words it was framed. You pin me to the words. I will not be so pinned without objecting. I say that it is not right, I say that this point cannot be maintained, I say that there is no single thing which can be included in a law with sufficient accuracy, or guarded against, or excepted against, if through some word being overlooked or placed in an ambiguous position, though the intention and the truth is completely ascertained, that which is intended is not to prevail, but that which is expressed, is.

XXIX. And since I have now stated my objection plainly enough, I will follow you where you invite me. I ask of you, Was I driven away? not from the farm of Fulcinius, for the prætor has not commanded me to be replaced only in the case of my having been driven away from that particular farm, but he has ordered me to be replaced in the place from which I was driven away. I was driven away from the adjoining farm belonging to my neighbours, across which I was going to that farm; I was driven away from the road; I was certainly driven away from some place or other, from some ground, either private or public. I am ordered to be replaced there. You have said that you have replaced me; I say that I have not been replaced in compliance with the terms of the prætor's decree. What do we say to this?

Your defence must be destroyed either by your own sword (as men say) or by mine. If you take refuge in the intention of the interdict, and say that inquiry must be made into what farm was meant when Æbutius was ordered to replace me, and if you think it not right for the justice of the case to be caught in a trap made of words, then you come into my camp, you are fighting under my standard. That is my defence; mine. I assert this loudly; I call all the gods and men to witness, that, as our ancestors would allow no legal defence to be pleaded for armed violence, the question before the court is not, where were the footsteps of the man who was driven away, but what was the act of the man who drove him away; I say loudly, that the man who was put to flight was driven away, that violence was offered to the man who was put in danger of his life. That topic you avoid and dread; and you try to call me back from the wide field, if I may so say, of justice, to these narrow passes of words, and to all the corners of letters. You shall yourself be hemmed in and caught in those very toils which you try to oppose to me. "I did not drive him away; I drove him off." This seems to you a very clever idea. This is the edge of your defence. On that edge your own cause must inevitably fall. For I reply to you in this way:—If I was not driven away from the place which I was prevented from approaching, at all events I was driven away from the place which I did approach, and from which I fled. If the prætor did not clearly define the place in which he ordered me to be replaced, and merely ordered me to be replaced, I have not been replaced according to his decree. I wish, O judges, if all this appears to you to be a more cunning system of defence than I usually adopt, that you would consider, first of all, that another originally devised it, and not I; in the next place, that not only I was not the originator of the system, but that I do not even approve of it, and that I did not bring it forward for the purposes of my own defence, but that I used it as a reply to their defence; that I can speak in behalf of my own rights, and that in this matter which I have brought forward, what ought to be inquired into is not, in what terms the prætor framed his interdict, but what was the place intended when he framed it; and that in a case of violence offered by armed men, the thing to be inquired into is not, where the violence was offered, but whether it was offered or not; and that you

cannot possibly urge in your defence, that where you wish it to be done, the words of the interdict ought to be regarded, but that where you do not wish it, they ought not to be considered.

XXX. But is any answer given to me with reference to that which I have already mentioned, that this interdict was so framed, not only as to facts, and as to its meaning, but also as to its expressions, that nothing appeared to require any alteration? Listen carefully, O judges, I beseech you, for it becomes your wisdom to recognise, not my prudence, but that of our ancestors; for I am not going to mention what I myself have discovered, but a thing which did not escape their notice. When an interdict is issued respecting acts of violence, they were aware that there are two descriptions of causes to which the interdict had reference: one, if a man had been driven by violence from the place in which he was; the other, if he was driven from the place to which he was coming; and either of these may take place, and nothing else can, O judges. Consider this then, if you please. If any one has driven my household away from my farm, he has driven me too from that place. If any one came up to me with armed men, outside my farm, and prevented me from entering, then he has driven me, not out of that place, but from that place. For these two classes of actions they invented one phrase which sufficiently expressed them both; so that, whether I had been driven out of my farm, or from my farm, still I should be replaced by one and the same interdict, containing the words "from which you . . . ." These words "from which" comprehend either case: both out of which place, and from which place. Whence was Cinna driven? Out of the city. Whence was Carbo driven? From the city. Whence were the Gauls driven? From the Capitol. Whence were they driven who were with Gracchus? Out of the Capitol. You see, therefore, that by this one phrase two things are signified, both out of what place, and from what place; and when the prætor orders me to be replaced in that place, he orders me to be so on this understanding, just as if the Gauls had demanded of our ancestors to be replaced in the situation from which they had been driven, and if by any force they had been able to obtain it, it would not, I imagine, have been right for them to be replaced in the mine, by which they had attacked the Capitol, but in the

Capitol itself. For this is understood—"Replace him in the place from which you drove him away," whether you drove him out of the place, or from the place. This now is plain enough; replace him in that place; if you drove him out of this place, replace him in it; if you drove him from this place, replace him in that place, not out of which, but from which he was driven. Just as if a person at sea, when he had come near to his own country, were on a sudden driven off by a storm, and were to wish, as he had been driven off from his country, to be restored to his former position. What he would wish, I imagine, would be this,—that fortune would restore him to the place from which he had been driven; not so as to replace him in the sea, but in the city which he was on his way to. So too, (since now we are necessarily hunting out the meaning of words from the similarity of the circumstances,) he who demands to be restored to the place from which he was driven,—that is to say, whence he was driven, —demands to be restored to that very place itself.

XXXI. As the words lead us to this conclusion, so too the case itself forces us to think and understand the same thing. In truth, Piso, (I am returning now back to the first points of my defence,) if any one drives you out of your own house with violence, by means of armed men, what will you do? I suppose you will prosecute him by means of this same interdict which we have been employing. What now, if, when you are returning home from the forum, any one shall with armed men prevent you from entering your own house, what will you do? You will avail yourself of the same interdict. When, therefore, the prætor has issued his interdict commanding you to be replaced in the place from which you were driven, you will interpret that interdict just as I do now, and as it is plain it should be interpreted. As that phrase "from which place" is of equal power in both cases, and as you are ordered to be replaced in that place, you will interpret it that you are just as much entitled to be replaced in your own house if you have been driven out of the court-yard, as if you have been driven out from the inmost chambers of the house.

But in order, O judges, that there should be no doubt on your part, whether you choose to regard the fact, or the words, that you ought to decide in our favour, there arises now, when every one of their expedients has been defeated

and rendered useless, another argument in defence, that a man can be driven away, who is at the time in possession, but that a man who is not in possession cannot possibly be so. Therefore, if I have been driven away from your house, I ought not to be replaced there; but, if you yourself have, you ought. Just count up how many false arguments there are in that defence, O Piso. And first of all, notice this, that you are by this driven from that assertion which you made, that no one could be driven away from a place, unless he was in the place previously; now you allow that a man who is the owner of a place can be driven away from it, even if he is not actually in it at the moment, but you say that a man who is not the owner cannot be driven away. Why, then, in that interdict which is of almost daily occurrence, "whence he drove me by violence," is this added, "when I was in possession," if no one can be driven away who is not in possession; or why is not the same addition made to the interdict "about armed men," if inquiry ought to be made whether a man was the owner or no? You say that no man can be driven away, but one who is the owner. I assert that, if any one be driven away without men being collected and armed, then he who confesses that he has driven him away must gain his cause, if he can show that he was not the owner. You say that a man cannot be driven away unless he is the owner. I prove from this interdict "about armed men," that he, who can prove that the man who has been driven away was not the owner, still must inevitably lose his cause, if he confesses that he was driven away at all.

XXXII. Men are driven away in two ways, either without the employment of men collected together and armed, or by means of them, and by violence. There are two separate interdicts for two dissimilar cases. In the first and formal kind of violence, it is not enough for a man to be able to prove that he was driven away, unless he is also able to show that he was driven away when he was in possession. And even that is not enough, unless he can show that he was in possession, having become so neither by violence, nor by underhand practices, nor by having begged the property. Therefore, he who said that he had replaced him is often accustomed to avow loudly that he drove him away by violence; but he adds this, "He was not in possession." Or again, when he has admitted even this still he gains his cause

if he can prove that the man had obtained possession from him either by violence, or by underhand practices, or by begging for it. Do you not perceive how many defensive pleas our ancestors allowed a man to be able to employ who had done this violence without arms and without a multitude? But as for the man who, neglecting right, and duty, and proper customs, has betaken himself to the sword, to arms, and to murder, him you see naked and defenceless in the cause; so that the man who has contended in arms for the possession, must clearly contend unarmed in the court of justice. Is there, then, any real difference, O Piso, between these interdicts? Does it make any difference whether the words "As Aulus Cæcina was in possession" be added, or not? Does the consideration of right,—does the dissimilarity of the interdicts,—does the authority of your ancestors, at all influence you? If the addition had been made, inquiry must have been made as to this point. The addition has not been made. Must that inquiry still be instituted? And in this particular I do not defend Cæcina. For, O judges, Cæcina was in possession; and although it is foreign to this cause, still I will briefly touch upon this point, to make you as desirous to protect the man himself, as the common rights of all men. You do not deny that Cæsennia had a life-interest in the farm. As the same farmer who rented it of Cæsennia continued to hold it on the same tenure, is there any doubt, that if Cæsennia was the owner while the farmer was tenant of the farm, so after her death her heir was the owner by the same right? Afterwards Cæcina, when he was going the round of his estates, came to that farm. He received his accounts from the farmer. There is evidence to that point. After that, why, O Æbutius, did you give notice to Cæcina to give up that farm, rather than some others, if you could find any other, unless Cæcina was in possession of it? Moreover, why did Cæcina consent to be ejected in a regular and formal manner? and why did he make you the answer he did by the advice of his friends, and of Caius Aquillius himself?

XXXIII. Oh, but Sylla passed a law. Without wasting time in making any complaints about that time, and about the disasters of the republic, I make you this answer,—that Sylla also added to that same law, "that if anything were enacted in this statute contrary to law, to that extent this

statute was to have no validity." What is there which is contrary to law which the Roman people is unable to command or to prohibit? Not to digress too far, this very additional clause proves that there is something. For unless there were, this would not be appended to all statutes. But I ask of you whether you think, if the people ordered me to be your slave, or, on the other hand, you to be mine, that that order would be authoritative and valid? You see that such an order is worthless. * * * * First of all, you allow this,—that it does not follow that whatever the people orders ought to be ratified. In the next place, you allege no reason why, if liberty cannot possibly be taken away, citizenship may. For we have received our traditions about each in the same way; and if citizenship can once be taken away, liberty cannot be preserved. For how can a man be free by the rights of the Quirites, who is not included in the number of the Quirites? And I, when quite a young man, established this principle when I was pleading against Cotta, the most eloquent man of our city. When I was defending the liberty of a woman of Arretium, and when Cotta had suggested a scruple to the decemvirs that our action was not a regular one, because the rights of citizenship had been taken from the Arretines, and when I argued rather vehemently that rights of citizenship could not be taken away, at the first hearing the decemvirs gave no decision; afterwards, when they had inquired into, and deliberated on, the subject, they decided that our action was quite regular. And this was decided, though Cotta spoke in opposition to it, and while Sylla was alive. But now on the other cities, why need I tell you how all men who are in the same circumstances proceed by law, and prosecute their rights, and all avail themselves of the civil law without the slightest hesitation on the part of any one, whether magistrate or judge, learned man or ignorant one? There is not one of you who doubts this. At all events, I am well aware that this is frequently asked, (as I must remind you of those things which do not occur to yourself,) how it is, if the right of citizenship cannot be taken away, that our citizens have often gone to the Latin colonies. They have gone either of their own accord, or in consequence of some penalty inflicted by the law; though if they would have submitted to the penalty, they might have remained in the city.

XXXIV. What more need I urge? What shall I say of a

man whom the chief of the fetiales[1] has given up, or whom his own father or his people have sold? By what law does he lose his right of citizenship? In order that the city may be released from some religious obligation, a Roman citizen is surrendered; and when he is accepted, he then belongs to those men to whom he has been surrendered. If they refuse to receive him, as the people of Numantia refused to receive Mancinus,[2] he then retains his original rights of citizenship unimpaired. If his father has sold him, he discharges him from all subjection to his power, whom, when he was born, he had had absolute power over. When the people sells a man who has not become a soldier, it does not take his liberty from him, but decides that he is not a free man who is afraid to encounter danger in order to be free; but when it sells a man whose name is not on the register, it judges in this way,—that as a man who is in just slavery is not on the register, a man who, though a free man, is unwilling to be on the register, has, of his own accord, repudiated his freedom. But if it is chiefly in those ways that freedom, or the rights of citizenship, can be taken from a man, do not they who mention these things understand that if our ancestors chose that those rights should be taken away for these reasons, they chose also that they should not be taken away in any other manner? For, as they have produced these arguments from the civil law, I wish they would also produce any case of men having had either their rights of citizenship or their freedom taken away by law. For as to banishment, it is very easy to be understood what sort of thing that is. For banishment is not a punishment, but is a refuge and harbour of safety from punishment. For those who are desirous to avoid some punishment or some calamity, turn to banishment alone,—that is to say, they change their residence and their situation, and, therefore, there will not be found in any law of ours, as there is in the laws of other states, any mention of any crime being punished with banishment. But as men wished to

[1] "The Latin here is *pater patratus*. When an injury had been sustained by the state, four fetiales were deputed to seek redress, who again elected one of their number to act as their representative; this individual was called *pater patratus populi Romani*."—Smith, Dict. Ant. p. 416, v. *Fetiales*.

[2] Caius Hostilius Mancinus had been defeated by the Numantines, and had made a disgraceful peace with them, which the senate refused to ratify, and delivered up Mancinus to the Numantines, in order to annul the peace legally, but they refused to receive him.

avoid imprisonment, execution, or infamy, which are penalties appointed by the laws, they flee to banishment as to an altar, though, if they chose to remain in the city and to submit to the rigour of the law, they would not lose their rights of citizenship sooner than they lost their lives; but because they do not so choose, their rights of citizenship are not taken from them, but are abandoned and laid aside by them. For as, according to our law, no one can be a citizen of two cities, the rights of citizenship here are lost when he who has fled is received into banishment,—that is to say, into another city.

XXXV. I am not unaware, O judges, although I pass over many things bearing on this right, that still I have dwelt on it at greater length than the plan of your tribunal requires. But I did so, not because I thought that there was any need of urging this defence to you, but in order that all men might understand that the rights of citizenship never had been taken away from any one, and could not be taken away. As I wished those men, whom Sylla desired to injure, to know this, so I wished, also, all the other citizens, both new and old, to be acquainted with it. For no reason can be produced why, if the rights of citizenship could be taken from any new[1] citizen, they cannot also be taken away from all the patricians, from all the very oldest citizens. For that, with respect to this cause, I had no alarm, may be understood in the first place from this consideration,—that you have no business to decide on that matter; and in the second place, that Sylla himself passed a law respecting the rights of citizenship, avoiding any taking away of the legal obligations and rights of inheritance of these men. For he orders the people of Ariminum to be under the same law that they have been. And who is there who does not know that they were one of the eighteen[2] colonies, and that they were able to receive inheritances from Roman citizens? But if the rights of citizenship could by law be taken from Aulus Cæcina, still it would be more natural for us and all good men now

[1] The new citizens are those who had been made citizens of Rome at the termination of the Social War a few years before.

[2] The old editions usually have "twelve," but eighteen is the correction of Savigny, which Orellius calls "certissima." In the second Punic War, A.U.C. 543, of the thirty colonies of the Roman people, twelve declared that they had no means of supplying the consuls with men or money. The other eighteen remained faithful to their allegiance, and of these eighteen Ariminum was one. *Vide* Livy, xxvii. 9, 10.

to inquire by what means we could relieve from injustice, and retain as a citizen, a most well-tried and most virtuous man, a man of the greatest wisdom, of the greatest virtue, of the greatest authority at home, than now, when he could not lose any particle of his right of citizenship, for any man to be found, except one like to you, O Sextus, in folly and impudence, who should venture to say that his rights of citizenship have been taken from him. And since, O judges, he has never abandoned his full rights, and has never yielded any point to their audacity and insolence, I will say nothing more about the common cause, and I leave the rights of the Roman people to the protection of your good faith and conscientious decision.

XXXVI. That man has always desired the good opinion of you and of men like you so much that that is one of the points about which he has been most anxious in this cause; nor has he been struggling for anything else than not to seem to abandon his right in an indifferent manner; he has not been more afraid of being thought to despise Ælbutius than of being supposed to be despised by him.

Wherefore, if, without entering on the merits of the case for a moment, I may speak of the man; you have a man before you of eminent modesty, of tried virtue, of well-proved loyalty, known both in good and bad fortune to the most honourable men of all Etruria by many proofs of virtue and humanity. If we must find fault with the opposite side, you have a man before you, to say no more, who admits that he collected armed men together. If, without reference to the individuals, you inquire into the case; as this is a trial about violence,—as he who is accused admits that he committed violence with the aid of armed men,—as he endeavours to defend himself by the letter of the law, not by the justice of his cause,—as you see that even the letter of the law is against him, and that the authority of the wisest men is on our side; that the question before the court is not whether Cæcina was in possession or not, and yet that it can be proved that he was in possession; that still less is it the question whether the farm belonged to Aulus Cæcina or not, and yet that I myself have proved that it did belong to him;—as all this is the case, decide what the interests of the republic with reference to armed men, what his own confession of violence, what our decision with respect to justice, and what the terms of the interdict respecting right, admonish you to decide.

THE SPEECH OF M. T. CICERO IN DEFENCE OF THE PROPOSED MANILIAN LAW

THE ARGUMENT.

In the year B.C. 67, Aulus Gabinius had obtained the passing of a decree by which Pompey was invested for three years with the supreme command over all the Mediterranean, and over all the coasts of that sea, to a distance of four hundred furlongs from the sea. And in this command he had acted with great vigour and with complete success; destroying all the pirates' strongholds, and distributing the men themselves as colonists among the inland towns of Asia Minor and Greece. After this achievement he did not return to Rome, but remained in Asia, making various regulations for the towns which he had conquered.

During this period Lucullus had been prosecuting the war against Mithridates, and proceeding gradually in the reduction of Pontus; he had penetrated also into Mesopotamia, but had subsequently been distressed by seditions in his army, excited by Clodius, his brother-in-law; and these seditions had given fresh courage to Mithridates, who had fallen on Caius Triarius, one of his lieutenants, and routed his army with great slaughter. At the time that Pompey commenced his campaign against the pirates, the consul Marcus Aquillius Glabrio was sent to supersede Lucullus in his command; but he was perfectly incompetent to oppose Mithridates, who seemed likely with such an enemy to recover all the power of which Lucullus had deprived him. So in the year B.C. 66, while Glabrio was still in Bithynia, and Pompey in Asia Minor, Caius Manilius, a tribune of the people, brought forward a proposition, that, in addition to the command which Pompey already possessed, he should be invested with unlimited power in Bithynia, Pontus, and Armenia, for the purpose of conducting the war against Mithridates. The measure was strongly opposed by Catulus and by Hortensius, but it was supported by Cæsar, and by Cicero in the following speech, which is the first which he ever addressed to the people; and the proposition was carried.

I. ALTHOUGH, O Romans, your numerous assembly has always seemed to me the most agreeable body that any one can address, and this place, which is most honourable to plead in, has also seemed always the most distinguished place for delivering an oration in, still I have been prevented from trying this road to glory, which has at all times been entirely open

to every virtuous man, not indeed by my own will, but by the system of life which I have adopted from my earliest years. For as hitherto I have not dared, on account of my youth, to intrude upon the authority of this place, and as I considered that no arguments ought to be brought to this place except such as were the fruit of great ability, and worked up with the greatest industry, I have thought it fit to devote all my time to the necessities of my friends. And accordingly, this place has never been unoccupied by men who were defending your cause, and my industry, which has been virtuously and honestly employed about the dangers of private individuals, has received its most honourable reward in your approbation. For when, on account of the adjournment of the comitia, I was three times elected the first prætor by all the centuries, I easily perceived, O Romans, what your opinion of me was, and what conduct you enjoined to others. Now, when there is that authority in me which you, by conferring honours on me, have chosen that there should be, and all that facility in pleading which almost daily practice in speaking can give a vigilant man who has habituated himself to the forum, at all events, if I have any authority, I will employ it before those who have given it to me; and if I can accomplish anything by speaking, I will display it to those men above all others, who have thought fit, by their decision, to confer honours on that qualification. And, above all things, I see that I have reason to rejoice on this account, that, since I am speaking in this place, to which I am so entirely unaccustomed, I have a cause to advocate in which eloquence can hardly fail any one; for I have to speak of the eminent and extraordinary virtue of Cnæus Pompey; and it is harder for me to find out how to end a discourse on such a subject, than how to begin one. So that what I have to seek for is not so much a variety of arguments, as moderation in employing them.

II. And, that my oration may take its origin from the same source from which all this cause is to be maintained; an important war, and one perilous to your revenues and to your allies, is being waged against you by two most powerful kings, Mithridates and Tigranes. One of these having been left to himself, and the other having been attacked, thinks that an opportunity offers itself to him to occupy all Asia. Letters are brought from Asia every day to Roman knights, most honourable men, who have great property at stake,

which is all employed in the collection of your revenues; and they, in consequence of the intimate connexion which I have with their order, have come to me and entrusted me with the task of pleading the cause of the republic, and warding off danger from their private fortunes. They say that many of the villages of Bithynia, which is at present a province belonging to you, have been burnt; that the kingdom of Ariobarzanes, which borders on those districts from which you derive a revenue, is wholly in the power of the enemy; that Lucullus, after having performed great exploits, is departing from that war; that it is not enough that whoever succeeds him should be prepared for the conduct of so important a war; that one general is demanded and required by all men, both allies and citizens, for that war; that he alone is feared by the enemy, and that no one else is.

You see what the case is; now consider what you ought to do. It seems to me that I ought to speak in the first place of the sort of war that exists; in the second place, of its importance; and lastly, of the selection of a general. The kind of war is such as ought above all others to excite and inflame your minds to a determination to persevere in it. It is a war in which the glory of the Roman people is at stake; that glory which has been handed down to you from your ancestors, great indeed in everything, but most especially in military affairs. The safety of our friends and allies is at stake, in behalf of which your ancestors have waged many most important wars. The most certain and the largest revenues of the Roman people are at stake; and if they be lost, you will be at a loss for the luxuries of peace, and the sinews of war. The property of many citizens is at stake, which you ought greatly to regard, both for your own sake, and for that of the republic.

III. And since you have at all times been covetous of glory and greedy of praise beyond all other nations, you have to wipe out that stain, received in the former Mithridatic War, which has now fixed itself deeply and eaten its way into the Roman name, the stain arising from the fact that he, who in one day marked down by one order, and one single letter, all the Roman citizens in all Asia, scattered as they were over so many cities, for slaughter and butchery, has not only never yet suffered any chastisement worthy of his wickedness, but now, twenty-three years after that time, is still a

king, and a king in such a way that he is not content to hide himself in Pontus, or in the recesses of Cappadocia, but he seeks to emerge from his hereditary kingdom, and to range among your revenues, in the broad light of Asia. Indeed up to this time your generals have been contending with the king so as to carry off tokens of victory rather than actual victory. Lucius Sylla has triumphed, Lucius Murena has triumphed over Mithridates, two most gallant men, and most consummate generals; but yet they have triumphed in such a way that he, though routed and defeated, was still king. Not but what praise is to be given to those generals for what they did. Pardon must be conceded to them for what they left undone; because the republic recalled Sylla from that war into Italy, and Sylla recalled Murena.

IV. But Mithridates employed all the time which he had left to him, not in forgetting the old war, but in preparing for a new one; and, after he had built and equipped very large fleets, and had got together mighty armies from every nation he could, and had pretended to be preparing war against the tribes of the Bosphorus, his neighbours, sent ambassadors and letters as far as Spain to those chiefs with whom we were at war at the time, in order that, as you would by that means have war waged against you in the two parts of the world the furthest separated and most remote of all from one another, by two separate enemies warring against you with one uniform plan, you, hampered by the double enmity, might find that you were fighting for the empire itself. However, the danger on one side, the danger from Sertorius and from Spain, which had much the most solid foundation and the most formidable strength, was warded off by the divine wisdom and extraordinary valour of Cnæus Pompeius. And on the other side of the empire, affairs were so managed by Lucius Lucullus, that most illustrious of men, that the beginning of all those achievements in those countries, great and eminent as they were, deserve to be attributed not to his good fortune but to his valour; but the latter events which have taken place lately, ought to be imputed not to his fault, but to his ill-fortune. However, of Lucullus I will speak hereafter, and I will speak, O Romans, in such a manner, that his true glory shall not appear to be at all disparaged by my pleading, nor, on the other hand, shall any undeserved credit seem to be given to him At present, when we are

speaking of the dignity and glory of your empire, since that is the beginning of my oration, consider what feelings you think you ought to entertain.

V. Your ancestors have often waged war on account of their merchants and seafaring men having been injuriously treated. What ought to be your feelings when so many thousand Roman citizens have been put to death by one order and at one time? Because their ambassadors had been spoken to with insolence, your ancestors determined that Corinth, the light of all Greece, should be destroyed. Will you allow that king to remain unpunished, who has murdered a lieutenant of the Roman people of consular rank, having tortured him with chains and scourging, and every sort of punishment? They would not allow the freedom of Roman citizens to be diminished; will you be indifferent to their lives being taken? They avenged the privileges of our embassy when they were violated by a word; will you abandon an ambassador who has been put to death with every sort of cruelty? Take care lest, as it was a most glorious thing for them, to leave you such wide renown and such a powerful empire, it should be a most discreditable thing for you, not to be able to defend and preserve that which you have received. What more shall I say? Shall I say, that the safety of our allies is involved in the greatest hazard and danger? King Ariobarzanes has been driven from his kingdom, an ally and friend of the Roman people; two kings are threatening all Asia, who are not only most hostile to you, but also to your friends and allies. And every city throughout all Asia, and throughout all Greece, is compelled by the magnitude of the danger to put its whole trust in the expectation of your assistance. They do not dare to beg of you any particular general, especially since you have sent them another, nor do they think that they can do this without extreme danger. They see and feel this, the same thing which you too see and feel,—that there is one man in whom all qualities are in the highest perfection, and that he is near, (which circumstance makes it seem harder to be deprived of him,) by whose mere arrival and name, although it was a maritime war for which he came, they are nevertheless aware that the attacks of the enemy were retarded and repressed. They then, since they cannot speak freely, silently entreat you to think them (as you have thought your allies in the other provinces) worthy of having

their safety recommended to such a man; and to think them worthy even more than others, because we often send men with absolute authority into such a province as theirs, of such character, that, even if they protect them from the enemy, still their arrival among the cities of the allies is not very different from an invasion of the enemy. They used to hear of him before, now they see him among them; a man of such moderation, such mildness, such humanity, that those seem to be the happiest people among whom he remains for the longest time.

VI. Wherefore, if on account of their allies, though they themselves had not been roused by any injuries, your ancestors waged war against Antiochus, against Philip, against the Ætolians, and against the Carthaginians; with how much earnestness ought you, when you yourselves have been provoked by injurious treatment, to defend the safety of the allies, and at the same time, the dignity of your empire? especially when your greatest revenues are at stake. For the revenues of the other provinces, O Romans, are such that we can scarcely derive enough from them for the protection of the provinces themselves. But Asia is so rich and so productive, that in the fertility of its soil, and in the variety of its fruits, and in the vastness of its pasture lands, and in the multitude of all those things which are matters of exportation, it is greatly superior to all other countries. Therefore, O Romans, this province, if you have any regard for what tends to your advantage in time of war, and to your dignity in time of peace, must be defended by you, not only from all calamity, but from all fear of calamity. For in other matters when calamity comes on one, then damage is sustained; but in the case of revenues, not only the arrival of evil, but the bare dread of it, brings disaster. For when the troops of the enemy are not far off, even though no actual irruption takes place, still the flocks are abandoned, agriculture is relinquished, the sailing of merchants is at an end. And accordingly, neither from harbour dues, nor from tenths, nor from the tax on pasture lands, can any revenue be maintained. And therefore it often happens that the produce of an entire year is lost by one rumour of danger, and by one alarm of war. What do you think ought to be the feelings of those who pay us tribute, or of those who get it in, and exact it, even two kings with very numerous armies are all but on the

spot? when one inroad of cavalry may in a very short time carry off the revenue of a whole year? when the publicans think that they retain the large households of slaves which they have in the salt-works, in the fields, in the harbours, and custom-houses, at the greatest risk? Do you think that you can enjoy these advantages unless you preserve those men who are productive to you, free not only, as I said before, from calamity, but even from the dread of calamity?

VII. And even this must not be neglected by you, which I had proposed to myself as the last thing to be mentioned, when I was to speak of the kind of war, for it concerns the property of many Roman citizens; whom you, as becomes your wisdom, O Romans, must regard with the most careful solicitude. The publicans,[1] most honourable and accomplished men, have taken all their resources and all their wealth into that province; and their property and fortunes ought, by themselves, to be an object of your especial care. In truth, if we have always considered the revenues as the sinews of the republic, certainly we shall be right if we call that order of men which collects them, the prop and support of all the other orders. In the next place, clever and industrious men, of all the other orders of the state, are some of them actually trading themselves in Asia, and you ought to show a regard for their interests in their absence; and others of them have large sums invested in that province. It will, therefore, become your humanity to protect a large number of those citizens from misfortune; it will become your wisdom to perceive that the misfortune of many citizens cannot be separated from the misfortune of the republic. In truth, firstly, it is of but little consequence for you afterwards to recover for the publicans revenues which have been once lost; for the same men have not afterwards the same power of contracting for them, and others have not the inclination, through fear. In the next place, that which the same Asia, and that same Mithridates taught us, at the beginning of the Asiatic war, that, at all events, we, having learnt by disaster, ought to keep in our recollection. For we know that then, when many had lost large fortunes in Asia, all credit failed at Rome, from payments being hindered. For it is not possible for many men to lose their property and fortunes in one city, without

[1] It has been said before that the publicans were taken almost exclusively from the equestrian order.

drawing many along with them into the same vortex of disaster. But do you now preserve the republic from this misfortune; and believe me, (you yourselves see that it is the case,) this credit, and this state of the money-market which exists at Rome and in the forum, is bound up with, and is inseparable from, those fortunes which are invested in Asia. Those fortunes cannot fall without credit here being undermined by the same blow, and perishing along with them. Consider, then, whether you ought to hesitate to apply yourselves with all zeal to that war, in which the glory of your name, the safety of your allies, your greatest revenues, and the fortunes of numbers of your citizens, will be protected at the same time as the republic.

VIII. Since I have spoken of the description of war, I will now say a few words about its magnitude. For this may be said of it,—that it is a kind of war so necessary, that it must absolutely be waged, and yet not one of such magnitude as to be formidable. And in this we must take the greatest care that those things do not appear to you contemptible which require to be most diligently guarded against. And that all men may understand that I give Lucius Lucullus all the praise that is due to a gallant man, and most wise[1] man, and to a most consummate general, I say that when he first arrived in Asia, the forces of Mithridates were most numerous, well appointed, and provided with every requisite; and that the finest city in Asia, and the one, too, that was most friendly to us, the city of Cyzicus, was besieged by the king in person, with an enormous army, and that the siege had been pressed most vigorously, when Lucius Lucullus, by his valour, and perseverance, and wisdom, relieved it from the most extreme danger. I say that he also, when general, defeated and destroyed that great and well-appointed fleet, which the chiefs of Sertorius's party were leading against Italy with furious zeal; I say besides, that by him numerous armies of the enemy were destroyed in several battles, and that Pontus was opened to our legions, which before his time had been closed against the Roman people on every side; and that

[1] The Latin is, "forti *viro*, et sapientissimo *homini*," and this opposition of *vir* and *homo* is not uncommon in Cicero's orations. "*Homo* is nearly synonymous with *vir*, but with this distinction, that *homo* is used of a man considered as an intellectual and moral being,—namely, where personal qualities are to be denoted; whereas *vir* signifies a man in his relations to the state."—Riddle, Lat. Dict. v. *Homo*.

Sinope and Amisus, towns in which the king had palaces, adorned and furnished with every kind of magnificence, and many other cities of Pontus and Cappadocia, were taken by his mere approach and arrival near them; that the king himself was stripped of the kingdom possessed by his father and his grandfather, and forced to betake himself as a suppliant to other kings and other nations; and that all these great deeds were achieved without any injury to the allies of the Roman people, or any diminution of its revenues. I think that this is praise enough;—such praise that you must see, O Romans, that Lucius Lucullus has not been praised as much from this rostrum by any one of these men who are objecting to this law and arguing against our cause.

IX. Perhaps now it will be asked, how, when all this has been already done, there can be any great war left behind. I will explain this, O Romans; for this does not seem an unreasonable question. At first Mithridates fled from his kingdom, as Medea is formerly said to have fled from the same region of Pontus; for they say that she, in her flight, strewed about the limbs of her brother in those places along which her father was likely to pursue her, in order that the collection of them, dispersed as they were, and the grief which would afflict his father, might delay the rapidity of his pursuit. Mithridates, flying in the same manner, left in Pontus the whole of the vast quantity of gold and silver, and of beautiful things which he had inherited from his ancestors, and which he himself had collected and brought into his own kingdom, having obtained them by plunder in the former war from all Asia. While our men were diligently occupied in collecting all this, the king himself escaped out of their hands. And so grief retarded the father of Medea in his pursuit, but delight delayed our men. In this alarm and flight of his, Tigranes, the king of Armenia, received him, encouraged him while despairing of his fortunes, gave him new spirit in his depression, and recruited with new strength his powerless condition. And after Lucius Lucullus arrived in his kingdom, very many tribes were excited to hostilities against our general. For those nations which the Roman people never had thought either of attacking in war or tampering with, had been inspired with fear. There was, besides, a general opinion which had taken deep root, and had spread over all the barbarian tribes in those districts,

that our army had been led into those countries with the object of plundering a very wealthy and most religiously worshipped temple. And so, many powerful nations were roused against us by a fresh dread and alarm. But our army, although it had taken a city of Tigranes's kingdom, and had fought some successful battles, still was out of spirits at its immense distance from Rome, and its separation from its friends. At present I will not say more; for the result of these feelings of theirs was, that they were more anxious for a speedy return home than for any further advance into the enemies' country. But Mithridates had by this time strengthened his army by reinforcements of those men belonging to his own dominions who had assembled together, and by large promiscuous forces belonging to many other kings and tribes. And we see that this is almost invariably the case, that kings when in misfortune easily induce many to pity and assist them, especially such as are either kings themselves, or who live under kingly power, because to them the name of king appears something great and sacred. And accordingly he, when conquered, was able to accomplish what, when he was in the full enjoyment of his powers, he never dared even to wish for. For when he had returned to his kingdom, he was not content (though that had happened to him beyond all his hopes) with again setting his foot on that land after he had been expelled from it; but he even volunteered an attack on your army, flushed as it was with glory and victory. Allow me, in this place, O Romans, (just as poets do who write of Roman affairs,) to pass over our disaster, which was so great that it came to Lucius Lucullus's ears, not by means of a messenger despatched from the scene of action, but through the report of common conversation. At the very time of this misfortune,—of this most terrible disaster in the whole war, Lucius Lucullus, who might have been able, to a great extent, to remedy the calamity, being compelled by your orders, because you thought, according to the old principle of your ancestors, that limits ought to be put to length of command, discharged a part of his soldiers who had served their appointed time, and delivered over part to Glabrio. I pass over many things designedly; but you yourselves can easily conjecture how important you ought to consider that war which most powerful kings are uniting in,—which disturbed nations are renewing,—which nations,

whose strength is unimpaired, are undertaking, and which a new general of yours has to encounter after a veteran army has been defeated.

X. I appear to have said enough to make you see why this war is in its very nature unavoidable, in its magnitude dangerous. It remains for me to speak of the general who ought to be selected for that war, and appointed to the management of such important affairs.

I wish, O Romans, that you had such an abundance of brave and honest men, that it was a difficult subject for your deliberations, whom you thought most desirable to be appointed to the conduct of such important affairs, and so vast a war. But now, when there is Cnæus Pompeius alone, who has exceeded in valour, not only the glory of these men who are now alive, but even all recollections of antiquity, what is there that, in this case, can raise a doubt in the mind of any one? For I think that these four qualities are indispensable in a great general,—knowledge of military affairs, valour, authority and good fortune. Who, then, ever was, or ought to have been, better acquainted with military affairs than this man? who, the moment that he left school and finished his education as a boy, at a time when there was a most important war going on, and most active enemies were banded against us, went to his father's army and to the discipline of the camp; who, when scarcely out of his boyhood, became a soldier of a consummate general,—when entering on manhood, became himself the general of a mighty army; who has been more frequently engaged with the enemy, than any one else has ever disputed with an adversary; who has himself, as general, conducted more wars than other men have read of; who has subdued more provinces than other men have wished for; whose youth was trained to the knowledge of military affairs, not by the precepts of others, but by commanding himself,—not by the disasters of war, but by victories,—not by campaigns, but by triumphs. In short, what description of war can there be in which the fortune of the republic has not given him practice? Civil war, African war, Transalpine war, Spanish war, promiscuous war of the most warlike cities and nations, servile war, naval war, every variety and diversity of wars and of enemies, has not only been encountered by this one man, but encountered victoriously; and these exploits show plainly that there is no circumstance

in military practice which can elude the knowledge of this man.

XI. But now, what language can be found equal to the valour of Cnæus Pompeius? What statement can any one make which shall be either worthy of him, or new to you, or unknown to any one? For those are not the only virtues of a general which are usually thought so,—namely, industry in business, fortitude amid dangers, energy in acting, rapidity in executing, wisdom in foreseeing; which all exist in as great perfection in that one man as in all the other generals put together whom we have either seen or heard of. Italy is my witness, which that illustrious conqueror himself, Lucius Sylla, confessed had been delivered by this man's valour and ready assistance. Sicily is my witness, which he released when it was surrounded on all sides by many dangers, not by the dread of his power, but by the promptitude of his wisdom. Africa is my witness, which, having been overwhelmed by numerous armies of enemies, overflowed with the blood of those same enemies. Gaul is my witness, through which a road into Spain was laid open to our legions by the destruction of the Gauls. Spain is my witness, which has repeatedly seen our many enemies there defeated and subdued by this man. Again and again, Italy is my witness, which, when it was weighed down by the disgraceful and perilous servile war, entreated aid from this man, though he was at a distance; and that war, having dwindled down and wasted away at the expectation of Pompeius, was destroyed and buried by his arrival. But now, also every coast, all foreign nations and countries, all seas, both in their open waters and in every bay, and creek, and harbour, are my witnesses. For during these last years, what place in any part of the sea had so strong a garrison as to be safe from him? what place was so much hidden as to escape his notice? Who ever put to sea without being aware that he was committing himself to the hazard of death or slavery, either from storms or from the sea being crowded with pirates? Who would ever have supposed that a war of such extent, so mean, so old a war, a war so extensive in its theatre and so widely scattered, could have been terminated by all our generals put together in one year, or by one general in all the years of his life? In all these later years what province have you had free from pirates? what revenue has been safe? what ally

have you been able to protect? to whom have your fleets been any defence? How many islands do you suppose have been deserted? how many cities of the allies do you think have been either abandoned out of fear of the pirates, or have been taken by them?

XII. But why do I speak of distant events? It was—it was, indeed, formerly—a characteristic of the Roman people to carry on its wars at a distance from home, and to defend by the bulwarks of its power not its own homes, but the fortunes of its allies. Need I say, that the sea has during all these latter years been closed against your allies, when even our own armies never ventured to cross over from Brundusium, except in the depth of winter? Need I complain that men who were coming to you from foreign nations were taken prisoners, when even the ambassadors of the Roman people were forced to be ransomed? Need I say, that the sea was not safe for merchants, when twelve axes[1] came into the power of the pirates? Need I mention, how Cnidus, and Colophon, and Samos, most noble cities, and others too in countless numbers, were taken by them, when you know that your own harbours, and those harbours too from which you derive, as it were, your very life and breath, were in the power of the pirates? Are you ignorant that the harbour of Caieta, that illustrious harbour, when full of ships, was plundered by the pirates under the very eyes of the prætor? and that from Misenum, the children of the very man who had before that waged war against the pirates in that place, were carried off by the pirates? For why should I complain of the disaster of Ostia, and of that stain and blot on the republic, when almost under your very eyes, that fleet which was under the command of a Roman consul was taken and destroyed by the pirates? O ye immortal gods! could the incredible and godlike virtue of one man in so short a time bring so much light to the republic, that you who had lately been used to see a fleet of the enemy before the mouth of the Tiber, should now hear that there is not one ship belonging to the pirates on this side of the Atlantic? And although you have seen with what rapidity these things were done, still that rapidity ought not to be passed over by me in speaking of

[1] The Scholiast says that a consul named Milienus (whose name, however, does not appear in the Fasti) was taken prisoner by the pirates, and sold with his ensigns of office. The axes mean his fasces.

them.—For who ever, even if he were only going for the purpose of transacting business or making profit, contrived in so short a time to visit so many places, and to perform such long journeys, with as great celerity as Cnæus Pompeius has performed his voyage, bearing with him the terrors of war as our general? He, when the weather could hardly be called open for sailing, went to Sicily, explored the coasts of Africa; from thence he came with his fleet to Sardinia, and these three great granaries of the republic he fortified with powerful garrisons and fleets; when, leaving Sardinia, he came to Italy, having secured the two Spains and Cisalpine Gaul with garrisons and ships. Having sent vessels also to the coast of Illyricum, and to every part of Achaia and Greece, he also adorned the two seas of Italy with very large fleets, and very sufficient garrisons; and he himself going in person, added all Cilicia to the dominions of the Roman people, on the forty-ninth day after he set out from Brundusium. All the pirates who were anywhere to be found, were either taken prisoners and put to death, or else had surrendered themselves voluntarily to the power and authority of this one man. Also, when the Cretans had sent ambassadors to implore his mercy even into Pamphylia to him, he did not deny them hopes of being allowed to surrender, and he exacted hostages from them. And thus Cnæus Pompeius at the end of winter prepared, at the beginning of spring undertook, and by the middle of summer terminated, this most important war, which had lasted so long, which was scattered in such distant and such various places, and by which every nation and country was incessantly distressed.

XIII. This is the godlike and incredible virtue of that general. What more shall I say? How many and how great are his other exploits which I began to mention a short time back; for we are not only to seek for skill in war in a consummate and perfect general, but there are many other eminent qualities which are the satellites and companions of this virtue. And first of all, how great should be the incorruptibility of generals! How great should be their moderation in everything! how perfect their good faith! How universal should be their affability! how brilliant their genius! how tender their humanity! And let us briefly consider to what extent these qualities exist in Cnæus Pompeius. For they are all of the highest importance, O Romans,

but yet they are to be seen and ascertained more by comparison with the conduct of others than by any display which they make of themselves. For how can we rank a man among generals of any class at all, if centurionships [1] are sold, and have been constantly sold in his army? What great or honourable thoughts can we suppose that that man cherishes concerning the republic, who has either distributed the money which was taken from the treasury for the conduct of the war among the magistrates, out of ambition[2] to keep his province, or, out of avarice, has left it behind him at Rome, invested for his own advantage? Your murmurs show, O Romans, that you recognise, in my description, men who have done these things. But I name no one, so that no one can be angry with me, without making confession beforehand of his own malpractices. But who is there who is ignorant what terrible distresses our armies suffer wherever they go, through this covetousness of our generals? Recollect the marches which, during these latter years, our generals have made in Italy, through the lands and towns of the Roman citizens; then you will more easily imagine what is the course pursued among foreign nations. Do you think that of late years more cities of the enemy have been destroyed by the arms of your soldiers, or more cities of your own allies by their winter campaigns? For that general who does not restrain himself can never restrain his army; nor can he be strict in judging others who is unwilling for others to be strict in judging him. Do we wonder now that this man should be so far superior to all others, when his legions arrived in Asia in such order that not only no man's hand in so numerous an army, but not even any man's footstep was said to have done the least injury to any peaceful inhabitant? But now we have daily rumours—ay, and letters too—brought to Rome about the way in which the soldiers are behaving in their winter quarters; not only is no one compelled to spend money on the entertainment of the troops, but he is not permitted to do so, even if he wish. For our ancestors thought fit that the houses of our allies and

[1] The Scholiast says that Cicero is here hinting at Glabrio the consul, or at the younger Marius.

[2] Lucullus is supposed to be meant here, as it is said that he had employed large sums in soliciting the votes of influential men, so as to be left in command of the province of Asia, in which he had amassed enormous riches.

friends should be a shelter to our soldiers from the winter, not a theatre for the exercise of their avarice.

XIV. Come now, consider also what moderation he has displayed in other matters also. How was it, do you suppose, that he was able to display that excessive rapidity, and to perform that incredible voyage? For it was no unexampled number of rowers, no hitherto unknown skill in navigation, no new winds, which bore him so swiftly to the most distant lands; but those circumstances which are wont to delay other men did not delay him. No avarice turned him aside from his intended route in pursuit of some plunder or other; no lust led him away in pursuit of pleasure; no luxury allured him to seek its delights; the illustrious reputation of no city tempted him to make its acquaintance; even labour did not turn him aside to seek rest. Lastly, as for the statues, and pictures, and other embellishments of Greek cities, which other men think worth carrying away, he did not think them worthy even of a visit from him. And, therefore, every one in those countries looks upon Cnæus Pompeius as some one descended from heaven, not as some one sent out from this city. Now they begin to believe that there really were formerly Romans of the same moderation; which hitherto has seemed to foreign nations a thing incredible, a false and ridiculous tradition. Now the splendour of your dominion is really brilliant in the eyes of those nations. Now they understand that it was not without reason that, when we had magistrates of the same moderation, their ancestors preferred being subject to the Roman people to being themselves lords of other nations. But now the access of all private individuals to him is so easy, their complaints of the injuries received from others are so little checked, that he who in dignity is superior to the noblest men, in affability seems to be on a par with the meanest. How great his wisdom is, how great his authority and fluency in speaking,—and that too is a quality in which the dignity of a general is greatly concerned,—you, O Romans, have often experienced yourselves in this very place. But how great do you think his good faith must have been towards your allies, when the enemies of all nations have placed implicit confidence in it? His humanity is such that it is difficult to say, whether the enemy feared his valour more when fighting against him, or loved his mildness more when they had been conquered by him. And will any one doubt

that this important war ought to be entrusted to him, who seems to have been born by some especial design and favour of the gods for the express purpose of finishing all the wars which have existed in their own recollection?

XV. And since authority has great weight in conducting wars, and in discharging the duties of military command, it certainly is not doubtful to any one that in that point this same general is especially preeminent. And who is ignorant that it is of great importance in the conduct of wars, what opinion the enemy, and what opinion the allies have of your generals, when we know that men are not less influenced in such serious affairs, to despise, or fear, or hate, or love a man by common opinion and common report, than by sure grounds and principles? What name, then, in the whole world has ever been more illustrious than his? whose achievements have ever been equal to his? And, what gives authority in the highest degree, concerning whom have you ever passed such numerous and such honourable resolutions? Do you believe that there is anywhere in the whole world any place so desert that the renown of that day has not reached it, when the whole Roman people, the forum being crowded, and all the adjacent temples from which this place can be seen being completely filled,—the whole Roman people, I say, demanded Cnæus Pompeius alone as their general in the war in which the common interests of all nations were at stake? Therefore, not to say more on the subject, nor to confirm what I say by instances of others as to the influence which authority has in war, all our instances of splendid exploits in war must be taken from this same Cnæus Pompeius. The very day that he was appointed by you commander-in-chief of the maritime war, in a moment such a cheapness of provisions ensued, (though previously there had been a great scarcity of corn, and the price had been exceedingly high,) owing to the hope conceived of one single man, and his high reputation, as could scarcely have been produced by a most productive harvest after a long period of peace. Now, too, after the disaster which befel us in Pontus, from the result of that battle, of which, sorely against my will, I just now reminded you, when our allies were in a state of alarm, when the power and spirits of our enemies had risen, and the province was in a very insufficient state of defence, you would have entirely lost Asia, O Romans, if the

fortune of the Roman people had not, by some divine interposition, brought Cnæus Pompeius at that particular moment into those regions. His arrival both checked Mithridates, elated with his unusual victory, and delayed Tigranes, who was threatening Asia with a formidable army. And can any one doubt what he will accomplish by his valour, when he did so much by his authority and reputation? or how easily he will preserve our allies and our revenues by his power and his army, when he defended them by the mere terror of his name?

XVI. Come, now; what a great proof does this circumstance afford us of the influence of the same man on the enemies of the Roman people, that all of them, living in countries so far distant from us and from each other, surrendered themselves to him alone in so short a time? that the ambassadors of the Cretans, though there was at the time a general[1] and an army of ours in their island, came almost to the end of the world to Cnæus Pompeius, and said, all the cities of the Cretans were willing to surrender themselves to him? What did Mithridates himself do? Did he not send an ambassador into Spain to the same Cnæus Pompeius? a man whom Pompeius has always considered an ambassador, but who that party, to whom it has always been a source of annoyance that he was sent to him particularly, have contended was sent as a spy rather than as an ambassador. You can now, then, O Romans, form an accurate judgment how much weight you must suppose that this authority of his—now, too, that it has been further increased by many subsequent exploits, and by many commendatory resolutions of your own—will have with those kings and among foreign nations.

It remains for me timidly and briefly to speak of his good fortune, a quality which no man ought to boast of in his own case, but which we may remember and commemorate as happening to another, just as a man may extol the power of the gods. For my judgment is this, that very often commands have been conferred upon, and armies have been entrusted to Maximus, to Marcellus, to Scipio, to Marius, and to other great generals, not only on account of their valour, but also on account of their good fortune. For there has

[1] Metellus, afterwards called Creticus, from his victory over the Cretans.

been, in truth, in the case of some most illustrious men, good fortune added as some contribution of the gods to their honour and glory, and as a means of performing mighty achievements. But concerning the good fortune of this man of whom we are now speaking, I will use so much moderation as not to say that good fortune was actually placed in his power, but I will so speak as to appear to remember what is past, to have good hope of what is to come; so that my speech may, on the one hand, not appear to the immortal gods to be arrogant, nor, on the other hand, to be ungrateful. Accordingly, I do not intend to mention, O Romans, what great exploits he has achieved both at home and in war, by land and by sea, and with what invariable felicity he has achieved them; how, not only the citizens have always consented to his wishes,—the allies complied with them,—the enemy obeyed them, but how even the winds and weather have seconded them. I will only say this, most briefly,—that no one has ever been so impudent as to dare in silence to wish for so many and such great favours as the immortal gods have showered upon Cnæus Pompeius. And that this favour may continue his, and be perpetual, you, O Romans, ought to wish and pray (as, indeed, you do), both for the sake of the common safety and prosperity, and for the sake of the man himself.

Wherefore, as the war is at the same time so necessary that it cannot be neglected, so important that it must be conducted with the greatest care; and since you have it in your power to appoint a general to conduct it, in whom there is the most perfect knowledge of war, the most extraordinary valour, the most splendid personal influence, and the most eminent good fortune, can you hesitate, O Romans, to apply this wonderful advantage which is offered you and given you by the immortal gods, to the preservation and increase of the power of the republic?

XVII. But, if Cnæus Pompeius were a private individual at Rome at this present time, still he would be the man who ought to be selected and sent out to so great a war. But now, when to all the other exceeding advantages of the appointment, this opportunity is also added,—that he is in those very countries already,—that he has an army with him,—that there is another army there which can at once be made over to him by those who are in command

of it,—why do we delay? or why do we not, under the guidance of the immortal gods themselves, commit this royal war also to him to whom all the other wars in those parts have been already entrusted to the greatest advantage, to the very safety of the republic?

But, to be sure, that most illustrious man, Quintus Catulus, a man most honestly attached to the republic, and loaded with your kindness in a way most honourable to him; and also Quintus Hortensius, a man endowed with the highest qualities of honour, and fortune, and virtue, and genius, disagree to this proposal. And I admit that their authority has in many instances had the greatest weight with you, and that it ought to have the greatest weight; but in this cause, although you are aware that the opinions of many very brave and illustrious men are unfavourable to us, still it is possible for us, disregarding those authorities, to arrive at the truth by the circumstances of the case and by reason. And so much the more easily, because those very men admit that everything which has been said by me up to this time is true,—that the war is necessary, that it is an important war, and that all the requisite qualifications are in the highest perfection in Cnæus Pompeius. What, then, does Hortensius say? "That if the whole power must be given to one man, Pompeius alone is most worthy to have it; but that, nevertheless, the power ought not to be entrusted to one individual." That argument, however, has now become obsolete, having been refuted much more by facts than by words. For you, also, Quintus Hortensius, said many things with great force and fluency (as might be expected from your exceeding ability, and eminent facility as an orator) in the senate against that brave man, Aulus Gabinius, when he had brought forward the law about appointing one commander-in-chief against the pirates; and also from this place where I now stand, you made a long speech against that law. What then? By the immortal gods, if your authority had had greater weight with the Roman people than the safety and real interests of the Roman people itself, should we have been this day in possession of our present glory, and of the empire of the whole earth? Did this. then, appear to you to be dominion, when it was a common thing for the ambassadors, and prætors, and quæstors of the Roman people to be taken prisoners? when we were cut off from all

supplies, both public and private, from all our provinces? when all the seas were so closed against us, that we could neither visit any private estate of our own, nor any public domain beyond the sea?

XVIII. What city ever was there before this time,—I speak not of the city of the Athenians, which is said formerly to have had a sufficiently extensive naval dominion; nor of that of the Carthaginians, who had great power with their fleet and maritime resources; nor of those of the Rhodians, whose naval discipline and naval renown has lasted even to our recollection,—but was there ever any city before this time so insignificant, if it was only a small island, as not to be able by its own power to defend its harbours, and its lands, and some part of its country and maritime coast? But, forsooth, for many years before the Gabinian law was passed, the Roman people, whose name, till within our own memory, remained invincible in naval battles, was deprived not only of a great, aye, of much the greatest part of its usefulness, but also of its dignity and dominion. We, whose ancestors conquered with our fleets Antiochus the king, and Perses, and in every naval engagement defeated the Carthaginians, the best practised and best equipped of all men in maritime affairs; we could now in no place prove ourselves equal to the pirates. We, who formerly had not only all Italy in safety, but who were able by the authority of our empire to secure the safety of all our allies in the most distant countries, so that even the island of Delos, situated so far from us in the Ægean sea, at which all men were in the habit of touching with their merchandise and their freights, full of riches as it was, little and unwalled as it was, still was in no alarm; we, I say, were cut off, not only from our provinces, and from the sea-coast of Italy, and from our harbours, but even from the Appian road; and at this time, the magistrates of the Roman people were not ashamed to come up into this very rostrum where I am standing, which your ancestors had bequeathed to you adorned with nautical trophies, and the spoils of the enemy's fleet.

XIX. When you opposed that law, the Roman people, O Quintus Hortensius, thought that you, and the others who held the same opinion with you, delivered your sentiments in a bold and gallant spirit. But still, in a matter affecting the safety of the commonwealth, the Roman people preferred consulting

its own feelings of indignation to your authority. Accordingly, one law, one man, and one year, delivered us not only from that misery and disgrace, but also caused us again at length to appear really to be the masters of all nations and countries by land and sea. And on this account the endeavour to detract, shall I say from Gabinius, or from Pompeius, or (what would be truer still) from both? appears to me particularly unworthy; being done in order that Aulus Gabinius might not be appointed lieutenant to Cnæus Pompeius, though he requested and begged it. Is he who begs for a particular lieutenant in so important a war unworthy to obtain any one whom he desires, when all other generals have taken whatever lieutenants they chose, to assist them in pillaging the allies and plundering the provinces? or ought he, by whose law safety and dignity has been given to the Roman people, and to all nations, to be prevented from sharing in the glory of that commander and that army, which exists through his wisdom and was appointed at his risk? Was it allowed to Caius Falcidius, to Quintus Metellus, to Quintus Cælius Laterensis, and to Cnæus Lentulus, all of whom I name to do them honour, to be lieutenants the year after they had been tribunes of the people; and shall men be so exact in the case of Gabinius alone, who, in this war which is carried on under the provisions of the Gabinian law, and in the case of this commander and this army which he himself appointed with your assistance, ought to have the first right of any one? And concerning whose appointment as lieutenant I hope that the consuls will bring forward a motion in the senate; and if they hesitate, or are unwilling to do so, I undertake to bring it forward myself; nor, O Romans, shall the hostile edict of any one deter me from relying on you and defending your privileges and your kindness. Nor will I listen to any thing except the interposition of the tribunes; and as to that, those very men who threaten it, will, I apprehend, consider over and over again what they have a right to do. In my own opinion, O Romans, Aulus Gabinius alone has a right to be put by the side of Cnæus Pompeius as a partner of the glory of his exploits in the maritime war; because the one, with the assistance of your votes, gave to that man alone the task of undertaking that war, and the other, when it was entrusted to him, undertook it and terminated it.

XX. It remains for me to speak of the authority and opinion of Quintus Catulus; who, when he asked of you, if you thus placed all your dependence on Cnæus Pompeius, in whom you would have any hope, if anything were to happen to him, received a splendid reward for his own virtue and worth, when you all, with almost one voice, cried out that you would, in that case, put your trust in him. In truth he is such a man, that no affair can be so important, or so difficult, that he cannot manage it by his wisdom, or defend it by his integrity, or terminate it by his valour. But, in this case, I entirely differ from him; because, the less certain and the less lasting the life of man is, the more ought the republic to avail itself of the life and valour of any admirable man, as long as the immortal gods allow it to do so. But let no innovation be established contrary to the precedents and principles of our ancestors.—I will not say, at this moment, that our ancestors in peace always obeyed usage, but in war were always guided by expediency, and always accommodated themselves with new plans to the new emergencies of the times. I will not say that two most important wars, the Punic war and the Spanish war, were put an end to by one general; that two most powerful cities, which threatened the greatest danger to this empire—Carthage and Numantia, were destroyed by the same Scipio. I will not remind you that it was but lately determined by you and by your ancestors, to rest all the hopes of the empire on Caius Marius, so that the same man conducted the war against Jugurtha, and against the Cimbri, and against the Teutones. But recollect, in the case of Cnæus Pompeius himself, with reference to whom Catulus objects to having any new regulations introduced, how many new laws have been made with the most willing consent of Quintus Catulus.

XXI. For what can be so unprecedented as for a young man in a private capacity to levy an army at a most critical time of the republic? He levied one.—To command it? He did command it.—To succeed gloriously in his undertaking? He did succeed. What can be so entirely contrary to usage, as for a very young man, whose age[1] fell far short of that required

[1] "As regards the age at which a person might become a senator, we have no express statement for the time of the republic, although it appears to have been fixed by some custom or law, as the *ætas senatoria* is frequently mentioned, especially during the latter period of the republic; but we may by induction discover the probable age. We know that according to the law of the tribune Villius the age fixed for the

for the rank of a senator, to have a command and an army entrusted to him? to have Sicily committed to his care, and Africa, and the war which was to be carried on there? He conducted himself in these provinces with singular blamelessness, dignity, and valour; he terminated a most serious war in Africa, and brought away his army victorious. But what was ever so unheard-of as for a Roman knight to have a triumph? But even that circumstance the Roman people not only saw, but they thought that it deserved to be thronged to and honoured with all possible zeal. What was ever so unusual, as, when there were two most gallant and most illustrious consuls, for a Roman knight to be sent as proconsul to a most important and formidable war? He was so sent—on which occasion, indeed, when some one in the senate said that a private individual ought not to be sent as proconsul, Lucius Philippus is reported to have answered, that if he had his will he should be sent not for one consul, but for both the consuls. Such great hope was entertained that the affairs of the republic would be prosperously managed by him, that the charge which properly belonged to the two consuls was entrusted to the valour of one young man. What was ever so extraordinary as for a man to be released from all laws by a formal resolution of the senate, and made consul before he was of an age to undertake any other magistracy according to the laws? What could be so incredible, as for a Roman knight to celebrate a second triumph in pursuance of a resolution of the senate? All the unusual circumstances which in the memory of man have ever happened to all other men put together, are not so many as these which we see have occurred in the history of this one man. And all these instances, numerous, important, and novel as they are, have all occurred in the case of the same man, taking their rise in the authority of Quintus Catulus himself, and by that of other most honourable men of the same rank.

XXII. Wherefore, let them take care that it is not considered a most unjust and intolerable thing, that their authority in matters affecting the dignity of Cnæus Pompeius

quæstorship was thirty-one. Now as it might happen that a quæstor was made a senator immediately after the expiration of his office, we may presume that the earliest age at which a man could become a senator was thirty-two. Augustus at last fixed the senatorial age at twenty-five, which appears to have remained unaltered throughout the time of the empire."—Smith, Dict. Ant. p. 851, v. *Senatus*.

should hitherto have been constantly approved of by you, but that your judgment, and the authority of the Roman people in the case of the same man, should be disregarded by them. Especially when the Roman people can now, of its own right, defend its own authority with respect to this man against all who dispute it,—because, when those very same men objected, you chose him alone of all men to appoint to the management of the war against the pirates. If you did this at random, and had but little regard for the interests of the republic, then they are right to endeavour to guide your party spirit by their wisdom; but if you at that time showed more foresight in the affairs of the state than they did; if you, in spite of their resistance, by yourselves conferred dignity on the empire, safety on the whole world; then at last let those noble men confess that both they and all other men must obey the authority of the universal Roman people. And in this Asiatic and royal war, not only is that military valour required, which exists in a singular degree in Cnæus Pompeius, but many other great virtues of mind are also demanded. It is difficult for your commander-in-chief in Asia, Cilicia, Syria, and all the kingdoms of the inland nations, to behave in such a manner as to think of nothing else but the enemy and glory. Then, even if there be some men moderate and addicted to the practice of modesty and self-government, still, such is the multitude of covetous and licentious men, that no one thinks that these are such men. It is difficult to tell you, O Romans, how great our unpopularity is among foreign nations, on account of the injurious and licentious behaviour of those whom we have of late years sent among them with military command. For, in all those countries which are now under our dominion, what temple do you think has had a sufficiently holy reputation, what city has been sufficiently sacred, what private house has been sufficiently closed and fortified, to be safe from them? They seek out wealthy and splendid cities to find pretence for making war on them for the sake of plundering them. I would willingly argue this with those most eminent and illustrious men, Quintus Catulus and Quintus Hortensius; for they know the distresses of the allies, they see their calamities, they hear their complaints. Do you think that you are sending an army in defence of your allies against their enemies, or rather, under pretence of the existence of enemies, against

your allies and friends themselves? What city is there in Asia which can stand the ferocity and arrogance, I will not say of the army, of a commander-in-chief, or of a lieutenant, but of even the brigade of one single military tribune?

XXIII. So that even if you have any one who may appear able to cope in terms of advantage with the king's armies, still, unless he be also a man who can keep his hands, and eyes, and desires from the treasures of the allies, from their wives and children, from the ornaments of their temples and cities, from the gold and jewels of the king, he will not be a fit person to be sent to this Asiatic and royal war. Do you think that there is any city there peacefully inclined towards us which is rich? Do you think that there is any rich city there, which will appear to those men to be peacefully inclined towards us? The sea-coast, O Romans, begged for Cnæus Pompeius, not only on account of his renown for military achievements, but also because of the moderation of his disposition. For it saw that it was not the Roman people that was enriched every year by the public money, but only a few individuals, and that we did nothing more by the name of our fleets beyond sustaining losses, and so covering ourselves with additional disgrace. But now, are these men, who think that all these honours and offices are not to be conferred on one person, ignorant with what desires, with what hope of retrieving past losses, and on what conditions, these men go to the provinces? As if Cnæus Pompeius did not appear great in our eyes, not only on account of his own positive virtues, but by a comparison with the vices of others. And, therefore, do not you doubt to entrust everything to him alone, when he has been found to be the only man for many years whom the allies are glad to see come to their cities with an army. And if you think that our side of the argument, O Romans, should be confirmed by authorities, you have the authority of Publius Servilius, a man of the greatest skill in all wars, and in affairs of the greatest importance, who has performed such mighty achievements by land and sea, that, when you are deliberating about war, no one's authority ought to have more weight with you. You have the authority of Caius Curio, a man who has received great kindnesses from you, who has performed great exploits, who is endued with the highest abilities and wisdom; and of Cnæus Lentulus, in whom all of you know there is (as, indeed, there ought to be,

from the ample honours which you have heaped upon him) the most eminent wisdom, and the greatest dignity of character; and of Caius Cassius, a man of extraordinary integrity, and valour, and virtue. Consider, therefore, whether we do not seem by the authority of these men to give a sufficient answer to the speeches of those men who differ from us.

XXIV. And as this is the case, O Caius Manilius, in the first place, I exceedingly praise and approve of that law of yours, and of your purpose, and of your sentiments. And in the second place, I exhort you, having the approbation of the Roman people, to persevere in those sentiments, and not to fear the violence or threats of any one. And, first of all, I think you have the requisite courage and perseverance; and, secondly, when we see such a multitude present displaying such zeal in our cause as we now see displayed for the second time, in appointing the same man to the supreme command, how can we doubt in the matter, or question our power of carrying our point? As for me, all the zeal, and wisdom, and industry, and ability of which I am possessed, all the influence which I have through the kindness shown for me by the Roman people, and through my power as prætor, as also, through my reputation for authority, good faith, and virtue, all of it I pledge to you and the Roman people, and devote to the object of carrying this resolution. And I call all the gods to witness, and especially those who preside over this place and temple, who see into the minds of all those who apply themselves to affairs of state, that I am not doing this at the request of any one, nor because I think to conciliate the favour of Cnæus Pompeius by taking this side, nor in order, through the greatness of any one else, to seek for myself protection against dangers, or aids in the acquirement of honours; because, as for dangers, we shall easily repel them, as a man ought to do, protected by our own innocence; and as for honours, we shall not gain them by the favour of any men, nor by anything that happens in this place, but by the same laborious course of life which I have hitherto adopted, if your favourable inclination assists me. Wherefore, whatever I have undertaken in this cause, O Romans, I assure you that I have undertaken wholly for the sake of the republic; and I am so far from thinking that I have gained by it the favour of any influential man, that I know, on the other hand, that I have brought on myself many enmities, some secret, some undis-

guised, which I never need have incurred, and which yet will not be mischievous to you. But I have considered that I, invested with my present honours, and loaded with so many kindnesses from you, ought to prefer your inclination, and the dignity of the republic, and the safety of our provinces and allies, to all considerations of my own private interest.

THE SPEECH OF M. T. CICERO IN DEFENCE OF AULUS CLUENTIUS AVITUS.

THE ARGUMENT.

Aulus Cluentius, a Roman knight of great riches, was accused before the prætor of having poisoned his father-in-law, Oppianicus, who a few years previously had been tried and banished for an attempt to poison Cluentius. For Oppianicus had murdered Melinus, the former husband of Sassia, the mother of Cluentius, and married her, and finding that if Cluentius were dead his property would all come to his mother, endeavoured to poison him, but was detected and convicted. After his conviction, Lucius Quintius, a tribune of the people, who had defended him on his trial, endeavoured at all times to excite odium against Cluentius, saying that he had procured the conviction of Oppianicus' by bribery, though in point of fact Oppianicus himself had employed large sums in endeavours to bribe his judges, and Stalenus and others had been convicted of being parties to the corruption. In the fifth year of his exile Oppianicus died, and a prosecution was instituted against Cluentius by Sassia, his own mother; saying that he had poisoned Oppianicus by the agency of a man of the name of Marcus Asellius. Cluentius was acquitted. This happened three years before this present trial. But now Sassia, having married her daughter to the young Oppianicus, urged him to institute fresh proceedings against Cluentius. So he prosecuted him afresh. His counsel was Lucius Attius, and the cause was tried before Quintus Vocontius Naso, in the consulship of Marcus Æmilius Lepidus and Lucius Volcatius Tullus, A.U.C. 688.[1] Cluentius was acquitted.

I. I HAVE observed, O judges, that the whole speech of the accuser is divided into two parts, one of which appeared to me to rely upon, and to put its main trust in, the inveterate unpopularity of the trial before Junius;[2] the other, just for the sake of usage, to touch very lightly and diffidently

[1] Manutius makes a mistake in fixing this consulship of Lepidus and Tullus, and by consequence, the delivery of this oration, one year earlier.

[2] Junius had been the judge in the trial of Oppianicus. See c. xxvii.

on the method pursued in cases of accusations of poisoning; concerning which matter this form of trial is appointed by law. And, therefore, I have determined to preserve the same division of the subject in my defence, speaking separately to the question of unpopularity and to that of the accusation, in order that every one may understand that I neither wish to evade any point by being silent with respect to it, nor to make anything obscure by speaking of it. But when I consider how much pains I must take with each branch of the question, one division—that, namely, which is the proper subject of your inquiry, the question of the fact of the poisoning—appears to me a very short one, and one which is not likely to give occasion to any great dispute. But with the other division, which, properly, is almost entirely unconnected with the case, and which is better adapted to assemblies in a state of seditious excitement, than to tranquil and orderly courts of justice, I shall, I can easily see, have a great deal of difficulty in dealing, and a great deal of trouble. But in all this embarrassment, O judges, this thing still consoles me,—that you have been accustomed to hear accusations under the idea that you will afterwards hear their refutation from the advocate; that you are bound not to give the defendant more advantages towards ensuring his acquittal, than his counsel can procure for him by clearing him of the charges brought against him, and by proving his innocence in his speech. But as regards the odium into which they seek to bring him, you ought to deliberate together, considering not what is said by us, but what ought to be said. For while we are dealing with the accusations, it is only the safety of Aulus Cluentius that is at stake; but by the odium sought to be excited against him, the common safety of all men is imperilled. Accordingly, we will treat one division of the case as men who are giving you information, and the other division, as men who are addressing entreaties to you. In the first division we must beg of you to give us your diligent attention; in the second, we must implore the protection of your good faith. There is no one who can withstand the popular feeling when excited against him without the assistance of you and of men like you. As far as I myself am concerned, I hardly know which way to turn. Shall I deny that there is any ground for the disgraceful accusation,—that the judges were corrupted at the previous

trial? Shall I deny that that matter has been agitated at assemblies of the people? that it has been brought before the courts of justice? that it has been mentioned in the senate? Can I eradicate that belief from men's minds? a belief so deeply implanted in them—so long established. It is out of the power of my abilities to do so. It is a matter requiring your aid, O judges; it becomes you to come to the assistance of the innocence of this man attacked by such a ruinous calumny, as you would in the case of a destructive fire or of a general conflagration.

II. Indeed, as in some places truth appears to have but little foundation to rest upon, and but little vigour, so in this place unpopularity arising on false grounds ought to be powerless. Let it have sway in assemblies, but let it be overthrown in courts of justice; let it influence the opinions and conversation of ignorant men, but let it be rejected by the dispositions of the wise; let it make sudden and violent attacks, but when time for examination is given, and when the facts are ascertained, let it die away. Lastly, let that definition of impartial tribunals which has been handed down to us from our ancestors be still retained; that in them crimes are punished without any regard being had to the popularity or unpopularity of the accused party; and unpopularity is got rid of without any crime being supposed to have been ever attached to it. And, therefore, O judges, I beg this of you before I begin to speak of the cause itself; in the first place, as is most reasonable, that you will bring no prejudice into court with you. In truth, we shall lose not only the authority, but even the name of judges, unless we judge from the facts which appear in the actual trials, and if we bring into court with us minds already made up on the subject at home. In the second place, I beg of you, if you have already adopted any opinion in your minds, that if reason shall eradicate it,—if my speech shall shake it,—if, in short, truth shall wrest it from you, you will not resist, but will dismiss it from your minds, if not willingly, at all events, impartially. I beg you, also, when I am speaking to each particular point, and effacing any impression my adversary may have made, not silently to let your thoughts dwell on the contrary statement to mine, but to wait to the end, and allow me to maintain the order of my arguments which I propose to myself; and when I have

summed up, then to consider in your minds whether I have passed over anything.

III. I, O judges, am thoroughly aware that I am undertaking a cause which has now for eight years together been constantly discussed in a spirit opposed to the interests of my client, and which has been almost convicted and condemned by the silent opinion of men; but if any god will only incline your good-will to listen to me patiently, I will show you that there is nothing which a man has so much reason to dread as envy, – that when he has incurred envy, there is nothing so much to be desired by an innocent man as an impartial tribunal, because in this alone can any end and termination be found at last to undeserved disgrace. Wherefore, I am in very great hope, if I am able fully to unravel all the circumstances of this case, and to effect all that I wish by my speech, that this place, and this bench of judges before whom I am pleading, which the other side has expected to be most terrible and formidable to Aulus Cluentius, will be to him a harbour at last, and a refuge for the hitherto miserable and tempest-tost bark of his fortunes. Although there are many things which seem to me necessary to be mentioned respecting the common dangers to which all men are exposed by unpopularity, before I speak about the cause itself; still, that I may not keep your expectations too long in suspense by my speech, I will come to the charge itself, only begging you, O judges, as I am aware I must frequently do in the course of this trial, to listen to me, as if this cause were now being this day pleaded for the first time,—as, in fact, it is; and not as if it had already been often discussed and proved. For on this day opportunity is given us for the first time of effacing that old accusation; up to this time mistake and odium have had the principal influence in the whole cause. Wherefore, while I reply with brevity and clearness to the accusation of many years standing, I entreat you, O judges, to listen to me, as I know that you are predetermined to do, with kindness and attention.

IV. Aulus Cluentius is said to have corrupted a tribunal with money, in order to procure the condemnation of his innocent enemy, Statius Albius. I will prove, O judges, in the first place, (since that is the principal wickedness charged against him, and the chief pretext for casting odium upon him, that an innocent man was condemned through the influence of

money,) that no one was ever brought before a court on heavier charges, or with more unimpeachable witnesses against him to prove them. In the second place, that a previous examination into the matter had been made by the very same judges who afterwards condemned him, with such a result that he could not possibly have been acquitted, not only by them, but by any other imaginable tribunal. When I have demonstrated this, then I will prove that point which I am aware is particularly indispensable, that that tribunal was indeed tampered with, not by Cluentius, but by the party hostile to Cluentius; and I will enable you to see clearly in the whole of that cause what the facts really were—what mistake gave rise to—and what had its origin in the unpopularity undeservedly stirred up against Cluentius.

The first point is this, from which it may be clearly seen that Cluentius had the greatest reason to confide in the justice of his cause, because he came down to accuse Albius relying on the most certain facts and unimpeachable witnesses. While on this topic, it is necessary for me, O judges, briefly to explain the accusations of which Albius was convicted. I demand of you, O Oppianicus, to believe that I speak unwillingly of the affair in which your father was implicated, because I am compelled by considerations of good faith, and of my duty as counsel for the defence. And, if I am unable at the present moment to satisfy you of this, yet I shall have many other opportunities of satisfying you at some future time; but unless I do justice to Cluentius now, I shall have no subsequent opportunity of doing justice to him. At the same time who is there who can possibly hesitate to speak against a man who has been condemned and is dead, on behalf of one unconvicted and living, when in the case of him who is being so spoken against conviction has taken away all danger of further disgrace, and death all fear of any further pain? and when, on the other hand, no disaster can happen to that man on behalf of whom one is speaking, without causing him the most acute feeling and pain of mind, and without branding his future life with the greatest disgrace and ignominy? And that you may understand that Cluentius was not induced to prosecute Oppianicus by a disposition fond of bringing accusations, or by any fondness for display or covetousness of glory, but by nefarious injuries, by daily plots against him, by hazard of his life,

which has been every day set before his eyes, I must go back a little further to the very beginning of the business; and I entreat you, O judges, not to be weary or indignant at my doing so—for when you know the beginning, you will much more easily understand the end.

V. Aulus Cluentius Avitus, this man's father, O judges, was a man by far the most distinguished for valour, for reputation and for nobleness of birth, not only of the municipality of Larinum, of which he was a native, but also of all that district and neighbourhood. When he died, in the consulship of Sylla and Pompeius,[1] he left this son, a boy fifteen years old, and a daughter grown up and of marriageable age, who a short time after her father's death married Aulus Aurius Melinus, her own cousin, a youth of the fairest possible reputation, as was then supposed, among his countrymen, for honour and nobleness. This marriage subsisted with all respectability and all concord; when on a sudden there arose the nefarious lust of an abandoned woman, united not only with infamy but even with impiety. For Sassia, the mother of this Avitus, (for she shall be called his mother by me, just for the name's sake, although she behaves towards him with the hatred and cruelty of an enemy,)—she shall, I say, be called his mother; nor will I even so speak of her wickedness and barbarity as to forget the name to which nature entitles her; (for the more loveable and amiable the name of mother is, the more will you think the extraordinary wickedness of that mother, who for these many years has been wishing her son dead, and who wishes it now more than ever, worthy of all possible hatred.) She, then, the mother of Avitus, being charmed in a most impious matter with love for that young man, Melinus, her own son-in-law, at first restrained her desires as she could, but she did not do that long. Presently, she began to get so furious in her insane passion, she began to be so hurried away by her lust, that neither modesty, nor chastity, nor piety, nor the disgrace to her family, nor the opinion of men, nor the indignation of her son, nor the grief of her daughter, could recal her from her desires. She seduced the mind of the young man, not yet matured by wisdom and reason, with all those temptations with which that early age can be charmed and allured. Her daughter, who was tormented not only with the common indignation which all

[1] A. U. C. 666. Twenty-two years before this time.

women feel at injuries of that sort from their husbands, but who also was unable to endure the infamous prostitution of her mother, of which she did not think that she could even complain to any one without committing a sin herself, wished the rest of the world to remain in ignorance of this her terrible misfortune, and wasted away in grief and tears in the arms and on the bosom of Cluentius, her most affectionate brother. However, there is a sudden divorce, which appeared likely to be a consolation for all her misfortunes. Cluentia departs from Melinus; not unwilling to be released from the infliction of such injuries, yet not willing to lose her husband. But then that admirable and illustrious mother of hers began openly to exult with joy, to triumph in her delight, victorious over her daughter, not over her lust. Therefore she did not choose her reputation to be attacked any longer by uncertain suspicions; she orders that genial bed, which two years before she had decked for her daughter on her marriage, to be decked and prepared for herself in the very same house, having driven and forced her daughter out of it. The mother-in-law marries the son-in-law, no one looking favourably on the deed, no one approving it, all foreboding a dismal end to it.

VI. Oh, the incredible wickedness of the woman, and, with the exception of this one single instance, unheard of since the world began! Oh, the unbridled and unrestrained lust! Oh, the extraordinary audacity of her conduct! To think that she did not fear (even if she disregarded the anger of the gods and the scorn of men) that nuptial night and those bridal torches! that she did not dread the threshold of that chamber! nor the bed of her daughter! nor those very walls, the witnesses of the former wedding! She broke down and overthrew everything in her passion and her madness; lust got the better of shame, audacity subdued fear, mad passion conquered reason. Her son was indignant at this common disgrace of his family, of his blood, and of his name. His misery was increased by the daily complaints and incessant weeping of his sister; still he resolved that he ought to do nothing more himself with reference to his grievous injuries and the terrible wickedness of his mother, beyond ceasing to consider her as his mother; lest, if he did continue to behave to her as if she were his mother, he might be thought not only to see, but in his heart to approve of, those things which he could not behold without the greatest anguish of mind.

You have heard what was the origin of the bad feeling between him and his mother; when you know the rest, you will perceive that I feared this with reference to our cause; for, I am not ignorant that, whatever sort of woman a mother may be, still in a trial in which her son is concerned, it is scarcely fitting that any mention should be made of the infamy of his mother. I should not, O judges, be fit to conduct any cause, if, when I was employed in warding off danger from a friend, I were to fail to see this which is implanted and deeply rooted in the common feelings of all men, and in their very nature. I am quite aware, that it is right for men not only to be silent about the injuries which they suffer from their parents, but even to bear them with equanimity; but I think that those things which can be borne ought to be borne, that those things which can be buried in silence ought to be buried in silence. Aulus Cluentius has seen no calamity in his whole life, has encountered no peril of death, has feared no evil, which has not been contrived against, and brought to bear upon him, from beginning to end, by his mother. But all these things he would say nothing of at the present moment, and would allow them to be buried, if possible, in oblivion, and if not, at all events in silence as far as he is concerned, but she does these things in such a manner that he is totally unable to be silent about them; for this very trial, this danger in which he now is, this accusation which is brought against him, all the multitude of witnesses which is to appear, has all been provided originally by his mother; is marshalled by his mother at this present time; and is furthered with all her wealth and all her influence. She herself has lately hastened from Larinum to Rome for the sake of destroying this her son. The woman is at hand, bold, wealthy and cruel. She has provided accusers; she has trained witnesses; she rejoices in the mourning garments and miserable appearance of Cluentius; she longs for his destruction; she would be willing to shed her own blood to the last drop, if she can only see his blood shed first. Unless you have all these circumstances proved to you in the course of this trial, I give you leave to think that she is unjustly brought before the court by me now; but if all these things are made as plain as they are abominable, then you ought to pardon Cluentius for allowing these things to be said by me; and you ought not to pardon me if I were silent under such circumstances.

VII. Now I will just briefly relate to you on what charges Oppianicus was convicted; that you may be able to see clearly both the constancy of Aulus Cluentius and the cause of this accusation. And first of all I will show you what was the cause of the prosecution of Oppianicus; so that you may see that Aulus Cluentius only instituted it because he was compelled by force and absolute necessity.

When he had evidently taken poison, which Oppianicus, the husband of his mother, had prepared for him; and as this fact was proved, not by conjecture, but by eye-sight,—by his being caught in the fact; and as there could be no possible doubt in the case, he prosecuted Oppianicus. With what constancy, with what diligence he did so, I will state hereafter; at present I wish you to be aware that he had no other reason for accusing him, except that this was the only method by which he could escape the danger manifestly intended to his life, and the daily plots laid against his existence. And that you may understand that Oppianicus was accused of charges from which a prosecutor had nothing to fear, and a defendant nothing to hope, I will relate to you a few of the items of accusation which were brought forward at that trial; and when you have heard them, none of you will wonder that he should have distrusted his case, and betaken himself to Stalenus and to bribery.

There was a woman of Larinum, named Dinea, the mother-in-law of Oppianicus, who had three sons, Marcus Aurius, Numerius Aurius, and Cnæus Magius, and one daughter, Magia, who was married to Oppianicus. Marcus Aurius, quite a young man, having been taken prisoner in the social war at Asculum, fell into the hands of Quintus Sergius, a senator, who was convicted of assassination, and was put by him in his slaves' prison. But Numerius Aurius, his brother, died, and left Cnæus Magius, his brother, his heir. Afterwards, Magia, the wife of Oppianicus, died; and last of all, that one who was the last of the sons of Dinea, Cnæus Magius, also died. He left as his heir that young Oppianicus, the son of his sister, and enjoined that he should share the inheritance with his mother Dinea. In the meantime an informant comes to Dinea, (a man neither of obscure rank, nor uncertain as to the truth of his news,) to tell her that her son Marcus Aurius is alive, and is in the territory of Gaul, in slavery. The woman, having lost her children, when the

hope of recovering one of her sons was held out to her, summoned all her relations, and all the intimate friends of her son, and with tears entreated them to undertake the business, to seek out the youth, and to restore to her that son whom fortune had willed should be the only one remaining to her out of many. Just when she had begun to adopt these measures, she was taken ill. Therefore she made a will in these terms: she left to that son four hundred thousand sesterces; and she made that Oppianicus who has been already mentioned, her grandson, her heir. And a few days after, she died. However, these relations, as they had undertaken to do while Dinea was alive, when she was dead, went into the Gallic territory to search out Aurius, with the same man who had brought Dinea the information.

VIII. In the meantime, Oppianicus being, as you will have proved to you by many circumstances, a man of singular wickedness and audacity, by means of some Gaul, his intimate friend, first of all corrupted that informer with a bribe, and after that, at no great expense, managed to have Aurius himself got out of the way and murdered. But they who had gone to seek out and recover their relation, send letters to Larinum, to the Aurii, the relations of that young man, and their own intimate friends, to say that the investigation was very difficult for them, because they understood that the man who had given the information had been since bribed by Oppianicus. And these letters Aulus Aurius, a brave and experienced man, and one of high rank in his own city, the near relation of the missing Marcus Aurius, read openly in the forum, in the hearing of plenty of people, in the presence of Oppianicus himself, and with a loud voice declared that he would prosecute Oppianicus if he found that Marcus Aurius had been murdered. The feelings, not only of his relations, but also of all the citizens of Larinum, are moved by hatred of Oppianicus, and pity for that young man. Therefore, when Aulus Aurius, he who had previously made this declaration, began to follow the man with loud cries and with threats, he fled from Larinum, and betook himself to the camp of that most illustrious man, Quintus Metellus. After that flight, the witness of his crime, and of his consciousness of it, he never ventured to commit himself to the protection of a court of justice, or of the laws,—he never dared to trust himself unarmed among his enemies; but

at the time when violence was stalking abroad, after the victory of Lucius Sylla, he came to Larinum with a body of armed men, to the great alarm of all the citizens; he carried off the quatuorviri,[1] whom the citizens of that municipality had elected; he said that he and three others had been appointed by Sylla; and he said that he received orders from him to take care that that Aurius who had threatened him with prosecution and with danger to his life, and the other Aurius, and Caius Aurius his son, and Sextus Vibius, whom he was said to have employed as his agent in corrupting the man who had given the information, were proscribed and put to death. Accordingly, when they had been most cruelly murdered, the rest were all thrown into no slight fear of proscription and death by that circumstance. When these things had been made manifest at the trial, who is there who can think it possible that he should have been acquitted?

IX. And these things are trifles. Listen to what follows, and you will wonder, not that Oppianicus was at last condemned, but that he remained for some time in safety.

In the first place, remark the audacity of the man. He was anxious to marry Sassia, the mother of Avitus, her whose husband, Aulus Aurius, he had murdered. It is hard to say whether he who wished such a thing was the more impudent, or she who consented was the more heartless. However, remark the humanity and virtue of both of them. Oppianicus asks, and most earnestly entreats Sassia to marry him. But she does not marvel at his audacity,—does not scorn and reject his impudence, she is not even alarmed at the idea of the house of Oppianicus, red with her husband's blood; but she says that she has a repugnance to this marriage, because he has three sons. Oppianicus, who coveted Sassia's money, thought that he must seek at home for a remedy for that obstacle which was opposed to his marriage. For as he had an infant son by Novia, and as a second son of his, whom he had had by Papia, was being brought up under his mother's eye at Teanum in Apulia, which is about eighteen

[1] "The highest magistrates of a colonia were the duumviri or quatuorviri, so called as the numbers might vary, whose functions may be compared with those of the consulate at Rome, before the establishment of the prætorship. Their principal duties were the administration of justice."—Smith, Dict. Ant. p 259 v. *Colonia*.

miles from Larinum, on a sudden, without alleging any reason, he sends for the boy from Teanum, which he had previously never been accustomed to do, except at the time of the public games, or on days of festival. His miserable mother, suspecting no evil, sends him. He pretended to set out himself to Tarentum; and on that very day the boy, though at the eleventh hour he had been seen in public in good health, died before night, and the next day was burnt before daybreak. And common report brought this miserable news to his mother before any one of Oppianicus's household brought her news of it. She, when she had heard at one and the same time, that she was deprived not only of her son, but even of the sad office of celebrating his funeral rites, came instantly, half dead with grief, to Larinum, and there performs funeral obsequies over again for her already buried son. Ten days had not elapsed when his other infant son is also murdered; and then Sassia immediately marries Oppianicus, rejoicing in his mind, and feeling confident of the attainment of his hopes. No wonder she married him, when she saw him so eager to propitiate her, not with ordinary nuptial gifts, but with the deaths of his sons. So that other men are often covetous of money for the sake of their children, but that man thought it more agreeable to lose his children for the sake of money.

X. I see, O judges, that you, as becomes your feelings of humanity, are violently moved at these enormous crimes now briefly related by me. What do you think must have been their feelings who had not only to hear of these wicked deeds, but also to sit in judgment on them? You are hearing of a man, in whose case you are not the judges,—of a man whom you do not see,—of a man whom you now can no longer hate,—of a man who has made atonement to nature and to the laws whom the laws have punished with banishment, nature with death. You are hearing of these actions, not from any enemy, you are hearing of them without any witnesses being produced; you are hearing of them when those things which might be enlarged upon at the greatest length are stated by me in a brief and summary manner. They were hearing of the actions of a man with reference to whom they were bound to deliver their judgment on oath,—of a man who was present, whose infamous and hardened countenance they were looking upon, - of a man whom they hated on account of his

audacity,—of him whom they thought worthy of every possible punishment. They were hearing the relation of these crimes from his accusers; they were hearing the statements of many witnesses; they were hearing a serious and long oration on each separate particular from Publius Canutius, a most eloquent man. And is there any man who, when he has become acquainted with these things, can suspect that Oppianicus was taken unfair advantage of, and crushed at his trial, though he was innocent? I will now mention all the other things in a lump, O judges, in order to come to those things which are nearer to, and more immediately connected with, this cause.

I entreat you to recollect that it was no part of my original intention to bring any accusation against Oppianicus, now that he is dead; but that as I wish to persuade you that the tribunal was not bribed by my client, I use this as the beginning and foundation of my defence,—that Oppianicus was condemned, being a most guilty and wicked man. He himself gave a cup to his own wife Cluentia, who was the aunt of that man Avitus, and she while drinking it cried out that she was dying in the greatest agony; and she lived no longer than she was speaking, for she died in the middle of this speech and exclamation. And besides the suddenness of this death, and the exclamation of the dying woman, everything which is considered a sign and proof of poison was discovered in her body after she was dead.

XI. And by the same poison he killed Caius Oppianicus his brother,—and even this was not enough. Although in the murder of his brother no wickedness seems to have been omitted, still he prepared beforehand the road by which he was to arrive at his abominable crime by other acts of wickedness. For, as Auria, his brother's wife, was in the family way, and appeared to be near the time of her confinement, he murdered her also with poison, so that she and his own brother's child, whom she bore within her, perished at the same time. After that he attacked his brother; who, when it was too late, after he had drank that cup of death, and when he was uttering loud exclamations about his own and his wife's death, and was desirous to alter his will, died during the actual expression of this intention. So he murdered the woman, that he might not be cut off from his brother's inheritance by her confinement; and he deprived his brother's

children of life before they were able to receive from nature the light which was intended for them; so as to give every one to understand that nothing could be protected against him, that nothing was too holy for him, from whose audacity even the protection of their mother's body had been unable to preserve his own brother's children.

I recollect that a certain Milesian woman, when I was in Asia, because she had by medicines brought on abortion, having been bribed to do so by the heirs in reversion, was convicted of a capital crime; and rightly, inasmuch as she had destroyed the hope of the father, the memory of his name, the supply of his race, the heir of his family, a citizen intended for the use of the republic. How much severer punishment does Oppianicus deserve for the same crime? For she, by doing this violence to her person, tortured her own body; but he effected this same crime through the torture and death of another. Other men do not appear to be able to commit many atrocious murders on one individual, but Oppianicus has been found clever enough to destroy many lives in one body.

XII. Therefore when Cnæus Magius, the uncle of that young Oppianicus, had become acquainted with the habits and audacity of this man, and, being stricken with a sore disease, had made him, his sister's son, his heir, summoning his friends, in the presence of his mother Dinea, he asked his wife whether she was in the family way; and when she said that she was, he begged of her after his death to live with Dinea, who was her mother-in-law, till she was confined, and to take great care to preserve and to bring forth alive the child that she had conceived. Accordingly, he leaves her in his will a large sum, which she was to receive from his child if a child was born, but leaves her nothing from the reversionary heir. You see what he suspected of Oppianicus; what his opinion of him was is plain enough. For though he left his son his heir, he did not leave him guardian to his children. Now, learn what Oppianicus did; and you will see that Magius, when dying, had an accurate foresight of what was to happen. The money which had been left to her from her child if any was born, that Oppianicus paid to her at once, though it was not due; if, indeed, it is to be called a payment of a legacy, and not wages for procuring abortion; and she, having received that sum, and many other presents besides, which were read out of the codicils of Oppianicus's will, being subdued by avarice, sold

to the wickedness of Oppianicus that hope which she had in her womb, and which had been so commended to her care by her husband! It would seem now that nothing could possibly be added to this wickedness: listen to the end.—The woman who, according to the solemn request of her husband, ought not for ten months to have ever entered any house but that of her mother-in-law; five months after her husband's death married Oppianicus himself. But that marriage did not last long, for it was entered into, not with any regard to the dignity of wedlock, but from a partnership in wickedness.

XIII. What more shall I say? How notorious, while the fact was recent, was the murder of Asinius of Larinum, a wealthy young man! how much talked about in every one's conversation! There was a man of Larinum of the name of Avilius, a man of abandoned character and great poverty, but exceedingly skilful in rousing and gratifying the passions of young men; and as by his attentions and obsequiousness he had wormed himself into the acquaintance of Asinius, Oppianicus began forthwith to hope, that by means of this Avilius, as if he were an instrument applied for the purpose, he might catch the youth of Asinius, and take his father's wealth from him by storm. The plan was devised at Larinum; the accomplishment of it was transferred to Rome. For they thought that they could lay the foundations of that design more easily in solitude, but that they could accomplish a deed of the sort more conveniently in a crowd. Asinius went to Rome with Avilius; Oppianicus followed on their footsteps. How they spent their time at Rome, in what revels, in what scenes of debauchery, in what immense and extravagant expenses, not only with the knowledge, but even with the company and assistance of Oppianicus, would take me a long while to tell, especially as I am hurrying on to other topics. Listen to the end of this pretended friendship. When the young man was in some woman's house, and passing the night there, and staying there also the next day, Avilius, as had been arranged, pretends that he is taken ill, and wishes to make his will—Oppianicus brings witnesses to sign it, who knew neither Asinius nor Avilius, and calls him Asinius; and he himself departs, after the will has been signed and sealed in the name of Asinius. Avilius gets well immediately. But Asinius in a very short time is slain, being tempted out to some sand-pits outside the Esquiline gate, by the idea that he was being

taken to some villa And after he had been missed a day or two, and could not be found in those places in which he was usually to be sought for, and as Oppianicus was constantly saying in the forum at Larinum that he and his friends had lately witnessed his will, the freedmen of Asinius and some of his friends, because it was notorious that on the last day that Asinius had been seen, Avilius had been with him, and had been seen with him by many people, proceed against him, and bring him before Quintius Manilius, who at that time was a triumvir.[1] And Avilius at once, without any witness or any informer appearing against him, being agitated by the consciousness of his recent wickedness, relates everything as I have now stated it, and confesses that Asinius had been murdered by him according to the plan of Oppianicus. Oppianicus, while lying concealed in his own house, is dragged out by Manilius; Avilius the informer is produced on the other side to face him. Why need you inquire what followed? Most of you are acquainted with Manilius; he had never, from the time he was a child, had any thoughts of honour, or of the pursuit of virtue, or even of the advantage of a good character; but from having been a wanton and profligate buffoon, he had, in the dissensions of the state, arrived through the suffrages of the people at that office, to the seat of which he had often been conducted by the reproaches of the bystanders. Accordingly he arranges the business with Oppianicus; he receives a bribe from him; he abandons the cause after it was commenced, and when it was fully proved. And in this trial of Oppianicus the crime committed on Asinius was proved by many witnesses, and also by the information of Avilius; in which, it was notorious that Oppianicus's name was mentioned first among the agents; and yet you say that he was an unfortunate and an innocent man, convicted by a corrupt tribunal.

XIV. What more? Did not your father, O Oppianicus, beyond all question, murder your grandmother Dinea, whose heir you are? who, when he had brought to her his own physician, a well-tried man and often victorious, (by whose means

[1] There were many triumviri, but the *triumviri capitales*, which are meant here, were regular magistrates elected by the people; they succeeded to many of the functions of the *quæstores parricidii*, and in many points they resembled the magistracy of the Eleven at Athens. Their court appears to have been near the Mænian Column. *Vide* Smith, Dict. Ant. p. 1009, v. *Triumvir*

indeed he had slain many of his enemies,) exclaimed that she positively would not be attended by that man, through whose attention she had lost all her friends. Then immediately he goes to a man of Ancona, Lucius Clodius, a travelling quack, who had come by accident at that time to Larinum, and arranges with him for four hundred sesterces, as was shown at the time by his account-books. Lucius Clodius, being a man in a hurry, as he had many more market towns to visit, did the business off-hand, as soon as he was introduced; he took the woman off with the first draught he gave her, and did not stay at Larinum a moment afterwards. When this Dinea was making her will, Oppianicus, who was her son-in-law, having taken the papers, effaced the legacies she bequeathed in it with his finger; and as he had done this in many places, after her death, being afraid of being detected by all those erasures, he had the will copied over again, and had it signed and sealed with forged seals. I pass over many things on purpose. And indeed I fear lest I may appear to have said too much as it is. But you must suppose that he has been consistent with himself in every other transaction of his life. All the senators[1] of Larinum decided that he had tampered with the public registers of the censors of that city. No one would have any account with him; no one would transact any business with him. Of all the connexions and relations that he had, no one ever left him guardian to his children. No one thought him fit to call on, or to meet in the street, or to talk to, or to dine with. All men shunned him with contempt and hatred,—all men avoided him as some inhuman and mischievous beast or pestilence. Still, audacious, infamous, guilty as he was, Avitus, O judges, would never have accused him, if he had been able to avoid doing so without danger to his own life. Oppianicus was his enemy; still he was his step-father: his mother was cruel to him and hated him; still she was his mother. Lastly, no one was ever so disinclined to prosecutions as Cluentius was by nature, by disposition, and by the constant habits of his life. But as he had this alternative set before him, either to accuse him, as he

[1] The term in the original is *decuriones*. In the colonies "the name of the senate was *ordo decurionum*, in later times simply *ordo* or *curia*; the members of it were *decuriones* or *curiales*. Thus in the later ages, *curia* is opposed to *senatus*, the former being the senate of a colony, and the latter the senate of Rome."—Smith, Dict. Ant. p. 259, v. *Colonia*.

was bound to do by justice and piety, or else to be miserably and wickedly murdered himself, he preferred accusing him any way he could, to dying in that miserable manner.

And that you may have this thoroughly proved to you, I will relate to you the crime of Oppianicus, as it was clearly detected and proved, from which you will see both things, both that my client could not avoid prosecuting him, and that he could not possibly escape being convicted.

XV. There were some officers at Larinum called Martiales, the public ministers of Mars, and consecrated to that god by the old institutions and religious ceremonies of the people of Larinum. And as there was a great number of them, and as, just as there were many slaves of Venus in Sicily, these also at Larinum were reckoned part of the household of Mars, on a sudden Oppianicus began to urge on their behalf, that they were all free men, and Roman citizens. The senators of Larinum and all the citizens of that municipality were very indignant at this. Accordingly they requested Avitus to undertake the cause and to maintain the public rights of the city. Avitus, although he had entirely retired from public life, still, out of regard to the place and the antiquity of his family, and because he thought that he was born not for his own advantage only, but also for that of his fellow-citizens, and of his other friends, he was unwilling to refuse the eager importunity of all the Larinatians. Having undertaken the business, when the cause had been transferred to Rome, great contentions arose every day between Avitus and Oppianicus from the zeal of each for the side which he espoused. Oppianicus himself was a man of a bitter and savage disposition; and Avitus's own mother, being hostile to and furious against her son, inflamed his insane hatred. But they thought it exceedingly desirable for them to get rid of him, and to disconnect him from the cause of the Martiales. There was also another more influential reason which had great weight with Oppianicus, being a most avaricious and audacious man. For, up to the time of that trial, Avitus had never made any will. For he could not make up his mind to bequeath anything to such a mother as his, nor, on the other hand, to leave his parent's name entirely out of his will. And as Oppianicus was aware of that, for it was no secret, he plainly saw, that, if Avitus were dead, all his property would come to his mother; and she might afterwards, when she had become

richer, and had lost her son, be put out of the way by him, with more profit, and with less danger. So now see in what manner he, being urged on by these desires, endeavoured to take off Avitus by poison.

XVI. There were two twin brothers of the municipality of Aletrinum, by name Caius and Lucius Fabricius, men very like one another in appearance and disposition, but very unlike the rest of their fellow-citizens; among whom what uniform respectability of character, and what consistent and moderate habits of life prevail, there is not one of you, I imagine, who is ignorant. Oppianicus was always exceedingly intimate with these Fabricii. You are all pretty well aware what great power in causing friendship a similarity of pursuits and disposition has. As these two men lived in such a way as to think no gain discreditable; as every sort of fraud, and treachery, and cheating of young men was practised by them; as they were notorious for every sort of vice and dishonesty, Oppianicus, as I have said, had cultivated their intimacy for many years. And accordingly he now resolved to prepare destruction for Avitus by the agency of Caius Fabricius, for Lucius had died. Avitus was at that time in delicate health; and he was employing a physician of no great reputation, but a man of tried skill and honesty, by name Cleophantus, whose slave, Diogenes, Fabricius began to tamper with, and to induce by promises and bribes to give poison to Avitus. The slave, being a cunning fellow, but, as the affair proved, a virtuous and upright man, did not refuse to listen to Fabricius's discourse; he reported the matter to his master, and Cleophantus had a conference with Avitus. Avitus immediately communicated the business to Marcus Bebrius, a senator, his most intimate friend; and I imagine you all recollect what a loyal, and prudent, and worthy man he was. His advice was that Avitus should buy Diogenes of Cleophantus, in order that the matter might be more easily proved by his information, or else be discovered to be false. Not to make a long story of it, Diogenes is bought in a few days, (when many virtuous men had secretly been made aware of it,) the poison, and the money sealed up, which was given for that purpose, is seized in the hands of Scamander, a freedman of the Fabricii. O ye immortal gods! will any one, when he has heard all these facts, say that Oppianicus was falsely convicted?

XVII. Who was ever more audacious? who was ever more

guilty? who was ever brought before a court more manifestly detected in his guilt? What genius, what eloquence could there be, what plea in defence could possibly be devised, which could stand against this single accusation? And at the same time, who is there that can doubt that, in such a case as this, so clearly detected and proved, Cluentius was forced either to die himself, or to undertake the prosecution?

I think, O judges, that it is proved plainly enough, that Oppianicus was prosecuted on such accusations that it was absolutely impossible for him to be honestly acquitted. Now I will show you that he was brought before the courts as a criminal, in such a way that he came before them already condemned, as there had been more than one or even two previous investigations of his case. For Cluentius, O judges, in the first instance, accused that man in whose hands he had seized the poison. That was Scamander, the freedman of the Fabricii. The Bench was honest. There was no suspicion of the judges having been bribed. A plain case, a well-proved fact, an undeniable charge was brought before the court. So then this Fabricius, the man whom I have mentioned already, seeing that, if his freedman were condemned, he himself would be in danger, because he knew that I lived in the neighbourhood of Aletrinum, and was very intimate with many of the citizens of that place, brought a number of them to me: who, although they had that opinion of the man which they could not help having, still, because he was of the same municipality as themselves, thought it concerned their dignity to defend him by what means they could; and they begged of me that I would do so, and that I would undertake the cause of Scamander; and on his cause all the safety of his master depended. I, as I was unable to refuse anything to men who were so respectable, and so much attached to me, —and as I was not aware that the accusation was one involving crimes of such enormity and so undeniably proved—as indeed they too, who were then recommending the cause to me, were not aware either,—promised to do all that they asked of me.

XVIII. The cause began to be pleaded; Scamander the defendant was cited before the court. Publius Canutius was the counsel for the prosecution, a man of the greatest ability and a very accomplished speaker; and he accused Scamander in plain words, saying "that the poison had been discovered on him." All the force of his accusation was directed against

Oppianicus. The cause of his designs against Cluentius was revealed; his intimacy with the Fabricii was mentioned; the way of life and audacity of the man was revealed; in short, the whole accusation was stated with great firmness and with varied eloquence, and at last was summed up by the proved discovery of the poison. Then I rose to reply, with what anxiety, O ye immortal gods! with what solicitude of mind! with what fear! Indeed, I am always very nervous when I begin to speak. As often as I rise to speak, so often do I think that I am myself on my trial, not only as to my ability, but also as to my virtue and as to the discharge of my duty; lest I should either seem to have undertaken what I am incapable of performing, which is an impudent act, or not to perform it as well as I can, which is either a perfidious action or a careless one. But that time I was so agitated, that I was afraid of everything. I was afraid, if I said nothing, of being thought utterly devoid of eloquence, and, if I said much in such a case, of being considered the most shameless of men.

XIX. I recollected myself after a time, and adopted this resolution, that I must needs act boldly; that the age which I was of at that time generally had much allowance made for it, even if I were to stand by men in danger, though their cause had but little justice in it. And so I acted. I strove and contended by every possible means, I had recourse to every possible expedient, to every imaginable excuse in the case, which I could think of; so as, at all events, (though I am almost ashamed to say it,) no one could think that the cause had been left without an advocate. But, whatever excuse I tried to put forth, the prosecutor immediately wrested out of my hands. If I asked what enmity there was between Scamander and Avitus, he admitted that there was none. But he said that Oppianicus, whose agent he had been, had always been and still was most hostile to Avitus. If again I urged that no advantage would accrue to Scamander by the death of Avitus; he admitted that, but he said that all the property of Avitus would come to the wife of Oppianicus, a man who had had plenty of practice in killing his wives. When I employed this argument in the defence, which has always been considered a most honourable one to use in the causes of freedmen, that Scamander was highly esteemed by his patron; he admitted that, but asked, Who had any opinion of that patron himself? When I urged at some length the argument, that a

plot might have been laid against Scamander by Diogenes, and that it might have been arranged between them on some other account that Diogenes should bring him medicine, not poison; that this might happen to any one; he asked why he came into such a place as that, into so secret a place, why he came by himself, why he came with a sum of money sealed up. And lastly, at this point, our cause was weighed down by witnesses, most honourable men. Marcus Bebrius said that Diogenes had been bought by his advice, and that he was present when Scamander was seized with the poison and the money in his possession. Publius Quintilius Varus, a man of the most scrupulous honour, and of the greatest authority, said that Cleophantus had conversed with him about the plots which were being laid against Avitus, and about the tampering with Diogenes, while the matter was fresh. And all through that trial, though we appeared to be defending Scamander, he was the defendant only in name, but in reality, it was Oppianicus who was in peril, and who was the object of the whole prosecution. Nor, indeed, was there any doubt about it, nor could he disguise that that was the case. He was constantly present in court, constantly interfering in the case; he was exerting all his zeal and all his influence. And lastly, which was of great injury to our cause, he was sitting in that very place as if he were the defendant. The eyes of all the judges were directed, not towards Scamander, but towards Oppianicus; his fear, his agitation, his countenance betraying suspense and uncertainty, his constant change of colour, made all those things, which were previously very suspicious, palpable and evident.

XX. When the judges were about to come to their decision, Caius Junius, the president, asked the defendant, according to the provisions of the Cornelian law which then existed, whether he wished the decision to be come to in his case secretly or openly. He replied by the advice of Oppianicus, because he said that Junius was an intimate friend of Avitus, that he wished the decision to be come to secretly. The judges deliberate. Scamander on the first trial was convicted by every vote except one, which Stalenus said was his. Who in the whole city was there at that time, who when Scamander was condemned, did not think that sentence had been passed on Oppianicus? What point was decided by that conviction, except that that poison had been procured for the purpose of

being given to Avitus? Moreover, what suspicion of the very slightest nature attached, or could attach to Scamander, so that he should be thought to have desired of his own accord to kill Avitus?

And, now that this trial had taken place, now that Oppianicus was convicted in fact, and in the general opinion of every one, though he was not yet condemned by any sentence having been legally passed upon him, still Avitus did not at once proceed criminally against Oppianicus. He wished to know whether the judges were severe against those men only whom they had ascertained to have poison in their own possession, or whether they judged the intention and complicity of others in such crimes worthy of the same punishment. Therefore, he immediately proceeded against Caius Fabricius, who, on account of his intimacy with Oppianicus, he thought must have been privy to that crime; and, on account of the connexion of the two causes, he obtained leave to have that cause taken first. Then this Fabricius not only did not bring to me my neighbours and friends the citizens of Aletrinum, but he was not able himself any longer to employ them as men eager in his defence, or as witnesses to his character. For they and I thought it suitable to our humanity to uphold the cause of a man not entirely a stranger to us, while it was undecided, though suspicious; but to endeavour to upset the decision which had been come to, we should have thought a deed of great impudence. Accordingly he, being compelled by his desolate condition and necessity, fled for aid to the brothers Cepasii, industrious men, and of such a disposition as to think it an honour and a kindness to have any opportunity of speaking afforded them.

XXI. Now this is a very shameful thing, that in diseases of the body, the more serious the complaint is, the more carefully is a physician of great eminence and skill sought for; but in capital trials, the worse the case is, the more obscure and unprincipled is the practitioner to whom men have recourse. The defendant is brought before the court; the cause is pleaded; Canutius says but little in support of the accusation, it being a case, in fact, already decided. The elder Cepasius begins to reply, in a long exordium, tracing the facts a long way back. At first his speech is listened to with attention. Oppianicus began to recover his spirits, having been before downcast and dejected. Fabricius himself was

delighted. He was not aware that the attention of the judges was awakened, not by the eloquence of the man, but by the impudence of the defence. After he began to discuss the immediate facts of the case, he himself aggravated considerably the unfavourable circumstances that already existed. Although he pleaded with great diligence, yet at times he seemed not to be defending the man, but only quibbling with the accusation. And while he was thinking that he was speaking with great art, and when he had made up this form of words with his utmost skill, "Look, O judges, at the fortunes of the men, look at the uncertainty and variety of the events that have befallen them, look at the old age of Fabricius;"—when he had frequently repeated this "Look," for the sake of adorning his speech, he himself did look, but Caius Fabricius had slunk away from his seat with his head down. On this the judges began to laugh; the counsel began to get in a rage, and to be very indignant that his cause was taken out of his mouth, and that he could not go on saying "Look, O judges," from that place; nor was anything nearer happening, than his pursuing him and seizing him by the throat, and bringing him back to his seat, in order that he might be able to finish his summing up. And so Fabricius was condemned, in the first place by his own judgment, which is the severest condemnation of all, and in the second place by the authority of the law, and by the sentences of the judges.

XXII. Why, now, need we say any more of this cause of Oppianicus? He was brought as a defendant before those very judges by whom he had already been condemned in ten previous examinations. By the same judges, who, by the condemnation of Fabricius, had in reality passed sentence on Oppianicus, his trial was appointed to come on first. He was accused of the gravest crimes, both of those which have already been briefly mentioned by me, and of many others besides, all of which I now pass over. He was accused before those men who had already condemned both Scamander the agent of Oppianicus, and Fabricius his accomplice in crime. Which, O ye immortal gods! is most to be wondered at, that he was condemned, or that he dared to make any reply? For what could those judges do? If they had condemned the Fabricii when innocent, still in the case of Oppianicus they ought to have been consistent with themselves, and to have

made their present decision harmonize with their previous ones. Could they themselves of their own accord rescind their own judgments, when other men, when giving judgment, are accustomed most especially to take care that their decisions be not at variance with those of other judges? And could those who had condemned the freedman of Fabricius, because he had been an agent in the crime, and his patron, because he had been privy to it, acquit the principal and original contriver of the whole wickedness? Could those who, without any previous examination, had condemned the other men from what appeared in the cause itself, acquit this man whom they knew to have been already convicted twice over? Then indeed those decisions of the senatorial body, branded with no imaginary odium, but with real and conspicuous infamy, covered with disgrace and ignominy, would have left no room for any defence of them. For what answer could these judges make if any one asked of them, "You have condemned Scamander; of what crime? Because, forsooth, he attempted to murder Avitus by poison, by the agency of the slave of the doctor. What was Scamander to gain by the death of Avitus? Nothing; but he was the agent of Oppianicus. You have condemned Caius Fabricius; why so? Because, as he himself was exceedingly intimate with Oppianicus, and as his freedman had been detected in the very act, it was not proved that he was entirely ignorant of his design." If, then, they had acquitted Oppianicus himself, after he had been twice condemned by their own decisions, who could have endured such infamy on the part of the tribunals, such inconsistency in judicial decisions, and such caprice on the part of the judges?

But if you now clearly see this, which has been long ago proved by the whole of my speech, that the defendant must inevitably be condemned by that decision, especially when brought before the same judges who had made two previous investigations into the matter, you must at the same time see this, that the accuser could have had no imaginable reason for wishing to bribe the bench of judges.

XXIII. For I ask you, O Titus Altius, leaving out of the question all other arguments, whether you think that the Fabricii who were condemned were innocent? whether you say that those decisions also were corruptly procured by bribes? though in one of those decisions one of the defend-

ants was acquitted by Stalenus alone; in the other, the defendant, of his own accord, condemned himself. Come, now, if they were guilty, of what crime were they guilty? Was there any crime imputed to them except the seeking for poison with which to murder Avitus? Was there any other point mooted at those trials, except these plots which were laid against Avitus by Oppianicus, through the instrumentality of the Fabricii? Nothing else, you will find; I say, O judges, nothing else. It is fresh in people's memories. There are public records of the trial. Correct me if I am speaking falsely. Read the statements of the witnesses. Tell me, in those trials, what was objected to them, I will not say as an accusation, but even as a reproach, except this poison of Oppianicus. Many reasons can be alleged why it was necessary that this decision should be given; but I will meet your expectation half-way, O judges. For although I am listened to by you in such a way, that I am persuaded no one was ever listened to more kindly or more attentively, still your silent expectation has been for some time calling me in another direction, and seeming to chide me thus:—"What then? Do you deny that that sentence was procured by corruption?" I do not deny that, but I say that the corruption was not practised by my client. By whom, then, was it practised? I think, in the first place, if it had been uncertain what was likely to be the result of that trial, that still it would have been more probable that he would have recourse to corruption, who was afraid of being himself convicted, than he who was only afraid of another man being acquitted. In the second place, as it was doubtful to no one what decision must inevitably be given, that he would employ such means, who for any reason distrusted his case, rather than he who had every possible reason to feel confidence in his. Lastly, that at all events, he who had twice failed before those judges must have been the corrupter, rather than he who had twice established his case to their satisfaction. One thing is quite certain. No one will be so unjust to Cluentius, as not to grant to me, if it be proved that that tribunal was bribed, that it was bribed either by Avitus or by Oppianicus. If I prove that it was not bribed by Avitus, I prove that it was by Oppianicus,—I clear Avitus. Wherefore, although I have already established plainly enough that the one had no reason whatever for having recourse to bribery, (and from this alone

it follows that the bribery must have been committed by Oppianicus,) still you shall have separate proofs of this particular point.

XXIV. And I will adduce those facts as arguments, which, however, are very weighty ones—namely, that he was the briber, who was in danger,—that he was the briber, who was afraid,—that he was the briber, who had no hope of safety by any other means; he who was always a man of extraordinary audacity. There are many such arguments. But when I have a case which is not doubtful, but open and evident, the enumeration of every separate argument is superfluous. I say that Statius Albius gave Caius Ælius Stalenus the judge a large sum of money to influence his decision. Does any one deny it? I appeal to you, O Oppianicus; to you, O Titus Attius; the one of whom deplores that conviction with his eloquence, the other with silent piety. Dare to deny it, if you can, that money was given by Oppianicus to Stalenus the judge. Deny it—deny it, I say, where you stand. Why are you silent? But you cannot deny it, for you sought to recover what had been paid. You have admitted it,—you have recovered it. With what face now do you dare to mention a decision given through corruption, when you confess that money was given by the opposite side to the judge before trial, and recovered from him after the trial? How, then, were all these things managed? I will go back a little way, O judges, and I will explain everything which has lain hid in long obscurity, so that you shall appear almost to see it with your eyes. I entreat you, as you have listened to me attentively up to this time, so to listen to what is to come. In truth, nothing shall be said by me which shall not seem to be worthy of this assembly and this silence which is maintained in the court,—worthy of your attention and of your ears.

For when first Oppianicus began to suspect, from the fact of a prosecution having been instituted against Scamander, what danger he himself was threatened with, he immediately set himself to work to become intimate with a man, needy, audacious, a practised agent in the corruption of tribunals, but at that time himself a judge, Stalenus. And first of all, when Scamander was the defendant, he made such an impression on him by his gifts, and presents, and liberality, that he showed himself a more eager assistant than the credit

of a judge could stand. But afterwards, when Scamander had been acquitted by the single vote of Stalenus, but when the patron of Scamander had not been acquitted even by his own judgment, he found that he must provide for his safety by stronger measures. Then he began to request of Stalenus, as from a man most acute in contriving, most impudent in daring, and most intrepid in executing, (for all these qualities he had in a great degree, and he pretended to have them in a still greater degree,) assistance to save his credit and his fortunes.

XXV. You are not ignorant, O judges, that even beasts, when warned by hunger, usually return to that place where they have once been fed. That Stalenus, two years before, when he had undertaken the cause of the property of Safinius at Atella, had said that he would bribe the tribunal with six hundred thousand sesterces. But when he had received this sum from the youth, he embezzled it, and when the trial was over, he did not restore it either to Safinius or to the purchasers of the property. But when he had spent all that money, and had nothing left, not only nothing to gratify his desires, but nothing even to supply his necessities, he made up his mind that he must return to the same system of plunder and judicial embezzlement. And, therefore, as he saw that Oppianicus was in a desperate way, and overwhelmed by two previous investigations adverse to him, he raised him up from his depression with his promises, and bade him not despair of safety. Oppianicus began to entreat the man to show him some method of corrupting the tribunal. But he, as was afterwards heard from Oppianicus himself, said that there was no one in the city except himself who could do this. But at first he began to make objections, because he said that he was a candidate for the ædileship with men of the highest rank, and that he was afraid of incurring unpopularity and of giving offence. Afterwards, being prevailed on, he required at first a large sum of money. At last, he came down to what could be managed, and desired six hundred and forty thousand sesterces to be sent to his house. And as soon as this money was brought to him, that most worthless man immediately began to form and adopt the following idea,—that nothing could be more advantageous for his interests than for Oppianicus to be condemned; because, if he were acquitted, he must either distribute the money among the judges, or else restore it to him: but if he were

condemned, there would be no one to reclaim it. Therefore, he contrives a singular plan. And you will the more easily, O judges, believe the things which are said by us, if you will direct your minds back a considerable space, so as to recollect the way of life and disposition of Caius Stalenus. For according to the opinion that is formed of a man's habits do people conjecture what has or has not been done by him.

XXVI. As he was a man needy, expensive, audacious, cunning, perfidious, and as he saw so vast a sum of money laid up in his house, a most miserable and unfurnished receptacle for it, he began to revolve in his mind every sort of cunning and fraud. "Must I give it to the judges? In that case, what shall I get myself, except danger and infamy? Can I contrive no means by which Oppianicus must be condemned? Why not? There is nothing in the world that cannot be managed somehow. If any chance delivers him from danger, must I not return the money? Let us, then, drive him on headlong, and crush him in utter ruin." He adopts this plan,—he promises some of the most insignificant of the judges some money; then he keeps it back, hoping by this means (as he thought that the respectable men would, of their own accord, judge with impartiality) to make those who were less esteemed furious against Oppianicus on account of their disappointment. Therefore, as he had always been a blundering and a perverse fellow, he begins with Bulbus, and finding him sulky and yawning because he had got nothing for a long time, he gives him a gentle spur. "What will you do," says he, "will you help me, O Bulbus, so that we need not serve the republic for nothing?" But he, as soon as he heard this—"For nothing," said he, "I will follow whenever you like. But what have you got?" Then he promises him forty thousand sesterces if Oppianicus is acquitted. And he begs him to summon the rest of those with whom he is accustomed to converse, and he, the contriver of the whole business, adds Gutta[1] to Bulbus. Therefore, he did not seem at all bitter after the taste he had had of his discourse. One or two days passed, when the matter appeared somewhat doubtful. He wanted the agent and

[1] This is quite untranslateable; it is a set of puns. Gutta is the name of one judge, Bulbus of another; but gutta also means a drop, and bulbus means an onion. He sprinkles a drop on this onion, or he pours water on the onion to boil it.

some security for the money. Then Bulbus addresses the man with a cheerful countenance, as caressingly as he can. "What will you do," says he, "O Pætus?" (For Stalenus had chosen this surname for himself from the images of the Ælii, lest if he called himself Ligur, he should seem to be using the name of his nation rather than that of his family.) "Men are asking me where the money is about which you talked to me." On this that most manifest rogue, fed on gains acquired by tampering with the courts of justice, as he had now all his hopes and all his heart set upon that sum of money which he had got in his house, begins to frown. (Recollect his face, and the expression that you have seen him put on.) He complains that he has been thrown out by Oppianicus; and he, a man wholly made up of fraud and lies, and who had even improved those vices which he had by nature, by careful study, and by a regular sort of system of wickedness, declares positively that he has been cheated by Oppianicus; and he adds this assertion,—that he will be condemned by the vote which in his case every one was to give openly.

XXVII. The report had reached the bench, that there was mention made of corruption being practised among the judges;—the matter had not been kept as secret as it ought to have been, and yet was not so thoroughly detected as it was desirable that it should be for the sake of the republic. While the matter was so obscure, and every one in such doubt, on a sudden Canutius, a very clever man, and who had got some suspicion that Stalenus had been tampered with, but who thought that the business was not definitively settled, determined to get sentence pronounced. The judges said that they were willing. And at that time Oppianicus himself was in no great alarm. He thought that the whole business had been settled by Stalenus. The judges who were to deliberate on the case were thirty-two in number: an acquittal would be obtained by the votes of sixteen of them. Forty thousand sesterces given to each judge ought to make up that number of votes, and then the vote of Stalenus himself, who would be induced by the hope of a greater reward still, would crown the whole, making the seventeenth. And it happened by chance, because the matter was concluded in this way on a sudden, that Stalenus himself was not present. He was acting as counsel for the defence in some cause or

other before a judge. Avitus did not mind that, nor did Canutius. But Oppianicus and his patron Lucius Quintius were not so well pleased; and as Lucius Quintius was at that time a tribune of the people, he reproached Caius Junius the judge most bitterly, and insisted upon it that they should not deliberate on their decision without the presence of Stalenus; and as they appeared to be purposely rather careless in communicating with him on the subject by means of the lictors, he himself went out of the criminal court into the civil court, where Stalenus was engaged, and, as he had the power to do, adjourned that court, and himself brought Stalenus back to the bench. The judges rise to give decisions, when Oppianicus said, as he had at that time a right to do, that he wished the votes to be given openly, his object being that Stalenus might know what was to be paid to each judge. There were different kinds of judges, a few were bribed, but all were unfavorable. As men who are accustomed to receive bribes in the Campus Martius are usually exceedingly hostile to those candidates whose money they think is kept back, so the judges of the same sort were then very indignant against this defendant. The others considered him very guilty, but they waited for the votes of those who they thought had been bribed, that by seeing their votes they might judge who it was that they had been bribed by.

XXVIII. Behold now—the lots were drawn with such a result that Bulbus, Stalenus, and Gutta were the first who were to deliver their opinions. There was the greatest anxiety on the part of every one to see what vote would be given by these worthless and corrupt judges. And they all condemn him without the slightest hesitation. On this, great scruples arose in men's minds, and some doubt as to what had really been done. Then some of the judges, wise men, trained in the old-fashioned principles of the ancient tribunals, as they could not acquit a most guilty man, and yet, as they did not like at once to condemn a man, in whose case there appeared reason to suspect that bribery had been employed against him, before they were able to ascertain the truth of this suspicion, gave as their decision, "Not proven." But some severe men, who made up their minds that regard ought to be had to the intention with which a thing was done by any one, although they believed that others had only given a correct decision through the influence of bribery, nevertheless thought that it

behoved them to decide consistently with their previous decisions. Accordingly, they condemned him. There were five in all, who, whether they did so out of ignorance, or out of pity, or from being influenced by some secret suspicion, or by some latent ambition, acquitted that innocent Oppianicus of yours altogether.

After Oppianicus had been condemned, immediately Lucius Quintius, an excessive seeker after popularity, who was accustomed to catch at every wind of report, and at every word uttered in the assemblies, thought that he had an opportunity of rising himself, by exciting odium against the senators; because he thought that the decisions of that body were already falling into disfavour in the eyes of the people. One or two assemblies are held, very violent and stormy: a tribune of the people kept loudly asserting that the judges had taken money to condemn an innocent prisoner: he kept saying, that the fortunes of all men were at stake; that there were no courts of justice; that no one could be safe who had a wealthy enemy. Men ignorant of the whole business, who had never even seen Oppianicus, and who thought that a most virtuous citizen, that a most modest man had been crushed by money, being exasperated by this suspicion, began to demand that the whole matter should be brought forward and inquired into, and in fact, to require an investigation of the whole business; and at that very time Stalenus, having been sent for by Oppianicus, came by night to the house of Titus Annius, a most honourable man, and a most intimate friend of my own. By this time the whole business is known to every one;—what Oppianicus said to him about the money; how he said that he would restore the money; how respectable men heard the whole of their conversation, having been placed in a secret place with that view; how the whole matter was laid open, and mentioned publicly in the forum, and how all the money was extorted from and compelled to be restored by Stalenus.

XXIX. The character of this Stalenus, already known to and thoroughly ascertained by the people, was such as to make no suspicion unnatural; still, those who were present in the assembly did not understand that the money which he had promised to pay on behalf of the defendant, had been kept back by him.—For this they were not told. They were aware that reports of bribery had been at work in the court of justice; they heard that a defendant had been condemned

who was innocent; they saw that he had been condemned by Stalenus's vote. They judged, because they knew the man, that it had not been done for nothing. A similar suspicion existed with respect to Bulbus, and Gutta, and some others. Therefore, I confess, (for I may now make the confession with impunity, especially in this place,) that not only the habits of life of Oppianicus, but that even his name was unknown to the people before that trial. Moreover that, as it did seem a most scandalous thing for an innocent man to have been crushed by the influence of money; and as the general profligacy of Stalenus, and the baseness of some others of the judges who resembled him, increased this suspicion; and as Lucius Quintius pleaded his cause, a man not only of the greatest influence, but also of exceeding skill in arousing the feelings of the multitude; by these circumstances a very great degree of suspicion was excited against, and a very great degree of odium attached to that tribunal. And I recollect, that Caius Junius, who had presided over that trial, was thrown, as it were, into the fresh fire; and that he, a man of ædilitian rank, who was already prætor in the universal opinion of all men, was driven out of the forum and even out of the city, not by any regular discussion, but by the outcry raised against him by all men.

And I am not sorry that I am defending the cause of Aulus Cluentius at this time rather than at that time. For the cause remains the same, and cannot by any means be altered; the violence of the times, and the unpopularity then stirred up, has passed away; so that the evil that existed in the time is now no injury to us, the good which there was in the cause is still advantageous to us. And, therefore, I perceive now how attentively I am listened to, not only by those to whom the judgment and the power of deciding belongs, but even by those whose influence is confined to their mere opinion. But if at that time I had been speaking, I should not have been listened to: not that the circumstances were different; they are exactly the same; but because the time was different—and of that you may feel quite sure.

XXX. Who at that time could have dared to say that Oppianicus had been condemned because he was guilty? who now ventures to deny it? Who at that time could have ventured to assert that Oppianicus had endeavoured to corrupt the bench of judges with money? at the present time who is

there who can deny it? Who, at that time, would have been suffered to mention that Oppianicus was prosecuted, after having been already condemned by two previous investigations? who is there at the present time who can attempt to invalidate this statement? Wherefore, all party feeling being now out of the question, for time has removed that, my oration has begged you to dismiss it from your minds, and your good faith and justice has discarded it from an inquiry into truth; what is there besides in the cause that remains in doubt?

It is perfectly notorious that bribery was practised or attempted at that trial. The question is, By whom was it practised; by the prosecutor, or by the defendant? The prosecutor says, "In the first place, I was prosecuting him on the most serious charges, so that I had no need of bribery; in the second place, I was prosecuting a man who was already condemned, so that he could not have been saved even by bribery; and lastly, even if he had been acquitted, my position and my fortune would have been uninjured by his acquittal." What does the defendant say, on the other hand? "In the first place, I was alarmed at the very number and atrocity of the charges; in the second place, I felt that, after the Fabricii had been condemned on account of their privity to my wickedness, I was condemned myself; lastly, I was in such a condition that my whole position and all my fortunes depended entirely on that one trial, from which I was in danger."

Come now, since the one had many and grave reasons for bribing the judges, and the other had none, let us try to trace the course of the money itself. Cluentius has kept his accounts with the greatest accuracy; and this system has this in it, that by that means nothing can possibly be added to or taken from the income without its being known. It is eight years after that cause occupied men's attention that you are now handling, stirring up, and inquiring into everything which relates to it, both in his accounts and in the papers of others; and in the meantime you find no trace of any money of Cluentius's in the whole business. What then? Can we trace the money of Albius by the scent, or can you guide us, so that we may be able to enter into his very chamber, and find it there? There are in one place six hundred and forty thousand sesterces; they are in the possession of one most audacious man; they are in the possession of a judge. What

would you have more? Oh, but Stalenus was not commissioned to corrupt the judges by Oppianicus, but by Cluentius. Why, when the judges were retiring to deliberate, did Cluentius and Canutius allow him to go away? Why, when they were going to give their votes, did they not require the presence of Stalenus the judge, to whom they had given the money? Oppianicus did act for him; Quintius did demand his presence. The tribunitian power was interposed to prevent a decision being come to without Stalenus. But he condemned him. To be sure, for he had given this condemnatory vote as a sort of pledge to Bulbus and the rest to prove that he had been cheated by Oppianicus. If, therefore, on one side, there is a reason for corrupting the tribunal; on one side, money; on one side, Stalenus; on one side, every description of fraud and audacity: and on the other side, modesty, an honourable life, and no suspicion of corruption, and no object in corrupting the tribunal; allow, now that the truth is made clear and all error dispelled, the discredit of that baseness to adhere to that side to which all the other wickednesses are attached; and allow the odium of it to depart at last from that man, whom you do not perceive to have ever been connected with any fault.

XXXI. Oh, but Oppianicus gave Stalenus money, not to corrupt the judges, but to conciliate their favour. Can you, O Attius, can a man endued with your prudence, to say nothing of your knowledge of the world, and practice in pleading, say such a thing as this? For they say that he is the wisest man to whom everything which is necessary is sure to occur of his own accord; and that he is next best to him, who is guided by the clever experience of another.[1] But in folly it is just the contrary; for he is less foolish to whom no folly occurs spontaneously, than he who approves of the folly which occurs to another. That idea of conciliating favour Stalenus thought of, while the case was fresh, when he was held by the throat as it were; or rather, as people said at the time, he took the hint from Publius Cethegus, when he published

[1] There is an epigram in the Greek anthology from which these sentiments of Cicero seem to be taken:—

Οὗτος μὲν πανάριστος, ὃς αὐτὸς πάντα νοήσῃ
Ἐσθλὸς δ' αὖ κἄκεινος, ὃς εὖ εἰπόντι πίθηται,
Ὃς δέ κε μήτ' αὐτὸς νοεῇ, μήτ' ἄλλου ἀκούων
Ἐν θυμῷ βάλληται, ὃδ' αὖτ' ἀχρήιος ἀνήρ

that fable about conciliation and favour. For you can recollect that this was what men said at the time; that Cethegus, because he hated the man, and because he wished to get rid of such rascality out of the republic, and because he saw that he who had confessed that, while a judge, he had secretly and irregularly taken money from a defendant, could not possibly get off, had given him treacherous advice. If Cethegus behaved dishonestly in this matter, he appears to me to have wished to get rid of an adversary; but if the case was such that Stalenus could not possibly deny that he had received the money, (and nothing could be more dangerous or more disgraceful than to confess for what purpose he had received it,) the advice of Cethegus is not to be blamed. But the case of Stalenus then was very different from what your case is now, O Attius. He, being pressed by the facts, could not possibly say anything which was not more creditable than confessing what had really happened. But I do marvel that you should have now brought up again the very same plea which was then hooted out of court and rejected; for how could Cluentius possibly become friends with Oppianicus, when he was at enmity with his mother? The names of the defendant and prosecutor were recorded in the public documents; the Fabricii had been condemned; Albius could not possibly escape if there were any other prosecutor, nor could Cluentius abandon the prosecution without rendering himself liable to the imputation of having trumped up a false accusation.

XXXII. Was the money given to procure any collusion? That, too, has a direct reference to corrupting the judges. But what was the necessity for employing a judge as an agent in such a business? And above all things, what need was there for transacting the whole business through the agency of Stalenus, a man perfectly unconnected with either party, —a most sordid and infamous man—rather than through the intervention of some respectable person, some common friend or connexion of both parties? But why need I discuss this matter at length, as if there were any obscurity in the business? when the very money which was given to Stalenus, proves by its amount and by its sum total, not only how much it was, but for what purpose it was given? I say that it was necessary to bribe sixteen judges, in order to procure the acquittal of Oppianicus; I say that six hundred and forty

thousand sesterces were taken to Stalenus's house. If, as you say, this was for the purpose of conciliating good-will, what is the meaning of that addition of forty thousand sesterces? but if, as we say, it was in order that forty thousand sesterces might be given to each judge, then Archimedes himself could not calculate more accurately.

But a great many decisions have been come to, tending to prove that the tribunal was corrupted by Cluentius. I say, on the other hand, that before this time, that matter has never been brought before the court at all on its own merits. The matter has been so very much canvassed, and has been so long the subject of discussion, that this is the very first day that a word has been said in defence of Cluentius; this is the very first day that truth, relying on these judges, has ventured to lift up her voice against the popular feeling. However, what are all those numerous decisions? for I have prepared myself to encounter everything, and I am ready to show that the decisions which were said to have been come to afterwards, bearing on that decision, were, as to some of them, more like an earthquake or a tempest, than an orderly judgment or a regular decision; that, as to some of them, they had no weight against Avitus at all; that some of them even told in his favour; and that some were such that they were never called judicial decisions at all, and never even thought so. Here I, rather for the sake of adhering to the usual custom, than from any fear that you would not do so of your own accord, will beg of you to listen to me with attention, while I discuss each of these decisions.

XXXIII. Caius Junius, who presided over that trial, has been condemned; add that also, if you please,—he was condemned at the time that he was a criminal judge. No relaxation of the prosecution or mitigation of the law was procured by the means of any one of the tribunes of the people. At a time that it was contrary to law for him to be taken away from the investigation of the case before him to discharge any duty to the republic whatever;—at that very time, I say, he was hurried off to the investigation. But to what investigation? For the expression of your countenances, O judges, invites me to say freely what I had thought I must have suppressed. What shall I say? Was that then an investigation, or a discussion, or a decision? I will suppose it was. Let him, who wishes to-day to speak on the subject of the

people having been excited, say whose wishes were at that time complied with; let him say on what account Junius gave his decision. Whomsoever you ask, you will get this answer;—Because he received money, because he unfairly crushed an innocent man. This is the common opinion. But if that were the truth, he ought to have been prosecuted under the same law as Avitus is impeached under. But he himself was carrying on an investigation according to that law. Quintius would have waited a few days. But he was unwilling to accuse him as a private man, and when the odium of the business had been allayed. You see then that all the hope of the accuser was not in the cause itself, but in the time and in the influence of individuals. He sought a fine. According to what law? Because he had not taken the oath to observe the law: a thing which never yet was brought against any man as a crime: and because Caius Verres, the city prætor, a very conscientious and careful man, had not the list out of which judges were to be chosen in the place of those who had been rejected, in that book which was then produced full of erasures. On all these accounts Caius Junius was condemned, O judges, for these trivial and unproved reasons, which had no business to have been ever brought before the court at all. And therefore he was defeated, not on the merits of his case, but by the time.

XXXIV. Do you think that this decision ought to be any hindrance to Cluentius? On what account? If Junius had not appointed the judges in the place of those who had been objected to according to law—if he had omitted to take the oath to obey the law—does it follow that any decision bearing on Cluentius's case was pronounced or implied in his condemnation? "No," says he; "but he was condemned by these laws, because he had committed an offence against another law." Can those who admit this urge also in defence that that was a regular decision? "Therefore," says he, "the prætor was hostile to Junius on this account, because the tribunal was thought to have been bribed by his means." Was then the whole cause changed at this time? Is the case different, is the principle of that decision different, is the nature of the whole business different now from what it was then? I do not think that of all the things that were done then anything can be altered. What, then, is the reason why our defence is listened to with such silence now, but that all opportunity of

defending himself was refused to Junius then? Because at that time there was nothing in the cause but envy, mistake, suspicion, daily assemblies, seditiously stirred up by appeals to popular feeling. The same tribune of the people was the accuser before the assemblies, and the prosecutor in the courts of law. He came into the court of justice not from the assembly, but bringing the whole assembly with him. Those steps of Aurelius,[1] which were new at that time, appeared as if they had been built on purpose for a theatre for the display of that tribunal. And when the prosecutor had filled them with men in a state of great excitement, there was not only no opportunity of speaking in favour of the defendant, but none of even rising up to speak. It happened lately, before Caius Orchinius, my colleague, that the judges refused to sanction a prosecution against Faustus Sylla, in a cause concerning some money which remained unpaid. Not because they considered that Sylla was an outlaw, or because they thought the cause of the public money insignificant or contemptible; but because, when a tribuue of the people was the accuser, they did not think that there could be a fair trial. What? Shall I compare Sylla with Junius? or this tribune of the people with Quintius? or one time with the other time? Sylla, with his great wealth, his numerous relations, connexions, friends, and clients; but in the case of Junius all these things were small, and insignificant, and collected and acquired by his own exertions. The one a tribune of the people, moderate, modest, not only not seditious himself, but an enemy to seditious men; the other bitter, fond of raking up accusations, a hunter after popularity, and a turbulent man. The present a tranquil and a peaceable time; the former time one ruffled with every imaginable storm of ill-will. And as all this was the case, still in the case of Faustus those judges decided that a defendant was brought before the court on very unfair terms, when his adversary was in possession of the greatest power known to the state, which he could avail himself of to add force to his accusations.

XXXV. And this principle you, O judges, ought, as your wisdom and humanity prompts and enables you to do, to consider over in your mind carefully; and to be thoroughly aware what disaster and what danger the tribunitian power

[1] These were steps built in the forum by Marcus Aurelius Cotta, and called by his name.

can bring upon every one individual among us, especially when it is egged on by party spirit, and by assemblies of the people, stirred up in a seditious manner. In the very best times, forsooth, when men defended themselves, not by boastings addressed to the populace, but by their own worth and innocence, still neither Publius Popillius, nor Quintus Metellus, most illustrious and most honourable men, could withstand the power of the tribunes; much less at the present time, with such manners as we now have, and such magistrates, can we possibly be saved without the aid of your wisdom, and without the relief which is afforded by the courts of justice. That court of justice then, O judges, was not like a court of justice; for in it there was no moderation preserved, no regard was had to custom and usage, nor was the cause of the defendant properly advocated. It was all violence, and, as I have said before, a sort of earthquake or tempest,—it was anything rather than a court of justice, or a legal discussion, or a judicial investigation. But if there be any one who thinks that that was a regular proceeding, and who thinks it right to adhere to the decision that was then delivered; still he ought to separate this cause from that one. For it is said that a great many things were demanded of him either because he had not taken the oath to observe the law, or because he had not cast lots for electing judges in the room of those to whom objection had been made in a legal manner. But the case of Cluentius can in no particular be connected with these laws, in accordance with which a penalty was sought to be recovered from Junius. Oh, but Bulbus also was condemned. Add that he was condemned of treason, in order that you may understand that this trial has no connexion with that one. But this charge was brought against him. I confess it; but it was also made evident by the letters of Caius Cosconius and by the evidence of many witnesses, that a legion in Illyricum had been tampered with by him; and that charge was one peculiarly belonging to that sort of investigation, and was one which was comprehended under the law of treason. But this was an exceedingly great disadvantage to him. That is mere guess work; and if we may have recourse to that, take care, I beg you, that my conjecture be not far the more accurate of the two. For my opinion is, that Bulbus, because he was a worthless, base, dishonest man, and because he came before the court contaminated with many crimes of the deepest dye,

was on that account the more easily condemned. But you, out of Bulbus's whole case, select that which seems to suit your own purpose, in order that you may say that it was that which influenced the judges.

XXXVI. Therefore, this decision in the case of Bulbus ought not to be any greater injury to this cause, than those two which were mentioned by the prosecutor in the case of Publius Popillius and Titus Gutta, who were prosecuted for corruption,—who were accused by men who had themselves been convicted of bribery, and whom I do not imagine to have been restored to their original position merely because they had proved that these other men also had taken money for the purpose of influencing their decision, or because they proved to the judges that they had detected others in the same sort of offence of which they had themselves been guilty; and that, therefore, they were entitled to the rewards offered by the law. Therefore, I think that no one can doubt that that conviction for bribery can in no possible way be connected with the cause of Cluentius and with your decision. What! not if Stalenus was condemned? I do not say at this present moment, O judges, that which I am not sure ought to be said at all, that he was convicted of treason,—I do not read over to you the testimonies of most honourable men, which were given against Stalenus by men who were lieutenants, and prefects, and military tribunes, under Mamercus Æmilius, that most illustrious man, by whose evidence it was made quite plain that it was chiefly through his instrumentality, when he was quæstor, that a seditious spirit was stirred up in the army. I do not even read to you that evidence which was given concerning these six hundred thousand sesterces, which when he had received on pretences connected with the trial of Safinius, he retained and embezzled as he did afterwards in the case of the trial of Oppianicus. I say nothing of all these things, and of many others which were stated against Stalenus at that trial. This I do say,—that Publius and Lucius Cominius, Roman knights, most honourable and eloquent men, had the same dispute with Stalenus then, whom they were accusing, that I now have with Attius. The Cominii said the same thing that I say now,—that Stalenus received money from Oppianicus to induce him to corrupt the tribunal, and Stalenus said that he had received it to conciliate good-will towards him. This conciliation of

good-will was laughed at, and so was this assumption of the character of a good man, as in the gilded statues which he erected in front of the temple of Juturna, at the bottom of which he had the following inscription engraved,—"that the kings had been restored by him to the favour of the people." All his frauds and dishonest tricks were brought under discussion; his whole life, which has been spent in such a way as that, was laid open; his domestic poverty, the profits which he made in the courts of law, were all brought to light: an interpreter of peace and concord who regulated everything by the bribes which he received was not approved of. Therefore, Stalenus was condemned at that time, while he urged the same defence as Attius did. When the Cominii did the same thing that I have done throughout the whole of this cause, people approved of them. Wherefore, if by the condemnation of Stalenus it was decided that Oppianicus had desired to corrupt the judges,—that Oppianicus had given one of the judges money to purchase the votes of the other judges, (since it has been already settled that either Cluentius is guilty of that offence, or else Oppianicus, but that no trace whatever is found of any money belonging to Cluentius having been ever given to any judge, while money belonging to Oppianicus was taken away, after the trial was over, from a judge,)—can it be doubtful that that conviction of Stalenus does not only not make against Cluentius, but is the greatest possible confirmation of our cause and of our defence?

XXXVII. Therefore, I see now that the case respecting the decision of Junius is of this nature, that I think it ought to be called an inroad of sedition, an instance of the violence of the multitude, an outrage on the part of a tribune, anything rather than a judicial proceeding. But if any one calls that a regular trial, still he must inevitably admit this,—that that penalty which was sought to be recovered from Junius cannot by any means be connected with the cause of Cluentius. That decision of the tribunal over which Junius presided, was brought about by evidence. The cases of Bulbus, of Popillius, and of Gutta, do not make against Cluentius. That of Stalenus is actually in favour of Cluentius. Let us now see if there is any other decision which we can produce which is favourable to Cluentius.

Was not Caius Fidiculanius Falcula, who had condemned

Oppianicus, prosecuted especially because—and that was the point which in that trial was the hardest to excuse—he had sat as judge a few days after the appointment of a substitute? He was, indeed, prosecuted, and that twice. For Lucius Quintius had brought him into extreme unpopularity by means of daily seditious and turbulent assemblies. On one trial a penalty was sought to be recovered from him, as from Junius, because he had sat as judge, not in his own decury, nor according to the law. He was prosecuted at a rather more peaceable time than Junius, but under almost the same law, and on very nearly the same indictment. But because at the trial there was no sedition, no violence, and no crowd, he was easily acquitted at the first hearing. I do not count this acquittal.[1] * * * * * *

What was Fidiculanius said to have done? To have received from Cluentius four hundred sesterces. Of what rank was he? A senator. He was accused according to that law by which an account is properly demanded of a senator in a prosecution for peculation, and he was most honourably acquitted. For the cause was pleaded according to the custom of our ancestors, without violence, without fear, without danger. Everything was fairly stated, and explained, and proved. The judges were taught that not only could a defendant be honestly condemned by a man who had not sat as a judge uninterruptedly, but that if that judge had known nothing else except what previous investigations it was clear had taken place in the case, he ought to have heard nothing else.

XXXVIII. Then, also, those five judges, who, hunting for the vague rumours of ignorant men, acquitted him at that time, were unwilling that their clemency should be extravagantly praised; and if any one asked them whether they had sat as judges on Caius Fabricius, they said that they had; if they were asked whether he had been accused of any crime except of that poison which was said to have been endeavoured to be administered to Avitus, they said no; if, after that, they were asked what their decision had been, they said that they had condemned him. For no one acquitted him. In the same manner, if any question had been asked about

[1] The passage which follows in the text is given up by Orellius as altogether corrupt, and is wholly unintelligible as it stands at present. Weiske thinks that several words have dropped out.

Scamander, they would certainly have given the same answer, although he was acquitted by one vote; but at that time no one of those men would have liked that one vote to be called his. Which, then, could more easily give an account of his vote,—he who said that he had been consistent with himself and with the previous decision, or he who said that he had been lenient to the principal offender, and very severe against his assistants and accomplices? But concerning their decision I have no occasion to say anything; for I have no doubt, that such men as they, being influenced by some sudden suspicion, avoided the point at issue. On which account I find no fault with the mercy of those who acquitted him. I approve of the firmness of those men who, in giving their judgment, followed the precedent of the previous decisions of their own accord, and not in consequence of the fraudulent trick of Stalenus; but I praise the wisdom of those men who said that to their minds it was not proved, who could by no means acquit a man whom they knew to be very guilty, and whom they themselves had already condemned twice before, but who, as such a disgraceful plan, and as a suspicion of such an atrocious act had been suggested to them, preferred condemning him a little later, when the facts were clearly ascertained. And, that you may not judge them to have been exceedingly wise men merely by their actions, but that you may also feel sure, from their very names, that what they did was most honestly and wisely done; who can be mentioned superior to Publius Octavius Balbus, as to ability more prudent,—in knowledge of law more skilful,—in good faith, in religion, in the performance of his duty, more scrupulous or more careful? He did not acquit him. Who is a better man than Quintus Considius? who is better acquainted with the practice of courts of justice, and with that sense of right which ought always to exist in the public courts? who is his superior in virtue, in wisdom, or in authority? Even he did not acquit him. It would take me too long to cite the virtue of each separate individual in the same manner; and in truth, their good qualities are so well known to every one, that they do not need the ornaments of language to set them off. What a man was Marcus Juventius Pedo, a man formed on the principles and system of the judges of old! What a man was Lucius Caulius Mergus! and Marcus Basilus! and Caius Caudinus! all of

whom flourished in the public courts of justice at that time when the republic also was flourishing. Of the same body were Lucius Cassius and Cnæus Heius, men of equal integrity and wisdom. And by the vote of none of those men was Oppianicus acquitted. And the youngest of all but one, who in ability, and in diligence, and in conscientiousness was equal to those men whom I have already mentioned, Publius Saturius, delivered the same opinion. O, the singular innocence of Oppianicus! when in the case in which he was defendant, those who acquitted him are supposed to have had some ulterior end,—those who postponed their decision, to have been cautious; but every one who condemned him is esteemed virtuous and firm.

XXXIX. These things, though Quintius agitated them, were not proved at that time either in the assembly or in a court of justice. For he himself would not allow them to be stated, nor indeed, by reason of the excited state of the multitude, could any one stand up to speak. Therefore he himself, after he had overthrown Junius, abandoned the whole cause. For in a very few days' time he became a private individual, and he perceived too that the violence of men's feelings had cooled down. But if at the time that he accused Junius he had also chosen to accuse Fidiculanius, Fidiculanius would have had no opportunity of making any reply. And at first, indeed, he threatened all those judges who had voted against Oppianicus. By this time you know the insolence of the man. You know what a tribune-like pride and arrogance he has. How great was the animosity which he displayed! O ye immortal gods! how great was his pride! how great his ignorance of himself! how preposterous and intolerable was his arrogance! when he was indignant even at this, (from which all those proceedings of his took their rise,) that Oppianicus was not pardoned at his entreaty and owing to his defence; just as if it ought not to have been proof enough that he was deserted by every one, that he had recourse to such an advocate as him. For there was at Rome a great abundance of advocates, most eloquent and most honourable men, of whom certainly any one would have defended a Roman knight, of noble birth in his municipality, if he had thought that such a cause could be defended with honour.

XL. For, as for Quintius, indeed, what cause had he ever pleaded before, though he was now nearly fifty years old?

Who had ever seen him not only in the position of a counsel for the defence, but even as a witness to character, or as employed in any[1] way in any cause? who, because he had seized on the rostrum which had been for some time empty, and the place which had been deserted by the voice of the tribunes ever since the arrival of Lucius Sylla, and had recalled the multitude, which had now been for some time unused to assemblies, to the likeness of the old custom, was on that account for a short time rather popular with a certain set of men. But yet afterwards how hated he became by those very men by whose means he had mounted into a higher position!—and very deservedly. For just take the trouble to recollect not only his manners and his arrogance, but also his countenance, and his dress, and his purple robe reaching down as far as his ancles. He, as if it were a thing quite impossible to be borne that he should have been defeated in this trial, transferred the case from the court of justice to the public assembly. And do we still reiterate our complaints, that new men have not sufficient encouragement in this city? I say, that there never was a time or place where they had more; for here, if a man, though born in a low rank of life, lives so as to seem able to uphold by his virtue the dignity of nobility, he meets with no obstacle to his arriving at that eminence to which his industry and innocence conduct him. But if any one depends on the fact of his being meanly born as his chief claim, he often goes greater lengths than if he was a man of the highest birth devoted to the same vices. As, in the case of Quintius, (for I will say nothing of the others,) if he had been a man of noble birth, who could have endured him with his pride and intolerance? But because he was of the rank of which he was, people put up with it, as if they thought that if he had any good quality by nature, it ought to be allowed to save him, and as if, owing to the meanness of his birth, they thought his pride and arrogance matters to be laughed at rather than feared.

XLI. However, to return to my original subject: What decision did you—you, I say, who mention those trials—think ought to have been come to at the time that Fidi-

[1] "The Latin is, 'non modo in *patroni*, sed in laudatoris, aut *advocati*, loco viderat.' In the time of Cicero the *advocatus* was different from the person who conducted the suit (*patronus*) and made the speech, though in later times this person likewise is called *advocatus*."—Riddle, Lat. Dict in voc.

culanius was acquitted? At least you think that the decision was not a corrupt one. But he had condemned him; but he had not heard the entire case; but he had been greatly and repeatedly annoyed at every assembly of the people, by Lucius Quintius. Then the whole of Quintius's judicial conduct was unjust, deceitful, fraudulent, turbulent, dictated by a wish for popularity, seditious. Be it so; Falcula may have been innocent. Well then, some one condemned Oppianicus without being paid for it; Junius did not appoint men as judges in the place of the others, to condemn him for a bribe. It is possible that there may have been some one who did not sit as judge from the beginning, and who, nevertheless, condemned Oppianicus without having been bribed to do so. But if Falcula was innocent, I wish to know who was guilty? If he condemned him without being bribed to do so, who was bribed? I say that there has been nothing imputed to any one of these men which was not imputed to Fidiculanius; I say that there was nothing in the case of Fidiculanius which did not also exist in the case of the rest. You must either find fault with this trial, the prosecution in which appeared to rely on previous decisions, or else, if you admit that this was an honest one, you must allow that Oppianicus was condemned without money having been paid to procure his condemnation. Although it ought to be proof enough for any one, that no one out of so many judges was proceeded against after Falcula had been acquitted.—For why do you bring up men convicted of bribery under a different law, the charges being well proved, the witnesses being numerous? when, in the first place, these very men ought to be accused of peculation rather than of bribery. For if, in trials for bribery, this was an hindrance to them, that they were being prosecuted under a different law, at all events it would have been a much greater injury to them to be brought before the court according to the law properly belonging to this offence. In the second place, if the weight attached to this accusation was so great, that, under whatever law any one of those judges was prosecuted, he must be utterly ruined; then why, when there are such crowds of accusers, and when the reward is so great, were not the others prosecuted too? On this, that case is mentioned, (which, however, has no right to be called a trial,) that an action for damages was brought against Publius Septimius Scævola on that account; and what the practice is in

cases of that sort, as I am speaking before men of the greatest learning, I have no need to occupy much time in explaining. For the diligence which is usually displayed in other trials, is never exercised after the defendant has been convicted. In actions for damages, the judges usually, either because they think that a man whom they have once convicted is hostile to them, if any mention of a capital charge against him is made, do not allow it; or else, because they think that their duties are over when they have given their decision respecting the defendant they attend more carelessly to the other points. Therefore, very many men are acquitted of treason, when, if they were condemned, actions would be brought to recover damages on charges of peculation. And we see this happen every day,—that when a defendant has been convicted of peculation, the judges acquit those men to whom, in fixing the damages, it has been settled that the money has come; and when this is the case, the decisions are not rescinded, but this principle is laid down, that the assessment of damages is not a judicial trial. Scævola was convicted of other charges, by a great number of witnesses from Apulia. The greatest possible eagerness was shown in endeavouring to have that action considered as a capital prosecution. And if it had had the weight of a case already decided, he afterwards, according to this identical law, would have been prosecuted either by the same enemies, or by others.

XLII. That follows, which they call a trial, but which our ancestors never called a trial, and never paid any attention to as if it had been a formal judicial decision, the animadversion and authority of the censors. But before I begin to speak on that subject, I must say a few words about my own duty, in order that it may be clearly seen that I have paid proper attention to this danger, and also to all other considerations of duty and friendship.

For I have a friendship with both those brave men who were the last censors; and with one of them, (as most of you are aware,) I have the greatest intimacy, and the closest connexion cemented by mutual good offices. So that, if I am forced to say anything of the reasons which they have given for their sentences, I shall say it with these feelings, that I shall wish everything that I say considered as having reference not to their individual conduct in particular, but to the whole principle of the censorial animadversion. But from Lentulus,

my intimate friend, who out of regard for his eminent virtue and for the high honours which he has received from the Roman people, is named by me to do him honour, I shall easily obtain this indulgence, that, as he himself is always accustomed to employ the greatest good faith and diligence in matters affecting the safety of his friends, and also the greatest vigour of mind and freedom of speech, so, in this instance, he will not be offended with me for taking as much freedom myself, as I cannot forbear to take without danger to my client. But, everything shall be said by me carefully and deliberately, as indeed it ought to be, so that I shall not appear to have betrayed the cause entrusted to my good faith for its defence, nor to have injured the dignity of any one, nor to have disregarded any of the claims of friendship.

I see then, O judges, that the censors passed animadversion on some of the judges who sat on that trial which Junius presided over, and added to their sentence that that very trial was the cause of it. Now, first I will lay down this general principle, that this city has never been so content with censorial animadversions as with judicial decisions. Nor in so notorious a case need I waste time by citing instances. I will just adduce this one fact,—that Caius Geta, after he had been expelled the senate by Lucius Metellus and Cnæus Domitius when they were censors, was himself appointed censor afterwards; and that he whose morals had met with this reproof from the censors, was afterwards appointed to judge of the morals of the whole Roman people, and of those very men who had thus punished him. But if that had been thought a final judicial decision, (as other men when they have been condemned by a sentence involving infamy are deprived for ever of all honour and all dignity, so) a man branded with this ignominy would never have had any subsequent access to honour, or any possibility of return to the senate. Now, if the freedman of Cnæus Lentulus or of Lucius Gellius should convict any man of theft, he, being deprived of all his credit, will never recover any portion of his honourable position in the city; but those men, whom Lucius Gellius himself and Cnæus Lentulus, the two censors, most illustrious citizens and most wise men, have animadverted on, and, in their reasons for their sentences, have imputed to them theft and peculation, have not only returned to the senate, but have been acquitted of those very charges by judicial sentence.

XLIII. Our ancestors did not think it fit for any one to be a judge, not only of any one's character, but not even of the most insignificant money matter, if he had not been agreed to by both the contending parties. Wherefore, in every law in which exception has been made of causes for which a magistrate may not be taken, or a judge elected, or another man accused, this cause of ignominy is passed over. For their intention was that the power of the censors should strike the profligate with terror, but not that it should have power over their lives. Therefore, O judges, I will not only prove what you are already aware of, that the censorial animadversions, and the reasons given for them too, have often been overturned by the votes of the Roman people, but that they have also been upset by the judicial sentences of those men who, being on their oaths, were bound to give their decisions with more scrupulousness and care. In the first place, O judges, in the case of many defendants, whom the censors in their notes accused of having taken money contrary to the laws, they were guided by their own conscientious judgment, rather than by the opinion expressed by the censors. In the second place, the city prætors, who are bound by their oaths to select only the most virtuous men to be judges, have never thought that the fact of a man's having been branded with ignominy by the censors was any impediment to their making him a judge. And lastly, the censors themselves have very often not adhered to the decisions, if you insist on their being called decisions, of former censors. And even the censors themselves consider their own decisions to be of only so much weight, that one is not afraid to find fault with, or even to rescind the sentence of the other; so that one decides on removing a man from the senate, the other wishes to have him retained in it, and thinks him worthy of the highest rank. The one orders him to be degraded to the rank of an ærarian[1] or to be entirely disfranchised; the other forbids it. So that how can it occur to you to call those judicial decisions which you see constantly rescinded by the Roman people, repudiated by judges on their oaths, disregarded by the magistrates, altered by those who have the same power subsequently con-

[1] *Ærarii* were those citizens of Rome who did not enjoy the perfect franchise. They had to pay the *æs militare*, and to remove a citizen in the enjoyment of the full franchise into the list of those who enjoyed a less complete one, was of course a degradation and a punishment.

ferred on them, and in which you see that the colleagues themselves repeatedly disagree?

XLIV. And as all this is the case, let us see what the censors are said to have decided respecting that corrupt tribunal. And first of all let us lay down this principle; whether a thing is so because the censors have stated it in their notes, or whether they made such a statement in their notes because it was the fact. If it is the case because they have so stated it, take care what you are doing; beware lest you are establishing for the future a king by power in the person of every one of our censors,—beware lest the note[1] of a censor may hereafter be able to cause as much distress to the citizens as that terrible proscription did,—beware lest we have reason to dread for the future that pen of the censor, whose point our ancestors blunted by many remedies, as much as that sword of the dictator. But if the statement which has been made in their notes ought to carry weight with it because it is true, then let us inquire whether it be true or false; let the authority of the censor be put out of the question—let that consideration be taken out of the cause which has no connexion with it. Tell me what money Cluentius gave, where he got it, how he gave it; show me, in short, one trace of any money having proceeded from Cluentius. After that, prove that Oppianicus was a virtuous citizen, or an honest man; that no one had ever had a bad opinion of him; that no unfavourable decision had ever been come to respecting him. Then take in the authority of the censors; then argue that their decision has any connexion whatever with this case. But as long as it is plain that Oppianicus was a man who was convicted of having tampered with the public registers of his own municipality, of having made erasures in a will, of having substituted another person in order to accomplish the forgery of a will, of having murdered the man whose name he had put to the will, of having thrown into slavery and into prison the uncle of his own son and then murdered him, of having contrived to get his own fellow-citizens proscribed and murdered, of having married the wife of the man whom he had murdered, of having given money for poisoning, of having

[1] In the twenty-ninth book of Livy, c. 37, an extraordinary instance is related of disagreement between the censors; for one of them, Caius Claudius Nero, degraded his colleague, Marcus Livius; and Livius in his turn degraded Caius Claudius.

murdered his mother-in-law and his wife, of having murdered at one time his brother's wife, the children who were expected, and his own brother himself,—lastly, of having murdered his own children; as he was a man who was manifestly detected in procuring poison for his son-in-law,—who, when his assistants and accomplices had been condemned, and when he himself was prosecuted, gave money to one of the judges to influence by bribes the votes of the other judges;—while, I say, all this is notorious about Oppianicus, and while the accusation of bribery against Cluentius is not sustained by any one single proof, what reason is there that that sentence of the censors, whether it is to be called their wish or their opinion, should either seem to be any assistance to you, or to be able to overwhelm my innocent client?

XLV. What was it, then, that influenced the censors? Even they themselves, if they were to allege the most serious reason that they could, would not say it was anything else beyond common conversation and report. They will say that they found out nothing by witnesses, nothing by documents, nothing by any important evidence, nothing, in short, from any investigation of the cause. If they had investigated it, still their sentence ought not to have been so fixed as to be impossible to be altered. I will not quote precedents, of which, however, there is an infinite number; I will not mention any old instance, or any powerful or influential man. Very lately, when I had defended an insignificant man, clerk to the ædiles, Decius Matrinius, before Marcus Junius and Quintus Publicius, the prætors, and before Marcus Platorius and Caius Flaminius, the curule ædiles, I persuaded them,—men sworn to do their duty,—to choose him for their secretary whom those same censors had made an ærarian; for as there was no fault found in the man, they thought that they ought to inquire what he deserved, and not what resolution had been come to respecting him. For as for these things which they have stated in their notes, about corrupting the judges, who is there who believes that they were sufficiently ascertained or carefully inquired into by them? I see that a note was made by the censors respecting Marcus Aquillius and Titus Gutta;—what does this mean? Were those two the only men corrupted with bribes? What became of the rest? Did they, forsooth, condemn him for nothing? He, then, was not unfairly dealt with; he was not overwhelmed

by means of bribes; it is not the case, as all those assemblies stirred up by Quintius would have it, that all the men who voted against Oppianicus are to be imagined criminal, or at all events suspected. I see that two men alone are judged by the authority of the censors to have been implicated in that infamy; or else they must allege that there is something which they have found out concerning those two men which they have not found out respecting the others.

XLVI. For that indeed can never be allowed, that they should transfer the usage of military discipline to the animadversions and authority of the censors; for our ancestors established a rule, that if in military affairs a crime had been committed by a number of soldiers, a few should be punished by lot, that so fear might have its influence on all, while the punishment reached only a few. But how can it be fitting for the censors to act on this principle in the distribution of dignities, in their judgment on the character of citizens, and in their punishment of their vices? For a soldier who has not maintained his post, who has been afraid of the vigorous attack of the enemy, may still hereafter become a better soldier, and a virtuous man, and a useful citizen. Wherefore, to prevent his committing offences in time of war through fear of the enemy, the great fear of death and execution was established by our ancestors; but yet, that the number of those who underwent capital punishment might not be too great, that plan of drawing lots was invented. But will you, O censor, act in this way when choosing the senate? Supposing there are many who have taken bribes to condemn an innocent man, will you not punish all of them, but will you pick as you choose, and select a few out of the many to brand with ignominy? Shall the senate then, while you see and know it to be the case, have a senator—shall the Roman people have a judge—shall the republic have a citizen, unmarked by any ignominy, who, to cause the ruin of an innocent man, has sold his good faith and religion for a bribe? And shall a man, who, being induced by a bribe, has deprived an innocent citizen of his country, his fortune, and his children, not be branded by the stigma of the censor's severity? Are you the prefect appointed to supervise our manners—are you a teacher of the ancient discipline and severity, if you either knowingly retain any one in the senate who is tainted with such wickedness, or if you decide that it is not right to inflict the same

punishment on every one who is guilty of the same fault? or will you establish the same principle of punishment with respect to the dishonesty of a senator in his peaceful capacity, which our ancestors chose to establish with respect to the cowardice of a soldier in time of war? Moreover, if this precedent ought to have been transferred from military affairs to the animadversion of the censors, at all events the system of drawing lots should have been retained. But if it is not consistent with the dignity of a censor to draw lots for punishment, and to commit the guilt of men to the decision of fortune, it certainly cannot be right in the case of an offence committed by many, that a few should be selected for ignominy and disgrace.

XLVII. But we all understand that in these notes of the censors the real object was to catch at some breeze of popular favour. The matter had been brought forward in the assembly by a factious tribune; without any investigation into the business, his conduct was approved by the multitude; no one was allowed to say a word on the other side; indeed, no one showed the least anxiety to espouse the other side of the question. Moreover, those judges had already become exceedingly unpopular. A few months afterwards there was a fresh and very great odium excited with respect to the courts of justice, arising out of the affair of marking the balloting balls. The disgrace into which the courts were fallen appeared quite impossible to be overlooked or treated with indifference by the censors. So they chose to brand those men whom they saw were infamous for other vices, and for generally disgraceful lives, with their animadversion and special note also; and so much the more, because at that very time, during their censorship, the right of sitting as judges was divided with the equestrian body, in order that they might seem to have reproved those tribunals by their authority, through the ignominy inflicted on deserving men. But if I or any one else had been allowed to plead this cause before those censors, I would certainly have proved to the satisfaction of men endowed with such prudence, (for the facts of the case prove it,) that they themselves had ascertained nothing, had discovered nothing; but that in all those notes appended to their animadversions nothing had guided them but rumour, and nothing had been sought but popular applause. For to the name of Publius Popillius, who had condemned Oppianicus

Lucius Gellius had appended a note, "because he had taken money to condemn an innocent man." Now what a real conjurer that man must be, O judges, to know that a man was innocent, whom, very likely, he had never seen, when the very wisest men, to say nothing of those who actually condemned him, after investigation of the case, said that they were not without doubt in the matter!

However, be it so. Gellius condemns Popillius. He decides that he had accepted money from Cluentius. Lentulus says that he had not. For he did not elect Popillius into the senate, because he was the son of a freedman; but he left him his place as a senator at the games, and the other ornaments of that rank, and released him from all ignominy. And by doing so, he declares his opinion, that he had voted against Oppianicus without having been bribed to do so. And afterwards Lentulus, on a trial for bribery, gave his evidence most zealously in favour of this same Popillius. Wherefore, if Lentulus did not agree with the decision of Lucius Gellius, and if Gellius was not contented with the opinion delivered by Lentulus, and if each censor thought himself not bound at all by the opinion of the other censor, what reason is there why any one of us should think that the notes of the censors ought to be all fixed and ratified so as to be unalterable for ever?

XLVIII. Oh, but they visited Avitus himself with their censure. Not for any baseness, nor for any, I will not say vice, but not even for any fault of his own in his whole life. For no one can possibly be a more religious man, or a more honourable one, or more scrupulous in fulfilling all his duties. Nor indeed does the opposite party say anything to the contrary, but they adopt the same report of the judges having been bribed. Nor indeed have they any contrary opinion to that which we wish to be entertained about his modesty, integrity, and virtue; but they thought it quite impossible for the accuser to be passed over after the judges had been punished. And with respect to this whole business, if I produce one precedent from the whole of our ancient history, I will say no more. For I think that I ought not to pass over the instance of that most eminent and most illustrious man, Publius Africanus; who, when he was censor, and when Caius Licinius Sacerdos had appeared on the register of the knights, said with a loud voice, so that the whole assembly could hear

him, that he knew that he had committed deliberate perjury and that if any one denied it, he would give him his own evidence in support of this assertion. But when no one ventured to deny it, he ordered him to give up his horse.[1] So that he, with whose decision the Roman people and foreign nations had been accustomed to content themselves, was not content with his own private knowledge as justifying him in branding another with ignominy. But if Avitus had been allowed to do this, he would have found it an easy matter to have resisted those very judges themselves, and the false suspicion, and the odium excited in the breasts of the people against him.

There is still one thing which especially perplexes me, and a topic to which I appear to have scarcely made any sufficient reply,—namely, the eulogy which you read, extracted from the will of Caius Egnatius, the father, a most honourable man, and a most wise one; saying that he had disinherited his son, because he had taken a bribe to vote for the condemnation of Oppianicus. Of that man's inconstancy and feebleness I will not say another word. This very will which you are reading is such, that he, when he was disinheriting that son whom he hated, was joining with his other son whom he loved, the most perfect strangers as his coheirs. But I think that you, O Attius, should consider carefully, whether you wish the decision of the censors, or that of Egnatius, to carry most weight with it. If that of Egnatius, that is a trifling thing which the censors have expressed in their notes about the others; for they expelled Egnatius himself from the senate, whom you wish to be considered an authority. If that of the censors is to preponderate, then the censors when they expelled his father, retained this Egnatius in the senate, whom his father disinherited on account of the note which the censors had written respecting him.

XLIX. Oh, but the whole senate judged that that tribunal had been bribed. How so? It undertook the cause. Could it pass over with indifference a matter of that sort when

[1] "If the censors considered a knight unworthy of his rank, they struck him out of the list of knights, and deprived him of his horse, or ordered him to sell it, with the intention, no doubt, that the person thus degraded should refund to the state the money which had been advanced to him for its purchase. (Niebuhr, Hist. of Rome, vol. i. p. 433.)"—Smith, Dict. Ant. p. 895, v. *Equites*.

reported to it? When a tribune of the people, having stirred up the multitude, had almost brought the matter to a trial of strength; when a most virtuous citizen and most innocent man was said to have been unjustly condemned through the influence of money; when the whole body of senators was exceedingly unpopular, was it possible for no edict to be issued? Was it possible for all that excitement of the multitude to be disregarded without extreme danger to the republic? But what was decreed? How justly, how wisely, how diligently was it decreed? "If there are any men by whose agency the public court of justice was corrupted." Does the senate appear here to decide that any such thing was really done? or rather to be exceedingly angry and indignant if such a thing was done? If Aulus Cluentius himself were asked his opinion about the courts of justice, he would express no other sentiments than those which they expressed, by whose sentences you say that Aulus Cluentius was condemned. But I ask of you whether Lucius Lucullus, the consul, a very wise man, passed that law according to that resolution of the senate? I ask whether Marcus Lucullus and Caius Cassius passed that law, against whom, when they were the consuls elect, the senate passed the very same resolution? They did not pass it. And that which you assert to have been brought about by Avitus's money, though you do not confirm your assertion by even the very slightest circumstances of suspicion, was done in the first instance by the justice and wisdom of those consuls, in order that men might not think that what the senate had decreed for the purpose of extinguishing the flames of present unpopularity, might afterwards be referred to the people. The Roman people itself afterwards, which formerly when excited by the fictitious complaints of Lucius Quintius, a tribune of the people, had demanded that thing and the proposal of that law, now being influenced by the tears of the son of Caius Junius, a little boy, rejected the whole law and the whole proposition with the greatest outcry and with the greatest eagerness. From which that was easy to be understood which has been often said,—that as the sea, which by its own nature is tranquil, is often agitated and disturbed by the violence of the winds, so, too, the Roman people is, when left to itself, placable, but is easily roused by the language of seditious men, as by the most violent storm.

L. There is also one other very great authority besides, which I had almost passed over in a shameful manner; for it is said to be my own. Attius read out of some oration or other, which he said was mine, a certain exhortation to the judges to judge honestly, and a certain mention of judicial decisions in other cases, which had not been approved of, and also of that very trial before Junius; just as if I had not said at the beginning of this defence, that had been a trial which had incurred great unpopularity; or as if, when I was discussing the discredit into which the courts of justice had fallen in some instances, I could possibly at that time pass over that one which was so notorious. But I, if I said anything of that sort, did not mention it as a thing within my own knowledge, nor did I state it in evidence; and that speech was prompted rather by the occasion, than by my judgment and deliberate intention. For when I was acting as accuser, and had proposed to myself at the beginning to rouse the feelings of the Roman people and of the judges; and as I was mentioning all the errors of the courts of justice, relying not on my own opinion, but on the common report of men; I could not pass over that matter which had been so universally discussed. But whoever thinks that he has my positive opinions recorded indelibly in those orations which we have delivered in the courts of justice, is greatly mistaken. For all those speeches are speeches of the cause, and of the occasion, and are not the speeches of the men or of the advocates themselves. For if the causes themselves could speak for themselves, no one would employ an orator. But, as it is, we are employed, in order to say, not things which are to be considered as asserted on our own authority, but things which are derived from the circumstances of the cause itself. They say that that able man, Marcus Antonius, was accustomed to say "that he had never written a speech, in order that, if at any time he had said anything which was not desirable, he might be able to deny that he had said it." Just as if whatever were said or pleaded by us was not retained in men's memories, if we did not ourselves commit it to writing.

LI. But I, with respect to speeches of that sort, am guided by the authority of many men, and especially of that most eloquent and most wise man, Lucius Crassus; who—when he was defending Lucius Plancius, whom Marcus Brutus, a man most vehement and able as a speaker, was prosecuting; when

Brutus, having set two men to read, made them read alternate chapters out of two speeches of his, entirely contrary to one another, because when he was arguing against that motion which was introduced against the colony of Narbo, he disparaged the authority of the senate as much as he could, but when he was urging the adoption of the Servilian law, he extolled the senate with the most excessive praises; and when he had read out of that oration many things which had been spoken with some harshness against the Roman knights, in order to inflame the minds of those judges against Crassus—is said to have been a good deal agitated. And so, in making his reply, he first of all explained the difference between the two times, so that the speech might appear to have arisen from the case and from its circumstances; after that, in order that Brutus might learn what a man, not only eloquent but endued with the greatest wit and facetiousness, he had provoked, he himself in his turn brought up three readers with a book a-piece, all which books Marcus Brutus, the father of the prosecutor, had left, on the civil law. When the first lines of them were read, those which I take to be known to all of you, "It happened by chance that I and Brutus my son were in the country near Privernum," he asked what had become of his farm at Privernum. "I and Brutus my son were in the district of Alba." He begged to know where his Alban farm was. "Once, when I and Brutus my son had sat down in the fields near Tibur." Where was his farm near Tibur? And he said that "Brutus, a wise man, seeing the profligacy of his son, evidently wished to leave a record behind him of what farms he left him. And if he could with any decency have written that he had been in the bath with a son of that age, he would not have passed it over; and still that he preferred inquiring about those baths, not from the books of his father, but from the registers and the census." Crassus then chastised Brutus in this manner, and made him repent of his readings. For perhaps he had been annoyed at being reproved for those speeches which he had delivered in the affairs of the republic; in which perhaps deliberate wisdom is more required than in those in court. But I am not at all vexed at those things having been read. For they were not unsuited to the state of the times which then existed, nor to the cause in which they were spoken. Nor did I take any obligation on myself when I spoke them, to prevent my defending this

cause with honour and freedom. But suppose I were now to confess, that I had now become acquainted with the real merits of Cluentius's case, but that I was previously influenced by popular opinion concerning it, who could blame me? especially when, O judges, it is most reasonable that this also should be granted me by you, which I begged at the beginning, and which I request now, that if you have brought with you into court a somewhat unfavourable opinion of this cause, you will lay it aside now that you have thoroughly investigated the case and learnt the whole truth.

LII. Now since, O Titus Attius, I replied to everything which was said by you concerning the condemnation of Oppianicus, you must inevitably confess that you were very much deceived when you thought that I would defend the cause of Aulus Cluentius, not by arguing on his own actions, but on the law. For you very often said that you had been informed that I intended to defend this action, relying on the protection of the law. Is it so? Are we, then, without knowing it, betrayed by our friends? and is there some one among those whom we think our friends, who carries intelligence of our plans to our adversaries? Who reported this to you? Who was so dishonest? But to whom did I tell it? No one, I imagine, is in fault; but in truth it was the law itself which suggested this to you. But do I appear to have defended it in such a way as to have made throughout the whole case the least mention of the law? Do I appear to have defended this cause differently from the way in which I should have defended it if Avitus had been guilty by law, supposing the facts to be proved? Certainly, as far as a man may assert a thing positively, I have omitted no opportunity of clearing him from the odious imputation sought to be cast on him. What do I mean, then? Some one will ask, perhaps, whether I have any objection to ward off danger from a client's life by the protection with which the law supplies me? I have no objection at all, O judges; but I adhere to my own plan of action. In a trial in which an honourable and a wise man is concerned, I have been accustomed, not only to consult my own judgment, but very much also to be guided by the judgment and inclination of him whom I am defending. For when this cause was brought to me, as to a person who ought to know the laws on which we are employed, and to which we devote ourselves, I said at once to Avitus that he was

perfectly safe from the law about "those who conspired together to procure a man's condemnation;" but that our order was liable to be impeached under that law. And he began to beg and entreat me not to defend him by urging points of law. And when I said what I thought, he brought me over to his opinion; for he affirmed with tears that he was not more desirous of retaining his freedom as a citizen, than of preserving his character. I complied with his wishes, and yet I did it (for it is not a thing which we ought to do at all times) because I saw that the cause itself could be amply defended on its own merits, without any reference to law at all. I saw that in this defence, which I now have employed, there was more dignity, but that in that one which he begged me not to use, there would be less trouble. But if I had no other object in view beyond merely gaining this cause, I should have read the laws to you, and then have summed up.

LIII. Nor am I moved by that argument which Attius uses when he says that it is a scandalous thing that, if a senator should procure a wrongful conviction of any one, he should be made liable to the laws, but that if a Roman knight does the same, he should not. Although I should grant to you that it would be a scandalous thing, (and the fact I will examine into presently,) still you must inevitably grant to me that it is a much more scandalous thing that the laws should be departed from in that state which is entirely held together by the laws; for this is the bond of this dignity which we enjoy in the republic, this is the foundation of our liberty, this is the source of justice. The mind, and spirit, and wisdom, and intentions of the city are all situated in the laws. As our bodies cannot, if deprived of the mind, so the state, if deprived of law, cannot use its separate parts, which are to it as its sinews, its blood, and its limbs. The ministers of the law are the magistrates; the interpreters of the law are the judges; lastly, we are all servants of the laws, for the very purpose of being able to be freemen. What is the reason, O Naso, why you sit in that place? What is the power by which those judges, invested with such dignity, are separated from you? And you too, O judges, how is it that out of such a multitude of citizens, you with your small numbers decide on the fortunes of man? By what right is it that Attius said whatever he chose? Why have I had an oppor-

tunity of speaking at such length? What is the meaning of all these secretaries and lictors, and all the rest of those whom I see assisting at this investigation? I think that all these things take place according to law, and that the whole of this trial is conducted and governed (as I said before) by the mind, as it were, of the law. What, then, shall we say? Is this the only investigation that is so conducted? What became of the question of classing Marcus Plætorius and Caius Flaminius as assassins? What became of the charge of peculation brought against Caius Orchinius? or of my oration, when prosecuting a charge of embezzlement? or of the speech of Caius Aquillius, before whom a case of bribery is at this moment being tried? or of all the other investigations that are habitually taking place? Survey all the different parts of the republic; you will see that everything takes place under the general dominion, and according to the special enactment of the laws. If any one, O Titus Attius, were to wish to prosecute you before me as judge, you would cry out that you were not liable under the law about extortion. Nor would this demurrer of yours be any confession that you had appropriated the money illegally; but it would be merely a refusal to encounter a labour and a danger which you were not obliged to encounter by the law.

LIV. Now see what is being done, and what law is laid down by you. The law, according to the provisions of which this investigation has been instituted, orders the judge who presides over the investigation, that is to say, Quintus Voconius, with the other judges, who are his colleagues, (it means you, O judges,) to make inquiry concerning the fact of poisoning. To make inquiry with respect to whom? The subject is interminable. "Whoever has made it, or sold it, or bought it, or had it in his possession, or administered it." What does the same law subjoin immediately afterwards? Read— "And bring him to a capital trial." Whom? He who has conspired? he who has agreed? Not so. What, then, is meant? Tell me. "Whoever is a military tribune of the four first legions, or a quæstor, or a tribune of the people." Then all the magistrates are named. "Or who has delivered or shall deliver his opinion in the senate." What then? "If any one of them has agreed, or shall agree, has conspired, or shall conspire, to get any one condemned in a criminal trial." "Any one of them:" Of whom? Of those, forsooth, who

have been enumerated above. What does it signify in which way the law was framed? Although it is plain enough, yet the law itself shows its own meaning; for when it binds all the world, it uses this expression: "Whoever has committed or shall commit an act of poisoning." All men and women, freemen and slaves, are brought under the power of the court. If, again, it had wished to include conspiracy, it would have added, "or who has conspired." Now it runs, "And let any one who has conspired, or shall conspire, be brought to a capital trial, before one who has filled any magistracy, or who has delivered his opinion in the senate." Does that apply to Cluentius? Certainly not. Who, then, is Cluentius? He is a man who still does not wish to get off on a trial by any quibble of law. Well, then, I discard the law. I comply with Cluentius's wishes; still I will say a few things which are not connected with my client's case, by way of reply to you, O Attius. For there is something in this cause which Cluentius thinks concerns him; there is also something which I think concerns me. He thinks it is for his interest that his defence should rest on the facts and merits of the case, not on the letter of the law; but I think that it concerns me not to appear defeated by Attius in any discussion. For this is not the only cause that I have to plead; my labour is at the service of every one who can be content with my ability as their advocate. I do not wish any one of those who are present to think, if I remain silent, that I approve of what has been said by Attius respecting the law. Wherefore, O Cluentius, I am complying with your wishes in this your cause; and I do not read any law in this court, nor do I allege any law in your favour. But I will not omit those things which I think are expected from me.

LV. It seems to you, O Attius, to be a scandalous thing that every one should not be bound by the same laws. In the first place, (suppose I do grant to you that it is a most scandalous thing,) it is an evil of this sort, that it is a proof that we have need to have the laws altered, not that we are not to obey the laws while they are in existence. In the next place, what senator has ever made this complaint, that when, by the kindness of the Roman people, he had attained a higher rank, he did not think he ought by that promotion to be put under more severe conditions of law? How many advantages are there, which we are without; how many

troubles and annoyances are there which we undergo.—And all these things are compensated by the advantages of honour and dignity. Now apply these same conditions of life to the equestrian order, and to the other ranks of the state. They will not endure them; for they think that fewer inconveniences of the laws, and of the courts of justice, ought to be allotted to them, who have either never been able to mount to the higher ranks of the state, or have never tried. And, to say nothing of all other laws, by which we are bound, and from which all the other ranks are released, Caius Gracchus passed this law, "That no one should be circumvented." And he passed, it for the sake of the common people, not against the common people. Afterwards Lucius Sylla, a man who had not the slightest connexion with the common people, still, when he was appointing a trial concerning a case of this sort to take place according to the provisions of this very law, by which you are sitting as judges at the present moment, did not dare to bind the Roman people with this new sort of proceeding, whom he had received free from any such obligation. But if he had thought it practicable to do so, from the hatred which he bore the equestrian order, he would not have been more glad to do anything than to turn the whole fury of that proscription of his which he let loose upon the old judges, on this single tribunal. Nor is there any other object aimed at now, (believe me, O judges, and provide for what you must provide for,) except the bringing the whole equestrian body within the danger of this law. Not that this is the object of every one, but of a few. For those senators who easily keep themselves in integrity and innocence, such as (I will speak the truth,) you yourselves are, and those others who have lived free from covetousness are anxious that the knights, as they are next to the senatorial body in rank, should also be most closely united to them by community of feeling. But those who wish to engross all power to themselves, and to prevent any from existing in any other man, or in any other rank, think that by holding this single fear over them, they will be able to bring the Roman knights under their power, if it is once established that investigations of this sort can be held upon those men who have acted as judges. For they see that the authority of this order is strengthened, they see that its judicial decisions are approved; but if this fear be suspended over you they feel confident that they shall be able

to pluck the sting out of your severity. For, who would dare to decide with truth and firmness in the case of a man possessed of at all greater power or riches than the generality, when he sees that he himself may be afterwards prosecuted with reference to that case, for having been guilty of some agreement or conspiracy?

LVI. O the gallant men, the Roman knights! who resisted that most eminent and most powerful man, Marcus Drusus, when tribune of the people, when he was aiming at nothing with respect to the whole body of nobility which existed at that time, except contriving that they, who had sat as judges, might be themselves brought before the court by proceedings of this sort. Then Caius Flavius Pusio, Cnæus Titinnius, Caius Mæcenas, those props of the Roman people, and the other men of this order, did not do the same thing that Cluentius does now, in refusing, because they thought that they should by that means incur some blame; but they most openly resisted, when they demurred to these proceedings, and said openly, with the greatest courage and honesty, that they might have arrived by the decision of the Roman people at the highest rank, if they had chosen to set their hearts on seeking honours; that they were aware how much splendour, how much honour, and how much dignity there was in that sort of life; and that they had not despised these things, but had been content with their own order, which had been the rank of their fathers before them; and that they had preferred following that tranquil course of life, removed from the storms of unpopularity, and from the intricacies of these judicial proceedings. They said, that either the proper age for offering themselves as candidates for honours ought to be restored to them, or, since that was impossible, that that condition of life had better remain which they had followed when they abstained from being candidates; that it was unjust that they, who had avoided all the decorations of those honours, on account of the multitude of their dangers, should be deprived of the kindness of the people, and yet not be free from the dangers of these new tribunals; that a senator could not make this complaint, because he had originally offered himself as a candidate for them, knowing all the conditions, and because he had a great many honourable circumstances which in his case might lessen the inconvenience,—the place, the authority, the dignity it gave him at

home, the name and influence it conferred on him among foreign nations, the *toga prætexta*, the curule chair, the ensigns of the rank, the forces, the armies, the military command, the provinces, all which things our ancestors wished to be the greatest rewards for virtuous actions, and by them they wished, also, that there should be the greatest dangers held out, as a terror to offences. They did not refuse to be prosecuted under this law, under which Avitus is now prosecuted, which was then called the Sempronian law, and now is called the Cornelian law. For they were aware that the equestrian order is not bound by that law; but they were anxious not to be bound by any new law. Avitus has never demurred even to this, not to giving an account of his course of life according to the provisions of a law by which he was not at all bound. And if this condition pleases you, let us all strive to have this investigation extended to all ranks and orders in the city.

LVII. But in the mean time, in the name of the immortal gods! since we have all our advantages, our laws, our liberty, and our safety by means of the laws, let us not depart from the laws. And at the same time let us consider what a scandalous thing it is for the Roman people to be now pursuing another object; for them to have entrusted to you the republic and their own fortunes; to be themselves without any care; to have no fear of being bound by the decision of a few judges, by a law which they have never sanctioned, and by a form of judicial investigation of which they think themselves independent For Titus Attius, a virtuous and eloquent young man, conducts this case in such a manner; saying that all the citizens are bound by all the laws; and you attend and listen in silence, as you ought to do.

Aulus Cluentius, a Roman knight, is prosecuted according to that law by which the senators, and those who have served magistracies, alone are bound. I, by his desire, am prevented from demurring to this and from establishing the main bulwark of my defence on the citadel of the law. If Cluentius gains his cause, as we, relying on your equity, feel sure that he will, all will believe, what indeed will be the truth, that he has gained it because of his innocence, since he has been defended in such a manner as this; but in the law, all appeal to which he discarded, he found no protection at all. Here now is something which concerns me, as I said before, and

which I ought to make good to the satisfaction of the Roman people, since my condition of life is such that the whole of my care and labour is devoted to defending every one from danger. I see how great, and how dangerous, and how boundless a field of investigation is attempted to be opened by the prosecutors, when they endeavour to transfer that law, which was framed with reference to our order alone, to the whole Roman people. And in that law are the words—"Who has conspired." You see how wide an application that may have. "Or agreed." That is just as vague and indefinite. "Or consented." But this is not only vague and indefinite, but is also obscure and unintelligible. "Or given any false evidence." Who is there of the common people at Rome, who has ever given any evidence at all, who is not, as you see, exposed to this danger, if Titus Attius is to have his own way? At all events I assert this positively, that no one will ever give evidence for the future, if this tribunal is held over the common people of Rome. But I make this promise to every one, if by chance any one is brought into trouble by this law, who is not properly liable to this law, that if he will employ me to defend him, I will defend his cause by the protection that the law affords, and that I will prove my case easily to these judges, or to any others who resemble them, and that I will use every means of defence with which the law provides me, which I am now not permitted to use, by the man with whose wishes I am bound to comply.

LVIII. For I ought not to doubt, O judges, that, if a cause of this sort be brought before you, of a man who does not come under the provisions of that law, even if he be unpopular, or if he seem to be disliked by many, or even if you hate him yourselves, and are unwilling to acquit him, still you will acquit him; and you will be guided rather by your sense of duty than by your personal hatred. For it is the part of a wise judge, to think that he has just that power permitted to him by the Roman people, which is committed and entrusted to him; and to remember that not only is power given to him, but also that confidence is placed in him: that he is a man capable of acquitting a man whom he hates, of condemning one whom he does not hate; and of always thinking not what he himself wishes, but what the law and the obligation of his oath requires of him—of considering according to what law the defendant is brought before him,

who the defendant is into whose conduct he is inquiring, and what are the facts which are being investigated. All these things require to be looked at, and also it is the part of a great and wise man, O judges, when he has taken in his hand his judicial tablet, to think that he is not alone, and that it is not lawful for him to do whatever he wishes; but that he must employ in his deliberations law, equity, religion, and good faith; that he must discard lust, hatred, envy, fear, and all evil passions, and must think that consciousness implanted in one's mind, which we have received from the immortal gods, and which cannot be taken from us, to be the most powerful motive of all. And if that is a witness of virtuous counsels and virtuous actions throughout our whole lives, we shall live without any fear, and in the greatest honour.

If Titus Attius had known these things, or thought of them, certainly he would not have ventured to say what he did assert at great length, that a judge decides whatever he chooses, and ought not to be bound by the laws. But now concerning all these topics I think I have said too much, if judged by the inclination of Cluentius; little enough, if we look to the dignity of the republic; but quite enough with reference to your wisdom. There are a few topics remaining, which because they belonged to your investigation they thought ought to be considered and urged by them, that they might not be considered the most worthless of all men, as they would deserve to be if they brought nothing into the court but their own personal ill-feeling.

LIX. And that you may see that it is of necessity that I have urged the topics which I have now been mentioning, at considerable length, listen to what remains. You will then understand that all those points of the defence which could be stated in a few words, have been stated with the greatest brevity possible.

You have said that an injury was done by the family of my client to Cnæus Decius, a Samnite; him I mean who was proscribed, in his calamity. He was never treated by any one more liberally than by Cluentius. It was the riches of Cluentius that relieved him in his distresses; and he himself, and all his friends and relations, know it well. You have said "that his stewards offered violence to and assaulted the shepherds of Ancarius and Pacenus." When some dispute (as is often the case) had arisen in the hills between the shepherds,

the stewards of Avitus defended the property and private possessions of their master. The parties expostulated with one another, the cause was proved to the satisfaction of the others, and the matter was settled without any trial or any recourse to law. You have said, "When a relation of Publius Ælius had been disinherited by his will, this man, who was no relation of his, was declared his heir." Publius Ælius acted so from his knowledge of Avitus's merit. He was not present at the making of the will; and that will was signed by Oppianicus as a witness. You have said, "that he refused to pay Florius a legacy bequeathed to him in the will." That is not the case; but as thirty sesterces had been written instead of three hundred, and as it did not appear to him to have been very carefully worded, he only wished him to consider what he received as due to his liberality. He first denied that the money was legally due, but, having done so, he then paid it without any dispute. You have said, "that the wife of a certain Samnite named Cœlius was, after the war, recovered from Cluentius." He had bought the woman as a slave from the brokers; but the moment that he heard that she was a free woman he restored her to Cœlius without any action. You have said, "that there is a man named Ennius, whose property Avitus is in possession of." This Ennius is a needy man, a trumper up of false accusations, a hired tool of Oppianicus; who for many years remained quiet; then at last he accused a slave of Avitus of theft; lately, he began to claim things from Avitus himself. By that private proceeding, he will not (believe me), though we may perhaps be his advocates, escape calumny. And also, as it is reported to us, you suborn an entertainer of many guests, a certain Aulus Binnius, an innkeeper on the Latin road, to say that violence was offered to him in his own tavern by Aulus Cluentius and his slaves. But about that man I have no need at present to say anything. If he invited them, as is commonly the case, we will treat the man so as to make him sorry for having gone out of his way.

You have now, O judges, everything which the prosecutors, after eight years' meditation, have been able to collect against the morals of Aulus Cluentius during his whole life, the man whom they state to be so hated and unpopular. Charges how insignificant in their kind! how false in their facts! how briefly replied to!

LX. Learn now this, which has a reference to your oath, which belongs to your tribunal, which is a burden the law has imposed on you, in accordance with which you have assembled here,—the law, I mean, about accusations of poison; so that all may understand in how few words this cause may be summed up, and how many things have been said by me which had a great deal to do with the inclination of my client, but very little with your decision.

It has been urged in the case for the prosecution, that Caius Vibius Capax was taken off by poison by this Aulus Cluentius. It happens very seasonably that a man is present endowed with the greatest good faith, and with every virtue, Lucius Plætorius, a senator, who was connected by ties of hospitality with, and was an intimate friend of that man Capax. He used to live with him at Rome; it was in his house that he was taken ill, in his house that he died. "But Cluentius is his heir." I say that he died without a will, and that the possession of his property was given by the prætor's edict to this man, his sister's son, a most virtuous young man, and one held in the highest esteem for honourable conduct, Numerius Cluentius, who is present in court.

There is another poisoning charge. They say that poison was, by the contrivance of Avitus, prepared for this young Oppianicus, when, according to the custom of the citizens of Larinum, a large party was dining at his wedding feast; that, as it was being administered in mead, a man of the name of Balbutius, his intimate friend, intercepted it on its way, drank it, and died immediately. If I were to deal with this charge as one that required to be refuted, I should treat those matters at great length, which, as it is, my speech will pass over in a few words. What has Avitus ever done that he is not to be thought a man incapable of such an atrocity as this? And what reason had he for being so exceedingly afraid of Oppianicus, when he could not possibly say a word in this case, and while accusers could not possibly be wanting, as long as his mother was alive? which you will soon have proved to you. Was it his object to have no sort of danger wanting to his cause, that this new crime was added to it? But what opportunity had he of giving him poison on that day, and in so large a company? Moreover, by whom was it given? Whence was it got? How, too, was the cup allowed to be intercepted? Why was not another given to him over again?

There are many arguments which may be urged; but I will not appear to wish to urge them, and still not to do so. For the facts of the case shall speak for themselves. I say that that young man, whom you say died the moment that he had drank that cup, did not die at all on that day. O great and impudent lie! Now see the rest of the truth. I say that he, having come to the dinner while labouring under an indigestion, and still, as people of that age often do, had not spared himself, was taken ill, continued ill some days, and so died. Who is my witness for this fact? The man who is a witness also of his own grief—his own father. The father, I say, of the young man himself: he, who, from his grief of mind, would have been easily inclined by even the slightest suspicion to appear as a witness against Aulus Cluentius, gives evidence in his favour. Read his evidence. But do you, unless it is too grievous for you, rise for a moment, and endure the pain which this necessary recollection of your trouble causes you; on which I will not dwell too long, since, as became a virtuous citizen, you have not allowed your own grief to be the cause of distress or of a false accusation to an innocent man.

[*The testimony of Balbutius the father is read.*]

LXI. There is one charge remaining, O judges; a charge of such a nature, that you may see from it the truth of what I said at the beginning of my speech,—that whatever misfortune has happened to Aulus Cluentius of late years, whatever anxiety or trouble he has at the present time, has all been contrived by his mother. You say that Oppianicus was killed by poison, which was administered to him in bread by some one of the name of Marcus Asellius, an intimate friend of his own; and that that was done by the contrivance of Avitus. Now, in this matter, I ask first of all what reason Avitus had for wishing to kill Oppianicus. For I admit that ill-will did exist between them; but men only wish their enemies to be slain, either because they fear them, or because they hate them. Now, by fear of what could Avitus have been influenced, that he should have endeavoured to commit so great a crime? What reason could any one have had for fearing Oppianicus, already condemned to punishment for his crimes, and banished from the city? What did Cluentius fear? Did he fear being attacked by a ruined man? or being accused by a convict? or being injured by the evidence of an

exile? But if, because Avitus hated him, he, on that account, did not wish him to live, was he such a fool, as to think that a life which he was then living, the existence of a convict, of an exile, of a man abandoned by every one? whom, on account of his odious disposition, no one was willing to admit into his house, or to visit, or to speak to, or even to look at? Did Avitus, then, envy the life of this man? If he had hated him bitterly and utterly, ought he not to have wished him to live as long as possible? Would an enemy have hastened his death, when death was the only refuge which he had left from his calamity? If the man had had any virtue or any courage, he would have killed himself, (as many brave men have done in many instances, when in similar misfortunes.) How is it possible for an enemy to have wished to offer to him what he must himself have wished for eagerly? For now indeed, what evil has death brought him? Unless, perchance, we are influenced by fables and nonsense, to think that he is enduring in the shades below the punishments of the wicked, and that he has met with more enemies there than he left behind here; and that he has been driven headlong into the district and habitation of wicked spirits by the avenging furies of his mother-in-law, of his wife, of his brother, and of his children. But if these stories are false, as all men are well aware that they are, what else has death taken from him except the sense of his misery? Come now, by whose instrumentality was the poison administered? By that of Marcus Asellius.

LXII. What connexion had he with Avitus? None—nay rather, as he was a very intimate friend of Oppianicus, he was rather an enemy to Avitus. Did he then pick out that man whom he knew to be rather unfriendly to himself, and to be exceedingly intimate with Oppianicus, to be above all others the instrument of his own wickedness, and of the other's danger? In the next place, why do you, who have been prompted by pity to undertake this prosecution, leave this Asellius so long unpunished? Why did not you follow the precedent of Avitus, and have a previous examination, which should affect him, by means of an investigation into his conduct who had administered the poison? But now, as for that circumstance of poison being administered in bread, how improbable, how unusual, how strang a thing it is. Was it easier than administering it in a cup? Could it be hid more

secretly in some part of the bread than if it had been all liquefied and amalgamated with a potion? Could it pass more rapidly into the veins and into every separate part of the body if it were eaten than if it were drunk? Could it escape notice (if that was thought of) more easily in bread, than in a cup, when it might then have been so mixed up as to be wholly impossible to be separated? "But he died by a sudden death." But if that was the case, still that circumstance, from the number of men who die in that way, would not give rise to any well-grounded suspicion of poison. If it were a suspicious circumstance, still the suspicion would apply to others rather than to Avitus. But as to that fact itself, men tell most impudent lies. And that you may see this, listen to this statement of the truth respecting his death, and how after his death an accusation was sought for out of it against Avitus, by his mother.

When Oppianicus was wandering about as a vagabond and an exile, excluded from every quarter, he went into the Falernian district of Caius Quintilius; there he first fell sick, and had a very violent illness. As Sassia was with him, and as she was more intimate with a man of the name of Statius Albius, a citizen of that colony, a man in good health, who was constantly with her, than that most dissolute husband could endure, while his fortune was unimpaired, and as she thought that that chaste and legitimate bond of wedlock was dissolved by the condemnation of her husband, a man of the name of Nicostratus, a faithful slave of Oppianicus's, a man who was very curious and very truth-telling, is said to have been accustomed to carry a good many tales to his master. In the meantime, when Oppianicus was becoming convalescent, and could not endure any longer the profligacy of this Falernian, and after he had come nearer the city,—for he had some sort of hired house outside the gates,—he is said to have fallen from his horse, and, being a man in delicate health before, to have hurt his side very badly, and having come to the city in a state of fever, to have died in a few days. This is the manner of his death, O judges, such as to have no suspicious circumstance at all attached to it, or if it has any, they must apply to some domestic wickedness carried on within his own walls.

LXIII. After his death Sassia, that abandoned woman, immediately began to devise plots against her son. She determined to have an investigation made into the death

of her husband. She bought of Aulus Rupilius, whom Avitus had employed as his physician, a slave of the name of Strato, as if she were following the example of Avitus in purchasing Diogenes. She said that she was going to investigate the conduct of this Strato, and of some servant of her own. Besides that, she begged of that young Oppianicus that slave Nicostratus, whom she thought to be too talkative, and too faithful to his master, for judicial examination. As Oppianicus was at that time quite a boy, and as that investigation was being instituted about the death of his own father, although he thought that that slave was a well-wisher both to himself and to his father, still he did not venture to refuse anything. The friends and connexions of Oppianicus, and many also of the friends of Sassia herself, honourable men, and accomplished in every sense of the word, are invited to attend. The investigation is carried on by means of the severest tortures. When the minds of the slaves had been tried both with hope and fear, to induce them to say something in the examination, still, compelled (as I imagine) by the authority of those who were present, and by the power of the tortures, they adhered to the truth, and said that they knew nothing of the matter. The examination was adjourned on that day, by the advice of the friends who were present. After a sufficient interval of time, they are summoned a second time. The examination is repeated all over again. No degree of the most terrible torture is omitted. The witnesses who had been summoned turned away, and could scarcely bear to witness it. The cruel and barbarous woman began to storm, and to be furious that her plans were not proceeding as she had hoped that they would. When the torturer and the very tortures themselves were worn out, and still she would not desist, one of the men who had been summoned as witnesses, a man distinguished by honours conferred on him by the people, and endued with the highest virtue, said that he plainly saw that the object was not to find out the truth, but to compel them to give some false evidence. After the rest had shown their approbation of these words, it was resolved by the unanimous opinion of them all, that the examination had been carried far enough. Nicostratus is restored to Oppianicus; Sassia goes to Larinum with her friends, grieving, because she thought that her son would certainly be safe; since not only no true accusation could be proved against him, but there could not

be even any false suspicion made to attach to him, and since not only the open attacks of his enemies were unable to injure him, but even the secret plots of his mother against him proved harmless to him. After she came to Larinum, she, who had pretended to be persuaded that poison had been previously given to her husband by that man Strato, immediately gave him a shop at Larinum, properly furnished and provided for carrying on the business of an apothecary.

LXIV. One, two, three years did Sassia remain quiet, so that she seemed rather to be wishing and hoping for some misfortune to her son, than to be planning and contriving any such thing against him. Then in the meantime, in the consulship of Hortensius and Metellus, in order that she might persuade Oppianicus, who was occupied about other matters, and thinking of nothing of the sort, to this accusation, she betroths to him against his will her own daughter, her whom she had borne to his father-in-law, in order that she might have him in her power, now that he was bound to her by this marriage, and also by the hope of her will. Nearly about the same time, Strato, that great physician, committed a theft and murder in his own house in the following manner: —As there was in his house a chest, in which he knew there was a good deal of money and gold, he murdered by night two slaves while they were asleep, and threw their bodies into a fishpond. Then he cut out the bottom of the chest, and took out .... sesterces, and five pounds' weight of gold, with the privity of one of his slaves, a boy not grown up. The theft being discovered the next day, all the suspicion attached to those slaves who did not appear. When the cutting out of the bottom of the chest was noticed, men asked how that could have been done? One of the friends of Sassia recollected that he had lately seen at an auction, among a lot of very small things, a crooked and twisted saw sold, with teeth in every direction; and by such an instrument as this it seemed that the bottom of the chest might have been cut round in the manner in which it was. To make my story short, inquiry is made of the auctioneer. That saw is found to have become the property of Strato. When suspicion was excited in this manner, and Strato was openly accused, the boy who had been privy to the deed got alarmed; he gave information of the whole business to his mistress; the men were found in the fishpond; Strato was thrown into prison;

and the money, though not all of it, was found in his shop. A prosecution for theft is commenced against him. For what else can any one suspect? Do you say this, that when a chest had been pillaged, money taken away, only some of it recovered, and when men had been murdered, that then an investigation into the death of Oppianicus was instituted? Who will you get to believe that? What is that you could possibly allege, that would be less possible? In the next place, to pass over the other points, was an investigation made into the death of Oppianicus three years after that death?—Ay, and being exasperated against him on account of her former grudge, she then, without the slightest reason, demanded that same Nicostratus, in order to submit him to the question. Oppianicus at first refused. After she threatened that she would take her daughter away from him, and alter her will, he, I will not say brought his most faithful servant to that most cruel woman, for her to subject him to the question, but he clearly gave him up to her for punishment.

LXV. After three years had elapsed, then, the long projected investigation into the death of her husband was made; and what slaves were especially pointed at in the investigation? I suppose some new circumstances were alleged in the accusation; some new men were involved in the suspicion. Strato and Nicostratus were those mentioned. What? had not an ample investigation into their conduct taken place at Rome? Was it not so? The woman, now mad, not by disease, but with wickedness, though she had conducted an investigation at Rome, though it had been resolved, in accordance with the opinion of Titus Annius, Lucius Rutilius, Publius Saturius, and other most honourable men, that the investigation had been carried far enough, still, three years afterwards she attempted to institute an investigation into the conduct of the same men, allowing, I will not say no man, (lest you should say by chance that some one of the inhabitants of the colony was present,) but no respectable man to be present; and this investigation was in reality directed against the life of her son. Can you say, (for it occurs to me to think what possibly can be said, even if it has not been said as yet,) that when the investigation about the robbery was proceeding, Strato made some confession respecting the poisoning? By this single means, O judges, truth, though kept under by the wickedness of many, often raises its head, and the defence

which has been cut away from innocence gets breathing-time; either because they who are cunning in devising fraud, do not dare to execute all that they devise, or because they whose audacity is conspicuous and prominent, are destitute of the craftiness of malice. But if cunning were bold, or audacity crafty, it would scarcely be possible to resist them. Was there no robbery committed? Nothing was more notorious at Larinum. Did no suspicion attach to Strato? On the contrary, he was accused on account of the circumstance of the saw, and he was also informed against by the boy who was his accomplice. Was that not stated in the investigation? Why, what other reason was there for making the investigation at all? Did Strato then, (this is what you are bound to say, and what Sassia was constantly saying at that time,) while the investigation was going on about the robbery, while under the torture, make any confession about the poisoning? Behold now, here is the case which I have just mentioned. The woman abounds in audacity, she is deficient in contrivance and in ability. For many documents of what came out in the investigation are preserved, which have been read to you, and made public, those very documents which he said were then sealed up; and in all these documents there is not one letter about theft. It never once occurred to her to write out the first speech of Strato about the robbery, and after that, to add to it some expression about poisoning, which might seem not to have been extracted by any interrogatory, but to have been wrung from him by pain. The investigation into the robbery was superseded by the suspicion of the poisoning, which was a previous subject for investigation, which this very woman herself had pointed out; who, after she had come to the resolution (being compelled thereto by the opinion of her friends,) that the examination had been pushed far enough, for three years afterwards loved that man Strato above all the other slaves, and held him in the greatest honour, and loaded him with all sorts of kindnesses. When, therefore, the investigation into a robbery was going on, and that robbery too which he, beyond dispute, had committed, did he then abstain from saying a word about that which was the subject of the investigation, but at once say something about the poisoning? And did he never say one word at all about the robbery, (even if not at the time when

he ought to have said it, still) either at the end, or middle, at any part whatever of his examination?

LXVI. You see now, O judges, that that wicked woman, with the same hand with which she would murder her son, if it were in her power, has made up this false report of the examination. And who, I should like to know, has signed this report of the examination? Name any one person. You will find no one except perhaps a man of that sort, whom I would rather mention than have no one named. What do you say, O Titus Attius? will you bring before the court matter involving danger to a man's life, will you bring forward the information laid with respect to this wickedness, and the fortunes of another, all written down in this document, and yet refuse to name the author of this document, or the witness, or any one who will in any respect confirm it? And will such men as these judges, before whom we stand, approve of this destruction which you have drawn forth out of the mother's bosom against her most innocent son? Be it so then; these documents have no author. What next? Why is not the investigation itself reserved for the judges; for the friends and connexions of Oppianicus, whom she had invited to be present before, and for this identical time? What was done to these men, Strato and Nicostratus? I ask of you, O Oppianicus, what you say was done to your slave Nicostratus? whom you, as you were shortly about to accuse this man, ought to have taken to Rome, to have given him an opportunity of giving information; lastly, to have preserved him unhurt for examination, to have preserved him for these judges, and to have preserved him for this time. For, O judges, know that Strato was crucified, having had his tongue cut out; for there is no one of all the citizens of Larinum who does not know this. That frantic woman was afraid, not of her own conscience, not of the hatred of her fellow-citizens, not of the reports flying about among everybody; but, as if every one was not likely to be hereafter the witness of her wickedness, she was afraid of being convicted by the last words of a dying slave.

What a prodigy is this, O ye immortal gods! What shall we say of this enormity? What shall we call this enormous and inhuman wickedness, or where shall we say it has its birth? For now, in truth, you see, O judges, that I did not, at the beginning of my oration, say what I did about his mother

without the strongest and most unavoidable necessity; for there is no evil, no wickedness, which she has not from the very beginning wished, and prayed for, and planned and wrought against her son. I say nothing of that first injury which she did him through her lust—I say nothing of her nefarious marriage with her son-in-law—I say nothing of her daughter driven from her husband by the profligate desires of her mother,—because they have relation, not to the existing danger of his life to my client, but to the common disgrace of the family. I say nothing of the second marriage with Oppianicus, to ensure which she first received from him his dead sons as hostages, and then married, to the grief of the family, and the destruction of her stepsons. I pass over how, when she knew that Aurius Melinus, whose mother-in-law she had formerly been, and whose wife she had been a little before that, had been proscribed and murdered by the contrivance of Oppianicus, she chose for herself that place as the abode and home of her married state, in which she might every day behold the proofs of the death of her former husband, and the spoils of his fortune. This is what I complain of first of all,—that wickedness which is now at length thoroughly revealed, of the poisoning of Fabricius; which, being then recent, was suspicious to others, incredible to him, but which now appears plain and evident to everybody. In fact, his mother is hardly concealed in that act of poisoning; nothing was devised by Oppianicus without the counsel of that woman; and unless that had been the case, certainly she would not afterwards, when the affair was detected, have departed from him as from a wicked husband, but she would have fled from him as from a most pitiless enemy, and she would have for ever left that house overflowing with every imaginable wickedness. She not only did not do that, but from that time forth she omitted no opportunity of planning some treachery or other, but day and night, she, a mother, directed all her thoughts to compassing the destruction of her son. But first, in order to confirm Oppianicus in his resolution of becoming the accuser of her son, she bound him to her by gifts and presents, by giving him her daughter in marriage, and by the hope of her inheritance.

LXVII. Therefore, among other people too, when sudden enmities have arisen between relations, we often see divorces and ruptures of connexions take place; but this woman

thought that no one could be sufficiently relied upon as the prosecutor of her son, unless he first married his sister. Other men, induced by new connexions, often lay aside their ancient enmities; she thought that a connexion with the family would be a pledge to ensure the strengthening of enmity. And she was not only diligent in providing an accuser for her son, but she also planned how to furnish him with the requisite weapons. Hence were all those tamperings with the slaves, both by means of threats and of promises; hence those repeated and cruel investigations into the death of Oppianicus; to which at last it was not the moderation of the woman, but the authority of her friends that put a limit. From the same wickedness proceeded that investigation conducted at Larinum three years afterwards. The false reports of the investigation were fabricated by the same frantic criminality. From that same frenzy proceeded also that abominable cutting out of her victim's tongue; and lastly, the whole contrivance of this accusation has been managed and carried out by her. And when she had herself sent the accuser armed with all these weapons against her son to Rome, she remained herself a little while at Larinum, for the sake of seeking out and hiring witnesses. But afterwards, when news was brought to her that this man's trial was coming on, she immediately flew hither, to prevent any diligence being wanting on the part of the accusers, or any money to the witnesses; or perhaps lest she, as his mother, should lose this sight which she had so eagerly desired, of this man's mourning habit, and grief, and melancholy condition.

LXVIII. But now, what sort of journey do you think that woman had to Rome? which I, by means of the neighbourhood of the people of Aquinum and Venafrum, heard and ascertained from many people. What throngings of the people were there in these cities! what groanings of men and women! that a woman should go from Larinum, should go all the way from the Adriatic to Rome, with a large retinue, and great sums of money, in order to be the more easily able to convict and oppress by a capital charge, falsely trumped up, her own son!

There was not one of all those people (I may almost say) who did not think that every place required purifying, by which she had passed on her journey; no one who did not think the very earth itself, the common mother of us all,

polluted by the footsteps of that wicked mother. Accordingly, she could not stay long in any city; of all that number of people, who might have been her entertainers, not one was found who did not flee from the contagion of her sight. She trusted herself to night and solitude, rather than to any city or to any host. But now, which of us does she think is ignorant of what she is doing, of what she is contriving, of what she is thinking? We know whom she has addressed herself to, whom she has promised money to, whose good faith she has endeavoured to undermine by means of bribes. Moreover, we are acquainted with her nocturnal sacrifices, which she thinks are secret, and her wicked prayers, and her abominable vows; in which she makes even the immortal gods to be witnesses of her wickedness, and does not perceive that the minds of the gods are propitiated by piety, by religion, and holy prayers, not by a polluted superstition, nor by victims slain to conciliate their sanction for acts of wickedness. This insanity and barbarity of hers I may well feel sure that the immortal gods have rejected with disgust from their altars and temples.

LXIX. Do you now, O judges, whom fortune has appointed to be a sort of other gods, as it were, to Aulus Cluentius, my client, throughout his whole life, ward off this savage attack of his mother from her son's head. Many men, while sitting as judges, have pardoned the sins of the children out of pity for the parents;—we now entreat you, not to give up the most virtuously spent life of this man to the inhumanity of his mother, especially when you may see all his fellow-citizens in his municipality on the other side of the question. Know all of you, O judges, (it is a most incredible statement, but still a perfectly true one,) that all the men of Larinum, who have been able to do so, have come to Rome, in order by their zeal, and by the display of their numbers, to comfort this man as far as they could, in this his great danger; know that that town is at the present moment delivered to the keeping of children and women, and that it is now, at this time of common peace over Italy, defended by its domestic forces only. But even those who are left behind are equally eager with those whom you see present here, and are harassed day and night by anxiety about the result of this trial. They think that you are going to deliver a decision, not about the fortunes of one of their citizens, but about the condition, and

the dignity, and all the advantages of the whole municipality. For the industry of that man in the common service of the municipality is extreme, O judges; his kindness to each individual citizen, and his justice and good faith towards all men, are of the highest order. Besides, he so preserves his high rank among his countrymen, and the position which he has inherited from his ancestors, that he equals the gravity, and wisdom, and popularity, and character for liberality of his ancestors. Therefore they give their public testimony in his favour, in words which signify not only their opinion of, and their esteem for him, but also their own anxiety of mind and grief. And while their panegyric is being read, I beg of you, who have brought it hither, to rise up.

[*The panegyric on Cluentius, in pursuance of the resolution of the senators of Larinum, is read.*]

From the tears of these men, you, O judges, may easily imagine that the senators did not pass these resolutions without tears. Come now, how great is the zeal of his neighbours in his behalf, how incredible their good-will towards him, how great their anxiety for him. They have not, indeed, sent resolutions drawn up in papers of panegyric, but they have chosen their most honourable men, whom we are all acquainted with, to come hither in numbers, and to give their personal evidence in his favour. The Frentani are present, most noble men. The Marrucini, a tribe of equal dignity, are present too. You see Roman knights, most honourable men, come to praise him from Teanum in Apulia, and from Luceria. Most honourable panegyrics have been sent from Bovianum, and from the whole of Samnium, and also the most honourable and noble men of these states have come too. As for those men who have farms in the district of Larinum, or business as merchants, or flocks and herds, honourable men and of the highest character, it is impossible to say how eager and anxious they are. It seems to me that there are not many men so beloved by a single individual as he is by all these nations.

LXX. How I wish that Lucius Volusienus were not absent from my client's trial, a man of the greatest virtue and most exalted character! How I wish that I could say that Publius Helvidius Rufus was present, the most accomplished of all the Roman knights! who, while, in this man's cause, he

was kept awake night and day, and while he was instructing me in many of the facts of this case, has been stricken with a severe and dangerous illness; but even while in this state of suffering, he is not less anxious for the acquittal of Cluentius than for his own recovery. You shall witness the equal zeal of Cnæus Tudicius, a senator, a most virtuous and honourable man, shown both in giving evidence and in uttering an encomium on him. We speak with the same hope, but with more diffidence, of you, O Publius Volumnius, since you are one of the judges of Aulus Cluentius. In short, we assert to you that the good-will of all his neighbours towards this man is unequalled. His mother alone opposes the zeal of all these men, and their anxiety and diligence in his behalf, and my labour, who, according to the rules of old times, have pleaded the whole of this cause by myself, and also your equity, O judges, and your merciful dispositions. But what a mother! One whom you see hurried on, blinded by cruelty and wickedness,—whose desires no amount of infamy has ever restrained, —who, by the vices of her mind, has perverted all the laws of men to the foulest purposes,– whose folly is such, that no one can call her a human being,—whose violence is such, that no one can call her a woman,—whose barbarity is such, that no one can call her a mother. And she has changed even the names of relationships, and not only the name and laws of nature: the wife of her son-in-law, the mother-in-law of her son, the invader of her daughter's bed! she has come to such a pitch, that she has no resemblance, except in form, to a human creature.

Wherefore, O judges, if you hate wickedness, prevent the approach of a mother to a son's blood; inflict on the parent this incredible misery, of the victory and safety of her children; allow the mother (that she may not rejoice at being deprived of her son) to depart defeated rather by your equity. But if, as your nature requires, you love modesty, and beneficence, and virtue, then at last raise up this your suppliant, O judges, who has been exposed for so many years to undeserved odium and danger,—who now for the first time, since the beginning of that fire kindled by the actions and fanned by the desires of others, has begun to raise his spirits from the hope of your equity, and to breathe awhile after the alarms he has suffered,—all whose hopes depend on you,– whom many, indeed, wish to be saved, but

whom you alone have the power to save. Avitus prays to you, O judges, and with tears implores you, not to abandon him to odium, which ought to have no power in courts of justice; nor to his mother, whose vows and prayers you are bound to reject from your minds; nor to Oppianicus, that infamous man, already condemned and dead.

LXXI. But if any misfortune in this trial should overthrow this innocent man, verily, that miserable man, O judges, if indeed (which will be hard for him) he remains alive at all, will complain frequently and bitterly that that poison of Fabricius was ever detected. But if at that time that information had not been given, it would have been to that most unhappy man not poison, but a medicine to relieve him from many distresses; and, lastly, perhaps even his mother would have attended his funeral, and would have feigned to mourn for the death of her son. But now, what will have been gained by his escape then, beyond making his life appear to have been preserved from the snares of death which then surrounded him for greater grief, and beyond depriving him when dead of a place in his father's tomb? He has been long enough, O judges, in misery. He has been years enough struggling with odium. No one has been so hostile to him, except his parent, that we may not think his ill-will satisfied by this time. You who are just to all men, who, the more cruelly any one is attacked, do the more kindly protect him, preserve Aulus Cluentius, restore him uninjured to his municipality. Restore him to his friends, and neighbours, and connexions, whose eagerness in his behalf you see. Bind all those men for ever to you and to your children. This business, O judges, is yours; it is worthy of your dignity, it is worthy of your clemency. This is rightly expected of you, to release a most virtuous and innocent man, one dear and beloved by many men, at last from these his misfortunes; so that all men may see that odium and faction may be excited in popular assemblies, but that in courts of justice there is room only for truth.

THE

FRAGMENTS OF THE SPEECH OF M. T. CICERO IN DEFENCE OF CAIUS CORNELIUS.

THE ARGUMENT.

Caius Cornelius had been quæstor to Cnæus Pompeius, and afterwards had been tribune of the people in the consulship of Piso. He had been alienated from the senate by their rejection of some severe laws which he had proposed to check the system of usury by which he said that the provinces were drained of their treasures. Out of revenge he proposed other laws, having for their object the curtailment of the power of the senate. And in retaliation now, many of the most influential senators encouraged the institution of a prosecution of him for practices against the state in his late tribunate, and especially for some acts of peculation, which they said brought him under the provisions of the Lex Majestatis.[1] Some of the most influential of the senators, such as Quintus Hortensius, Quintus Catulus, Quintus Metellus Pius, Lucius Lucullus, and Marcus Lepidus, gave evidence against him. The cause was tried before Gallius, the prætor. The trial lasted four days, and Cicero spoke two speeches in it, of which nothing has come down to us but a few fragments of the first, and a very few lines indeed of the second.

* * * He was first presented before me as prætor, on a charge of extortion. Cominius, forsooth, has a clear foresight of what the real object in view is; that men of straw,

[1] "Majestas is defined by Ulpian to be 'crimen illud quod adversus populum Romanum vel adversus securitatem ejus committitur.' . . . The word Majestas properly signifies the magnitude or greatness of a thing. 'Majestas,' says Cicero (Part. 30), 'est quædam magnitudo populi Romani.' Accordingly, the phrases 'Majestas populi Romani,' 'Imperii majestas,' signify the whole of that which constituted the Roman state; in other words, the sovereignty of the Roman state. The expression 'minuere majestatem,' consequently signifies any act by which this majestas is impaired; and is thus defined by Cicero. (De Invent. ii. 17.) 'Majestatem minuere est de dignitate, aut amplitudine, aut potestate populi, aut eorum quibus populus potestatem dedit, aliquid derogare.' In the republican period the term 'majestas læsa,' or 'minuta,' was most commonly applied to cases of a general betraying or surrendering his army to the enemy, exciting sedition, and generally by his bad conduct in administration impairing the majestas of the state. . . .

"The old punishment of majestas was perpetual interdiction from fire and water."—Smith, Dict. Ant. p. 588, v. *Majestas*.

forsooth, are pushed forward in front to make experiment with. * * * * * *

What? when Metellus, a man of the highest rank and the purest virtue, had twice given his evidence on oath,—once with reference to some private affairs of his own, on behalf of his father, and a second time in his public capacity; was it because he was compelled by the law that he desisted from his accusation, or did the power of truth constrain him? It is a case in which the virtue and dignity of Caius Curio takes away all suspicion; and so does the youth of Quintus Metellus, embellished as it is with every quality calculated to attract the highest and most universal praise.

Cornelius, says he, gave a law in conjunction with Manilius, about the votes of freedmen. What does this word *gave* mean? Did he pass such a law, or propose it, or speak in favour of it? For it is ridiculous to say that he passed it; as if it were a law difficult to draw up, or very subtle to imagine; a law, too, which was not only framed a few years ago, but actually passed at that time. * * *

And in this many things were found fault with, and especially the rapidity of the legal proceedings. * * *

But he begged of me while I was prætor, with the greatest earnestness, to defend the cause of Manilius. * * *

[*He is speaking now of the tribuneship of Manilius.*]

For he, when, as tribune of the people, he had passed two laws in his year of office, one a mischievous law, the other an admirable one, the one which was injurious to the main interests of the republic was discarded by the tribune himself, but the good one, which is still in existence to the great advantage of the republic, was passed very irregularly.

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He was instigated to that mad course by other prompters of great eminence, who wished a most mischievous precedent for disturbing judicial decisions to be established, one very well suited to their necessities, but utterly foreign to all my ideas of governments. * * * * *

I am able to affirm that that man, so eminent for the highest wisdom, Caius Cotta, himself made a motion in the senate for the abrogation of his own laws. * * *

I can also produce a law of that same Cotta about decisions in civil cases, abrogated by his own brother the year after it had been passed. * * * * *

I see that it is agreed on all hands that the Licinian and Mutian Law, about the regulation of the citizens, which the two wisest consuls that we have seen in our time passed, was not only useless, but even mischievous to the republic.

There are in all four kinds of resolutions, O judges, by which any determination is expressed by the senate with respect to the laws, according to the principles of our ancestors. One is in this form,—that it seems fit that the law should be repealed, as in the consulship of Quintus Cæcilius and Marcus Junius it was voted that the laws which were a hindrance to the military service of the state should be repealed.

Another, when a law is passed, that the people shall not be bound by that law, as happened in the consulship of Lucius Marcius and Sextus Julius with reference to the Livian laws.

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There is a third way of proceeding about the repeal of laws, in which there are often formal decrees of the senate passed, as was lately done in the case of the Calpurnian Law itself, which was repealed.

Publius Africanus the elder, as it is said, was often blamed, not only by the wisest men of that day, but by himself also, because, when he was consul with Titus Longus, he had permitted the seats of the senators to be for the first time separated from the place where the people sat.[1]

* * * * * *

There is especially the law giving the power of veto, when a law is being proposed, as long as it is not passed; while those who have met for the purpose of voting are tossed about here and there—while private individuals are speaking, while the voting tablets are being distributed, while the ballot-box is being carried round, while the votes are being counted, while the voting is taking place, and other things of this kind. * * * * * *

But one thing which was done, while this man himself was tribune, ought not to be passed over. For it is not a stronger measure to read a document, when the veto is interposed, than to carry down the ballot-box with the tribune who interposes; nor is it a more serious thing to begin to propose a thing, than to propose and carry it; nor is it more violent conduct to show that he will pass a law against the will of his colleague, than to strip his colleague of his office; nor is it

[1] This refers to the seats at the Ludi Romani, and this separation was made in the second consulship of Africanus, A. U. C. 560.

more like the conduct of an accuser to summon the tribes to adopt a law, than to summon them for the purpose of reducing his colleague to the station of a private individual; all which things that brave man Aulus Gabinius, this man's colleague, did in a just cause;[1] and when he was bringing safety to the Roman people, an end of slavery and of a long captivity and disgrace to all nations, he would not endure the voice and will of one of his colleagues to have more weight than that of the whole city. * * * * *

But they made a motion about correcting the law. *

* * * * * *

I also, if this very law, which Caius Cornelius passed, had not prevented me, should have proposed that which those defenders of the tribunals have been openly contending for,—namely, a resolution that the senate did not approve of that decision being come to respecting the property of Sylla, which cause I advocated in a very different manner in the public assembly when I was prætor; saying what those same judges decided afterwards, that the decision ought to be come to at a time when people could be more impartial. * * * But formerly, how many decisions were overturned I will not now say, both because you know, and in order that my speech may not seem to bring any one back before the court.

* * * * * *

Cnæus Dolabella would not have deprived Caius Volcatius, a most honourable man, of the common every-day privileges which are the right of every one.

Lastly, Lucius Sisenna, a man very unlike to them in his course of life and his prudence, but still too free in straining the law to gratify some people, would not have given by his edict possession of the property of Cnæus Cornelius to Publius Scipio, a youth of the most illustrious family and the most eminent virtue. * * *

As, therefore, the Roman people both saw the bribery, and had it proved to them by the tribunes of the people, that,

[1] Originally, when one member of the College of Tribunes opposed a resolution of his colleagues, nothing could be done, and the measure was dropped; but this useful check was removed by the example of Tiberius Gracchus, in which a precedent was given for proposing to the public, that a tribune obstinately persisting in his veto should be deprived of his office. *Vide* Cic. Leg. iii. 10. Smith, Dict. Ant. p. 990, voc. *Tribunes.*

unless punishments were enacted against the agents of corruption, it could not possibly be put an end to, they demanded this law of Cornelius, and repudiated that one which was proposed in accordance with the resolution of the senate.

* * * * * *

that we might see that spectacle of two consuls elect, wholesome and necessary in our distress, under such circumstances, and at so critical a time, but miserable and fatal in its kind, and by the precedent which it established.

Why should I now reply to you by express arguments to prove that it is possible that there should be some other Cornelius who has a Phileros? It is notorious enough that Phileros is a common name, and that there are so many Cornelii that a college of them might be founded.

But you, O Caius Cornelius, in that extreme and difficult moment compelled the consul to utter these words, that whoever was anxious for the salvation of the republic, must be present to give his sanction to that law.

He says that the common people were defeated and subdued by their disappointment in the matter of Manilius * * * so that one could do nothing by himself against a multitude; and the other was far away. * * * * *

So much virtue then existed in those men, that, sixteen years after the expulsion of the kings, they seceded on account of the imperious conduct of the nobles, themselves restored their sacred laws, created two tribunes, and consecrated in the eternal memory of ages that mount on the other side of the Anio, which is called to this day the Sacred Mount, on which they had taken up a position in arms; and in the ensuing year ten tribunes of the people were created at the Comitia Curiata,[1] after a solemn taking of the auspices.

Then, having exchanged reciprocal promises, through the intervention of three ambassadors,[2] men of the highest character, they returned in arms to Rome. They took up a position on the Aventine Hill; from thence they came armed into the Capitol; and they elected ten tribunes of the people, the pontifex presiding at the Comitia, because there were no magistrates.

I pass over, also, these more recent things; I call the

[1] *Vide* Smith, Dict. Ant. p. 272, v. *Comitia.*

[2] Their names were Spurius Tarpeius, Caius Julius, and Publius Wulpicius, all three men of consular rank.

foundation of the most just liberty the Cassian law ;[1] by which law the force and power of the suffrages of the people obtained their proper authority, and the second Cassian law which ratified the decisions of the people. * * *

They who, not only in the time of Sylla, but also after he was dead, thought that they ought always to cling to this privilege with all their might, were the greatest enemies of Caius Cotta, because he, when he was consul, added not only some power, but also some dignity to the tribunes. * * *

As long, then, as the common people is disposed to us as it showed that it was, when it not only accepted the Aurelian and Roscian laws, but even demanded them, * * *

I recollect, when first the senators were united with the Roman knights as judges according to the Plotian law, that a man detested by the gods and by the nobles, Cnæus Pompeius, was tried for treason according to the provisions of the Cassian law. * * * * * *

THE FRAGMENTS OF THE SECOND SPEECH FOR CORNELIUS.

Do you hesitate, then, as to the point who these witnesses are? I will tell you two of them ; the rest are men of consular rank, enemies of the power of the tribunes ; and besides those, a few of their flatterers and tools follow them. * * which your uncle, a most illustrious man, descended from a most illustrious father, grandfather, and ancestors, in silence, I believe, with the good wishes of the nobles, and when no one was prepared to interpose his veto, gave to the Roman people, and took away from the colleges of most powerful men, namely, the power of electing the priests. * * *

What more? The same Domitius harassed with all the power belonging to a tribune of the people, Marcus Silanus, a man of consular rank.

This dispute is of this nature, that a tribune of the people, Cnæus Domitius * * * *

[1] The Cassian law was one of the *tabellariæ leges ;* it was proposed by the tribune Lucius Cassius Longinus, B.C. 137, and introduced the ballot in the judicium populi in most cases. It was supported by Scipio Africanus the younger, for which he was censured by the aristocratical party.

THE

FRAGMENTS OF THE SPEECH OF M. T. CICERO

IN HIS WHITE GOWN,

AGAINST C. ANTONIUS AND L. CATILINA,

HIS COMPETITORS FOR THE CONSULSHIP.

DELIVERED IN THE SENATE.

THE ARGUMENT.

This oration was delivered the year after the speech for Cornelius had been spoken. Cicero being now in his forty-third year, and of the proper legal age, declared himself a candidate for the consulship the ensuing year. He had six competitors, Publius Sulpicius Galba, Lucius Sergius Catilina, Caius Antonius, Lucius Cassius Longinus, Quintus Cornificius, and Caius Licinius Sacerdos. Cicero was the only *novus homo* among them. Antonius and Catilina were the most formidable of his rivals, having coalesced together against him, and being both supported by the joint influence of Crassus and Cæsar. They practised such open bribery, that the senate thought it necessary to check the practice by a new and rigorous law. But this law was vetoed by Quintus Mucius Orestinus, one of the tribunes of the people, in spite of his great obligations to Cicero, who had defended him on a criminal trial. In a debate which arose in the senate about the power of this veto of Orestinus, Cicero rose, and after some expostulation with Orestinus, broke into a severe invective against Antonius and Catilina, in this oration, of which only a few fragments remain. It is called the oration "in a white gown," because a white gown was the proper habit of all candidates, from which indeed their name was derived.[1]

I SAY, O Conscript Fathers, that on the night before Catiline and Antony with their agents met at the house of some man of noble birth, one very well known from, and habituated to, gains derived from this sort of liberality,

* * * * * *

[2][He means either the house of Cæsar, or of Crassus; for they were the most eager adversaries of Cicero, out of

[1] From *candidus*, white.

[2] The notes in parenthesis are the commentary of Asconius, printed in brackets in the text of Orellius, abridged where I have thought it advisable.

jealousy at the influence which he was acquiring among the citizens. And Cicero accused Crassus of having been the original instigator of that conspiracy which, in the consulship of Cotta and Torquatus, the year before this speech was delivered, had been formed by Catiline and Piso.]

* * * * * *

For what friend or client can that man have, who has murdered so many citizens? and who said that he would not try a cause against a foreigner on fair terms in his own city?

* * * * * *

[Cicero afterwards charges Catiline with having behaved with great personal cruelty in the civil wars between Sylla and Marius, in which he had been a partisan of Sylla. He had murdered Quintus Cæcilius, Marcus Volumnius, and Lucius Tantasius; and had cut off the head of Marcus Marius Gratidianus, a man who had been twice prætor, and had carried it through the streets of the city in his own hand; which is a deed which Cicero often reproached him with throughout this speech. And Antonius had plundered numbers of people in Achaia; so that the Greeks whom he had plundered prosecuted him before Marcus Lucullus the prætor. He had been expelled the senate by the censors Lucius Gellius Poplicola and Cnæus Cornelius Lentulus Clodianus, six years before; who had stated as their reason, that he had plundered the allies, evaded a trial, and that he was so much in debt that he had mortgaged the whole of his property.]

* * * * * *

Nor did he even then look to himself, when he was censured by every weighty resolution of yours.

* * * * * *

[Catiline had been prætor, and after his prætorship had had Africa for his province, which he had oppressed so severely, that ambassadors were sent by the Africans to complain to the senate of his conduct.]

* * * * * *

He learnt how great is the power of the courts of justice when he was acquitted; if indeed his was to be called a trial, or his escape an acquittal.

* * * * * *

[The year before, Catiline, on his return from Africa, had been prosecuted for extortion by Clodius, then a young man.

He had been defended by Cicero,[1] according to Fenestella, which I doubt, because Cicero makes no mention of it, though it would have been a good subject for him to reproach Catiline with; and as he does reproach his competitor Antonius with ingratitude.]

* * * * * *

[What follows next is addressed to Antonius.]

Do you not know that I was elected the first prætor?[2] but that you were only raised from your position of lowest on the list to that of third, by the concession of your competitors, by the union of the centuries, and especially by my kindness?

* * * * * *

[Quintus Mucius, who is addressed in the next paragraph, was a tribune of the people, and he had interposed to prevent the law against bribery from being carried, which he was supposed to have done to gratify Catiline.]

* * * * * *

But I am indignant, O Quintus Mucius, that you should have so bad an opinion of the republic as to deny yesterday that I was worthy of the consulship. What? Is the Roman people less competent to exert due diligence in choosing a defender for itself than you are for yourself? For you, when Lucius Calenus was prosecuting you for robbery, you preferred having me above all men as the advocate of your fortunes. And can the Roman people be guided by your advice to reject the man as its defender in the most honourable causes, whose advice you had recourse to in the most infamous one? Unless, perhaps, you will say this, that at the time that you were prosecuted for robbery by Lucius Calenus you saw that I was able to be of very little use to you.[3]

* * * * * *

He disgraced himself by every sort of lewdness and profli-

[1] Asconius doubts this, and says it rests only on the authority of Fenestella, but Cicero speaks of his intention to do so in a letter to Atticus. (Epist. ad Att. i. 2.) Middleton agrees with Asconius. See below, note 3.

[2] Sylla had increased the number of the prætors to eight; the prætor urbanus was first in rank.

[3] Asconius urges here that as he reproaches Mucius with having forgotten his kindness to him, and also reproaches Antonius with the same forgetfulness, he would certainly not have spared Catilina if he had really defended him. This argument, however, loses much of its force if we recollect how small a portion of this oration we have.

gacy; he dyed his hands in impious murder, he plundered the allies, he violated the laws, the courts of justice.

* * * * * *

Why should I say how you polluted the province?

* * * * * *

For how you behaved there I do not dare to say, since you have been acquitted. I imagine that Roman knights must have been liars; that the documentary evidence of a most honourable city was false; that Quintus Metellus Pius told lies; that Africa told lies. I suppose that those judges who decided that you were innocent saw something or other. O wretched man, not to see that you were not acquitted by that decision, but only reserved for some more severe tribunal, and some more fearful punishment!

[Is it possible that Cicero should say this if he had been Catiline's advocate when he was acquitted?]

* * * * * *

But he showed how greatly he reverenced the people, when he beheaded an exceedingly popular man in the sight of the people.

[This refers to Catiline having carried the head of Marius in triumph through the city.]

By what insanity he has been induced to despise me, I have no idea. Did he think that I should endure it with equanimity? or did he not see by the case of his own most intimate friend, that I could not endure even injuries done to others with any patience?

[He evidently refers here to Caius Verres.]

* * * * * *

The other having sold all the cattle, and having assigned over nearly all the pasture land, still retains the shepherds, with whom he says that he can, whenever he pleases, immediately stir up a war of runaway slaves.

[He means Caius Antonius.]

* * * * * *

The other induced one over whom he had influence, immediately to promise the Roman people gladiators, whom he was not bound to provide; whom he himself, when a candidate for the consulship, had surveyed, and picked out, and purchased, and it was done in the presence of the Roman people.

[He appears to mean Quintus Gallius, whom he afterwards defended when prosecuted for bribery. For when he was a candidate for the prætorship, because he had not given any shows of wild beasts in his ædileship, he gave a show of gladiators on the pretence of exhibiting them in honour of his father.]

* * * * * *

Wherefore, if you wish to increase your wages, * * * * I am content with that law by which we have seen two consuls elect convicted at one time.

[He refers to the Calpurnian law, which Caius Calpurnius Piso had passed three years before, about bribery. The consuls he alludes to were Publius Sylla and Publius Antonius.]

And to say nothing of that man, a robber when in Sylla's army, a gladiator on his entrance into the city, a coachman on his victory,

* * * * * *

[It is evident he is speaking of Antonius. He says, "that he was a robber in Sylla's" army, on account of the squadrons of cavalry with which he ravaged Achaia. The words "a gladiator on his entrance into the city," refer to the proscription that ensued; "a coachman on his victory," to the fact that Sylla, after his victory, exhibited games in the circus, in which men of honourable birth exhibited themselves as charioteers, and among them, Caius Antonius.]

But is it not a prodigy and a miracle, that you, O Catilina, should hope for, or even think of, the consulship? For from whom do you ask it? From the chiefs of the state, who, when Lucius Volcatius held a council, did not choose you to be even allowed to stand for it?

[It has been said already, that when Catilina was governor in Africa, the Africans sent ambassadors to complain to the senate of his conduct there, and many of the senators reflected on him very severely. In consequence, when he announced that he was standing for the consulship, Lucius Volcatius Tullus, the consul, convened a council to decide whether any notice ought to be taken at all of Catiline if he did offer himself. For he was at the

moment under prosecution for extortion. On this, Catiline for the time withdrew from that competition.]

Do you ask it from the senators? who by their own authority had almost stripped you of all your honours, and surrendered you in chains to the Africans.

[For when Catiline was tried for extortion, the majority of the votes in the ballot-box in which the senators voted was for his conviction; but he was acquitted by the votes of the knights and tribunes.]

Do you ask it from the order of knights, which you have slaughtered?

[The equestrian order had taken the part of Cinna against Sylla, and had, on that account, been put to death in great numbers after the final victory of Sylla.]

or from the people? to whom your cruelty afforded such a spectacle that no one could behold it without grief, or can now recollect it without groaning.

[He is again referring to his having carried the head of Marius Gratidianus through the streets.]

* * * * * *

which head, while still full of life and breath, he himself carried to Sylla in his own hands from the Janiculan Hill to the temple of Apollo.

* * * * * *

[Notice must be taken that this was not the temple of Apollo on the Palatine Hill, for that was erected by Augustus, after his victory at Actium. This temple was that one outside the Carmental Gate, between the vegetable market and the Flaminian Circus.]

What can you say in your defence? * * * Which you will not be allowed to say.

* * * * * *

[A little after he adds,]

Lastly, they could deny it, and they have denied it. You have not left your impudence room to deny it. They, therefore, will be said to have been fine judges, if, after having condemned Luscius while he denied it, they acquitted Catiline though he confessed it.

[This Lucius Luscius, a noted centurion of Sylla's party, and one who had acquired great riches by his victory, had

been condemned a little while before Cicero made this speech. Lucius Bellienus, too, had been condemned, whom Cicero calls the uncle of Catiline. They had both committed murders during the proscription.]

He then says that he was not ignorant; since even they said that they had acted ignorantly, and that if they had slain any one, they had only obeyed the general and dictator, and that they could deny it, but that Catiline could not deny it.

[In fact, Catiline was prosecuted a few months after for the very crimes with which Cicero is reproaching him. For after the elections were over, and Catiline had been rejected, Lucius Lucullus prosecuted him as an assassin.]

Have you this dignity which you rely on, and, therefore, despise and scorn me? or that other dignity, which you have acquired by all the rest of your life? when you have lived in such a manner that there was no place so holy, that your presence did not bring suspicion of criminality into it, even when there was no guilt.

[For Fabia, a vestal virgin, had been prosecuted for adultery with Catiline, and had been acquitted. And she was the sister of Terentia, Cicero's wife, on which account Cicero had exerted his influence in her behalf.]

When you were detected in acts of adultery; when you yourself detected adulterers; when you out of the same adultery found yourself both a wife and a daughter.

[It is said that Catiline had committed adultery with a woman who was afterwards his mother-in-law; and that, after that adultery with her, he married her daughter. Lucceius also reproached him with this in the orations which he wrote against him.]

Why need I say how you plundered the province? though all the Roman people raised an outcry against you, and resisted you. For how you behaved there I do not venture to say, as you have been acquitted.

* * * * * *

I pass over this nefarious attempt of yours, that day so bitter and grievous to the Roman people, when, with Cnæus Piso for your accomplice, and no one else, you intended to make a general slaughter of the nobles.

[There was a general belief that Catiline and Cnæus

Piso, a profligate young man, had formed a conspiracy to murder the senate the year before, in the consulship of Cotta and Torquatus; and that slaughter had only been prevented from taking place because Catiline did not give the signal agreed upon.[1] Piso was afterwards assassinated in Spain, some say by the dependants, and with the connivance of, Pompey.]

* * * * * *

Did you forget that, when we were both standing for the prætorship, you begged me to concede the first rank to you? and do you recollect that, as you were frequently begging this of me with great earnestness, I answered you that it was an impudent thing of you to make such a request when Boculus had not been able to obtain the same favour from you?

[Boculus was a noted character in the circus.]

* * * * * *

[He is speaking now of some profligate citizens.]

Who, after they found themselves unable to cut the sinews of the Roman citizens with that Spanish poniard of theirs, attempted to draw two daggers against the republic at once.

[By the Spanish poniard he means Cnæus Piso. The two daggers evidently mean Catiline and Antonius.]

* * * * * *

You know that this man had already instigated Licinius the gladiator, a partisan of Catiline's, and Quintus Curius, a man of quæstorian rank.

[This Curius was a noted gambler.]

[Both Catiline and Antonius made insulting replies to this speech of Cicero; inveighing chiefly against its novelty. However, Cicero was elected consul unanimously; and Antonius beat Catiline by the votes of a few centuries.]

[1] Middleton quotes Suetonius for the statement that Julius Cæsar and Crassus were also privy to this conspiracy, of whom the latter was to be dictator, and the former his master of the horse; but that Crassus's heart failed him when it came to the time; and that, in consequence, Cæsar, who was to have given the sig al, did not do it.

THE SPEECH OF M. T. CICERO

IN OPPOSITION TO

PUBLIUS SERVILIUS RULLUS, A TRIBUNE OF THE PEOPLE, CONCERNING THE AGRARIAN LAW.

DELIVERED IN THE SENATE.

THE FIRST ORATION ON THIS SUBJECT.

THE ARGUMENT.

A short time before Cicero's inauguration as consul, which took place on the first of January, Publius Servilius Rullus, one of the new tribunes, (who entered on their office on the tenth of December,) had been alarming the senate with the proposal of a new agrarian law, the purport of which was to appoint ten commissioners, (decemviri,) with absolute power for five years over all the revenues of the republic; to distribute them at pleasure to the citizens; to sell and buy what lands they thought fit; to determine the rights of the present possessors; to require an account from all the generals abroad, except Pompey, of the spoils taken in their wars; to settle colonies wherever they judged it proper, and especially at Capua; and, in short, to have the entire command of the money and forces of the empire. (Middleton, ch. iii.)

This oration (of which some of the beginning is lost), was addressed to the senate on the first of January, to relieve them of their apprehensions respecting this law, by assuring them that he would oppose the law and all its promoters to the uttermost of his power; and that he would not suffer the state to be injured or its liberties to be impaired, while the administration remained in his hands.

* * * * * *

THE decemviri will sell the booty, the spoils, the division of the plunder, the very camp of Cnæus Pompeius, while the general is forced to sit still.

In beardless youth * * * *

[The whole of the Propontis and of the Hellespont will therefore come under the power of the prætor; the whole coast of the Lycians and Cilicians will be advertised for

sale; Mysia and Phrygia will be subjected to the same conditions.[1]]

I. 1. . . . . That which was then openly sought, is now endeavoured to be effected secretly by mines. For the decemvirs will say, what indeed is said by many, and has often been said,—that after the consulship of those men, all that kingdom became the property of the Roman people, by the bequest of the king Alexander. Will you then give Alexandria[2] to those men when they ask for it in an underhand way, whom you resisted when they openly fought against you? Which, in the name of the immortal gods, do these things seem to you,—the designs of sober men, or the dreams of drunken ones? the serious thoughts of wise men, or the frantic wishes of madmen? See, now, in the second chapter of this law, how that profligate debauchee is disturbing the republic,—how he is ruining and dissipating the possessions left us by our ancestors; so as to be not less a spendthrift in the patrimony of the Roman people than in his own. He is advertising for sale by his law all the revenues, for the decemvirs to sell them; that is to say, he is advertising an auction of the property of the state. He wants lands to be bought, in order to be distributed; he is seeking money. No doubt he will devise something, and bring it forward; for in the preceding chapters the dignity of the Roman people was attacked; the name of our dominion was held up as an object of common hatred to all the nations of the earth; cities which were at peace with us, lands belonging to the allies, the ranks of kings in alliance with us, were all made a present of to the decemvirs; and now they want actual ready money paid down to them. I am waiting to see what this vigilant and clever tribune is contriving. Let the Scantian[3] wood, says he, be sold. Did you then find this wood mentioned among the possessions that were left, or in the pasture lands of the lessors? If there is

[1] Rhunck has enclosed this sentence in brackets, as the gloss and interpolation of an ignorant man; but Orellius thinks some part of it really Cicero's, though not free from corruptions.

[2] Alexander, king of Egypt, had died at Tyre in the consulship of Cotta and Torquatus, two years before, and had bequeathed Alexandria and Egypt to the Roman people, and in consequence many people advocated the course of claiming that inheritance, and depriving Ptolemy the king of Egypt. The subject will be mentioned again in the next oration.

[3] The Scantian wood was in Campania.

anything which you have hunted out, and discovered, and brought to light out of darkness, although it is not just, still use that, since it is convenient, and since you yourself were the person to bring it forward. But shall you sell the Scantian wood while we are consuls, and while this senate is in existence? Shall you touch any of the revenues? Shall you take away from the Roman people that which is their strength in time of war, their ornament in time of peace? But then, indeed, I shall think myself a lazier consul than those fearless men who filled this office in the times of our ancestors; because the revenues which were acquired by the Roman people when they were consuls, will be considered not able to be preserved when I am consul.

II. He is selling all the possessions in Italy, in regular order. Forsooth, he is very busy in that occupation. For he does not omit one. He goes through the whole of Sicily in the account-books of the censors. He does not omit one single house, or one single field. You have heard an auction of the property of the Roman people given notice of by a tribune of the people, and fixed for the month of January; and I suppose you do not doubt, that they who procured these things by their arms and their valour, did not sell them for the sake of the treasury, on purpose that we might have something to sell for the sake of bribery.

See, now, how much more undisguisedly than before he proceeds on his course. For it has been already shown by me how they attacked Pompeius in the earlier part of the law; and now they shall show it also themselves. He orders the lands belonging to the men of Attalia and Olympus to be sold. These lands the victory of Publius Servilius, that most gallant general, had made the property of the Roman people. After that, the royal domains in Macedonia, which were acquired partly by the valour of Titus Flamininus, and partly by that of Lucius Paullus, who conquered Perses. After that, that most excellent and productive land which belongs to Corinth, which was added to the revenues of the Roman people by the campaigns and successes of Lucius Mummius. After that, they sell the lands in Spain near Carthagena, acquired by the distinguished valour of the two Scipios. Then Carthagena itself, which Publius Scipio, having stripped it of all its fortifications, consecrated to the eternal recollection of men, whether his purpose was to keep up the memory of

the disaster of the Carthaginians, or to bear witness to our victory, or to fulfil some religious obligation. Having sold all these ensigns and crowns, as it were, of the empire, with which the republic was adorned, and handed down to you by your ancestors, they then order the lands to be sold which the king Mithridates possessed in Paphlagonia, and Pontus, and Cappadocia. Do they not seem to be pursuing without much disguise, and almost with the crier's spear, the army of Cnæus Pompeius, when they order those lands to be sold in which he is now engaged and carrying on war?

III. But what is the meaning of this, that they fix no place for this auction which they are establishing? For power is given to the decemvirs by this law, of holding their sales in any places which seem convenient to them. The censors are not allowed to let the contracts for farming the revenues, except in the sight of the Roman people. Shall these men be allowed to sell them in the most distant countries? But even the most profligate men, when they have squandered their patrimony, prefer selling their property in the auctioneer's rooms, rather than in the roads, or in the streets. This man, by his law, gives leave to the decemvirs to sell the property of the Roman people in whatever darkness and whatever solitude they find it convenient. Do you not, moreover, see how grievous, how formidable, and how pregnant with extortion that invasion of the decemvirs and of the multitude that will follow in their train will be to all the provinces, and kingdoms, and free nations? In the case of those men on whom you have conferred lieutenancies for the sake of entering on inheritances, though they went as private men, on private business, invested with no excessive power and no supreme authority, you have still heard how burdensome their arrival has proved to your allies. What alarm and what misfortune, then, must you think all nations are threatened with by this law, when decemvirs are sent all over the world with supreme power,—men of the greatest avarice, and with an insatiable desire for every sort of property? whose arrival will be grievous, whose forces will be formidable, whose judicial and arbitrary power will be absolutely intolerable. For they will have the power of deciding whatever they please to be public property, and of selling whatever they decide to be such. Even that very thing which conscientious men will not do,—namely, taking money to abstain from selling, is to be made

lawful for them to do by the express provisions of the law. From this provision what plunderings, what bargainings, what a regular auction of all law and of every one's fortunes must inevitably arise! Even that which in the former part of the law made in the consulship of Sylla and Pompeius was strictly defined, that they have now left at the discretion of these men, without any restriction or limitation.

IV. He orders these same decemvirs to impose an exceedingly heavy tax on all the public domains, in order that they might be able both to release what lands they choose, and to confiscate what they choose. And in this proceeding it is hard to see whether their severity will be more cruel or their kindness more gainful.

However, there are in the whole law two exceptions, not so much unjust as suspicious. In imposing the tax it makes an exception with respect to the Recentoric district in Sicily; and in selling the land, he excepts those with respect to which there was an express provision in the treaty. These lands are in Africa, in the occupation of Hiempsal. Here I ask, if sufficient protection is afforded to Hiempsal by the treaty, and if the Recentoric district is private property, what was the use of excepting these lands by name in the law? If that treaty itself has some obscurity in it, and if the Recentoric is sometimes said to be public property, who do you suppose will believe that there have been two interests found in the world, and only two, which he spared for nothing? Does there appear to have been any coin in the world so carefully hidden that the architects of this law have failed to scent it out? They are draining the provinces, the free cities, our allies, our friends, and even the kings who are confederate with us. They are laying hands on the revenues of the Roman people.

That is not enough. Listen—listen, you who, by the most honourable vote of the people and senate, have commanded armies and carried on wars:—"Whatever has come or shall come to any one, of booty, of spoils, of money given for gold crowns, which has neither been spent on a monument, nor paid into the treasury, is all to be paid over to the decemvirs." From this chapter they expect a great deal. They propose by their resolution an investigation into the affairs of all our generals and all their heirs. But they expect to get the greatest quantity of money from Faustus. That cause

which the judges on their oath would not undertake, these decemvirs have undertaken. They think, perhaps, that it was declined by the judges, on purpose to be reserved for them. After that, the law most carefully provides for the future, that, whatever money any general receives, he is at once to pay over to the decemvirs. But here he excepts Pompeius, very much as, as it seems to me, in that law by which aliens are sent away from Rome an exception is made in favour of Glaucippus. For the effect of this exception is not to confer a kindness on one man, but merely to save one man from injustice. But the man whose spoils the law thus spares, has his revenues invaded by the same law. For it orders all the money which is received after our consulship from the new revenues, to be placed to the use of the decemvirs. As if we did not see that they were thinking of selling the revenues which Cnæus Pompeius has added to the wealth of the Roman people.

V. You see now, O conscript fathers, that the money which is to belong to the decemvirs is collected and heaped together from every possible source, and by every imaginable expedient. The unpopularity arising from their possession of this large sum is to be diminished; for it shall be spent in the purchase of lands. Exceedingly well. Who then is to buy those lands? These same decemvirs. You, O Rullus,—for I say nothing of the rest of them,—are to buy whatever you like; to sell whatever you like; to buy or sell at whatever price you please. For that admirable man takes care not to buy of any one against his will. As if we did not understand that to buy of a man against his will is an injurious thing to do; but to buy of one who has no objection, is profitable. How much land (to say nothing of other people) will your father-in-law sell you? and, if I have formed a proper estimate of the fairness of his disposition, will have no objection to sell you? The rest will do the same willingly; they will be glad to exchange the unpopularity attaching to the possession of land for money; to receive whatever they demand, and to part with what they can scarcely retain. Now just see the boundless and intolerable licentiousness of all these measures. Money has been collected for the purchase of lands. Moreover, the lands are not to be bought of people against their will. Suppose all the owners agree not to sell, what is to happen then? Is the money to be refunded? That cannot

be. Is it to be collected? The law forbids that. However, let that pass. There is nothing which cannot be bought, if you will only give as much as the seller asks. Let us plunder the whole world, let us sell our revenues, let us exhaust the treasury, in order that, whether men be owners of wealth, or of odium, or even of a pestilence, still their lands may be bought.

What is to happen then? what sort of men are to be established as settlers in those lands? what is to be the system and plan adopted in the whole business? Colonies, says the law, shall be led thither, and settled there. How many? Of what class of men? Where are they to be established? For who is there who does not see that all these things have got to be considered when we are talking of colonies? Did you think, O Rullus, that we would give up the whole of Italy to you and to those contrivers of everything whom you have set up, in an unarmed and defenceless state, for you to strengthen it with garrisons afterwards? for you to occupy it with colonies? to hold it bound and fettered by every sort of chain? For where is there any clause to prevent your establishing a colony on the Janiculan Hill? or from oppressing and overwhelming this city with some other city? We will not do so, says he. In the first place, I don't know that; in the next place, I am afraid of you; lastly, I will never permit our safety to depend on your kindness rather than on our own prudence.

VI. But as you wanted to fill all Italy with your colonies, did you think that not one of us would understand what sort of a measure that was? For it is written, "The decemvirs may lead whatever settlers they choose into whatever municipalities and colonies they like; and they may assign them lands in whatever places they please;" so that, when they have occupied all Italy with their soldiers, you may have no hope left you, I will not say of retaining your dignity, but none even of recovering your liberty. And these things, indeed, I object to on suspicion and from conjecture. But now all mistake on any side shall be removed; now they shall show openly that the very name of this republic, and the situation of this city and empire, that even this very temple of the good and great Jupiter, and this citadel of all nations, is odious to them. They wish settlers to be conducted to Capua. They wish again to oppose that city to this

city. They think of removing all their riches thither, of transferring thither the name of the empire. That place which, because of the fertility of its lands and its abundance of every sort of production, is said to be the parent of pride and cruelty—in that our colonists, men selected as fit for every imaginable purpose, will be settled by the decemvirs. No doubt, in that city, in which men, though born to the enjoyment of ancient dignities and hereditary fortunes, were still unable to bear with moderation the luxuriance of their fortunes, your satellites will be able to restrain their insolence and to behave with modesty. Our ancestors removed from Capua the magistrates, the senate, the general council, and all the ensigns of the republic, and left nothing there except the bare name of Capua; not out of cruelty, (for what was ever more merciful than they were? for they often restored their property even to foreign enemies when they had been subdued;) but out of wisdom; because they saw that if any trace of the republic remained within those walls, the city itself might be able to afford a home to supreme power. And would not you too see how mischievous these things were, if you were not desirous of overturning the republic, and of procuring a new sort of power for your own selves?

VII. For what is there that is especially to be guarded against in the establishment of colonies? If it be luxury—Capua corrupted Hannibal himself. If it be pride—that appears from the general arrogance of the Campanians to be innate there. If we want a bulwark for the state—then I say, that Capua is not placed in front of this city as an outwork, but is opposed to it as an enemy. But how is it armed? O ye immortal gods! For in the Punic war all the power that Capua had, it had from its unassisted recources; but now, all the cities which are around Capua will be occupied by colonists, by the order of these same decemvirs. For, for this reason, the law itself allows, "that the decemvirs may lead whoever they please as settlers to every town which they choose." And it orders the Campanian district, and that of Stella, to be divided among these colonists.

I do not complain of the diminution of the revenues; nor of the wickedness of this loss and injury. I pass over those things which there is no one who cannot complain of with the greatest weight and the greatest truth; that we have not been

able to preserve the most important part of the public patrimony of the state, that which has been to us the source of our supply of corn, our granary in time of war, our revenue placed under custody of the seals and bolts of the republic; that we, in short, have abandoned that district to Publius Rullus, which itself by its own resources had resisted both the absolute power of Sylla, and the corrupting liberality of the Gracchi. I do not say that, now that so much has been lost, this is the only revenue which remains in the republic; the only one which, while other sources of income are interrupted, does not fail us; the only one which is splendid in peace, is not worn out in war; which supports our soldiery, and is not afraid of our enemies. I pass over all this which I might say; I reserve that for the assembly of the people. I am speaking now of the danger to our safety and to our liberty. For what do you think will remain to you unimpaired in the whole republic, or in your liberty, or in your dignity, when Rullus, and those whom you are much more afraid of than you are of Rullus, with his whole band of needy and unprincipled men, with all his forces, with all his silver and gold, shall have occupied Capua and the cities around Capua? These things, O conscript fathers, I will resist eagerly and vigorously; and I will not permit men, while I am consul, to bring forth those plans against the republic which they have long been meditating.

You made a great mistake, O Rullus, you and some of your colleagues, when you hoped that, in being in opposition to a consul who studied the interests of the people in reality, not by making a vain parade of so doing, you would be able to gain popularity while overturning the republic. I challenge you; I invite you to the assembly; I will accept the Roman people as an umpire between us.

VIII. In fact, if we look round to survey everything which is pleasant and acceptable to the people, we shall find that nothing is so popular as peace, and concord, and ease. You have given up to me a city made anxious with suspicion, in suspense from fear, harassed to death by your proposed laws, and assemblies, and seditions. You have inflamed the hopes of the wicked; you have filled the virtuous with alarms; you have banished good faith from the forum, and dignity from the republic. Amid all this commotion and agitation of minds and circumstances, when the voice and authority of

the consul has suddenly, from amid such great darkness, dawned on the Roman people; when it has shown that nothing need be feared; that no regular army, no band of extempore ruffians, no colony, no sale of the revenues. no new sort of command, no reign of decemvirs, no new Rome or opposition seat of empire, will be allowed to exist while we are consuls; that the greatest tranquillity of peace and ease will be secured; then, no doubt, we shall have much reason to fear that this beautiful agrarian law of yours will appear popular. But when I have displayed the wickedness of your counsels, the dishonesty of your law, and the treachery which is planned by those popular tribunes of the people against the Roman people; then, I suppose, I shall have reason to fear that I shall not be allowed to appear in the assembly, for the purpose of opposing you; especially when I have determined and resolved so to conduct myself in my consulship, (and the duties of the consulship cannot be discharged with dignity and freedom, in any other manner,) as neither to desire any province, nor honour, nor dignity, nor advantage, nor anything whatever which can have any hindrance thrown in its way by any tribune of the people. The consul states, in full senate, on the calends of January, that if the present condition of the republic continues, and if no new event arises, on account of which he cannot with honour avoid it, he will not go to any province. By that means I shall be able, O conscript fathers, so to behave myself in this magistracy, as to be able to restrain any tribune of the people who is hostile to the republic, —to despise any one who is hostile to myself.

IX. Wherefore, in the name of the immortal gods! I entreat you, recollect yourselves, O tribunes of the people; desert those men by whom, in a short time, unless you take great care, you will yourselves be deserted. Conspire with us; agree with all virtuous men; defend our common republic with one common zeal and affection. There are many secret wounds sustained by the republic. There are many mischievous counsels of abandoned citizens designed against her. There is no external danger. There is no king, no nation, no people in the world whom we need fear. The evil is confined within our own walls, internal and domestic. Every one of us to the best of his power ought to resist and to remedy this. You mistake if you think that the senate approves of what is said by me, but that the inclinations of

the people are different. All men, who wish to be safe themselves, will follow the authority of the consul, a man uninfluenced by evil passions, free from all suspicion of guilt; cautious in dangers, not fearful in contests. But if any one of you cherishes a hope that he may be able in a turbulent state of affairs to promote his own interests, first of all, let him give up hoping any such thing as long as I am consul. In the next place, let him take me myself as a proof—(me whom he sees now consul, though born only in the equestrian rank)—of what course of life most easily conducts virtuous men to honour and dignity. But if you, O conscript fathers, assist me with your zeal and energy in defending our common dignity, then, in truth, I shall accomplish that of which our republic is at present in the greatest possible need. I shall make the authority of this order, which existed so long among our ancestors, appear after a long interval to be again restored to the republic.

THE SECOND SPEECH OF M. T. CICERO

IN OPPOSITION TO

PUBLIUS SERVILIUS RULLUS, A TRIBUNE OF THE PEOPLE, CONCERNING THE AGRARIAN LAW.

DELIVERED TO THE PEOPLE.

THE ARGUMENT.

A few days after the preceding speech in the senate, Cicero came into the assembly of the people, and made the following speech to them; dilating on the different particulars of the proposed law, and on its evils, at much greater length than he had done when he addressed the senate. And he succeeded so much, that, as he says himself, no one had ever had more success in arguing in favour of an agrarian law, (which was always likely to be a popular proposal,) than he had had in haranguing the people against this one.

I. It is in accordance with the customs and established usages of our ancestors, O Romans, that those who, by your kindness, have overtaken the images of their family,[1] should, the first time that they hold an assembly of the people, take an opportunity of uniting thanks to you for your kindness with a panegyric on their ancestors; and in the speech then made, some men are, on some occasions, found worthy of the rank of their ancestors. But most men only accomplish this,—namely, to make it seem that so vast a debt is due to their ancestors, that there is something still left to be paid to their posterity. I, indeed, have no opportunity of speaking before you of my ancestors, not because they were not such men as you see me also to be, who am born of their blood,

[1] "Those Romans who had passed through one of the high offices of ædiles, prætor, or consul, were allowed to have their likenesses handed down to posterity. These likenesses were, according to Casaubon, busts; but according to Schweighauser, masks; they were kept in the hall of the house, in niches appropriated for their reception, and were brought forth on occasions of funerals, together with their robes of office, to personate the dead. Whoever had such images in his possession was *nobilis*"—Riddle, Lat. Dict. v. *Imago.*

and educated in their principles, but because they had never any share of popular praise, or of the light of honours conferred by you. And of myself I fear lest it may look like arrogance to speak, and yet like ingratitude to be silent. For it is a very troublesome thing for me myself to enumerate to you the pursuits by which I have earned this dignity; and, on the other hand, I cannot possibly be silent about your great kindnesses to me. Wherefore I will employ a reasonable moderation in speaking, so as to mention the kindness which I have received from you. I will speak slightly of the reasons why I am thought to have deserved the greatest honour you can confer, and your singularly favourable judgment of me. * * * * *

After a very long interval, almost beyond the memory of our times, you have for the first time made me, a new man, consul; and you have opened that rank which the nobles have held strengthened by guards, and fenced round in every possible manner, in my instance first, and have resolved that it should in future be open to virtue. Nor have you only made me consul, though that is of itself a most honourable thing, but you have made me so in such a way as very few nobles in this city have ever been made consuls before in, and no new man whatever before me.

II. For, in truth, if you please to recollect, you will find that those new men who have at any time been made consuls without a repulse, have been elected after long toil, and on some critical emergency, having stood for it many years after they had been prætors, and a good deal later than they might have done according to the laws regulating the age of candidates for the office; but that those who stood for it in their regular year were not elected without a repulse; that I am the only one of all the new men whom we can remember who have stood for the consulship the first moment that by law I could,—who have been elected consul the first time that I have stood; so that this honour which you have conferred on me, having been sought by me at the proper time, appears not to have been filched by me on the occasion of some unpopular candidate offering himself,—not to have been gained by long perseverance in asking for it, but to have been fairly earned by my worth and dignity. This, also, is a most honourable thing for me, O Romans, which I mentioned a few minutes ago,—that I am the first new

man for many years on whom you have conferred this honour,—that you have conferred it on my first application, in my proper year. But yet nothing can be more splendid or more honourable for me than this circumstance,—that at the comitia at which I was elected you delivered not your ballot,[1] the vindication of your silent liberty, but your eager voices as the witnesses of your good-will towards, and zeal for me. And so it was not the last tribe of the votes, but the very first moment of your meeting,—it was not the single voices of the criers, but the whole Roman people with one voice that declared me consul.

I think this eminent and unprecedented kindness of yours, O Romans, of great weight as a reward for my courage, and as a source of joy to me, but still more calculated to impress me with care and anxiety. For, O Romans, many and grave thoughts occupy my mind, which allow me but little rest day or night. First, there is anxiety about discharging the duties of the consulship, which is a difficult and important business to all men, and especially to me above all other men; for if I err, I shall obtain no pardon—if I do well, I shall get but little praise, and that, too, extorted from unwilling people—if I am in doubt, I have no faithful counsellors to whom I can apply—if I am in difficulty, I have no sure assistance from the nobles on which I can depend.

III. But, if I alone were in danger, I would bear it, O Romans, with more equanimity; but there appears to me to be some men determined, if they think that I have done anything wrongly, not only intentionally, but even by chance, to blame all of you for having preferred me to the nobles. But I think, O Romans, that I ought to endure everything rather than not discharge the duties of my consulship in such a manner, as by all my actions and counsels to compel men to praise your action and counsel with respect to me. There is

[1] Middleton says, (with express reference to this passage,) "the method of choosing consuls was not by an open vote, but by a kind of ballot or little tickets of wood, distributed to the citizens with the names of the candidates severally inscribed on each; but in Cicero's case, the people were not content with this secret and silent way of testifying their inclinations; but, before they came to any scrutiny, loudly and universally proclaimed Cicero the first consul; so that, as he himself declared in his speech to them after his election, he was not chosen by the votes of particular citizens, but by the common suffrage of the city; nor declared by the voice of the crier, but of the whole Roman people."

also this added to the great labour and difficulty which I see before me in discharging the duties of my office, that I have made up my mind that I ought not to adopt the same rule and principle of conduct which former consuls have; some of whom have carefully avoided all approach to this place, and the sight of you, and others have at all events not been very fond of it. But I not only declare in this place where it is exceedingly easy to do it, but I said in my very first speech on the first of January, in the senate itself, which did not seem likely to be so favourable a place for the expression, that I would be a consul in the interests of the people. Nor is it possible for me, knowing, as I do, that I have been made consul, not by the zeal of the powerful citizens, nor by the preponderating influence of a few men, but by the deliberate judgment of the Roman people, and that, too, in such a way as to be preferred to men of the very highest rank, to avoid, both in this magistracy and throughout my whole life, devoting myself to the interests of the people.

When, however, I speak of the interests of the people, I have great need of your wisdom in giving the proper meaning and interpretation to this expression. For there is a great error abroad, by reason of the treacherous pretences made by some people, who, though they oppose and hinder not only the advantage but even the safety of the people, still endeavour by their speeches to make men believe them zealous for the interests of the people. I, O Romans, know in what condition I received the republic on the first of January: full of anxiety, full of fear. There was no evil, no misfortune which the good were not dreading and the bad looking out for. Every sort of seditious design against the existing constitution of the republic, and against your tranquillity, was said to be in contemplation,—some such to have been actually set on foot the moment we were elected consuls. All confidence was banished from the forum, not by the stroke of any new calamity, but by the general suspicion entertained of the courts of justice, and by the disorder into which they had fallen, and by the constant reversal of previous decisions. New authority, extraordinary powers, suited not to commanders, but to kings, were supposed to be aimed at.

IV. And as I did not only suspect these things, but clearly saw them, (for indeed there was no secret made of what was being done,) I said in the senate that I would in this magis-

tracy prove a consul devoted to the interests of the people. For what is there so advantageous to the people as peace? in which not only the animals to whom nature has given sense, but even the houses and fields appear to me to rejoice. What is so advantageous to the people as liberty? which is sought out and preferred to everything, not only by men, but even by the beasts. What is so advantageous to the people as tranquillity? which is so delightful a thing, that both you and your ancestors, and every brave man, thinks it worth his while to encounter the greatest labours, in order at length to enjoy tranquillity, particularly if he be a man in command, or a man of high rank. And we, therefore, are bound to give great praise and to show great gratitude to our ancestors, because it is owing to their labours that we are able to enjoy tranquillity without risk. How then can I avoid being devoted to the interests of the people, O Romans, when I see all these things,—our peace abroad, and the liberty which belongs to the Roman race and Roman name, and our domestic tranquillity, and everything, in short, which is considered by you as valuable or honourable, entrusted to the good faith, and, as it were, to the protection of my consulship? And, O Romans, a promised liberality which, however you may be encouraged by words to expect it, cannot be performed by any possible means without exhausting the treasury, ought not to appear to you an agreeable measure, or one calculated to promote your real interests. Nor are the disturbances of the courts of justice, and the reversals of judicial decisions, and the restoration of convicted persons to be considered as measures advantageous to the people; for they are rather the preludes to the total ruin of cities whose affairs are already in a falling and almost desperate state. Nor, if any men promise lands to the Roman people, or if they hold out to you, under false pretences, hopes of such things, while in secret they are keeping entirely different objects in view, are they to be thought devoted to the true interests of the people.

V. For I will speak the truth, O Romans; I cannot find fault with the general principle of an agrarian law, for it occurs to my mind that two most illustrious men, two most able men, two men most thoroughly attached to the Roman people, Tiberius and Caius Gracchus, established the people on public domains which had previously been occupied by

private individuals. Nor am I a consul of such opinions as to think it wrong, as most men do, to praise the Gracchi; by whose counsels, and wisdom, and laws, I see that many parts of the republic have been greatly strengthened. Therefore, when at the very beginning, I, being the consul elect, was informed that the tribunes elect of the people were drawing up an agrarian law, I wished to ascertain what their plans were. In truth, I thought that, since we were both to act as magistrates in the same year, it was right that there should be some union between us, for the purpose of governing the republic wisely and successfully. When I wished to join them familiarly in conversation, I was shut out; their projects were concealed from me: and when I assured them that, if the law appeared to me to be advantageous to the Roman people, I would assist them in it and promote it, still they rejected this liberality of mine with scorn, and said that I could not possibly be induced to approve of any liberal measures. I ceased to offer myself to them, lest perchance my importunity should seem to them treacherous or impudent. In the meantime they did not cease to have secret meetings among themselves, to invite some private individuals to them, and to choose night and darkness for their clandestine deliberations. And what great alarm this conduct of theirs caused us, you may easily divine by your own conjectures founded on the anxiety which you yourselves experienced at that time.

At last the tribunes of the people enter on their office. The assembly to be convened by Publius Rullus was anxiously looked for, both because he was the chief mover of the agrarian law, and because he behaved with more violence than his colleagues. From the moment that he was elected tribune, he put on another expression of countenance, another tone of voice, a different gait; he went about in an old-fashioned dress, without any regard to neatness in his person, with longer hair and a more abundant beard than before; so that he seemed by his eyes and by his whole aspect to be threatening every one with the power of the tribunes, and to be meditating evil to the republic. I was waiting in expectation of his law and of the assembly. At first no law at all is proposed. He orders an assembly to be summoned as his first measure. Men flock to it with the most eager expectation. He makes a long enough speech, expressed in very

good language. There was one thing which seemed to me bad, and that was, that out of all the crowd there present, not one man could be found who was able to understand what he meant. Whether he did this with any insidious design, or whether that is the sort of eloquence in which he takes pleasure, I do not know. Still, if there was any one in the assembly cleverer than another, he suspected that he was intending to say something or other about an agrarian law. At last, after I had been elected consul, the law is proposed publicly. By my order several clerks meet at one time, and bring me an accurate copy of the law.

VI. I assure you with the most real sincerity, O Romans, that I applied myself to the reading and understanding of this law with these feelings, that if I had thought it well adapted to your interests, and advantageous to them, I would have been a chief mover in and promoter of it. For the consulship has not, either by nature, or by any inherent difference of object, or by any instinctive hatred, any enmity against the tribuneship, though good and fearless consuls have often opposed seditious and worthless tribunes of the people, and though the power of the tribunes has sometimes opposed the capricious licentiousness of the consuls. It is not the dissimilarity of their powers, but the disunion of their minds, that creates dissension between them. Therefore, I applied myself to the consideration of the law with these feelings, that I wished to find it calculated to promote your interests, and such an one as a consul who was really, not in word only, devoted to the people, might honestly and cheerfully advocate. And from the first clause of the proposed law to the last, O Romans, I find nothing else thought of, nothing else intended, nothing else aimed at, but to appoint ten kings of the treasury, of the revenues, of all the provinces, of the whole of the republic, of the kingdoms allied with us, of the free nations confederate with us—ten lords of the whole world, under the pretence and name of an agrarian law.

I do assert to you, O Romans, that by this beautiful agrarian law, by this law calculated solely for the good of the people, nothing whatever is given to you, everything is sacrificed to a few particular men; that lands are displayed before the eyes of the Roman people, liberty is taken away from them; that the fortunes of some private individuals are increased, the public wealth is exhausted; and lastly, which is

the most scandalous thing of all, that by means of a tribune of the people, whom our ancestors designed to be the protector and guardian of liberty, kings are being established in the city. And when I have shown to you all the grounds for this statement, if they appear to you to be erroneous, I will yield to your authority, I will abandon my own opinion. But if you become aware that plots are laid against your liberty under a pretence of liberality, then do not hesitate, now that you have a consul to assist you, to defend that liberty which was earned by the sweat and blood of your ancestors, and handed down to you, without any trouble on your part.

VII. The first clause in this agrarian law is one by which, as they think, you are a little proved, to see with what feelings you can bear a diminution of your liberty. For it orders "the tribune of the people who has passed this law to create ten decemvirs by the votes of seventeen tribes, so that whomsoever a majority consisting of nine tribes elects, shall be a decemvir." On this I ask, on what account the framer of this law has commenced his law and his measures in such a manner, as to deprive the Roman people of its right of voting? As often as agrarian laws have been passed, commissioners, and triumvirs, and quinquevirs, and decemvirs have been appointed. I ask this tribune of the people, who is so attached to the people, whether they were ever created except by the whole thirty-five tribes? In truth, as it is proper for every power, and every command, and every charge which is committed to any one, to proceed from the entire Roman people, so especially ought those to do so, which are established for any use and advantage of the Roman people; as that is a case in which they all together choose the man who they think will most study the advantage of the Roman people, and in which also each individual among them by his own zeal and his own vote assists to make a road by which he may obtain some individual benefit for himself. This is the tribune to whom it has occurred above all others to deprive the Roman people of their suffrages, and to invite a few tribes, not by any fixed condition of law, but by the kindness of lots drawn, and by chance, to usurp the liberties belonging to all. "Also in the same manner," it says in the second clause, "as in the comitia for the election of a Pontifex Maximus." He did not perceive even this, that our ancestors did really study the good of the people so much, that, though it was not lawful

for that office to be conferred by the people, on account of the religious ceremonies then used, still, they chose, in order to do additional honour to the priesthood, that the sanction of the people should be asked for it. And Cnæus Domitius, a tribune of the people, and a most eminent man, passed the same law with respect to the other priesthoods; enacting, because the people, on account of the requirements of religion, could not confer the priesthoods, that a small half of the people should be invited; and that whoever was selected by that half should be chosen into their body by the sacred college. See now how great a difference there is between Cnæus Domitius, a tribune of the people, a man of the highest rank, and Publius Rullus, who tried your patience, as I imagine, when he said that he was a noble. Domitius contrived a way by which, as far as he was able, as far as was consistent with the laws of men and of gods, he might confer on a portion of the people what could not be done by any regular proceeding on the part of the entire people. But this man, when there was a thing which had always belonged to the people, which no one had ever impaired, and which no one had ever altered,—the principle, namely, that those who were to assign lands to the people, should receive a kindness from the Roman people before they conferred one on it; that this man has endeavoured entirely to take away from you, and to wrest out of your hands. The one contrived somehow or other to give that which could not really be given formally to the people; the other endeavours somehow or other to take away from them by manœuvre, what could not possibly be taken from them by direct power.

VIII. Some one will ask what was his purpose in such injustice and such impudence. He was not without an object. But good faith towards the Roman people, just feelings towards you and your liberty, he was utterly without. For he orders the man who has passed the law to hold the comitia for the creation of the decemvirs. I will state the case more plainly. Rullus, as a man far from being covetous or ambitious, orders Rullus to hold the comitia. I do not find fault yet. I see that others have done the same thing. Now see what is the object of this, which no one else ever did, with respect to the smaller half of the people. He will hold the comitia; he wishes to have the appointment of those officers for whom kingly power is sought to be procured by this law.

He himself will not entrust it to the entire people, nor do those who were the original instigators of these designs think it ought to be entrusted to them. The same Rullus will cast lots between the tribes. He, happy man, will pick out the tribes which he prefers. Those decemvirs whom the nine tribes selected by this same Rullus may choose to appoint, we shall have, as I shall presently show, for our absolute masters in everything. And they, that they may appear to be grateful men, and to be mindful of kindness, will confess that they are indebted to the leading men of these nine tribes. But as for the other six-and-twenty tribes, there will be nothing which they will not think that they have a right to refuse them. Who are they, then, whom he means to have elected tribunes? In the first place, himself. How can that be lawful? For there are old laws, and those too not laws made by consuls, if you think that that makes any difference, but made by tribunes, very pleasing and agreeable to you and to your ancestors. There is the Licinian law, and the second Æbutian law; which excepts not only the man who has caused a law to be passed concerning any commission or power, but also all his colleagues and all his connexions, and incapacitates them from being appointed to any power or commission so established. In truth, if you consult the interests of the people, remove yourself from all suspicion of any advantage to yourself; allow the power to accrue to others, gratitude for the good you have done must be enough for yourself. For such conduct as this is scarcely becoming in a free people, it is scarcely consistent with your spirit and dignity.

IX. Who passed the law? Rullus. Who prevented the greater portion of the people from having a vote? Rullus. Who presided over the comitia? Who summoned to the election whatever tribes he pleased, having drawn the lots for them without any witness being present to see fair play? Who appointed whatever decemvirs he chose? This same Rullus. Whom did he appoint chief of the decemvirs? Rullus. I hardly believe that he could induce his own slaves to approve of this; much less you, who are the masters of all nations. Therefore, the most excellent laws will be repealed by this law without the least suspicion of the fact. He will seek for a commission for himself by virtue of his own law; he will hold comitia, though the greater portion of the people is stripped of their votes; he will appoint whomsoever he pleases, and

himself among them; and forsooth he will not reject his own colleagues, the backers of this agrarian law; by whom the first place in the unpopularity which may possibly arise from drawing the law, and from having his name at the head of it, has indeed been conceded to him, but the profit from the whole business, they, who in the hope of it are placed in this position, reserve to themselves in equal shares with him.[1]

But now take notice of the diligence of the man, if indeed you think that Rullus contrived this, or that it is a thing which could possibly have occurred to Rullus. Those men who first projected these measures saw, that, if you had the power of making your selection out of the whole people, whatever the matter might be in which good faith, integrity, virtue, and authority were required, you would beyond all question entrust it to Cnæus Pompeius as the chief manager. In truth, after you had chosen one man out of all the citizens, and appointed him to conduct all your wars against all nations by land and sea, they saw plainly that it was most natural that, when you were appointing decemvirs, whether it was to be looked on as committing a trust to, or conferring an honour on a man, you would commit the business to him, and most reasonable that he should have this compliment paid him. Therefore, an exception is made by this law, mentioning not youth, nor any legal impediment, nor any command or magistracy, which might be encumbered with obstacles arising either from the business with which it was already loaded, or from the laws. There is not even an exception made in the case of any convicted person, to prevent his being made a decemvir. Cnæus Pompeius is excepted and disabled from being elected a colleague of Publius Rullus (for I say nothing of the rest). For he has worded the law so that only those who are present can stand for the office; a clause which was never yet found in any other law, not even in the laws concerning those magistrates who are periodically elected. But this clause was inserted, in order that if the law passed you might not be able to give him a colleague who would be a guardian over him, and a check upon his covetousness.

X. Here, since I see that you are moved by the dignity of the man, and by the insult put upon him by this law, I will return to the assertion that I made at the beginning, that a

[1] The last four lines of this paragraph are very corrupt in the original, and there is a good deal of variety in the readings.

kingly power is being erected, and your liberties entirely taken away by this law. Did you think, otherwise, that when a few men had cast the eyes of covetousness on all your possessions, they would not in the very first place take care that Cnæus Pompeius should be removed from all power of protecting your liberty, from all power to promote, from all commission to watch over, and from all means of protecting your interests? They saw, and they see still, that if, through your own imprudence and my negligence, you adopt this law, without understanding its effect, you would afterwards, when you were creating decemvirs, think it expedient to oppose Cnæus Pompeius as your defence against all defects and wickednesses in the law. And is this a slight argument to you, that these are men by whom dominion and power over everything is sought, when you see that he, whom they see will surely be the protector of your liberty, is the only one to whom that dignity is denied?

Now consider what a power is given to the decemvirs, and how great is its extent. In the first place he gives the decemvirs the honour of a lex curiata.[1] But this is unheard-of and absolutely without precedent, that a magistracy should be conferred by a lex curiata on a man who has not previously received it in some comitia. He orders the law to be brought in by that prætor who is appointed first prætor. But how? In order that these men may receive the decemvirate whom

[1] The *comitia curiata*, at which alone a *lex curiata* could be passed, was a meeting of the *populus* of Rome, assembled in its tribes of houses; and no member of the *plebs* could vote at such a meeting. They met principally for the sake of confirming some ordinance of the senate; a *senatus consultum* was an indispensable preliminary, and with regard to elections and laws, they had merely the power of confirming or rejecting what the senate had already decreed. The *lex curiata* (*de imperio*), which was the same as the *auctoritas patrum*, was necessary in order to confer upon the dictator, the consuls, and the other magistrates the *imperium* or military command. The *comitia curiata* were held by the patrician magistrates, and they voted by their curies.

The *comitia centuriata* were the assembly of the *populus* and *plebs* together, and they voted by their centuries by ballot.

The *comitia tributa* were not established till B. C. 491. They were an assembly of the people according to the local tribes into which the Plebs was originally divided. No qualification of birth or property was necessary to enable a citizen to vote in the *comitia tributa*. They were summoned by the *tribuni plebis*, who were also the presiding magistrates in general; but the consuls or prætors might preside if they were convoked for the election of inferior magistrates, such as the quæstor, proprætor, or proconsul. Smith, Dict. Ant. p. 274, v. *Comitia, q. v.*

the people has elected. He has forgotten that none have been elected by the common people. Here is a pretty fellow to bind the whole world with laws, who does not recollect in the third clause what is set down in the second! This, too, is quite plain; both what privileges you have received from your ancestors, and what is left to you by this tribune of the people.

XI. Our ancestors chose that you should give your votes twice about every magistrate. For as a centuriata lex[1] was passed for the censors, and a curiata lex for the other patrician magistrates, by this means a decision was come to a second time about the same men, in order that the people might have an opportunity of correcting what they had done, if they repented of the honour they had conferred on any one. Now, because you have preserved the comitia centuriata and tributa, the curiata have remained only for the sake of the auspices. But this tribune of the people, because he saw that no man could possibly have any authority conferred on him without the authority of the burghers[2] or of the commonalty, con-

[1] This and the preceding chapter are exceedingly obscure, and almost unintelligible to us; perhaps also the text is a little corrupt. Manutius says, "An exceedingly difficult passage, which has perplexed men of the greatest ability and learning." His explanation is as follows: "The ancient Romans had chosen that the people should decide on the election of every magistrate in two comitia; but the magistracies are distinguished into patrician and plebeian; the patrician magistrates are the quæstor, the curule ædile, the prætor, the consul, and the censor; the plebeian are the tribune of the people, the ædile of the people, and others. But there were two *comitia* first about the patrician magistrates before the plebeian ones were elected, namely the *centuriata* comitia, and the *curiata*. I except the censors, who, although they were patrician magistrates, still were elected by one comitia only, the *centuriata*. But when the plebeian magistrates were elected, then the *tributa comitia* succeeded to the place of the *curiata*, for the *curiata* had nothing to do with the plebeian magistrates. For they were instituted for the sake of the patrician magistrates long before the origin of the plebeian ones. Some one may say, Why were not the *centuriata* taken away for the same reason, as they were instituted by king Servius when there were not yet any plebeian magistrates? The answer is, In order that there might be some comitia held with proper auspices at which the patrician magistrates might be created, for the auspices were not taken at the *comitia tributa*. As, therefore, in the case of the patrician magistrates, (with the exception, as I have said before, of the censor,) the people gave their votes first in the *centuriata comitia* and then in the *curiata*, before the plebeian magistrates were elected; so, when the plebeian magistrates were elected, the same people voted in the *centuriata* and *tributa comitia*."

[2] The Latin terms are *populus* and *plebs*. For the best account of the

firmed that authority which he proposed to give by the curiata comitia, with which you have nothing to do, and took away the comitia tributa which belonged to you. So, though your ancestors intended you to decide at two comitia about each magistrate, this man, so attached to the interests of the people, did not leave the people the power of even one comitia. But just note the scrupulousness and the diligence of the man. He saw, and was thoroughly aware, that without a lex curiata the decemvirs could not have authority, since they were elected by only nine tribes. So he directs that there should be a lex curiata passed about them, and orders the prætor to propose it. How ridiculous such a contrivance was, it is no business of mine to say. For he orders that "he who has been elected first prætor, shall propose a lex curiata; but if he be unable to propose it, then the last prætor shall do it." So that he seems either to have been playing the fool in this business, or else to have been aiming at something I know not what. But, however, let us pass over this, which is either so perverse, or so ridiculous, or so malicious and cunning, as to be unintelligible, and return to the scrupulousness of the man. He sees that nothing can be done by the decemvirs except by a lex curiata. What was to happen afterwards, if a lex curiata were not passed? Remark the ingenuity of the man. "Then," says he, "the decemvirs shall be in the same condition as those who are appointed in the strictest accordance with the law." If this can be brought about, that, in this city which is far superior to all other states in its rights of liberty, any one may be able to obtain either military command or civil authority without the sanction of any comitia, then what is the necessity for ordering in the third chapter that some one shall propose a lex curiata, when in the fourth chapter you permit men to have the same rights without a lex curiata, which they would have if they were elected by the burghers according to the strictest form of law? Kings are being appointed, O Romans, not decemvirs; and they are starting with such beginnings and on such foundations, that the whole of your rights, and powers, and liberties are destroyed not

populus to be found in a small space, see Smith's Dict. Ant. p. 726, v. *Patricii;* and consult the same admirable book, p. 765, v. *Plebes*, or *plebs*. The word *potestas*, which I have translated "authority," means strictly only *civil* authority, in opposition to *imperium*, military command.

only from the moment that they begin to act, but from the moment that they are appointed.

XII. But remark how carefully he preserves the rights of the tribunitian power. The consuls are often interrupted in proposing a lex curiata, by the intercession of the tribunes of the people. Not that we complain that the tribunes should have this power; only, if any one uses it in a random and inconsiderate manner, we form our own opinion. But this tribune of the people, by his lex curiata, which the prætor is to bring forward, takes away the power of intercession. And while he is made to be blamed for causing the tribunitian power to be diminished by his instrumentality, he is also to be laughed at, because a consul, if he be not invested with the authority by a lex curiata, has no power to interfere in military affairs; and yet he gives this man whom he prohibits from interceding, the very same power, even if the veto be interposed, as if a lex curiata had been passed. So that I am at a loss to understand either why he prohibits the intercession, or why he thinks that any one will intercede; as the intercession will only prove the folly of the intercessor, and will not hinder the business.

Let there then be decemvirs, appointed neither by the genuine comitia,—that is to say, by the votes of the people,—nor by that comitia convened in appearance, to keep up an ancient custom, by the thirty lictors for the sake of the auspices.[1] See now, also, how much greater honours he confers on these men who have received no authority from you, than we have received, to whom you have given the most ample authority. He orders the decemvirs,[2] who have the care of the auspices, to take auspices for the sake of conducting the colonies. "According," says he, "to the same right which the triumvirs had by the Sempronian law." Do you venture, O Rullus, even to make mention of the Sempronian law? and does not that law itself remind you that these triumvirs have been created by the suffrages of the tribes? And while you are

[1] "In after times, when the *comitia curiata* were little more than a matter of form, their suffrages were represented by the thirty lictors of the *curiæ*, whose duty it was to summon the *curiæ* when the meetings actually took place."—Smith, Dict. Ant. p. 273 a, v. *Comitia*.

[2] The Latin has, "decemviri pullarii." *Pullarius* was the office appointed to feed and take care of the sacred chickens that were kept for the purpose of taking the auspices; and much was inferred from the way in which they took their food, or perhaps refused it.

very far removed from the justice and modesty of Tiberius Gracchus, do you think that a law made on so different a principle ought to have the same authority?

XIII. Besides all this, he gives them authority prætorian in name, but kingly in reality. He describes their power, as a power for five years; but he makes it perpetual. For he strengthens it with such bulwarks and defences that it will be quite impossible to deprive them of it against their own consent. Then he adorns them with apparitors, and secretaries, and clerks, and criers, and architects; besides that, with mules, and tents, and centuries,[1] and all sorts of furniture; he draws money for their expenses from the treasury; he supplies them with more money from the allies; he appoints them two hundred surveyors from the equestrian body every year as their personal attendants, and also as ministers and satellites of their power. You have now, O Romans, the form and very appearance of tyrants; you see all the ensigns of power, but not yet the power itself. For, perhaps, some one may say, "Well, what harm do all those men, secretary, lictor, crier, and chicken-feeder do me?" I will tell you. These things are of such a nature that the man who has them without their being conferred by your vote, must seem either a monarch with intolerable power, or if he assumes them as a private individual, a madman.

Just see what great authority they are invested with, and you will say that it is not the insanity of private individuals, but the immoderate arrogance of kings. First of all, they are entrusted with boundless power of acquiring enormous sums of money out of your revenues, not by farming them but by alienating them. In the next place, they are allowed to pursue an inquiry into the conduct of every country and of every nation, without any bench of judges; to punish without any right of appeal being allowed; and to condemn without there being any means of procuring a reversal of their sentence. They will be able for five years to sit in judgment on the consuls, or even on the tribunes of the people themselves; but all that time no one will be able to sit in judgment on them. They will be allowed to fill magisterial offices; but they will not be allowed to be prosecuted. They will have power to purchase lands, from whomsoever they choose, whatever they choose, and at whatever price they

[1] There is, no doubt, some corruption here in the text.

choose. They are allowed to establish new colonies, to recruit old ones, to fill all Italy with their colonists; they have absolute authority for visiting every province, for depriving free people of their lands, for giving or taking away kingdoms, whenever they please. They may be at Rome when it is convenient to them; but they have a right also to wander about wherever they like with supreme command, and with a power of sitting in judgment on everything. They are allowed to put an end to all criminal trials; to remove from the tribunals whoever they think fit; to decide by themselves on the most important matters; to delegate their power to a quæstor; to send about surveyors; and to ratify whatever the surveyor has reported to that single decemvir by whom he has been sent.

XIV. It is a defect in my language, O Romans, when I call this power a kingly power. For in truth, it is something much more considerable; for there never was any kingly power that, if it was not defined by some express law, was not at least understood to be subject to certain limitations. But this power is absolutely unbounded; it is one within which all kingly powers, and your own imperial authority, which is of such wide extent, and all other powers, whether freely exercised by your permission, or existing only by your tacit countenance, are, by express permission of the law, comprehended.

The first thing which is given to them is, a liberty of selling everything concerning the sale of which resolutions of the senate were passed in the consulship of Marcus Tullius and Cnæus Cornelius or afterwards. Why is this so obscure and so concealed? What is the meaning of it? Could not those matters concerning which the senate passed resolutions, be mentioned in the law by name? There are two reasons for this obscurity, O Romans; one, a reason of modesty, if there can be any modesty in such inordinate impudence; the other, a reason of wickedness. For it does not dare to name those things which the senate resolved were to be sold, mentioning them by name; for they are public places in the city, they are shrines, which since the restoration of the tribunitian power no one has touched, and which our ancestors partly intended to be refuges in times of danger in the heart of the city. But all these things the decemvirs will sell by this law of this tribune of the people.

Besides them, there will be Mount Gaurus; besides that, there will be the osier-beds at Minturnæ; besides them, that very saleable road to Herculaneum, a road of many delights and of considerable value; and many other things which the senate considered it advisable to sell on account of the straits to which the treasury was reduced, but which the consuls did not sell on account of the unpopularity which would have attended such a measure. However, perhaps it is owing to shame that there is no mention of all these things in the law.

What is much more to be guarded against, what is a much more real object of fear, is, that great power is permitted to the boldness of these decemvirs of tampering with the public documents, and forging decrees of the senate, which have never been made; as a great many of those men who have been consuls of late years are dead. Unless, perhaps, I may be told, that it is not reasonable for you to entertain any suspicions of their audacity, for whose cupidity the whole world appears too narrow.

XV. You see now one kind of sale, which I am aware appears very important to you; but pray give your attention to what follows, and you will see that this is only a kind of step and road to other measures. "Whatever lands, whatever places, whatever buildings." What is there besides? There is much property in slaves, in cattle, in bullion, in money, in ivory, in robes, in furniture, in all sorts of other things. What shall I say? Did he think it would cause unpopularity to name all these things? He was not afraid of unpopularity. What then was his motive? He thought the catalogue a long one, and he was afraid of passing over anything; so he wrote in addition, "or anything else;" by which brief formula you see that nothing can be omitted. Whatever, therefore, there is out of Italy, that has been made the property of the Roman people by Lucius Sylla and Quintus Pompeius in their consulships, or afterwards, that he orders the decemvirs to sell. By this clause, I say, O Romans, that all nations, and people, and provinces, and kingdoms, are given up and handed over to the dominion, and judgment, and power of the decemvirs. This is the first thing; for I ask what place there is anywhere in the world which the decemvirs may not be able to say has been made the property of the Roman people? For, when the same person who has made the assertion is also to judge of the truth of it, what is there which he may not say, when

he is also the person to decide in the question? It will be very convenient to say, that Pergamus, and Smyrna, and Tralles, and Ephesus, and Miletus, and Cyzicus, and, in short, all Asia, which has been recovered since the consulship of Lucius Sylla and Quintus Pompeius, has become the property of the Roman people. Will language fail him in which to assert such a doctrine? or, when the same person makes the statement and judges of the truth of it, will it be impossible to induce him to give a false decision? or, if he is unwilling to pass sentence on Asia, will he not estimate at his own price its release from the dread of condemnation? What will he say—(and it is quite impossible for any one to argue against this, since it has been already settled and decided by you, and since we have already voted it to be our inheritance,)—what will he say to the kingdom of Bithynia? which has undoubtedly become the public property of the Roman people. Is there any reason why the decemvirs should not sell all the lands, and cities, and military stations and harbours, and in short all Bithynia?

XVI. What will they do at Mitylene? which has undoubtedly become yours, O Romans, by the laws of war and by the rights of victory; a city both by nature and situation, and by the description of its houses, and by its general beauty, most eminently remarkable; and its lands are pleasant and productive. That city, forsooth, comes under the same head. What will become of Alexandria, and of all Egypt? How much it is out of sight! how completely is it hidden! how stealthily is it abandoned entirely to the decemvirs! For who is there among you who is ignorant that that kingdom has become the property of the Roman people by the will of king Alexander? Here now I, the consul of the Roman people, not only give no decision, but I do not even express my opinion. For it appears to me a most important matter not merely to decide on, but even to speak of. I see a man who assures me that the will was certainly made; I know that there is a resolution of the senate extant to the effect that it accepted the inheritance; which was passed when, after the death of Alexander, we sent ambassadors to Tyre, to recover for the people money which had been deposited there by him. I recollect that Lucius Philippus has often stated these things positively in the senate. I see that is agreed upon by all men, that he, who is at this present moment in possession of the

kingdom, is neither of the royal family nor of any royal disposition.

It is said, on the other hand, that there is no will; that the Roman people ought not to seem to covet every kingdom under the sun; that our citizens will emigrate to those regions, on account of the fertility of the soil, and the abundance of everything which exists there. Will Publius Rullus, with the rest of the decemvirs, his colleagues, decide upon so important an affair as this? And which way will he decide For each alternative is so important that it is quite impossible for you to entrust the decision to him, or to put up with his sentence. Will he desire to be popular? He will adjudge the kingdom to the Roman people. In consequence, he will also, in accordance with his own law, sell Alexandria, and sell Egypt. He will be found to be the judge, the arbiter, the master, of a most wealthy city, and of a most beautiful country; ay, he will be found to be the king of a most opulent kingdom. Will he abstain from taking all this? from desiring all this? He will decide that Alexandria belongs to the king; he will by his sentence deprive the Roman people of it.

XVII. Now, in the first place, shall decemvirs give a decision about the inheritance of the Roman people, when you require centumvirs to judge in the case of private inheritances? In the next place, who is to plead the cause of the Roman people? Where is the cause to be tried? Who are those decemvirs whom we think likely to adjudge the kingdom of Alexandria to Ptolemy for nothing? But, if Alexandria was the object, why did not they at this time proceed by the same course which they adopted in the consulship of Lucius Cotta and Lucius Torquatus? Why did they not proceed openly, as they did before? Why did they not act as they did when they before sought that country, in a straightforward and open manner? Did they, who, when they had a fair wind, could not hold their course straight on to the kingdom they coveted, think that they could reach Alexandria amid foul mists and darkness?[1] Just revolve these things in your minds. . . . . Foreign nations can scarcely endure our lieutenants, though they are men of but slight authority, when they go on free lieutenancies, on account of some private business. For the

[1] This sentence and the succeeding one are considered very corrupt, and there is a great variety of readings proposed; for *qui Etesiis* some read *quietis iis*; for *directo, decreto*. *Unaque* is quite unintelligible.

name of power is a hard one to bear, and is dreaded even in ever so inconsiderable a person; because, when they have once left Rome they conduct their proceedings not in their own name, but in yours. What do you suppose will happen, when those decemvirs wander all over the world with their supreme power, and their fasces, and their chosen band of surveyors? What do you suppose will be the feelings, what the alarm, what the actual danger of those unhappy nations? Is there any terror in absolute power? they will endure it;—is there any expense entailed by the arrival of such men? they will bear it;—are any presents exacted from them? they will not refuse them. But what a business is that, O Romans, when a decemvir, who either has come to some city after being expected, as a guest, or unexpectedly, as a master, pronounces that very place to which he has come, that identical hospitable house in which he is received, to be the public property of the Roman people? How great will be the misery of the people if he says that it is so! How great will be his own private gain, if he says that it is not! And the same men who desire all this, are accustomed sometimes to complain that every land and every sea has been put under the power of Cnæus Pompeius. But are these two cases, the one, of many things being entrusted to a man, the other, of everything being sacrificed to him, at all similar? Is there any resemblance between a man's being appointed as chief manager of a business requiring toil and labour, and a man's having the chief share in booty and gain allotted to him? in a man's being sent to deliver allies, and a man's being sent to oppress them? Lastly, if there be any extraordinary honour in question, does it make no difference whether the Roman people confers that honour on any one it chooses, or whether he impudently filches it from the Roman people by an underhand trick of law?

XVIII. You have now seen how many things and what valuable things the decemvirs are likely to sell with the sanction of the law. That is not enough. When they have sated themselves with the blood of the allies, and of foreign nations, and of kings, they will then cut the sinews of the Roman people; they will lay hands on your revenues; they will break into your treasury. For a clause follows, in which he is not content with permitting, if by chance any money should be wanting, (which, however, can be amassed in such quantities from the effect of the previous clauses, that it

ought not to be wanting,) but which actually (as if that was likely to be the salvation of you all) orders and compels the decemvirs to sell all your revenues, naming each item separately. And do you now read to me in regular order, the catalogue of the property of the Roman people which is for sale according to the written provisions of this law. A catalogue which I think, in truth, will be miserable and grievous to the very crier himself. He is as prodigal a spendthrift with regard to the property of the republic, as a private individual is with regard to his own estate, who sells his woods, before he sells his vineyards. You have gone all through Italy, now go on into Sicily. There is nothing in that province which your ancestors have left to you as your own property, either in the towns or in the fields, which he does not order to be sold. All that property, which, having been gained by their recent victory, your ancestors left to you in the cities and territories of the allies, as both a bond of peace and a monument of war, will you now, though you received it from them, sell it at this man's instigation? Here for a moment I seem, O Romans, to move your feelings, while I make plain to you the plots which they think have escaped every one's notice, as having been laid by them against the dignity of Cnæus Pompeius. And, I beseech you, pardon me if I am forced to make frequent mention of that man's name. You, O Romans, imposed this character on me, two years ago, in this very same place, and bound me to share with you in the protection of his dignity during his absence, in whatever manner I could. I have hitherto done all that I could, not because I was persuaded to it by my intimacy with him, nor from any hope of honour, or of any most honourable dignity; which I have gained by your means, in his absence, though no doubt with his perfect good-will. Wherefore, when I perceive that nearly the whole of this law is made ready, as if it were an engine, for the object of overthrowing his power, I will both resist the designs of the men who have contrived it, and I will enable you not only to perceive, but to be entire masters of the whole plot which I now see in preparation.

XIX. He orders everything to be sold which belonged to the people of Attalia, and of Phaselus, and of Olympus, and the land of Agera, of Orindia, and of Gedusa. All this became your property owing to the campaigns and victory of that

most illustrious man, Publius Servilius. He adds the royal domain of Bithynia, which is at present farmed by the public contractors; after that, he adds the lands belonging to Attalus in the Chersonesus; and those in Macedonia, which belonged to king Philip or king Perses; which also were let out to contractors by the censors, and which are a most certain revenue. He also puts up to auction the lands of the Corinthians, rich and fertile lands; and those of the Cyrenæans, which did belong to Apion; and the lands in Spain near Carthagena; and those in Africa near the old Carthage itself—a place which Publius Africanus consecrated, not on account of any religious feeling for the place itself and for its antiquity, but in accordance with the advice of his counsellors, in order that the place itself might bear record of the disasters of that people which had contended with us for the empire of the world. But Scipio was not as diligent as Rullus is; or else, perhaps, he could not find a purchaser for that place. However, among these royal districts, taken in our ancient wars by the consummate valour of our generals, he adds the royal lands of Mithridates, which were in Paphlagonia, and in Pontus, and in Cappadocia, and orders the decemvirs to sell them. Is it so indeed? when no law has been passed to that effect, when the words of our commander-in-chief have not yet been heard, when the war is not yet over, when king Mithridates, having lost his army, having been driven from his kingdom, is even now planning something against us in the most distant corners of the earth, and while he is still defended by the Mæotis, and by those marshes, and by the narrow defiles through which the only passes lie in those countries, and by the height of the mountains, from the invincible band of Cnæus Pompeius; when our general is actually engaged in the war against him; and while the name of war still lingers in those districts; shall the decemvirs sell those lands over which the military command and civil authority of Cnæus Pompeius still extends and ought to extend, according to the principles and usages of our ancestors? And, I make no doubt, Publius Rullus (for he now conducts himself in such a manner as shows that he already fancies himself a decemvir elect) will hasten to attend that auction in preference to every other.

XX. He, forsooth, before he arrives in Pontus, will send letters to Cnæus Pompeius, of which I suppose a copy has

already been composed in these terms :—" Publius Servilius Rullus, tribune of the people, decemvir, to Cnæus Pompeius, the son of Cnæus, greeting." I do not suppose that he will add " Magnus ;" for it is not likely that he will grant him by a word that dignity which he is endeavouring to diminish. " I wish you to take care to meet me at Sinope, and to bring me assistance, while I am selling, in accordance with the provisions of my law, those lands which you acquired by your labour." Or will he not invite Pompeius ? Will he sell the spoils of the general in his own province ? Just place before your eyes Rullus, in Pontus, holding his auction between your camp and that of the enemy, and knocking down lands surrounded by his beautiful band of surveyors. Nor does the insult consist solely in this, though this is very preposterous, and very unprecedented, that anything which has been acquired in war, while the general is still carrying on the war, should be sold, or even let. But these men have something more in view than mere insult. They hope, if it is allowed to the enemies of Cnæus Pompeius, not only to stroll about other countries, but even to come to his very army with absolute authority, with a power of sitting as judges in every case, with boundless power, and with countless sums of money, that some plot may be laid against him himself, and that something may be taken from his army, or power, or renown. They think that, if the army reposes any hope in Cnæus Pompeius with respect to either land, or any other advantages, it will do so no longer when it sees that the supreme power in all those matters is transferred to the decemvirs. I am not concerned at those men being so foolish, as to hope for these things ; and so impudent, as to attempt to cause them. What I do complain of is, that I am so much despised by them, that they should select the period of my consulship, of all times in the world, for seeking to bring about such prodigious absurdities.

And in the sale of all these lands and houses leave is given to the decemvirs " to hold their sales in whatever places they think fit." Oh their perverted senses ! Oh their licentiousness, so necessary to be checked ! Oh their profligate and wicked intentions !

XXI. It is not lawful to let the revenues anywhere except in this city, in this very spot, in the presence of this assembly here present. Shall it be lawful for your own property to be

sold and alienated from you for ever in the darkness of Paphlagonia, or in the deserts of Cappadocia? When Lucius Sylla was selling at that fatal auction of his the property of citizens who had not been condemned, and when he said that he was selling his plunder, still he sold it on this spot where I am standing now; nor did he venture to avoid the sight of those men to whose eyes he was so hateful. Shall the decemvirs sell your revenues, not only where you yourselves are not witnesses of the sale, but where there is not even a public crier present as a spectator?

Then follows—"All the lands out of Italy," without any limit as to time, not (as was enacted before) those acquired by Sylla and Pompeius when they were consuls. There is an inquiry to be made by the decemvirs, whether the land be private or public property; and by this means a heavy tax is laid on the land. Who is there who does not see how great a judicial power this is, how intolerable, how tyrannical? for them to be able, in whatever places they please, without any discussion or formal decision, without any assessors, to confiscate private property, and to release public property? In this clause the Recentoric district in Sicily is excepted; which I am exceedingly delighted is excepted, O Romans, both on account of my connexion with the people of that district, and because of the justice of the exception. But what impudence it is! Those who are the occupiers of the Recentoric district, defend themselves on the ground of length of occupation, not of right; they rely on the pity of the senate, not on the conditions on which they hold their lands. For they confess that it is part of the public domain; but still they say that they ought not to be removed from their possessions, and their much-loved homes, and their household gods. But if the Recentoric district be private property, why do you except it? But if it be public, where then is the justice of allowing other lands, even if they are private lands, to be adjudged to be public, and to except this district by name which confesses that it is public property? Therefore the land of those men is excepted who have had any means of influencing Rullus; all other lands, wherever they are, without any selection being made, without any examination being instituted by the people, without any decision being come to by the senate, are to be sold by the decemvirs.

XXII. There is also another profitable exception made in

the former chapter according to which everything is to be sold. An exception which comprehends those lands which are protected by treaty. He heard that this matter was often agitated in the senate, not by me, but by others, and sometimes also in this place; that king Hiempsal was in possession of lands on the sea coast, which Publius Africanus adjudged to the Roman people; and yet afterwards express provision was made respecting them in a treaty, by Caius Cotta, when consul. But, because you did not order this treaty to be made, Hiempsal is in fear lest it may not be considered firm and properly ratified. What? What sort of proceeding is this? Your decision is not waited for; the whole treaty is excepted. It is approved by Rullus. As it limits the power of sale to be given to the decemvirs, I am glad of it; as it protects the interests of a king who is our friend, I find no fault with it; but my opinion is that the exception was not made for nothing; for there is constantly fluttering before those men's eyes Juba, the king's son, whose purse is every bit as long as his hair.

Even now there scarcely appears to be any place capable of containing such vast heaps of money. He increases the sums, he adds to them, he keeps on accumulating. "To whomsoever gold or silver comes, from spoils, from money given for crowns, if it has neither been paid into the public treasury, nor spent in any monument." Of that treasure he orders a return to be made to the decemvirs, and the treasure is to be paid over to them. By this clause you see that an investigation even into the conduct of the most illustrious men, who have carried on the wars of the Roman people, and that judicial examinations into charges of peculation or extortion, are transferred to the decemvirs. They will have a power of deciding what is the value of the spoils which have been gained by each individual, what return he has made, and what he has left. But this law is laid down for all your generals for the future, that, whoever leaves his province, must make a return to these same decemvirs, of how much booty, and spoils, and gold given for the purpose of crowns he has. But here this admirable man excepts Cnæus Pompeius, whom he is so fond of. Whence does this affection so sudden and previously unknown originate? for he is excluded from the honour of the decemvirate almost by name; his power of deciding judicially, of giving laws, or of making any

formal inquiry respecting the lands which have been taken by his valour, is taken from him; decemvirs are sent not only into his province but into his very camp, with military authority, with immense sums of money, with unlimited power, and with a right of deciding on everything. His rights as a general, which have hitherto always been most jealously preserved to every general, are for the first time taken from him. But he is excepted as the only one who is not bound to make a return of his booty. Does it seem that the real object of this clause is to do honour to the man, or to excite a feeling of unpopularity against him?

XXIII. Cnæus Pompeius will make a present of this to Rullus. He has no desire to avail himself of that kindness of the law, and of the good-nature of the decemvirs. For if it be just for generals not to devote their spoils and booty either to monuments of the immortal gods, or to the decorations of the city,—but if they are to carry it all to the decemvirs as their masters,—then Pompeius wishes for nothing particular for himself; nothing. He wishes to live under the common law, under the same law as the rest. If it be unjust, O Romans,—if it be shameful, if it be intolerable for these decemvirs to be appointed as comptrollers of all the money collected by every body, and as plunderers not only of foreign kings and citizens of foreign nations, but of even our own generals, then they do not seem to me to have excepted Pompeius for the sake of doing him honour, but to be afraid that he may not be able to put up with the same insult as the rest. But as Pompeius's feelings will be these, that he will think it becomes him to bear whatever seems fitting to you; on the other hand, if there be anything which you cannot bear, he will take care that you are not long compelled to bear it against your will. But the law makes a provision that, "if any money is received from any new source of revenue after our consulship, the decemvirs are to be allowed to use it." Moreover, he sees that the new sources of revenue will be those which Pompeius has added to the republic. And so, he lets off his spoils, but thinks that it is right for him to reap the benefit of all the revenues acquired by his valour. Let then, O Romans, all the money which there is in the world come into the hands of the dictators; let nothing be omitted; let every city, every district, every kingdom, and lastly even your own revenues be sold by them; let the spoils

won by your generals be added to the heap. You see now what enormous, what incredible riches are sought to be acquired by your decemvirs by such extensive sales, by so many decisions which they have the power to make, and by such unlimited authority over everything.

XXIV. Now remark their other immense and intolerable gains, in order to understand that this popular name of an agrarian law has only been hunted out as a means of gratifying the unreasonable avarice of particular men. He orders lands to be bought with this money, to which you are to be conducted as colonists. I am not accustomed, O Romans, to speak of men with unnecessary harshness unless I am provoked. I wish it were possible for those men to be named by me without speaking ill of them, who hope to be themselves appointed decemvirs; and you should quickly see what sort of men they are to whom you have committed the power of selling and buying everything. But, that which I have made up my mind that I ought not to say, yet you can still form an idea of in your minds. This one thing at all events I appear to myself to be able to say with the greatest truth,—that in former times when this republic had the Luscini, the Calatini, the Acidini, men adorned not only with the honours conferred on them by the people, and by their own great exploits, but also by the patience with which they endured poverty; and then also when the Catos, and the Phili, and Lælii lived, men whose wisdom and moderation you had obtained a thorough knowledge of in public, and private, and forensic, and domestic affairs; still such a charge as this was entrusted to no one, so as to allow the same man to be both judge and seller, and to be so for five years over the whole world, and also to have power to alienate the lands of the Roman people from which their revenues are derived; and when by these means he had amassed a vast sum of money according to his own pleasure, without any witness, then he was to buy whatever he pleased from any one he pleased. Now then do you, O Romans, commit all these things to these men whom you suspect of aiming at this decemvirate; you will find some of them to whom nothing appears sufficient to possess, some to whom nothing seems sufficient to squander.

XXV. Here I will not discuss what is sufficiently notorious, O Romans, or argue that it is not a custom handed down to

you from your ancestors, that lands may be bought from private individuals for the purpose of settling portions of the common people in them by the public authority; or that there are not many laws by which private individuals have been established in the public domains. I will admit that I expected something of this sort from this illiterate and ill-mannered tribune of the people; but this most profitable and at the same time most discreditable traffic in buying and selling, I have always thought wholly inconsistent with the duty of a tribune, wholly inconsistent with the dignity of the Roman people. They choose to purchase lands. First of all I ask, What lands? in what situations? I do not wish the Roman people to be kept in suspense and uncertainty with obscure hopes and ignorant expectation. There is the Alban, and the Setino, and the Privernate, and the Fundan, and the Vescine, and the Falernian district; there is the district of Linternum, and Cuma, and Casinum. I hear. Going out at the other gate there is the Capenate, and Faliscan, and Sabine territory; there are the lands of Reati, and Venafrum, and Allifæ, and Trebula. You have money enough to be able not only to buy all these lands and others like them, but even to surround them with a ring fence. Why do you not define them, nor name them, so that at least the Roman people may be able to consider what its own interests are—what is desirable for it—how much trust it thinks it desirable to repose in you in the matter of buying and selling things? I do define Italy, says he. It is a district sufficiently marked out. Indeed, how little difference does it make whether you are led down to the roots of the Massic Hill, or into some other part of Italy, or somewhere else! Come, you do not define the exact spot. What do you mean? Do you mean the nature of the land? But, says he, the law does say, "which can be ploughed or cultivated." Which can be ploughed or cultivated, he says; not, which has been ploughed or cultivated. Is this now a law, or is it an advertisement of some sale of Neratius;[1] in whose descriptions people used to find such sentences as these:—"Two hundred acres in which an olive garden may be made. Three hundred acres where vines can be planted." Is this what you are going to buy with all your countless sums of money,—something which can be ploughed up or cultivated? Why, what soil is there so thin and

[1] It is unknown who this man was; perhaps some puffing auctioneer.

miserable that it cannot be broken up by a plough? or what is there which is such a complete bed of stones that the skill of an agriculturist cannot get something out of it? Oh but, says he, I cannot name any lands positively, because I touch none against the will of the owner. This also is much more profitable than if one took land from a man against his will. For a calculation of gain will be entered into with reference to your money, and then only will land be sold when the sale is advantageous to both buyer and seller.

XXVI. But now see the force of this agrarian law. Even those men who are in occupation of the public domains will not quit possession, unless they are tempted by favourable conditions and by a large sum of money. Matters are changed. Formerly when mention of an agrarian law was made by a tribune of the people, immediately every one who was in occupation of any public lands, or who had any possessions the tenure of which was in the least unpopular, began to be alarmed. But this law enriches those men with fortunes, and relieves them from unpopularity. For how many men, O Romans, do you suppose there are, who are unable to stand under the extent of their possessions, who are unequal to bear the unpopularity incurred by the ownership of lands granted by Sylla? who wish to sell them, but cannot find a purchaser? who, in fact, would be glad to get rid of those lands by any means whatever? They who, a little while ago, were in constant dread, day and night, of the name of a tribune; who feared your power, dreaded every mention of an agrarian law; they now will be begged and entreated to be so good as to give up to the decemvirs those lands which are partly public property, the possession of which is full of unpopularity and danger, at their own price. And this song this tribune of the people is singing now, not to you, but in his own heart to himself. He has a father-in-law, a most excellent man, who in those dark times of the republic got as much land as he wanted. He now seeing him yielding, oppressed, weighed down with the burdens which Sylla put upon him, wishes to come to his assistance with this law of his, so as to enable him to get rid of the odium attached to him, and to get a sum of money too. And will not you hesitate to sell your revenues, acquired by the profuse expenditure of labour and blood on the part of your ancestors, for the purpose of heaping more riches on the landowners who have become so

through Sylla, and of releasing them from danger? For there are two kinds of lands concerned, O Romans, in this purchase of the decemvirs. One of them the owners avoid on account of its unpopularity; the other on account of its miserable condition. The land seized and distributed by Sylla, and extended as far as possible by particular individuals, has so much unpopularity attached to it, that it cannot bear the rustle of a genuine fearless tribune of the people. All this land, at whatever price it is purchased, will be returned to you at a great price. There is another sort of lands—uncultivated on account of their barrenness, desolate and deserted on account of the unhealthiness of the situation—which will be bought of those men, who see that they must abandon them if they do not sell them. And in truth, that is what was said by this tribune of the people in the senate,—that the common people of the city had too much influence in the republic; that it must be drained off. For this is the expression which he used; as if he were speaking of some sewer, and not of a class of excellent citizens.

XXVII. But do you, O Romans, if you will be guided by me, preserve your present possession of popularity, of liberty, of your votes, of your dignity, of the city, of the forum, of the games, of the days of festivals, and of all your other enjoyments. Unless, by chance, you prefer leaving all these things and this light of the republic, to be settled in the midst of the droughts of Sipontum, or in the pestilential districts of Salapia, under the leadership of Rullus. But let him tell us what lands he is going to buy; let him show what he is going to give, and to whom he is going to give it. But can you possibly, tell me, allow him the power of selling any imaginable city, or land, or revenue, or kingdom that he likes, and then buying some tract of sand or some swamp? Although this is a very remarkable point, that according to this law everything is to be sold, all the money is to be collected and amassed together, before one perch of ground is bought. Then the law orders him to proceed to buy; but forbids any purchases to be made against the inclination of the owner.

I ask now, suppose there is no one who is willing to sell, what is to become of the money? The law says it is not to be brought into the treasury. It forbids its being refunded. The decemvirs, then, will keep all that money. Land will not

be bought for you. After having alienated your revenues, harassed your allies, drained the confederate kings and all nations of their whole property, they will have the money, and you will not have the lands. Oh, says he, they will easily be induced by the magnitude of the sums offered to sell the lands. Then the effect of the law is to be this: that we are to sell our property at whatever price we can get for it; and that we are to buy other men's property at whatever price they choose to put upon it. And does the law order men to be conducted as settlers by those decemvirs, into those lands which have been bought in accordance with the provisions of this law?

What? Is not the whole plan of such a nature that it does not make any difference to the republic whether a colony is led into that place or not? Is it a place which requires a colony? * * * * * *

And in this class of places, as in the other parts of the republic, it is worth while to recollect the diligence exhibited by our ancestors; who established colonies in such suitable places to guard against all suspicion of danger, that they appeared to be not so much towns of Italy as bulwarks of the empire. These men are going to lead colonies into those lands which they have bought. Will they do so, even if it be not for the interests of the republic to do so? "And into whatever places besides they shall think fit." What is the reason, therefore, that they may not be able to settle a colony on the Janiculan Hill; and to place a garrison of their own for their own protection on your heads and necks? Will you not define how many colonies you choose to have led forth, into what districts they are to be led, and of what number of colonists they are to consist? Will you occupy a place which you consider suitable for the violence which perhaps you are meditating? Will you complete the number of the colony, and will you strengthen it by whatever garrison you may think advisable? Will you employ the revenues and all the resources of the Roman people to coerce and oppress the Roman people itself, and to bring it under the dominion and power of those intolerable decemvirs?

XXVIII. But I beg you now, O Romans, to take notice how he is planning to besiege and occupy all Italy with his garrison. He permits the decemvirs to lead colonists, whomsoever he may choose to select, into every municipality and

into every colony in all Italy; and he orders lands to be assigned to those colonists. Is there any obscurity here in the way in which greater powers and greater defences than your liberty can tolerate are sought after? Is there any obscurity here in the manner in which kingly power is established? Is there any disguise about your liberty being wholly destroyed? For when it is one and the same body of men who with their resources lay siege, as it were, to all the riches and all the population,—that is to say, to all Italy,—and who propose to hold all your liberties in blockade by their garrisons and colonies,—what hope, ay, what possibility even is left to you of ever recovering your liberty? But the Campanian district, the most fertile section of the whole world, is to be divided in accordance with the provisions of this law; and a colony is to be led to Capua, a most honourable and beautiful city. But what can we say to this? I will speak first of your advantage, O Romans. Then I will recur to the question of honour and dignity; so that, if any one takes particular pleasure in the excellence of any town or any district, he may not expect anything; and if any one is influenced by the idea of the dignity of the business, he may resist this fictitious liberality. And first of all I will speak of the town, in case there is any one whose fancy is more taken with Capua than with Rome. He orders five thousand colonists to be enrolled for the purpose of being settled at Capua; and to make up this number, each of the decemvirs is to choose five hundred men. I entreat you, do not deceive yourselves about this matter. Consider it in its true light, and with due care. Do you think that in this number there will be room for you yourselves, or for any men like you—quiet, easy men? If there be room for all of you, or even for the greater part of you—although my regard for your honour compels me to keep awake day and night, and to watch with eager eyes every part of the republic—still I will close my eyes for a time, if your advantage will be at all promoted by my doing so. But if a place and a city is being looked out for five thousand men, picked out as fit instruments for violence, and atrocity, and slaughter, from which they may be able to make war, and which may be able to equip them properly for war,—will you still suffer a power to be raised and garrisons to be armed in your own name against yourselves? Will you allow cities and lands and forces to be arrayed against your interest? For

they themselves have desired the Campanian district which they hold out a hope of to you. They will lead thither their own friends, in whose name they themselves may occupy it and enjoy it. Besides all this, they will make purchases; they will add the other ten acres to their present estate. For if they say that that is not lawful by the law; by the Cornelian law it certainly is not. But we see (to say nothing about lands at a distance) that the district of Præneste is occupied by a few people. And I do not see that anything is wanting to their fortunes, except farms of such a description that they may be able by the supplies which they derive from them to support their very large households, and the expense of their farms near Cumæ and Puteoli. But if he be thinking of what is for your advantage, then let him come, and let him discuss with me, face to face, the decision of the Campanian district.

XXIX. I asked him on the first of January, to what men he was going to distribute that land, and on what principles. He answered that he should begin with the Romilian tribe. In the first place now, what is the object of such pride and arrogance as to cut off one portion of the people, and to neglect the order of the tribes? to contrive to give land to the country people who have it already, before any is given to the city people, to whom the hope of land and the pleasure they are to derive from it is held out as an inducement? Or if he says that this is not what he said, and if he has some plan in his head to satisfy all of you, let him produce it; let him allot it in divisions of ten acres; let him put forth your names in a regular arrangement from the district of the Subura to that of the Arnus. If you perceive not only that ten acres are not given to you, but that it is actually impossible for such a body of men to be collected together in the district of Campania, will you nevertheless allow the republic to be harassed, the majesty of the Roman people to be despised, and you yourselves to be deluded any longer by the tribune of the people?

But if that land could possibly come to you, would you not rather that it remained as part of your patrimony? Will you allow the most beautiful estate belonging to the Roman people—the main source of your riches, your chief ornament in time of peace, your chief source of supply in time of war, the foundation of your revenues, the granary

from which your legions are fed, your consolation in time of scarcity—to be ruined? Have you forgotten what great armies you supported by means of the produce of Campania, in the Italian war, when you had lost all your ordinary sources of revenue? Are you ignorant that all those magnificent revenues of the Roman people are often dependent on a very slight impulse of fortune—on a critical moment? What will all the harbours of Asia, what will the plains of Syria, what will all our transmarine revenues avail us, if the very slightest alarm of pirates or enemies be once given? But as our revenues derived from the territory of Campania are of such a nature that they are always at home, and that they are protected by the bulwark of all our Italian towns, so they are neither hostile to us in time of war, nor variable in their productiveness, nor unfortunate from any accidents of climate or soil.

Our ancestors were so far from diminishing what they had taken from the Campanians, that they even bought additional lands to be added to it, from those from whom they could not reasonably take it without purchase. For which reason, neither the two Gracchi, who thought a great deal of what was advantageous for the Roman people, nor Lucius Sylla, who gave away everything without the slightest scruple to any one he pleased, ever ventured to touch the Campanian territory. Rullus was the first man to venture to remove the republic from that property, of which neither the liberality of the Gracchi nor the uncontrolled power of Sylla had deprived it.

XXX. That land which now, as you pass by it, you say is yours, and which foreigners whose road lies through it hear is yours, when it is divided will neither be nor be said to be yours. And who are the men who will possess it? In the first place they are active men, prepared for deeds of violence, willing for sedition, who, the very moment the decemvirs clap their hands, may be armed against the citizens and ready for slaughter. In the next place, you will see the whole district of Campania distributed among a few men already rich in wealth and power. Meanwhile you, who have received from your ancestors those most beautiful homes, if I may so say, of your revenues, which they won by their arms, will not have left to you one single clod of earth of all your paternal hereditary possessions. And there will be this difference

between your diligence and that of private individuals, that when Publius Lentulus, while he was chief of the senate, had been sent into those parts by our ancestors, in order to purchase at the public expense those lands, being private property, which projected into the public domain in Campania, he is said to have reported that he had not been able to purchase a certain man's estate for money; and that he who had refused to sell it, had given this reason why he could not possibly be induced to sell it, that, though he had many farms, this was the only farm from which he never had had any bad news. Is it so? Did this reason weigh with a private individual, and shall it not weigh with the Roman people to prevent their giving up the district of Campania to private individuals for nothing, at the request of Rullus? And the Roman people may say the very same thing about this revenue, that he is said to have said about his farm. Asia for many years during the Mithridatic war produced you no revenue. There was no revenue from the Spains in the time of Sertorius. Marcus Aquillius even lent corn to the Sicilian cities at the time of the Servile war. But from this tributary land no bad news was ever heard. Other of our revenues are at times weighed down by the distresses of war; but the sinews of war are even supplied to us by this tributary land. Besides, in this allotment of lands which is to take place, even that, which is said in other cases, cannot be said here, namely, that lands ought not to be left deserted by the people, and without the cultivation of free men.

XXXI. For this is what I say,—if the Campanian land be divided, the common people is driven out of and banished from the lands, not settled and established in them. For the whole of the Campanian district is cultivated and occupied by the common people, and by a most virtuous and moderate common people. And that race of men of most virtuous habits, that race of excellent farmers and excellent soldiers, is wholly driven out by this tribune who is so devoted to the people. And these miserable men, born and brought up on those lands, practised in tilling the ground, will have no place to which, when so suddenly driven out, they can betake themselves. The entire possession of the Campanian district will be given over to these robust, vigorous, and audacious satellites of the decemvirs. And, as you now say of your ancestors, "Our ancestors left us these lands," so your posterity will

say of you, "Our ancestors received these lands from their ancestors, but lost them." I think, indeed, that if the Campus Martius were to be divided, and if every one of you had two feet of standing ground allotted to him in it, still you would prefer to enjoy the whole of it together, than for each individual to have a small portion for his own private property. Wherefore, even if some portion of these lands were to come to every individual among you,—which is now indeed held out to you as a lure, but is in reality destined for others,—still they would be a more honourable possession to you when possessed by the whole body, than if distributed in bits to each citizen. But now when you are not to have any share in them, but when they are being prepared for others and taken from you, will you not most vigorously resist this law as you would an armed enemy, fighting in defence of your lands. He adds the Stellate plain to the Campanian district, and in the two together he allots twelve acres to each settler. As if the difference was slight between the Stellate and Campanian districts! And now a multitude is sought out, by which those towns are to be peopled. For I have said before that leave is given by the law for them to occupy with their settlers whatever municipalities and whatever old colonies they choose. They will fill the municipality of Cales; they will overwhelm Teanum; they will extend a chain of garrisons through Atella, and Cumæ, and Naples, and Pompeii, and Nuceria; and the whole of Putcoli, which is at present a free city, in the full enjoyment of its ancient rights and liberties, they will occupy with a new people, and with a foreign body of men.

XXXII. Then that standard of a Campanian colony, greatly to be dreaded by this empire, will be erected at Capua by the decemvirs. Then that other Rome, which has been heard of before, will be sought in opposition to this Rome, the common country of all of us. Impious men are endeavouring to transfer our republic to that town in which our ancestors decided that there should be no republic at all, when they resolved that there were but three cities in the whole earth, Carthage, Corinth, and Capua, which could aspire to the power and name of the imperial city. Carthage has been destroyed, because, both from its vast population, and from the natural advantages of its situation, being surrounded with harbours, and fortified with walls, it appeared to project out

of Africa, and to threaten the most productive islands of the Roman people. Of Corinth there is scarcely a vestige left. For it was situated on the straits and in the very jaws of Greece, in such a way that by land it held the keys of many countries, and that it almost connected two seas, equally desirable for purposes of navigation, which were separated by the smallest possible distance. These towns, though they were out of the sight of the empire, our ancestors not only crushed, but, as I have said before, utterly destroyed, that they might never be able to recover and rise again and flourish. Concerning Capua they deliberated much and long. Public documents are extant, O Romans; many resolutions of the senate are extant. Those wise men decided that, if they took away from the Campanians their lands, their magistrates, their senate, and the public council of that city, they would leave no image whatever of the republic; there would be no reason whatever for their fearing Capua. Therefore you will find this written in ancient records, that there should be a city which might be able to supply the means for the cultivation of the Campanian district, that there should be a place for collecting the crops in, and storing them, in order that the farmers, when wearied with the cultivation of the lands, might avail themselves of the homes afforded them by the city; and that on that account the buildings of the city were not destroyed.

XXXIII. See, now, how wide is the distance between the counsels of our ancestors and the insane projects of these men. They chose Capua to be a refuge for our farmers,—a market for the country people,—a barn and granary for the Campanian district. These men, having expelled the farmers, have wasted and squandered your revenues, are raising this same Capua into the seat of a new republic, are preparing a vast mass to be an enemy to the old republic. But if our ancestors had thought that any one in such an illustrious empire, in such an admirable constitution as that of the Roman people, would have been like Marcus Brutus or Publius Rullus, (for these are the only two men whom we have hitherto seen, who have wished to transfer all this republic to Capua,) they would not, in truth, have left even the name of that city in existence. But they thought, that in the case of Corinth and Carthage, even if they had taken away their senates and their magistrates, and deprived

the citizens of the lands, still men would not be wanting who would restore those cities, and change the existing state of things in them before we could hear of it. But here, under the very eyes of the senate and Roman people, they thought that nothing could take place which might not be put down and extinguished before it had got to any head, or had assumed any definite shape. Nor did that matter deceive those men, endued as they were with divine wisdom and prudence. For after the consulship of Quintus Fulvius and Quintus Fabius, by whom, when they were consuls, Capua was defeated and taken, I will not say there has been nothing done, but nothing has been even imagined in that city against this republic.

Many wars have been waged since that time with kings,—with Philip, and Antiochus, and Perses, and Pseudophilippus, and Aristonicus, and Mithridates, and others. Many terrible wars have existed beside—the Carthaginian, the Corinthian, and the Numantian wars. There have been also many domestic seditions, which I pass over. There have been wars with our allies,—the Fregellan war, the Marsic war; in all which domestic and foreign wars Capua has not only not been any hindrance to us, but has afforded us most seasonable assistance, in providing the means of war, in equipping our armies, and receiving them in their houses and homes. There were no men in the city, who, by evil-disposed assemblies, by turbulent resolutions of the senate, or by unjust exertions of authority, threw the republic into confusion, and sought pretexts for revolution. For no one had any power of summoning an assembly, or of convening any public council. Men were not carried away by any desire for renown, because where there are no honours publicly conferred, there there can be no covetous desire of reputation. They were not quarrelling with one another out of rivalry or out of ambition; for they had nothing left to quarrel about,—they had nothing which they could seek for in opposition to one another,—they had no room for dissensions. Therefore, it was in accordance with a deliberate system, and with real wisdom, that our ancestors changed the natural arrogance and intolerable ferocity of the Campanians into a thoroughly inactive and lazy tranquillity. And by this means they avoided the reproach of cruelty, because they did not destroy from off the face of Italy a most beautiful city; and they

provided well for the future, in that, having cut out all the sinews of the city, they left the city itself enfeebled and disabled.

XXXIV. These designs of our ancestors seemed, as I have said before, blameable in the eyes of Marcus Brutus and Publius Rullus. Nor, O Publius Rullus, do those omens and auspices encountered by Marcus Brutus deter you from similar madness. For both he who led a colony to Capua, * * * * and they who took upon themselves the magistracy there, and who had any share in the conducting a colony to that spot, and in the honours to be had there, or in the offices to be enjoyed there, have all suffered the most terrible punishments allotted to the wicked. And since I have made mention of Brutus and that time, I will also relate what I saw myself when I had arrived at Capua,—when the colony had been just established there by Lucius Considius and Sextus Saltius the prætors, (as they called themselves,) that you may understand how much pride the situation itself inspires its inhabitants with; so great that it was very intelligible and visible when the colony had only been settled there a few days. For in the first place, as I said, though similar officers in the other colonies are called duumvirs, these men chose to call themselves prætors. But if their first year of office inspired them with such desires as that, do not you suppose that in a few years they would be likely to take a fancy to the name of consuls? In the next place, they were preceded by lictors, not with staves, but with two fasces, just as lictors go before the prætors here. The greater victims were placed in the forum, which, after they had been approved by the college of priests, were sacrificed at the voice of the crier, and the music of a flute-player, by the prætors from their tribunal, as they are at Rome by us who are consuls. After that, the conscript fathers were summoned. But after this, it was almost more than one could endure, to see the countenance of Considius. The man whom we had seen at Rome shrivelled and wasted away, in a contemptible and abject condition, when we saw him at Capua with Campanian haughtiness and royal pride, we seemed to be looking at the Magii, and Blossii, and Jubellii. And now, in what alarm all the common people were! In the Albon and Seplasian road, what crowds assembled, of men inquiring what edict the prætor had issued? where he was

supping? what he had said? And we who had come to Capua from Rome, were not called guests, but foreigners and strangers.

XXXV. Ought we not to think that those men who foresaw all these things, O Romans, ought to be venerated and worshipped by us, and classed almost in the number of the immortal gods? For what was it which they saw? They saw this, which I entreat you now to remark and take notice of. Manners are not implanted in men so much by the blood and family, as by those things which are supplied by the nature of the plan towards forming habits of life, by which we are nourished, and by which we live. The Carthaginians, a fraudulent and lying nation, were tempted to a fondness for deceiving by a desire of gain, not by their blood, but by the character of their situation, because, owing to the number of their harbours, they had frequent intercourse with merchants and foreigners. The Ligurians, being mountaineers, are a hardy and rustic tribe. The land itself taught them to be so by producing nothing which was not extracted from it by skilful cultivation, and by great labour. The Campanians were always proud from the excellence of their soil, and the magnitude of their crops, and the healthiness, and position, and beauty of their city. From that abundance, and from this affluence in all things, in the first place, originated those qualities; arrogance, which demanded of our ancestors that one of the consuls should be chosen from Capua: and in the second place, that luxury which conquered Hannibal himself by pleasure, who up to that time had proved invincible in arms. When those decemvirs shall, in accordance with the law of Rullus, have led six hundred colonists to that place; when they shall have established there a hundred decurions, ten augurs, and six priests, what do you suppose their courage, and violence, and ferocity will be then? They will laugh at and despise Rome, situated among mountains and valleys, stuck up, as it were, and raised aloft, amid garrets, with not very good roads, and with very narrow streets, in comparison with their own Capua, stretched out along a most open plain, and in comparison of their own beautiful thoroughfares. And as for the lands, they will not think the Vatican or Pupinian district fit to be compared at all to their fertile and luxuriant plains. And all the abundance of neighbouring towns which surround

us they will compare in laughter and scorn with their neighbours. They will compare Labici, Fidenæ, Collatia,—even Lanuvium itself, and Aricia, and Tusculum, with Cales, and Teanum, and Naples, and Puteoli, and Cumæ, and Pompeii, and Nuceria. By all these things they will be elated and puffed up, perhaps not at once, but certainly when they have got a little more age and vigour they will not be able to restrain themselves; they will go on further and further. A single individual, unless he be a man of great wisdom, can scarcely, when placed in situations of great wealth or power, contain himself within the limits of propriety; much less will those colonists, sought out and selected by Rullus, and others like Rullus, when established at Capua, in that abode of pride, and in the very home of luxury, refrain from immediately contracting some wickedness and iniquity. Ay, and it will be much more the case with them, than with the old genuine Campanians, because they were born and trained up in a fortune which was theirs of old, but were depraved by a too great abundance of everything; but these men, being transferred from the most extreme indigence to a corresponding affluence, will be affected, not only by the extent of their riches, but also by the strangeness of them.

XXXVI. You, O Publius Rullus, have chosen to follow in the footsteps of Marcus Brutus's wickedness, rather than to be guided by the monuments of the wisdom of our ancestors. You have flavoured all this with these advices of yours—to sell the old revenues, and to waste the new ones,—to oppose Capua to this city in a rivalry of dignity,—to subject all cities, nations and provinces, all free peoples, and kings, and the whole world in short, to your laws, and jurisdiction, and power, in order that, when you have drained all the money out of the treasury, and exacted all that may be due from the taxes, and extorted all that you can from kings, and nations, and even from our own generals, all men may still be forced to pay money to you at your nod; that you, also, or your friends, may buy up from those who have become possessed of them, as members of Sylla's party, their lands—some of which produce too much unpopularity to their owners to be worth keeping; some of which are unhealthy, and deserted on that account—and charge them to the Roman people at whatever price you please; that you may occupy all the municipalities and colonies of Italy with new settlers;

that you may establish colonies in whatever places you think fit, and in as many places as seems desirable to you; that you may surround, and hold in subjection, the whole republic with your soldiers, and your cities, and your garrisons; that you may be able to proscribe and to deprive of the sight of these men Cnæus Pompeius himself, by whose protection and assistance the Roman people has repeatedly been triumphant over its most active enemies and its most worthless citizens; that there may be nothing, which is either capable of being tampered with by means of gold and silver, or carried by numbers and votes, or accomplished by force and violence, which you do not hold in your own power, and under your dominion; that meanwhile you may go at full speed through every nation and every kingdom with the most absolute power,—with unrestricted authority as judges, and with immense sums of money; that you may come into the camp of Cnæus Pompeius, and sell his very camp itself, if it be desirable for you to do so; that in the meantime, you, being freed from every restraint of law, and from all fear of the courts of justice, and from all danger, may be able to stand for all the other magistracies; so that no one may be able to bring you before the Roman people, or summon you before any court,—so that the senate may not be able to compel you, nor the consul to restrain you, nor the tribune of the people to offer any impediment to you.

I do not wonder that you, men of such folly and intemperance as you are, should have desired these things,—I do marvel that you should have hoped that you could obtain them while I am consul. For, as all consuls ought to exercise the greatest care and diligence in the protection of the republic, so, above all others, ought they to do so who have not been made consuls in their cradles, but in the Campus. No ancestors of mine went bail to the Roman people for me; you gave credit to me; it is from me that you must claim what I am bound to pay; all your demands must be made on me. As, when I stood for the consulship, no authors of my family recommended me to you; so, if I commit any fault, there are no images of my ancestors which can beg me off from you.

XXXVII. Wherefore, if only life be granted me, as far as I can I will defend the state from the wickedness and insidious designs of those men. I promise you this, O Romans, with good faith; you have entrusted the republic to a vigilant man, not

to a timid one; to a diligent man, not to an idle one. I am consul; how should I fear an assembly of the people? How should I be afraid of the tribunes of the people? How should I be frequently or causelessly agitated? How should I fear lest I may have to dwell in a prison, if a tribune of the people orders me to be led thither? for I, armed with your arms, adorned with your most honourable ensigns, and with command and authority conferred by you, have not been afraid to advance into this place, and, with you for my backers, to resist the wickedness of man; nor do I fear lest the republic, being fortified with such strong protection, may be conquered or overwhelmed by those men. If I had been afraid before, still now, with this assembly, and this people, I should not fear. For who ever had an assembly so well inclined to hear him while advocating an agrarian law, as I have had while arguing against one? if, indeed, I can be said to be arguing against one, and not rather upsetting and destroying one. From which, O Romans, it may be easily understood that there is nothing so popular, as that which I, the consul of the people, am this year bringing to you; namely, peace, tranquillity and ease. All the things which when we were elected you were afraid might happen, have been guarded against by my prudence and caution. You not only will enjoy ease,—you who have always wished for it; but I will even make those men quiet, to whom our quiet has been a source of annoyance.

In truth, however, power, riches, are accustomed to be acquired by them out of the tumults and dissensions of the citizens. You, whose interest consists in the votes of the people, whose liberty is based on the laws, whose honours depend on the courts of justice and on the equity of the magistrates, and whose enjoyment of your properties depends on peace, ought to preserve tranquillity by every means. For if those men who, on account of indolence, are living in tranquillity, still take pleasure in their own base indolence; you, if, in the calm quiet with which you govern fortune, you think such a condition as you enjoy better, should maintain it diligently; not as one that has been acquired by laziness, but as one that has been earned by virtue.[1] And I, by the unani-

[1] This and the next sentence are given up as corrupt by every one. Many different readings have been proposed; and I have endeavoured to extract what appears to have been Cicero's meaning from them, keeping as closely as possible to the text of Orellius.

mity which I have established between myself and my colleague, have provided against those men whom I knew to be hostile to my consulship both in their dispositions and actions. I have provided against everything; and I have sought to recal those men to their loyalty. I have also given notice to the tribunes of the people, to try no disorderly conduct while I am consul. My greatest and firmest support in our common fortunes, O Romans, will be, if you for the future behave, for the sake of it, to the republic in the same manner as you have this day behaved to me in this most numerous assembly, for the sake of your own safety. I promise you most certainly, and pledge myself to manage matters so that they who have envied the honours which I have gained, shall at last confess, that in selecting a consul you all showed the greatest possible foresight.

THE THIRD SPEECH OF M. T. CICERO

IN OPPOSITION TO

PUBLIUS SERVILIUS RULLUS, A TRIBUNE OF THE PEOPLE, CONCERNING THE AGRARIAN LAW.

DELIVERED TO THE PEOPLE.

THE ARGUMENT.

The tribunes had declined debating the subject of the Agrarian law with Cicero before the people, but attacked him with calumnies behind his back; saying that his opposition to the law proceeded from his affection to Sylla's party, and from a desire to secure to the members of it the properties which Sylla had granted to them, and that he was only making this opposition to this law out of a desire to pay court to those whom they called the seven tyrants, the two Luculli, Crassus, Catulus, Hortensius, Metellus, and Philippus, who were known to be the greatest favourers of Sylla's cause, and to have been the chief gainers by it. And as these insinuations were making a great impression on the city, he thought it necessary to make this third speech to defend himself against them. And after this speech the tribunes let the whole matter drop.

I. THE tribunes of the people, O Romans, would have pursued a more convenient course, if they had said to my face, in my presence, the things which they allege to you concerning me.

For then, they would have given you an opportunity for a more just decision in the matter, and they would have followed the usages of their predecessors, and have maintained their own privileges and power. But, since they have shunned any open contest and debate with me at present, now, if they please, let them come forth into the assembly which I have convened, and though they would not come forward willingly when challenged by me, let them at least return to it now that I openly invite them back.

I see, O Romans, that some men are making a noise to imply something or other, and that they no longer show me the same countenance in this present assembly which they showed me at the last assembly in which I addressed you. Wherefore, I entreat you, who have believed none of my enemies' stories about me, to retain the same favourable disposition towards me that you always had; but from you, whom I perceive to be a little changed towards me, I beg the loan of your good opinion of me for a short time, on condition of your retaining it for ever, if I prove to you what I am going to say, but abandoning it and trampling it under foot in this very place if I fail to establish it.

Your minds and ears, O Romans, are blocked up with the assertion that I am opposing the agrarian law and your interest, out of a desire to gratify the seven tyrants, and the other possessors of Sylla's allotments. If there be any men who have believed these things, they must inevitably first have believed this, that by this agrarian law which has been proposed, the lands allotted by Sylla are taken away from their present possessors and divided among you, or else, that the possessions of private individuals are diminished, in order that you may be settled on their lands. If I show you, not only that not an atom of land of Sylla's allotments is taken from any one, but even that that description of property is ensured to its possessors, and confirmed in a most impudent manner; if I prove, that Rullus, by his law, provides so carefully for the case of those lands which have been allotted by Sylla, that it is perfectly plain that that law was drawn up, not by any protector of your interests, but by the twin law of Valgius; is there then any reason at all, why he should disparage not only my diligence and prudence, but yours also, by the accusations which he has employed against me in my absence?

II. The fortieth clause of the law is one, O Romans, the

mention of which I have hitherto purposely avoided, lest I should seem to be reopening a wound of the republic which was now scarred over, or to be renewing, at a most unseasonable time, some of our old dissensions. And now too I will argue that point, not because I do not think this present condition of the republic deserving of being most zealously maintained, especially after I have professed myself to be for this year at least the patron of all tranquillity and unanimity in the republic; but in order to teach Rullus for the future to be silent at least in those matters with respect to which he wishes silence to be observed as to himself and his actions. Of all laws I think that one is the most unjust, and the most unlike a law, which Lucius Flaccus, the interrex, passed respecting Sylla.—"That everything which he had done should be ratified." For, as in other states, when tyrants are established, all laws are extinguished and destroyed, this man established a tyrant of the republic by law. It is an invidious law, as I said before; but still it has some excuse. For it appears to be a law not urged by the man but by the time. What shall we say if this law is a far more impudent one? For by the Valerian and Cornelian law this power is taken away at the same time that it is given.[1] An impudent courting of the people is joined with a bitter injury done to them. But still a man from whom any property is taken away has some hope arising from those laws; and he, to whom any is given, has some scruples. The provision in Rullus's law is, "Whatever has been done since the consulship of Caius Marius and Cnæus Papirius." How carefully does he avoid suspicion, when he names those consuls most especially who were the greatest adversaries of Sylla. For, if he had named Sylla, he thought that that would have been a palpable and also an invidious measure. And yet, which of you did he expect to be so stupid, as not to be able to recollect that immediately after the consulship of those men Sylla became dictator? What then does this Marian tribune of the people say, when he is trying to make us, who are Sylla's friends, unpopular? "Whatever has been given, or assigned, or sold, or granted by public authority, whether lands, or houses, or lakes, or marshes, or sites, or properties," (he has omitted to mention the sky and sea, but he has omitted

[1] There is probably some corruption in the text here and in the next few sentences; Orellius marks them with a †.

nothing else,) "since the consulship of Marius and Carbo." By whom, O Rullus? Who has allotted anything whatever since the consulship of Marius and Carbo? Who has given anything, who has granted anything, except Sylla? "Let all those things remain in the same condition." In what condition? He is undermining something or other. This over active and too energetic tribune of the people is rescinding the acts of Sylla. "As those things which have become private property according to the most regular possible course of law." Are they then to be held on a surer tenure than a man's paternal and hereditary property? Just so. But the Valerian law does not say this; the Cornelian laws do not sanction this; Sylla himself does not demand this. If those lands have any connexion with legal right, if they have any resemblance to private property, if they have the least hope of becoming permanent property, then there is not one of those men so impudent as not to think that he is excellently well treated. But you, O Rullus, what is your object? That they may retain what they have got? Who hinders them? That they may retain it as private property? But the law is framed in such a way that the farm of your father-in-law in the Hirpine district, or the whole Hirpine district, for he is in possession of all of it, is held by him on a surer tenure than my paternal hereditary estate at Arpinum. For that is the effect of the provision of your law. For those farms in truth are held by the best right, which are held on the best conditions. Free tenures are held by a better tenure than servile ones. By this clause all tenures which have hitherto been servile[1] tenures will be so no longer. Enfranchised estates are in a better condition than those which are liable to no obligations; by the same clause all lands subject to the payment of any fine, if only they were assigned by Sylla, are released from such payments. Lands which are exempt from payment are in a better condition than those which pay a fine. I, in my Tusculan villa, must pay a tax for the Crabran[2] water, because I received my estate subject to this liability; but, if I had only had the land given me by Sylla, I should not pay it, according to the law of Rullus.

[1] *Serva prædia* mean such estates as were liable to certain burdens or duties; held by the performance of certain services.

[2] The *Crabra aqua* is several times mentioned by Cicero in his letters as a small artificial stream running through his Tusculan property. He even had a law-suit respecting it, as appears from one of his letters.

III. I see you, O Romans, moved either by the impudence of the law or of the speech, as indeed you must be from the nature of the case; by the impudence of the law, which gives a better title to estates possessed by virtue of Sylla's donation than to hereditary property; by the impudence of the speech which, in such a cause as that, dares to accuse any one, and yet vehemently, too vehemently, to defend the principles of Sylla. But if the law only ratified all the allotments which had been given by Sylla, I should not say a word, provided he would confess himself to be a partisan of Sylla's. But he does not only protect their existing interests, but he even adds to their present possessions some sort of gift. And he, who accuses me, saying that the possessions resting on Sylla's title are defended by me, not only confirms them himself, but even institutes fresh allotments, and rises up among us a new Sylla. For just take notice what great grants of lands this reprover of ours endeavours to make by one single word. "Whatever has been given, or presented, or granted, or sold" —I can bear it; I hear it; what comes next?—"shall be held as absolute property." Has a tribune of the people ventured to propose that whatever any one has become possessed of since the consulship of Marius and Carbo, he shall hold by the firmest right that any one can hold private property? Suppose he drove out the former proprietors by violence? Suppose he became possessed of it in some underhand manner, or only by some one's permission for a time? By this law then all civil rights, all legitimate titles, all interdicts of the prætors will be put an end to. It is no unimportant case, it is no insignificant injury that is concealed under this expression, O Romans. For there were many estates confiscated by the Cornelian law, which were never assigned or sold to any one, but which are occupied in the most impudent manner by a few men. These are the men for whom he provides, these are the men whom he defends, whom he makes private proprietors. These lands, I say, which Sylla gave to no one, Rullus does not choose to assign to you, but to sacrifice to the men who are in occupation of them. I ask the reason why you should allow those lands in Italy, in Sicily, in the two Spains, in Macedonia, and Asia, which your ancestors acquired for you, to be sold, when you see those lands which are your own sacrificed by the same law to their existing occupiers? Now you will understand the whole law, and perceive

that it is framed to secure the power of a few individuals and admirably adapted to the circumstances of Sylla's allotments. For this man's father-in-law is a most excellent man, nor am I saying a word against his character; but I am discussing the impudence of his son-in-law. For he wishes to keep what he has got possession of, and does not conceal that he is one of Sylla's party.

IV. He now, by your instrumentality, in order that he may himself have what he has not got, wishes to establish those titles which at present are doubtful. And as he is more covetous than Sylla himself, I am accused of defending the actions of Sylla which I am resisting. My father-in-law, says he, has some hitherto deserted and distant fields. By my law he will be able to sell them at his own price. He holds them at present by an uncertain title; in fact he has no right at all to them: they will be confirmed to him by the best possible title. He has them as public property; I will make them private property. Lastly, he shall possess, without having the slightest anxiety about them for the future, those farms which he has procured (by the proscription of their former owners) to be joined to the admirable and productive estate which he had in the district of Casinum, being contiguous to it before; so as to make all the different farms into one uninterrupted estate as far as the eye can reach; and respecting which at present he is not without apprehension.

And since I have shown for what reason and for whose sake he has proposed this, let him show whether I am defending any particular proprietor, while I resist this agrarian law. You are selling the Scantian wood. The Roman people is in possession of it. I am defending the Roman people. You are dividing the district of Campania. It is you, O Romans, who are now its proprietors. I will not give it up. In the next place, I see possessions in Italy and in Sicily, and in the other provinces, put up for sale and advertised. The farms are yours, the possessions are yours, O Romans. I will resist and oppose such a measure; and I will not permit the Roman people to be ousted from its possessions by any one, while I am consul. Especially when no advantage is sought for you by the proceeding. For you ought no longer to lie under this mistake. Is any one of you a man inclined to violence, or atrocity, or murder? No:

one. And, believe me, it is for such a race of men as that hat the district of Campania and that beautiful Capua is reserved. It is against you, against your liberty, against Cnæus Pompeius that an army is being raised. Capua is being got ready in opposition to this city; bands of audacious men are being equipped against you; ten generals are being appointed to counterbalance Cnæus Pompeius. Let them meet me face to face, and since they have summoned me to this assembly of yours, at your request, let them here argue the case with me.

THE SPEECH OF M. T. CICERO IN DEFENCE OF CAIUS RABIRIUS, ACCUSED OF TREASON.

THE ARGUMENT.

In the year A. U. C. 654, Lucius Saturninus, a tribune of the people, had been slain, in obedience to a decree of the senate, entrusting the safety of the republic to the consuls Caius Marius and Lucius Valerius Flaccus. Julius Cæsar now suborned Titus Labienus, one of the present tribunes, to prosecute Rabirius, as being the person who had slain him, (the object of Cæsar and his party being to put an end to, or at least a check upon, that prerogative of the senate by which, in a case of tumult, they could arm the city at once, by the customary vote, "*Videant consules nequid respublica detrimenti capiat*;" in obedience to which vote many seditious citizens had at different times been put to death without any trial, and this privilege of the senate had been a constant subject of complaint to the tribunes.) Julius Cæsar procured himself to be appointed one of the *duumviri*, or two judges, who were to try the cause. Hortensius defended Rabirius, and proved that, though it would have been perfectly legal for Rabirius to slay Saturninus, still in point of fact he had nothing to do with his death, as he had been slain by a slave, who for the action had been emancipated by the people. Cæsar, however, condemned Rabirius, who appealed to the people. And it was on the trial of this appeal that the following oration was delivered. Labienus would not allow Cicero to exceed half-an-hour in his defence; and, to raise the greater indignation against Rabirius, he exposed the picture of Saturninus in the rostra, as of one who had fallen a martyr to the liberties of the people. When, after the defence was over, the people were proceeding to vote, there was reason to apprehend some violence or foul play from the intrigues of the tribune. Accordingly Metellus, who was augur and also prætor that year, contrived to dissolve the assembly before they came to a vote; and the troubles that ensued in the latter part of the year prevented any further attention being paid to the matter.

I. ALTHOUGH, O Romans, it is not my custom at the beginning of a speech to give any reason why I am defending

each particular defendant, because I have always considered that the mere fact of the danger of any citizen was quite sufficient reason for my considering myself connected with him, still, in this instance, when I come forward to defend the life, and character, and all the fortunes of Caius Rabirius, I think I ought to give a reason for my undertaking this duty; because the very same reason which has appeared to me a most adequate one to prompt me to undertake his defence, ought also to appear to you sufficient to induce you to acquit him. For the ancientness of my friendship with him, and the dignity of the man, and a regard for humanity, and the uninterrupted practice of my life, have instigated me to defend Caius Rabirius; and also the safety of the republic, my duty as consul, the very fact of my being consul, since when I was made consul the safety of the republic, and also that of each individual citizen in it was entrusted to me, compel me to do so with the greatest zeal. For it is not the actual offence, nor any desire to deprive Caius Rabirius in particular of life, nor is it any old, well grounded, serious enmity on the part of any citizen, which has brought him into this peril of his life. But the true design of this prosecution is, that that great aid which the majesty of the state and our dominion enjoys, and which has been handed down to us from our ancestors, may be banished from the republic; that the authority of the senate, and the absolute power of the consul, and the unanimity of all good men, may henceforth be of no avail against any mischief or ruin designed to the state; and therefore, as a handle for the destruction of all these weighty obstacles, the old age, and infirmity, and solitary condition of one man is attacked.

Wherefore, if it is the part of a virtuous consul when he sees all the bulwarks of the republic undermined and weakened, to come to the assistance of his country; to bring succour to the safety and fortunes of all men; to implore the good faith of the citizens; to think his own safety of secondary consideration when put in competition with the common safety of all; it is the part also of virtuous and fearless citizens, such as you have shown yourself in all the emergencies of the republic, to block up all the avenues of sedition, to fortify the bulwarks of the state, to think that the supreme power is vested in the consuls, the supreme wisdom in the senate; and to judge the man who acts in obedience to them, worthy

of praise and honour, rather than of condemnation and punishment. Wherefore the labour in defending this man falls principally to my share; but the zeal for his preservation ought to be equally felt by me and by you.

II. For you ought to think, O Romans, that, in the memory of man, no affair more important, more full of peril to you, more necessary to be carefully watched by you, has ever been undertaken by a tribune of the people, nor opposed by a consul, nor brought before the Roman people. For there is nothing less at stake, O Romans, in this trial, there is no other object aimed at, than the preventing any public council from being active for the future in the republic, any union from being formed of good men against the frenzy and insanity of wicked citizens; any refuge, any protection, any safety from existing at the most critical extremity of the republic.

And, as this is the case, in the first place, (as is most necessary to be done, in such a contest for a man's life and reputation, and all his fortunes,) I entreat pardon and indulgence from the excellent and mighty Jupiter, and from all the other immortal gods and goddesses; by whose aid and protection this republic is governed much more than by any reason or wisdom of man. And I pray of them to grant that this day may have dawned for the salvation of this man, and for the welfare of the republic. And, in the second place, I beg and entreat you, O Romans,—you whose power comes nearest to the divine authority of the immortal gods,—that since at one and the same time the life of Caius Rabirius, a most unhappy and most innocent man, and the safety of the republic is entrusted to your hands and to your votes, you will display that mercy, as far as regards the fortunes of the individual, and that wisdom in what concerns the safety of the republic, which you are accustomed to exercise.

Now, since, O Titus Labienus, you have sought to cramp my industry by a narrow space of time, and have denied the usual length of a defence which I was prepared to use, confining me to a single half-hour, I will comply with the conditions laid down by the accuser, (which is a most scandalous thing to have to do,) and yield to the power of our enemy, (which is a most miserable fate for a man to be compelled to,) although in prescribing to me this half-hour you have left me only the part of an advocate, and have ignored my

right as consul; because, though this time will be nearly sufficient for me to make our defence in, it will not allow time enough for preferring the complaints which we are entitled to prefer. Unless, perhaps, you think it necessary for me to reply to you at some length about the sacred places and groves which you have said were violated by my client; though in making this accusation you never said anything more than that this charge had been made against Caius Rabirius by Caius Macer. And with respect to this matter I marvel that you recollect what his enemy Macer accused Caius Rabirius of, and forget what impartial judges decided on their oaths.

III. Must I needs make a long speech on the topics of peculation, or of burning the registers? of which charge Caius Curtius, a relation of Caius Rabirius, was most honourably acquitted, as was due to his virtue, by a most illustrious bench of judges. But Rabirius himself not only was never prosecuted on either of these charges, but never fell under any the very slightest suspicion of them; nor was any such idea ever breathed by any one. Or must I be careful to reply to what has been said touching his sister's son? who, you said, had been murdered by him, as he sought an excuse for putting off the trial on the pretext of a domestic calamity. For what is more natural than that his sister's husband should be dearer to him than his sister's son? and so much dearer, that he would deprive the one of life in a most cruel manner, in order to gain a two days' adjournment of his trial for the other? Or need I say much respecting the detention of another man's slaves contrary to the Fabian law, or of the scourging and putting to death of Roman citizens, contrary to the Porcian law, when Caius Rabirius is honoured with the zeal displayed in his behalf by all Apulia, and by the eminent good-will of the state of Campania; and when not only individuals, but I may almost say whole nations, have flocked hither to deliver him from danger, brought up from a greater distance than his name as a neighbour of theirs on their borders required? For why need I prepare a long speech on that point, when it is set down in the count which assesses the damages, that he had regard to neither his own chastity nor to that of others? Moreover, I suspect that it was on that account that I was limited by Labienus to half an hour, in order that I might not be able to say much on

this question of chastity. Therefore, you perceive that this half-hour is too long for me to discuss those charges which especially require the care of an advocate.

That other part, about the death of Saturninus, you wished to be too short and narrow for my requirements; and it is one which requires and stands in need, not so much of the ingenuity of an orator, as of the authority of a consul. For as for the trial for treason, which, when you accuse me, you say has been put an end to by me, that is a charge against me, and not against Rabirius. And I wish, O Romans, that I was the first, or the only person, who had abolished that in this republic. I wish that that, which he brings forward as a charge against me, might be an evidence of my peculiar glory. For what can be desired by any one which I should prefer to being said in my consulship to have banished the executioner from the forum, and the gallows from the Campus? But that credit belongs, in the first instance, O Romans, to our ancestors, who, after the kings had been expelled, did not choose to retain any vestige of kingly cruelty among a free people; and in the second instance, to many gallant men, who thought it fit that your liberty should not be an unpopular thing from the severity of the punishments with which it was protected, but that it should be defended by the lenity of the laws.

IV. Which, then, of us, O Labienus, is attached to the best interests of the people? you who think that an executioner and chains ought to be put in operation against Roman citizens in the very assembly of the people; who order a gallows to be planted and erected for the execution of citizens in the Campus Martius, in the comitia centuriata, in a place hallowed by the auspices; or I, who forbid the assembly to be polluted by the contagion of an executioner—who think that the forum of the Roman people ought to be purified from all such traces of nefarious wickedness—who urge that the assembly ought to be kept pure, the campus holy, the person of every Roman citizen inviolate, and the rights of liberty unimpaired? Of a truth, the tribune of the people is very much devoted to the interests of the people,—is a guardian and defender of its privileges and liberties! The Porcian law forbade a rod to be laid on the person of any Roman citizen. This merciful man has brought back the scourge. The Porcian law protected the freedom of the

citizens against the lictor. Labienus, that friend of the people, has handed them over to the executioner. Caius Gracchus passed a law that no trial should take place affecting the life of a Roman citizen without your orders. This friend of the people has compelled the duumvirs (without any order of yours being issued on the subject) not only to try a Roman citizen, but to condemn a Roman citizen to death without hearing him in his own defence. Do you dare to make mention to me of the Porcian law, or of Caius Gracchus, or of the liberty of these men, or of any single man who has really been a friend of the people, after having attempted to violate the liberty of this people, to tempt their merciful disposition, and to change the customs, not only with unusual punishments, but with a perfectly unheard-of cruelty of language? For these expressions of yours, which you, O merciful and people-loving man, are so fond of, "Go, lictor, bind his hands," are not only not quite in character with this liberty and this merciful disposition, but they are not suited to the times even of Romulus or of Numa Pompilius. Those are the songs suited to the torments in use in the time of Tarquin, that most haughty and inhuman monarch; but you, O merciful man, O friend of the people, delight to rehearse, "Cover his head—hang him to the ill-omened tree,"—words, O Romans, which in this republic have long since been buried in the darkness of antiquity, and have been overwhelmed by the light of liberty

V. If, then, this had been a popular sort of proceeding,—if it had had the least particle of equity or justice in it, would Caius Gracchus have passed it over? Forsooth, I suppose, the death of your uncle was a greater affliction to you, than the loss of his brother was to Caius Gracchus. And the death of that uncle whom you never saw is more painful to you, than the death of that brother, with whom he lived on the terms of the most cordial affection, was to him. . . . . And you avenge the death of your uncle just as he would have wished to avenge the death of his brother, if he had been inclined to act on your principles. And that great Labienus, your illustrious uncle, whoever he was, left quite as great a regret behind him in the bosoms of the Roman people, as Tiberius Gracchus left? Was your piety greater than that of Gracchus? or your courage? or your wisdom?

or your wealth? or your influence? or your eloquence? And yet all those qualities, if he had had ever so little of them, would have been thought great in him in comparison of your qualifications. But as Caius Gracchus surpassed every one in all these particulars, how great do you suppose must be the distance which is interposed between him and you? But Gracchus would rather have died a thousand times by the most painful of deaths, than have allowed the executioner to stand in that assembly—a man whom the laws of the censors considered ought not only to be ejected out of the forum, but even to be deprived of the sight of the sky, of the breath of the atmosphere, and of a home in the city. This man dares to call himself a friend of the people, and me an enemy to your interests; when he has hunted out all the cruelties of punishments and of harsh language, not only as supplied by your recollection, and by that of your fathers, but from all the records of our annals, and all the histories of the kings; and I, with all my power, and all my ingenuity, and all my eloquence, and all my energy, have opposed and resisted his cruelty. Unless, perhaps, you are fond of such a condition of existence as even slaves would not be able by any possibility to bear, if they had not the hope of liberty held out to them. The ignominy of a public trial is a miserable thing,—the deprivation of a man's property by way of penalty is a miserable thing,—exile is a miserable thing; but still, in all these disasters some trace of liberty remains to one. Even if death be threatened, we may die free men; but the executioner, and the veiling of the head, and the mere name of the gibbet, should be far removed, not only from the persons of Roman citizens,—from their thoughts, and eyes, and ears. For not only the actual fact and endurance of all these things, but the bare possibility of being exposed to them,—the expectation, the mere mention of them even,—is unworthy of a Roman citizen and of a free man. Does not the kindness of their masters at one touch deliver our slaves from the fear of all these punishments; and shall neither our exploits, nor the purity of our past life, nor the honours which you have conferred on us, save us from the scourge, from the hangman's hook, and even from the dread of the gibbet? Wherefore I confess, and even, O Titus Labienus, I avow and openly allege that you have been driven from that cruel, unreasonable, (I will not say tribuni-

tian, but) tyrannical persecution, by my counsel, by my virtue, and by my influence. And although in that prosecution you neglected all the precedents of our ancestors, all the laws, all the authority of the senate, all religious feeling, and even the public observance due to the auspices, still you shall hear nothing of all this from me, now that I have so little time to speak in. We shall have abundant opportunity hereafter for a discussion on those points.

VI. At present we will speak of the accusation touching the death of Saturninus, and of the death of your most illustrious uncle. You say in impeachment of my client, that Lucius Saturninus was slain by Caius Rabirius. And Rabirius has already proved that to be false by the evidence of many men, when Quintus Hortensius defended him at great length. But I, if I had to begin the defence anew, would brave this charge, would acknowledge its truth, would avow it. I only wish that the state of my client's cause would give me the opportunity of making this statement,—that Lucius Saturninus, the enemy of the Roman people, was slain by the hand of Caius Rabirius. That outcry has no effect on me, but it rather consoles me, as it shows that there are some citizens ignorant of the facts of the case, but not many. Never, believe me, never would the Roman people, which is silent around me, have made me consul, if it had supposed that I was going to be disturbed by your clamour. How much less is your noise now! Repress your murmurs, the evidence of your folly, and the proof of the scantiness of your numbers. I would, I say, willingly confess, if I could with truth, or even if the cause were not already discussed, that Lucius Saturninus was slain by the hand of Caius Rabirius; and I should think it a most glorious deed. But since I cannot do that, I will confess this, which will have less weight with regard to our credit, but not less with regard to the accusation—I confess that Caius Rabirius took up arms for the purpose of slaying Saturninus. What is the matter, Labienus? What more weighty confession do you expect from me; or what greater charge did you expect me to furnish against him? Unless you think that there is any difference between him who slew the man, and him who was in arms for the purpose of slaying him. If it was wrong for Saturninus to be slain, then arms cannot have been taken up against Saturninus without guilt;—if you admit that

arms were lawfully taken up,—then you must inevitably confess that he was rightly slain.

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VII. A resolution of the senate is passed, that Caius Marius and Lucius Valerius, the consuls, shall employ the tribunes of the people and the prætors as they think fit; and shall take care that the empire and majesty of the Roman people be preserved. They do employ all the tribunes of the people except Saturninus, and all the prætors except Glaucia; they bid every one who desires the safety of the republic to take arms and to follow them. Every one obeys. Arms are distributed from the sacred buildings and from the public armouries to the Roman people, Caius Marius the consul distributing them. Here now, to say nothing of other points, I ask you yourself, O Labienus, when Saturninus in arms was in possession of the Capitol; when Glaucia, and Caius Saufeius, and even that Gracchus[1] just escaped from chains and the gaol, were with him; I will add, too, since you wish me to do so, Quintus Labienus, your own uncle; but in the forum were Caius Marius and Lucius Valerius Flaccus the consuls, behind them all the senate, and that senate, too, whom even you yourselves (who try to render the conscript fathers of the present day unpopular, in order the more easily to diminish the power of the senate) are accustomed to extol; when the equestrian order—what men the Roman knights, O ye immortal gods, then were!—when they supported, as they did in the time of our fathers, a great portion of the republic, and the whole dignity of the courts of justice; when all men, of all ranks, who thought their own safety involved in the safety of the republic, had taken arms;—what, then, was Caius Rabirius to do? I ask you yourself, I say, O Labienus,—when the consuls, in pursuance of the resolution of the senate, had summoned the citizens to arms; when Marcus Æmilius, the chief of the senate, stood in arms in the assembly; who, though he could scarcely walk, thought the lameness of his feet not an impediment to his pursuit of enemies, but only to his flight from them; when, lastly, Quintus

[1] This was a man of the name of Equitius Tismo, whom Saturninus gave out to be a son of Tiberius Gracchus. When Marius shut up the prisoners who had surrendered in the Curia Hostilia, and the people stripped off the roof, and threw the tiles down on them, this pseudo Gracchus was slain among the others.

Scævola, worn out as he was with old age, enfeebled by disease, lame, and crippled, and powerless in all his limbs, leaning on his spear, displayed at the same time the vigour of his mind and the weakness of his body; when Lucius Metellus, Sergius Galba, Caius Serranus, Publius Rutilius, Caius Fimbria, Quintus Catulus, and all the men of consular rank who were then in existence, had taken arms in defence of the common safety; when all the prætors, all the nobles and youth of the city, united together, Cnæus and Lucius Domitius, Lucius Crassus, Quintus Mucius, Caius Claudius, Marcus Drusus; when all the Octavii, Metelli, Julii, Cassii, Catos and Pompeii; when Lucius Philippus, Lucius Scipio, when Marcus Lepidus, when Decimus Brutus, when this very man himself, Servilius, under whom you, O Labienus, have served as your general; when this Quintus Catulus, whom we see here, then a very young man; when this Caius Curio; when, in short, every illustrious man in the city was with the consuls;—what then did it become Caius Rabirius to do? Was he to lie hid, shut up, and concealed in some dark place, and to hide his cowardice under the protection of darkness and walls? Or was he to go into the Capitol, and there join himself to your uncle, and with the rest of those who were fleeing to death, on account of the infamy of their lives? Or was he to unite with Marius, Scarius, Catulus, Metellus, Scævola,—in short, with all virtuous men, in a community not only of safety, but also of danger?

VIII. Even you yourself, O Labienus, what would you do in such a crisis? When your general system of indolence was compelling you to flight and lurking-places, while the villany and frenzy of Lucius Saturninus was inviting you to the Capitol, while the consuls were summoning you to uphold the safety and liberty of your country; which authority, which invitation, which party would you prefer to follow, whose command would you select to obey? My uncle says he was with Saturninus. What if he was? Whom was your father with? —What if he was? Where were your relations, Roman knights?—What if he was? What was the conduct of all your prefecture, and district, and neighbourhood?—What if he was? What was the conduct of the whole Picene district; did they follow the frenzy of the tribune, or the authority of the consul? In truth, I affirm this; that that which you confess of your uncle, no man has ever yet confessed with

respect to himself. No one, I say, has been found so profligate, so abandoned, so entirely destitute, not only of all honesty, but of every resemblance of and pretence to honesty, as to confess that he was in the Capitol with Saturninus. But your uncle was. Let him have been; and let him have been, though not compelled by the desperate condition of his own affairs, or by any domestic distresses and embarrassments. Suppose it was his intimacy with Lucius Saturninus that induced him to prefer his friendship to his country,—was that a reason for Caius Rabirius also deserting the republic? for his not appearing in that armed multitude of good men? for his refusing obedience to the invitation and command of the consul? But we see that in the nature of things he must have adopted one of these three lines of conduct: he must either have been with Saturninus, or with the good men, or he must have been lying in bed:—to lie hid was a state equal to the most infamous death; to be with Saturninus was the act of insanity and wickedness. Virtue, and honour, and shame, compelled him to range himself on the side of the consuls. Do you, therefore, accuse Caius Rabirius on this account, that he was with those men whom he would have been utterly mad to have opposed, utterly infamous if he had deserted them?

IX. But Caius Decianus, whom you often mention, was condemned, because, when he was accusing, with the earnest approval of all good men, a man notorious for every description of infamy, Publius Furius, he dared to complain in the assembly of the death of Saturninus. And Sextus Titius was condemned for having an image of Lucius Saturninus in his house. The Roman knights laid it down by that decision that that man was a worthless citizen, and one who ought not to be allowed to remain in the state, who either by keeping his image sought, to do credit to the death of a man who was seditious to such a degree as to become an enemy to the republic, or who sought by pity to excite the regrets of ignorant men, or who showed his own inclination to imitate such villany. Therefore it does seem a marvellous thing to me, where you, O Labienus, found this image which you have. For after Sextus Titius was condemned, no one could be found who would dare to have it in his possession. But if you had heard of that, or if, from your age, you could have known it, you certainly would never have brought that image, which, even when concealed in his house, had brought ruin and exile on

Sextus Titius, into the rostrum, and into the assembly of the people; nor would you ever have driven your designs on those rocks on which you had seen the ship of Sextus Titius dashed to pieces, and the fortunes of Caius Decianus hopelessly wrecked. But in all these matters you are erring out of ignorance. For you have undertaken the advocacy of a cause which is older than your own recollections; a cause which was dead before you were born; that cause in which you yourself would have been, if your age had allowed you to be so, you are bringing before this court. Do you not understand, in the first place, what sort of men, what sort of citizens they were whom, now that they are dead, you are accusing of the greatest wickedness? Are you not aware, how many of those who are still alive, you, by the same accusation, are bringing into peril of their lives? For if Caius Rabirius committed a capital crime in having borne arms against Lucius Saturninus, yet the age which he was then of might furnish him with some excuse by which to secure himself from danger. But how are we to defend Quintus Catulus, the father of this Catulus, a man in whom the very highest wisdom, eminent virtue, and singular humanity were combined? and Marcus Scaurus, a man of great gravity, wisdom, and prudence? or the two Mucii, or Lucius Crassus, or Marcus Antonius, who was at that time outside the city with a guard? all men than whom there was no one of greater wisdom or ability in the whole city; or how are we to defend the other men of equal dignity, the guardians and counsellors of the republic, who behaved in the same way, now that they are dead? What are we to say about those most honourable men and most excellent citizens, the Roman knights, who then combined with the senate in defence of the safety of the republic? What are we to say of the ærarian tribunes,[1] and of the men of all the other orders in the state, who then took up arms in defence of the common liberties of all?

[1] "The *tribuni ærarii*, who constituted an order in the latter days of the republic, and who were, in fact, the representatives of the most respectable plebeians, were originally heads of tribes, who acted as general inspectors and collectors of the *æs militare* for the payment of the troops." "The charge of the treasury was originally entrusted to the quæstors and their assistants, the *tribuni ærarii*." "Niebuhr supposes that the *tribuni ærarii*, who occur down to the end of the republic, were only the successors of the tribunes of the tribes." *Vide* Smith, Dict. Ant pp. 19, 20, 987, vv. *Ærarii, Ærarium, Tribunus.*

X. But why do I speak of all those men who obeyed the command of the consuls? What is to become of the reputation of the consuls themselves? Are we to condemn Lucius Flaccus, a man always most diligent in the service of the republic, and in the discharge of his duty as a magistrate, and in his priesthood, and in the religious ceremonies over which he presided, as guilty of nefarious wickedness and parricide, now that he is dead? And are we to unite with him in this stigma and infamy, after death, the name of even Caius Marius? Are we, I say, to condemn Caius Marius now that he is dead, as guilty of nefarious wickedness and parricide, whom we may rightly entitle the father of his country, the parent of your liberties, and of this republic? In truth, if Titus Labienus thought himself entitled to erect a gibbet in the Campus Martius for Caius Rabirius, because he took up arms, what punishment ought to be devised for the man who invited him to do so? And if a promise was given to Saturninus, as is constantly asserted by you, it was not Caius Rabirius, but Caius Marius who gave it; and it was he too who violated it, if indeed it was broken at all. But what promise, O Labienus, could be given except by a resolution of the senate? Are you so complete a stranger in this city, are you so ignorant of our constitution and of our customs, as to be ignorant of this? Are we to think that you are living as a foreigner in a strange town, not bearing office in your own native city?—"Well," says he, "but what harm can all this now do Caius Marius, since he has no longer any feeling or any life?" Is it so? Would Caius Marius have spent his life in such labours and such dangers, if he had no hopes and no ideas of any glory which was to extend beyond the limits of his own life? No doubt, when he had routed the countless armies of the enemy in Italy, and when he had delivered the city from siege, he thought that all his achievements would perish with himself. Such is not the truth, O Romans. Nor is there any one among us who exerts himself amid the dangers of the republic with virtue and glory, who is not induced to do so by the hope he entertains of receiving his reward from posterity—therefore, while there are many reasons why I think that the souls of good men are divine and undying, this is the greatest argument of all to my mind, that the more virtuous and wise each individual is, the more thoroughly does his mind look forward to the future, so as to seem, in fact, to regard nothing

except what is eternal. Wherefore, I call to witness the souls of Caius Marius and of the other wise men and gallant citizens which seem to me to have emigrated from life among men to the holy habitations and sacred character of the gods, that I think it my duty to contend for their fame, and glory, and memory, no less than for the shrines and temples of my native land; and that if I had to take up arms in defence of their credit, I should take them up no less zealously than they took them up in defence of the common safety. In truth, O Romans, nature has given us but a limited space to live in, but an endless period of glory.

XI. Wherefore, if we pay due honour to those who have already died, we shall leave to ourselves a more favourable condition after death. But if, O Labienus, you neglect those whom we are unable any longer to behold, do not you think that at least you ought to consult the interests of these men whom you see before you? I say that there is no one of all those men who were at Rome on that day, which day you are now bringing as it were before the court,—that there was no one of the youth of Rome, who did not take arms and follow the consuls; all those men, whose conduct you can form a conjecture about from their age, are now impeached by you of a capital crime, by your attack upon Caius Rabirius. But it was Rabirius who slew Saturninus. I wish that he had done so. I should not be deprecating punishment for him; I should demand a reward for him. In truth, if his freedom was given to Scæva, a slave of Quintus Croto, who did slay Lucius Saturninus, what reward ought to have been given to a Roman knight in a similar case? And if Caius Marius, because he had caused drains to be cut, by which water was supplied to the temple of the excellent and mighty Jupiter, and because on the Capitoline Hill * * *

XII.[1] * * * Therefore the senate, in its investigation into that cause, when I was pleading before it, was neither more diligent nor more severe than all of you were, when you by your dispositions, by your hands, and by your voices, declared your rejection of that distribution of the whole world, and of that very district of Campania.

[1] All the last chapter was discovered by Niebuhr in the Vatican, and edited by him; it was discovered in a very corrupt and mutilated state, but it is translated as he edited it with his own supplementary additions, and completion of half legible words.

I also proclaim, and assert, and denounce the same things which he does who is the originator of this trial. There is no king remaining, no nation, no people, whom you can fear. There is no foreign or external evil which can insinuate itself into this republic. If you wish this state to be immortal, if you wish your empire to be eternal, if you wish your glory to continue everlasting, then it is our own passions, it is the turbulence and desire of revolution engendered among our own citizens, it is intestine evil, it is domestic treason that must be guarded against. And your ancestors have left you a great protection against these evils in these words of the consul, "Whoever wishes the republic to be safe." Protect the legitimate use of these words, O Romans. Do not by your decision take the republic out of my hands; and do not take from the republic its hope of liberty, its hope of safety, its hope of dignity. What should I do, if Titus Labienus were to make a slaughter of the citizens, like Lucius Saturninus? if he were to break open the prison? if he had occupied the Capitol with armed men? I should do what Caius Marius did. I should refer the matter to the senate; I should exhort you to defend the republic. I myself in arms should, with your aid, resist the armed enemy. Now, when there is no suspicion of arms, when I see no weapons, when there is no violence, or slaughter, or occupation of the Capitol and citadel, but only a mischievous prosecution, a cruel trial, a business undertaken by a tribune of the people contrary to the interests of the republic, I have not thought that I ought to summon you to arms, but that it was sufficient to exhort you to give your votes against those who are attacking your majesty. Therefore now I entreat, and beg, and implore all of you, not, as is the old custom, * * * * * * *

* * * is afraid.—He who has received on his front all these scars, marks of his valour, in the cause of the republic, fears to receive any wound on his reputation. He, whom no attack of an enemy could ever move from his post, now is frightened at this onset of his fellow-citizens, to which he must necessarily yield. Nor does he now ask of you an opportunity of living happily, but only one of dying honourably. He is anxious now, not to enjoy his own home, but not to be deprived of his family tomb. He now begs and prays for nothing else at your hands, beyond your abstaining from depriving him of his legitimate funeral rites, and of the privilego

of dying at home. He entreats you to allow him, who has never feared any danger of death in his country's cause, in that country to die.

I have spoken now to the extent of the time allowed me by the tribune of the people. I beg and entreat of you to think this defence which I have made faithful as far as the danger of my friend is concerned, and as far as the safety of the republic is at stake, suited to the dignity, and to the duty of the consul.

THE FIRST ORATION OF M T. CICERO AGAINST LUCIUS CATILINA.

DELIVERED IN THE SENATE.

THE ARGUMENT.

Lucius Catiline, a man of noble extraction, and who had already been prætor, had been a competitor of Cicero's for the consulship; the next year he again offered himself for the office, practising such excessive and open bribery, that Cicero published a new law against it, with the additional penalty of ten years' exile; prohibiting likewise all shows of gladiators from being exhibited by a candidate within two years of the time of his suing for any magistracy, unless they were ordered by the will of a person deceased. Catiline, who knew this law to be aimed chiefly at him, formed a design to murder Cicero and some others of the chief men of the senate, on the day of election, which was fixed for the twentieth of October. But Cicero had information of his plans, and laid them before the senate, on which the election was deferred, that they might have time to deliberate on an affair of so much importance. The day following, when the senate met, he charged Catiline with having entertained this design, and Catiline's behaviour had been so violent, that the senate passed the decree to which they had occasionally recourse in times of imminent danger from treason or sedition, "Let the consuls take care that the republic suffers no harm." This decree invested the consuls with absolute power, and suspended all the ordinary forms of law, till the danger was over. On this Cicero doubled his guards, introduced some additional troops into the city, and when the elections came on, he wore a breastplate under his robe for his protection; by which precaution he prevented Catiline from executing his design of murdering him and his competitors for the consulship, of whom Decius Junius Silanus and Lucius Licinius Murena were elected

Catiline was rendered desperate by this his second defeat, and resolved without further delay to attempt the execution of all his schemes. His greatest hopes lay in Sylla's veteran soldiers, whose cause he had always espoused. They were scattered about in the different districts and colonies of Italy; but he had actually enlisted a consider-

able body of them in Etruria, and formed them into a little army under the command of Manlius, a centurion of considerable military experience, who was only waiting for his orders. He was joined in his conspiracy by several senators of profligate lives and desperate fortunes, of whom the chiefs were Publius Cornelius Lentulus, Caius Cethegus, Publius Autronius, Lucius Cassius Longinus, Marcus Porcius Lecca, Publius Sylla, Servilius Sylla, Quintus Curius, Lucius Vargunteius, Quintus Annius, and Lucius Bestia. These men resolved that a general insurrection should be raised throughout all Italy; that Catiline should put himself at the head of the troops in Etruria; that Rome should be set on fire in many places at once; and that a general massacre should be made of all the senate, and of all their enemies, of whom none were to be spared but the sons of Pompey, who were to be kept as hostages, and as a check upon their father, who was in command in the east. Lentulus was to be president of their councils, Cassius was to manage the firing of the city, and Cethegus the massacre. But, as the vigilance of Cicero was the greatest obstacle to their success, Catiline desired to see him slain before he left Rome; and two knights, parties to the conspiracy, undertook to visit him early on pretence of business, and to kill him in his bed. The name of one of them was Caius Cornelius.

Cicero, however, had information of all the designs of the conspirators, as by the intrigues of a woman called Fulvia, the mistress of Curius, he had gained him over, and received regularly from him an account of all their operations. He sent for some of the chief men of the city, and informed them of the plot against himself, and even of the names of the knights who were to come to his house, and of the hour at which they were to come. When they did come they found the house carefully guarded, and all admission refused to them. He was enabled also to disappoint an attempt made by Catiline to seize on the town of Præneste, which was a very strong fortress, and would have been of great use to him. The meeting of the conspirators had taken place on the evening of the sixth of November. On the eighth Cicero summoned the senate to meet in the temple of Jupiter in the Capitol, a place which was only used for this purpose on occasions of great danger. (There had been previously several debates on the subject of Catiline's treasons and design of murdering Cicero, and a public reward had actually been offered to the first discoverer of the plot. But Catiline had nevertheless continued to dissemble; had offered to give security for his behaviour, and to deliver himself to the custody of any one whom the senate chose to name, even to that of Cicero himself.) Catiline had the boldness to attend this meeting, and all the senate, even his own most particular acquaintance, were so astonished at his impudence that none of them would salute him; the consular senators quitted that part of the house in which he sat, and left the bench empty; and Cicero himself was so provoked at his audacity, that, instead of entering on any formal business, he addressed himself directly to Catiline in the following invective.

WHEN, O Catiline, do you mean to cease abusing our patience? How long is that madness of yours still to mock us? When is there to be an end of that unbridled audacity of

yours, swaggering about as it does now? Do not the n
guards placed on the Palatine Hill—do not the watches posted throughout the city—does not the alarm of the people, and the union of all good men—does not the precaution taken of assembling the senate in this most defensible place—do not the looks and countenances of this venerable body here present, have any effect upon you? Do you not feel that your plans are detected? Do you not see that your conspiracy is already arrested and rendered powerless by the knowledge which every one here possesses of it? What
there that you did last night, what the night before—where is it that you were—who was there that you summoned to meet you—what design was there which was adopted by you, with which you think that any one of us is unacquainted?

Shame on the age and on its principles! The senate is aware of these things; the consul sees them; and yet this man lives. Lives! aye, he comes even into the senate. He takes a part in the public deliberations; he is watching and marking down and checking off for slaughter every individual among us. And we, gallant men that we are, think that we are doing our duty to the republic if we keep out of the way of his frenzied attacks.

You ought, O Catiline, long ago to have been led to execution by command of the consul. That destruction which you have been long plotting against us ought to have already fallen on your own head.

What? Did not that most illustrious man, Publius Scipio,[1] the Pontifex Maximus, in his capacity of a private citizen, put to death Tiberius Gracchus, though but slightly undermining the constitution? And shall we, who are the consuls, tolerate Catiline, openly desirous to destroy the whole world with fire and slaughter? For I pass over older instances, such as how Caius Servilius Ahala with his own hand slew Spurius Mælius when plotting a revolution in the state. There was —there was once such virtue in this republic, that brave men would repress mischievous citizens with severer chastisement than the most bitter enemy. For we have a resolution[2] of

[1] This was Scipio Nasica, who called on the consul Mucius Scævola to do his duty and save the republic; but as he refused to put any one to death without a trial, Scipio called on all the citizens to follow him, and stormed the Capitol, which Gracchus had occupied with his party, and slew many of the partisans of Gracchus, and Gracchus himself.

[2] This resolution was couched in the form "Videant Consules nequid

the senate, a formidable and authoritative decree against you, O Catiline; the wisdom of the republic is not at fault, nor the dignity of this senatorial body. We, we alone,—I say it openly, —we, the consuls, are wanting in our duty.

II. The senate once passed a decree that Lucius Opimius, the consul, should take care that the republic suffered no injury. Not one night elapsed. There was put to death, on some mere suspicion of disaffection, Caius Gracchus, a man whose family had borne the most unblemished reputation for many generations. There was slain Marcus Fulvius, a man of consular rank, and all his children. By a like decree of the senate the safety of the republic was entrusted to Caius Marius[1] and Lucius Valerius, the consuls. Did not the vengeance of the republic, did not execution overtake Lucius Saturninus, a tribune of the people, and Caius Servilius, the prætor, without the delay of one single day? But we, for these twenty days, have been allowing the edge of the senate's authority to grow blunt, as it were. For we are in possession of a similar decree of the senate, but we keep it locked up in its parchment—buried, I may say, in the sheath; and according to this decree you ought, O Catiline, to be put to death this instant. You live,—and you live, not to lay aside, but to persist in your audacity.

I wish, O conscript fathers, to be merciful; I wish not to appear negligent amid such danger to the state; but I do now accuse myself of remissness and culpable inactivity. A camp is pitched in Italy, at the entrance of Etruria, in hostility to the republic; the number of the enemy increases every day; and yet the general of that camp, the leader of those enemies, we see within the walls—ay, and even in the senate, —planning every day some internal injury to the republic. If, O Catiline, I should now order you to be arrested, to be put to death, I should, I suppose, have to fear lest all good men should say that I had acted tardily, rather than that any one should affirm that I acted cruelly. But yet this, which ought to have been done long since, I have good reason for not doing as yet; I will put you to death, then, when there shall be not

respublica detrimenti capiat;" and it exempted the consuls from all obligation to attend to the ordinary forms of law, and invested them with absolute power over the lives of all the citizens who were intriguing against the republic.

[1] This is the same incident that is the subject of the preceding oration in defence of Rabirius.

one person possible to be found so wicked, so abandoned, so like yourself, as not to allow that it has been rightly done As long as one person exists who can dare to defend you, you shall live; but you shall live as you do now, surrounded by my many and trusty guards, so that you shall not be able to stir one finger against the republic: many eyes and ears shall still observe and watch you, as they have hitherto done, though you shall not perceive them.

III. For what is there, O Catiline, that you can still expect, if night is not able to veil your nefarious meetings in darkness, and if private houses cannot conceal the voice of your conspiracy within their walls;—if everything is seen and displayed? Change your mind: trust me: forget the slaughter and conflagration you are meditating. You are hemmed in on all sides; all your plans are clearer than the day to us; let me remind you of them. Do you recollect that on the 21st of October I said in the senate, that on a certain day, which was to be the 27th of October, C. Manlius, the satellite and servant of your audacity, would be in arms? Was I mistaken, Catiline, not only in so important, so atrocious, so incredible a fact, but, what is much more remarkable, in the very day? I said also in the senate that you had fixed the massacre of the nobles for the 28th of October, when many chief men of the senate had left Rome, not so much for the sake of saving themselves as of checking your designs. Can you deny that on that very day you were so hemmed in by my guards and my vigilance, that you were unable to stir one finger against the republic; when you said that you would be content with the flight of the rest, and the slaughter of us who remained? What? when you made sure that you would be able to seize Præneste on the first of November by a nocturnal attack, did you not find that that colony was fortified by my order, by my garrison, by my watchfulness and care? You do nothing, you plan nothing, you think of nothing which I not only do not hear, but which I do not see and know every particular of.

IV. Listen while I speak of the night before. You shall now see that I watch far more actively for the safety than you do for the destruction of the republic. I say that you came the night before (I will say nothing obscurely) into the Scythedealers' street, to the house of Marcus Lecca; that many of your accomplices in the same insanity and wicked-

ness came there too. Do you dare to deny it? Why are you silent? I will prove it if you do deny it; for I see here in the senate some men who were there with you.

O ye immortal Gods, where on earth are we? in what city are we living? what constitution is ours? There are here,—here in our body, O conscript fathers, in this the most holy and dignified assembly of the whole world, men who meditate my death, and the death of all of us, and the destruction of this city, and of the whole world. I, the consul, see them; I ask them their opinion about the republic, and I do not yet attack, even by words, those who ought to be put to death by the sword. You were, then, O Catiline, at Lecca's that night; you divided Italy into sections; you settled where every one was to go; you fixed whom you were to leave at Rome, whom you were to take with you; you portioned out the divisions of the city for conflagration; you undertook that you yourself would at once leave the city, and said that there was then only this to delay you, that I was still alive. Two Roman knights were found to deliver you from this anxiety, and to promise that very night, before daybreak, to slay me in my bed. All this I knew almost before your meeting had broken up. I strengthened and fortified my house with a stronger guard; I refused admittance, when they came, to those whom you sent in the morning to salute me, and of whom I had foretold to many eminent men that they would come to me at that time.

V. As, then, this is the case, O Catiline, continue as you have begun. Leave the city at last: the gates are open; depart. That Manlian camp of yours has been waiting too long for you as its general. And lead forth with you all your friends, or at least as many as you can; purge the city of your presence; you will deliver me from a great fear, when there is a wall between me and you. Among us you can dwell no longer—I will not bear it, I will not permit it, I will not tolerate it. Great thanks are due to the immortal gods, and to this very Jupiter Stator, in whose temple we are, the most ancient protector of this city, that we have already so often escaped so foul, so horrible, and so deadly an enemy to the republic. But the safety of the commonwealth must not be too often allowed to be risked on one man. As long as you, O Catiline, plotted against me while I was the consul elect, I defended myself not with a public guard, but by my

own private diligence. When, in the next consular comitia, you wished to slay me when I was actually consul, and your competitors also, in the Campus Martius, I checked your nefarious attempt by the assistance and resources of my own friends, without exciting any disturbance publicly. In short, as often as you attacked me, I by myself opposed you, and that, too, though I saw that my ruin was connected with great disaster to the republic. But now you are openly attacking the entire republic.

You are summoning to destruction and devastation the temples of the immortal gods, the houses of the city, the lives of all the citizens; in short, all Italy. Wherefore, since I do not yet venture to do that which is the best thing, and which belongs to my office and to the discipline of our ancestors, I will do that which is more merciful if we regard its rigour, and more expedient for the state. For if I order you to be put to death, the rest of the conspirators will still remain in the republic; if, as I have long been exhorting you, you depart, your companions, those worthless dregs of the republic, will be drawn off from the city too. What is the matter, Catiline? Do you hesitate to do that when I order you which you were already doing of your own accord? The consul orders an enemy to depart from the city. Do you ask me, Are you to go into banishment? I do not order it; but, if you consult me, I advise it.

VI. For what is there, O Catiline, that can now afford you any pleasure in this city? for there is no one in it, except that band of profligate conspirators of yours, who does not fear you,—no one who does not hate you. What brand of domestic baseness is not stamped upon your life? What disgraceful circumstance is wanting to your infamy in your private affairs? From what licentiousness have your eyes, from what atrocity have your hands, from what iniquity has your whole body ever abstained? Is there one youth, when you have once entangled him in the temptations of your corruption, to whom you have not held out a sword for audacious crime, or a torch for licentious wickedness?

What? when lately by the death of your former wife you had made your house empty and ready for a new bridal, did you not even add another incredible wickedness to this wickedness? But I pass that over, and willingly allow it to be buried in silence, that so horrible a crime may not be seen to have

existed in this city, and not to have been chastised. I pass over the ruin of your fortune, which you know is hanging over you against the ides of the very next month; I come to those things which relate not to the infamy of your private vices, not to your domestic difficulties and baseness, but to the welfare of the republic and to the lives and safety of us all.

Can the light of this life, O Catiline, can the breath of this atmosphere be pleasant to you, when you know that there is not one man of those here present who is ignorant that you, on the last day of the year, when Lepidus and Tullus were consuls, stood in the assembly armed; that you had prepared your hand for the slaughter of the consuls and chief men of the state, and that no reason or fear of yours hindered your crime and madness, but the fortune of the republic? And I say no more of these things, for they are not unknown to every one. How often have you endeavoured to slay me, both as consul elect and as actual consul? how many shots of yours, so aimed that they seemed impossible to be escaped, have I avoided by some slight stooping aside, and some dodging, as it were, of my body? You attempt nothing, you execute nothing, you devise nothing that can be kept hid from me at the proper time; and yet you do not cease to attempt and to contrive. How often already has that dagger of yours been wrested from your hands? how often has it slipped through them by some chance, and dropped down? and yet you cannot any longer do without it; and to what sacred mysteries it is consecrated and devoted by you I know not, that you think it necessary to plunge it in the body of the consul.

VII. But now, what is that life of yours that you are leading? For I will speak to you not so as to seem influenced by the hatred I ought to feel, but by pity, nothing of which is due to you. You came a little while ago into the senate: in so numerous an assembly, who of so many friends and connexions of yours saluted you? If this in the memory of man never happened to any one else, are you waiting for insults by word of mouth, when you are overwhelmed by the most irresistible condemnation of silence? Is it nothing that at your arrival all those seats were vacated? that all the men of consular rank, who had often been marked out by you for slaughter, the very moment you sat down, left that part of the benches bare and vacant? With what feelings do you think you ought to bear this? On my honour, if my slaves

feared me as all your fellow-citizens fear you, I should think I must leave my house. Do not you think you should leave the city? If I saw that I was even undeservedly so suspected and hated by my fellow-citizens, I would rather flee from their sight than be gazed at by the hostile eyes of every one. And do you, who, from the consciousness of your wickedness, know that the hatred of all men is just and has been long due to you, hesitate to avoid the sight and presence of those men whose minds and senses you offend? If your parents feared and hated you, and if you could by no means pacify them, you would, I think, depart somewhere out of their sight. Now, your country, which is the common parent of all of us, hates and fears you, and has no other opinion of you, than that you are meditating parricide in her case; and will you neither feel awe of her authority, nor deference for her judgment, nor fear of her power?

And she, O Catiline, thus pleads with you, and after a manner silently speaks to you:—There has now for many years been no crime committed but by you; no atrocity has taken place without you; you alone unpunished and unquestioned have murdered the citizens, have harassed and plundered the allies; you alone have had power not only to neglect all laws and investigations, but to overthrow and break through them. Your former actions, though they ought not to have been borne, yet I did bear as well as I could; but now that I should be wholly occupied with fear of you alone, that at every sound I should dread Catiline, that no design should seem possible to be entertained against me which does not proceed from your wickedness, this is no longer endurable. Depart, then, and deliver me from this fear; that, if it be a just one, I may not be destroyed; if an imaginary one, that at least I may at last cease to fear.

VIII. If, as I have said, your country were thus to address you, ought she not to obtain her request, even if she were not able to enforce it? What shall I say of your having given yourself into custody? what of your having said, for the sake of avoiding suspicion, that you were willing to dwell in the house of Marcus Lepidus? And when you were not received by him, you dared even to come to me, and begged me to keep you in my house; and when you had received answer from me that I could not possibly be safe in the same house with you, when I considered myself in great danger as long

as we were in the same city, you came to Quintus Metellus, the prætor, and being rejected by him, you passed on to your associate, that most excellent man, Marcus Marcellus, who would be, I suppose you thought, most diligent in guarding you, most sagacious in suspecting you, and most bold in punishing you; but how far can we think that man ought to be from bonds and imprisonment who has already judged himself deserving of being given into custody?

Since, then, this is the case, do you hesitate, O Catiline, if you cannot remain here with tranquillity, to depart to some distant land, and to trust your life, saved from just and deserved punishment, to flight and solitude? Make a motion, say you, to the senate, (for that is what you demand,) and if this body votes that you ought to go into banishment, you say that you will obey. I will not make such a motion, it is contrary to my principles, and yet I will let you see what these men think of you. Be gone from the city, O Catiline, deliver the republic from fear; depart into banishment, if that is the word you are waiting for. What now, O Catiline? Do you not perceive, do you not see the silence of these men; they permit it, they say nothing; why wait you for the authority of their words when you see their wishes in their silence?

But had I said the same to this excellent young man, Publius Sextius, or to that brave man, Marcus Marcellus, before this time the senate would deservedly have laid violent hands on me, consul though I be, in this very temple. But as to you, Catiline, while they are quiet they approve, while they permit me to speak they vote, while they are silent they are loud and eloquent. And not they alone, whose authority forsooth is dear to you, though their lives are unimportant, but the Roman knights too, those most honourable and excellent men, and the other virtuous citizens who are now surrounding the senate, whose numbers you could see, whose desires you could know, and whose voices you a few minutes ago could hear,—ay, whose very hands and weapons I have for some time been scarcely able to keep off from you; but those, too, I will easily bring to attend you to the gates if you leave these places you have been long desiring to lay waste.

IX. And yet, why am I speaking? that anything may change your purpose? that you may ever amend your life?

that you may meditate flight or think of voluntary banishment? I wish the gods may give you such a mind; though I see, if alarmed at my words you bring your mind to go into banishment, what a storm of unpopularity hangs over me, if not at present, while the memory of your wickedness is fresh, at all events hereafter. But it is worth while to incur that, as long as that is but a private misfortune of my own, and is unconnected with the dangers of the republic. But we cannot expect that you should be concerned at your own vices, that you should fear the penalties of the laws, or that you should yield to the necessities of the republic, for you are not, O Catiline, one whom either shame can recal from infamy, or fear from danger, or reason from madness.

Wherefore, as I have said before, go forth, and if you wish to make me, your enemy as you call me, unpopular, go straight into banishment. I shall scarcely be able to endure all that will be said if you do so; I shall scarcely be able to support my load of unpopularity if you do go into banishment at the command of the consul; but if you wish to serve my credit and reputation, go forth with your ill-omened band of profligates; betake yourself to Manlius, rouse up the abandoned citizens, separate yourself from the good ones, wage war against your country, exult in your impious banditti, so that you may not seem to have been driven out by me and gone to strangers, but to have gone invited to your own friends.

Though why should I invite you, by whom I know men have been already sent on to wait in arms for you at the forum Aurelium; who I know has fixed and agreed with Manlius upon a settled day; by whom I know that that silver eagle, which I trust will be ruinous and fatal to you and to all your friends, and to which there was set up in your house a shrine as it were of your crimes, has been already sent forward. Need I fear that you can long do without that which you used to worship when going out to murder, and from whose altars you have often transferred your impious hand to the slaughter of citizens?

X. You will go at last where your unbridled and mad desire has been long hurrying you. And this causes you no grief, but an incredible pleasure. Nature has formed you, desire has trained you, fortune has preserved you for this insanity. Not only did you never desire quiet but you

never even desired any war but a criminal one; you have collected a band of profligates and worthless men, abandoned not only by all fortune but even by hope.

Then what happiness will you enjoy! with what delight will you exult! in what pleasure will you revel! when in so numerous a body of friends, you neither hear nor see one good man. All the toils you have gone through have always pointed to this sort of life; your lying on the ground not merely to lie in wait to gratify your unclean desires, but even to accomplish crimes; your vigilance, not only when plotting against the sleep of husbands, but also against the goods of your murdered victims, have all been preparations for this. Now you have an opportunity of displaying your splendid endurance of hunger, of cold, of want of everything; by which in a short time you will find yourself worn out. All this I effected when I procured your rejection from the consulship, that you should be reduced to make attempts on your country as an exile, instead of being able to distress it as consul, and that that which had been wickedly undertaken by you should be called piracy rather than war.

XI. Now that I may remove and avert, O conscript fathers, any in the least reasonable complaint from myself, listen, I beseech you, carefully to what I say, and lay it up in your inmost hearts and minds. In truth, if my country, which is far dearer to me than my life,—if all Italy,—if the whole republic were to address me, "Marcus Tullius, what are you doing? will you permit that man to depart whom you have ascertained to be an enemy? whom you see ready to become the general of the war? whom you know to be expected in the camp of the enemy as their chief, the author of all this wickedness, the head of the conspiracy, the instigator of the slaves and abandoned citizens, so that he shall seem not driven out of the city by you, but let loose by you against the city? Will you not order him to be thrown into prison, to be hurried off to execution, to be put to death with the most prompt severity? What hinders you? is it the customs of our ancestors? But even private men have often in this republic slain mischievous citizens.—Is it the laws which have been passed about the punishment of Roman citizens? But in this city those who have rebelled against the republic have never had the rights of citizens.—Do you fear odium with posterity? You are showing fine gratitude

to the Roman people which has raised you, a man known only by your own actions, of no ancestral renown, through all the degrees of honour at so early an age to the very highest office, if from fear of unpopularity or of any danger you neglect the safety of your fellow-citizens. But if you have a fear of unpopularity, is that arising from the imputation of vigour and boldness, or that arising from that of inactivity and indecision most to be feared? When Italy is laid waste by war, when cities are attacked and houses in flames, do you not think that you will be then consumed by a perfect conflagration of hatred?"

XII. To this holy address of the republic, and to the feelings of those men who entertain the same opinion, I will make this short answer:—If, O conscript fathers, I thought it best that Catiline should be punished with death, I would not have given the space of one hour to this gladiator to live in. If, forsooth, those excellent men and most illustrious cities not only did not pollute themselves, but even glorified themselves by the blood of Saturninus, and the Gracchi, and Flaccus, and many others of old time, surely I had no cause to fear lest for slaying this parricidal murderer of the citizens any unpopularity should accrue to me with posterity. And if it did threaten me to ever so great a degree, yet I have always been of the disposition to think unpopularity earned by virtue and glory, not unpopularity.

Though there are some men in this body who either do not see what threatens, or dissemble what they do see; who have fed the hope of Catiline by mild sentiments, and have strengthened the rising conspiracy by not believing it; influenced by whose authority many, and they not wicked, but only ignorant, if I punished him would say that I had acted cruelly and tyranically. But I know that if he arrives at the camp of Manlius to which he is going, there will be no one so stupid as not to see that there has been a conspiracy, no one so hardened as not to confess it. But if this man alone were put to death, I know that this disease of the republic would be only checked for awhile, not eradicated for ever. But if he banishes himself, and takes with him all his friends, and collects at one point all the ruined men from every quarter, then not only will this full-grown plague of the republic be extinguished and eradicated, but also the root and seed of all future evils.

XIII. We have now for a long time, O conscript fathers, lived among these dangers and machinations of conspiracy; but somehow or other, the ripeness of all wickedness, and of this long-standing madness and audacity, has come to a head at the time of my consulship. But if this man alone is removed from this piratical crew, we may appear, perhaps, for a short time relieved from fear and anxiety, but the danger will settle down and lie hid in the veins and bowels of the republic. As it often happens that men afflicted with a severe disease, when they are tortured with heat and fever, if they drink cold water, seem at first to be relieved, but afterwards suffer more and more severely; so this disease which is in the republic, if relieved by the punishment of this man, will only get worse and worse, as the rest will be still alive.

Wherefore, O conscript fathers, let the worthless begone,—let them separate themselves from the good,—let them collect in one place,—let them, as I have often said before, be separated from us by a wall; let them cease to plot against the consul in his own house,—to surround the tribunal of the city prætor,—to besiege the senate-house with swords,—to prepare brands and torches to burn the city; let it, in short, be written on the brow of every citizen, what are his sentiments about the republic. I promise you this, O conscript fathers, that there shall be so much diligence in us the consuls, so much authority in you, so much virtue in the Roman knights, so much unanimity in all good men, that you shall see everything made plain and manifest by the departure of Catiline,—everything checked and punished.

With these omens, O Catiline, begone to your impious and nefarious war, to the great safety of the republic, to your own misfortune and injury, and to the destruction of those who have joined themselves to you in every wickedness and atrocity. Then do you, O Jupiter, who were consecrated by Romulus with the same auspices as this city, whom we rightly call the stay of this city and empire, repel this man and his companions from your altars and from the other temples,—from the houses and walls of the city,—from the lives and fortunes of all the citizens; and overwhelm all the enemies of good men, the foes of the republic, the robbers of Italy, men bound together by a treaty and infamous alliance of crimes, dead and alive, with eternal punishments.

THE SECOND ORATION OF M. T. CICERO AGAINST LUCIUS CATILINA.

ADDRESSED TO THE PEOPLE.

THE ARGUMENT.

Catiline did not venture to make any reply to the former speech, but he begged the senate not to be too hasty in believing everything which was said to his prejudice by one who had always been his enemy, as Cicero had; and alleged his high birth, and the stake which he had in the prosperity of the commonwealth, as arguments to make it appear improbable that he should seek to injure it; and called Cicero a stranger, and a new inhabitant of Rome. But the senate interrupted him with a general outcry, calling him traitor and parricide. Upon which, being rendered furious and desperate, he declared aloud what he had before said to Cato, that since he was circumvented and driven headlong by his enemies, he would quench the flame which his enemies were kindling around him in the common ruin. And so he rushed out of the temple. On his arrival at his own house he held a brief conference with the other conspirators, in which it was resolved that he should go at once to the camp of Manlius, and return as speedily as he could at the head of the army which was there awaiting him. Accordingly, that night he left Rome with a small retinue, and made the best of his way towards Etruria. His friends gave out that he had gone into voluntary banishment at Marseilles; and spread that report through the city the next morning, in order to excite odium against Cicero, as having driven him out without any trial or proof of his guilt. But Cicero was aware of his motions, and knew that he had previously sent a quantity of arms, and military ensigns, and especially a silver eagle which he had been used to keep in his own house with a superstitious reverence, because it had been used by the great Marius in his expedition against the Cimbri. However, he thought it desirable to counteract the story of his having gone into exile, and therefore summoned the people into the forum, and made them the following speech.

I. At length, O Romans, we have dismissed from the city, or driven out, or, when he was departing of his own accord, we have pursued with words, Lucius Catiline, mad with audacity, breathing wickedness, impiously planning mischief to his country, threatening fire and sword to you and to this city. He is gone, he has departed, he has disappeared, he has sallied out. No injury will now be prepared against these

walls within the walls themselves by that monster and prodigy of wickedness. And we have, without controversy, defeated him, the sole general of this domestic war. For now that dagger will no longer hover about our sides; we shall not be afraid in the campus, in the forum, in the senate-house,—ay, and within our own private walls. He was moved from his place when he was driven from the city. Now we shall openly carry on a regular war with an enemy without hindrance. Beyond all question we ruin the man; we have defeated him splendidly when we have driven him from secret treachery into open warfare. But that he has not taken with him his sword red with blood as he intended,—that he has left us alive,—that we wrested the weapon from his hands,—that he has left the citizens safe and the city standing, what great and overwhelming grief must you think that this is to him! Now he lies prostrate, O Romans, and feels himself stricken down and abject, and often casts back his eyes towards this city, which he mourns over as snatched from his jaws, but which seems to me to rejoice at having vomited forth such a pest, and cast it out of doors.

II. But if there be any one of that disposition which all men should have, who yet blames me greatly for the very thing in which my speech exults and triumphs,—namely, that I did not arrest so capital mortal an enemy rather than let him go,—that is not my fault, O citizens, but the fault of the times. Lucius Catiline ought to have been visited with the severest punishment, and to have been put to death long since; and both the customs of our ancestors, and the rigour of my office, and the republic, demanded this of me; but how many, think you, were there who did not believe what I reported? how many who out of stupidity did not think so? how many who even defended him,—how many who, out of their own depravity, favoured him? If, in truth, I had thought that, if he were removed, all danger would be removed from you, I would long since have cut off Lucius Catiline, had it been at the risk, not only of my popularity, but even of my life.

But as I saw that, since the matter was not even then proved to all of you, if I had punished him with death, as he had deserved, I should be borne down by unpopularity, and so be unable to follow up his accomplices, I brought the business on to this point that you might be able to combat openly when

you saw the enemy without disguise. But how exceedingly I think this enemy to be feared now that he is out of doors, you may see from this,—that I am vexed even that he has gone from the city with but a small retinue. I wish he had taken with him all his forces. He has taken with him Tongillus, with whom he had been said to have a criminal intimacy, and Publicius, and Munatius, whose debts contracted in taverns could cause no great disquietude to the republic. He has left behind him others—you all know what men they are, how overwhelmed with debt, how powerful, how noble.

III. Therefore, with our Gallic legions, and with the levies which Quintus Metellus has raised in the Picenian and Gallic territory, and with these troops which are every day being got ready by us, I thoroughly despise that army composed of desperate old men, of clownish profligates, and uneducated spendthrifts; of those who have preferred to desert their bail rather than that army, and which will fall to pieces if I show them not the battle array of our army, but an edict of the prætor. I wish he had taken with him those soldiers of his, whom I see hovering about the forum, standing about the senate-house, even coming into the senate, who shine with ointment, who glitter in purple; and if they remain here, remember that that army is not so much to be feared by us as these men who have deserted the army. And they are the more to be feared, because they are aware that I know what they are thinking of, and yet they are not influenced by it.

I know to whom Apulia has been allotted, who has Etruria, who the Picenian territory, who the Gallic district, who has begged for himself the office of spreading fire and sword by night through the city. They know that all the plans of the preceding night are brought to me. I laid them before the senate yesterday. Catiline himself was alarmed and fled. Why do these men wait? Verily, they are greatly mistaken if they think that former lenity of mine will last for ever

IV. What I have been waiting for, that I have gained,—namely, that you should all see that a conspiracy has been openly formed against the republic; unless, indeed, there be any one who thinks that those who are like Catiline do not agree with Catiline. There is not any longer room for lenity; the business itself demands severity. One thing, even now, I will grant,—let them depart, let them begone. Let them

not suffer the unhappy Catiline to pine away for want of them. I will tell them the road. He went by the Aurelian road. If they make haste, they will catch him by the evening. O happy republic, if it can cast forth these dregs of the republic! Even now, when Catiline alone is got rid of, the republic seems to me relieved and refreshed; for what evil or wickedness can be devised or imagined which he did not conceive? What prisoner, what gladiator, what thief, what assassin, what parricide, what forger of wills, what cheat, what debauchee, what spendthrift, what adulterer, what abandoned woman, what corrupter of youth, what profligate, what scoundrel can be found in all Italy, who does not avow that he has been on terms of intimacy with Catiline? What murder has been committed for years without him? What nefarious act of infamy that has not been done by him?

But in what other man were there ever so many allurements for youth as in him, who both indulged in infamous love for others, and encouraged their infamous affections for himself, promising to some enjoyment of their lust, to others the death of their parents, and not only instigating them to iniquity, but even assisting them in it. But now, how suddenly had he collected, not only out of the city, but even out of the country, a number of abandoned men? No one, not only at Rome, but in every corner of Italy, was overwhelmed with debt whom he did not enlist in this incredible association of wickedness.

V. And, that you may understand the diversity of his pursuits and the variety of his designs, there was no one in any school of gladiators, at all inclined to audacity, who does not avow himself to be an intimate friend of Catiline,— o one on the stage, at all of a fickle and worthless disposition, who does not profess himself his companion. And he, trained in the practice of insult and wickedness, in enduring cold, and hunger, and thirst, and watching, was called a brave man by those fellows, while all the appliances of industry and instruments of virtue were devoted to lust and atrocity.

But if his companions follow him,—if the infamous herd of desperate men depart from the city, O happy shall we be, fortunate will be the republic, illustrious will be the reno n of my consulship. For theirs is no ordinary insolence,—no common and endurable audacity. They think of nothing

but slaughter, conflagration, and rapine. They have dissipated their patrimonies, they have squandered their fortunes. Money has long failed them, and now credit begins to fail; but the same desires remain which they had in their time of abundance. But if in their drinking and gambling parties they were content with feasts and harlots, they would be in a hopeless state indeed; but yet they might be endured. But who can bear this,—that indolent men should plot against the bravest,—drunkards against the sober,—men asleep against men awake,—men lying at feasts, embracing abandoned women, languid with wine, crammed with food, crowned with chaplets, reeking with ointments, worn out with lust, belch out in their discourse the murder of all good men, and the conflagration of the city?

But I am confident that some fate is hanging over these men, and that the punishment long since due to their iniquity, and worthlessness, and wickedness, and lust, is either visibly at hand or at least rapidly approaching. And if my consulship shall have removed, since it cannot cure them, it will have added, not some brief span, but many ages of existence to the republic. For there is no nation for us to fear,—no king who can make war on the Roman people. All foreign affairs are tranquillized, both by land and sea, by the valour of one man. Domestic war alone remains. The only plots against us are within our own walls,—the danger is within,—the enemy is within. We must war with luxury, with madness, with wickedness. For this war, O citizens, I offer myself as the general. I take on myself the enmity of profligate men. What can be cured, I will cure, by whatever means it may be possible. What must be cut away, I will not suffer to spread, to the ruin of the republic. Let them depart, or let them stay quiet; or if they remain in the city and in the same disposition as at present, let them expect what they deserve.

VI. But there are men, O Romans, who say that Catiline has been driven by me into banishment. But if I could do so by a word, I would drive out those also who say so. Forsooth, that timid, that excessively bashful man could not bear the voice of the consul; as soon as he was ordered to go into banishment, he obeyed, he was quiet. Yesterday, when I had been all but murdered at my own house, I convoked the senate in the temple of Jupiter Stator; I related the whole affair to the conscript fathers; and when Catiline came

thither. what senator addressed him? who saluted him? who looked upon him not so much even as an abandoned citizen, as an implacable enemy? Nay the chiefs of that body left that part of the benches to which he came naked and empty.

On this I, that violent consul, who drive citizens into exile by a word, asked of Catiline whether he had been at the nocturnal meeting at Marcus Lecca's, or not; when that most audacious man, convicted by his own conscience, was at first silent. I related all the other circumstances; I described what he had done that night, where he had been, what he had arranged for the next night, how the plan of the whole war had been laid down by him. When he hesitated, when he was convicted, I asked why he hesitated to go whither he had been long preparing to go; when I knew that arms, that the axes, the fasces, and trumpets, and military standards, and that silver eagle to which he had made a shrine in his own house, had been sent on, did I drive him into exile who I knew had already entered upon war? I suppose Manlius, that centurion who has pitched his camp in the Fæsulan district, has proclaimed war against the Roman people in his own name; and that camp is not now waiting for Catiline as its general, and he, driven forsooth into exile, will go to Marseilles, as they say, and not to that camp.

VII. O the hard lot of those, not only of those who govern, but even of those who save the republic. Now, if Lucius Catiline, hemmed in and rendered powerless by my counsels, by my toils, by my dangers, should on a sudden become alarmed, should change his designs, should desert his friends, should abandon his design of making war, should change his path from this course of wickedness and war, and betake himself to flight and exile, he will not be said to have been deprived by me of the arms of his audacity, to have been astounded and terrified by my diligence, to have been driven from his hope and from his enterprise, but, uncondemned and innocent, to have been driven into banishment by the consul by threats and violence; and there will be some who will seek to have him thought not worthless but unfortunate, and me considered not a most active consul, but a most cruel tyrant. I am not unwilling, O Romans, to endure this storm of false and unjust unpopularity as long as the danger of this horrible and nefarious war is warded off from you. Let him be said to be banished by me as long as he goes into banish-

ment; but, believe me, he will not go. I will never ask of the immortal gods, O Romans, for the sake of lightening my own unpopularity, for you to hear that Lucius Catiline is leading an army of enemies, and is hovering about in arms; but yet in three days you will hear it. And I much more fear that it will be objected to me some day or other, that I have let him escape, rather than that I have banished him. But when there are men who say he has been banished because he has gone away, what would these men say if he had been put to death?

Although those men who keep saying that Catiline is going to Marseilles do not complain of this so much as they fear it; for there is not one of them so inclined to pity, as not to prefer that he should go to Manlius rather than to Marseilles. But he, if he had never before planned what he is now doing, yet would rather be slain while living as a bandit, than live as an exile; but now, when nothing has happened to him contrary to his own wish and design,—except, indeed, that he has left Rome while we are alive,—let us wish rather that he may go into exile than complain of it.

VIII. But why are we speaking so long about one enemy; and about that enemy who now avows that he is one; and whom I now do not fear, because, as I have always wished, a wall is between us; and are saying nothing about those who dissemble, who remain at Rome, who are among us? Whom, indeed, if it were by any means possible, I should be anxious not so much to chastise as to cure, and to make friendly to the republic; nor, if they will listen to me, do I quite know why that may not be. For I will tell you, O Romans, of what classes of men those forces are made up, and then, if I can, I will apply to each the medicine of my advice and persuasion.

There is one class of them, who, with enormous debts, have still greater possessions, and who can by no means be detached from their affection to them. Of these men the appearance is most respectable, for they are wealthy, but their intention and their cause are most shameless. Will you be rich in lands, in houses, in money, in slaves, in all things, and yet hesitate to diminish your possessions to add to your credit? What are you expecting? War? What! in the devastation of all things, do you believe that your own possessions will be held sacred? do you expect an abolition of debts?

They are mistaken who expect that from Catiline. There may be schedules made out, owing to my exertions, but they will be only catalogues of sale. Nor can those who have possessions be safe by any other means; and if they had been willing to adopt this plan earlier, and not, as is very foolish, to struggle on against usury with the profits of their farms, we should have them now richer and better citizens. But I think these men are the least of all to be dreaded, because they can either be persuaded to abandon their opinions, or if they cling to them, they seem to me more likely to form wishes against the republic than to bear arms against it.

IX. There is another class of them, who, although they are harassed by debt, yet are expecting supreme power; they wish to become masters. They think that when the republic is in confusion they may gain those honours which they despair of when it is in tranquillity. And they must, I think, be told the same as every one else,—to despair of obtaining what they are aiming at; that in the first place, I myself am watchful for, am present to, am providing for the republic. Besides that, there is a high spirit in the virtuous citizens, great unanimity, great numbers, and also a large body of troops. Above all that, the immortal gods will stand by and bring aid to this invincible nation, this most illustrious empire, this most beautiful city, against such wicked violence. And if they had already got that which they with the greatest madness wish for, do they think that in the ashes of the city and blood of the citizens, which in their wicked and infamous hearts they desire, they will become consuls and dictators and even kings? Do they not see that they are wishing for that which, if they were to obtain it, must be given up to some fugitive slave, or to some gladiator?

There is a third class, already touched by age, but still vigorous from constant exercise; of which class is Manlius himself, whom Catiline is now succeeding. These are men of those colonies which Sylla established at Fæsulæ, which I know to be composed, on the whole, of excellent citizens and brave men; but yet these are colonists, who, from becoming possessed of unexpected and sudden wealth, boast themselves extravagantly and insolently; these men, while they build like rich men, while they delight in farms, in litters, in vast families of slaves, in luxurious banquets, have incurred such great debts, that, if they would be saved, they

must raise Sylla from the dead; and they have even excited some countrymen, poor and needy men, to entertain the same hopes of plunder as themselves. And all these men, O Romans. I place in the same class of robbers and banditti. But, I warn them, let them cease to be mad, and to think of proscriptions and dictatorships; for such a horror of these times is ingrained into the city, that not even men, but it seems to me that even the very cattle would refuse to bear them again.

X. There is a fourth class, various, promiscuous and turbulent; who indeed are now overwhelmed; who will never recover themselves; who, partly from indolence, partly from managing their affairs badly, partly from extravagance, are embarrassed by old debts; and worn out with bail bonds, and judgments and seizures of their goods, are said to be betaking themselves in numbers to that camp both from the city and the country. These men I think not so much active soldiers as lazy insolvents; who, if they cannot stand at first, may fall, but fall so, that not only the city but even their nearest neighbours know nothing of it. For I do not understand why, if they cannot live with honour, they should wish to die shamefully; or why they think they shall perish with less pain in a crowd, than if they perish by themselves.

There is a fifth class, of parricides, assassins, in short of all infamous characters, whom I do not wish to recal from Catiline, and indeed they cannot be separated from him. Let them perish in their wicked war, since they are so numerous that a prison cannot contain them.

There is a last class, last not only in number but in the sort of men and in their way of life; the especial body-guard of Catiline, of his levying; ay, the friends of his embraces and of his bosom; whom you see with carefully combed hair, glossy, beardless, or with well-trimmed beards; with tunics with sleeves, or reaching to the ancles; clothed with veils, not with robes; all the industry of whose life, all the labour of whose watchfulness, is expended in suppers lasting till daybreak.

In these bands are all the gamblers, all the adulterers, all the unclean and shameless citizens. These boys, so witty and delicate, have learnt not only to love and to be loved, not only to sing and to dance, but also to brandish daggers and to administer poisons; and unless they are driven out, unless

they die. even should Catiline die, I warn you that the school of Catiline would exist in the republic. But what do those wretches want? Are they going to take their wives with them to the camp? How can they do without them, especially in these nights? and how will they endure the Apennines, and these frosts, and this snow? unless they think that they will bear the winter more easily because they have been in the habit of dancing naked at their feasts. O war much to be dreaded, when Catiline is going to have his body-guard of prostitutes!

XI. Array now, O Romans, against these splendid troops of Catiline, your guards and your armies; and first of all oppose to that worn-out and wounded gladiator your consuls and generals; then against that banished and enfeebled troop of ruined men lead out the flower and strength of all Italy: instantly the cities of the colonies and municipalities will match the rustic mounds of Catiline; and I will not condescend to compare the rest of your troops and equipments and guards with the want and destitution of that highwayman. But if, omitting all these things in which we are rich and of which he is destitute,—the senate, the Roman knights, the people, the city, the treasury, the revenues, all Italy, all the provinces, foreign nations,—if, I say, omitting all these things, we choose to compare the causes themselves which are opposed to one another, we may understand from that alone how thoroughly prostrate they are. For on the one side are fighting modesty, on the other wantonness; on the one chastity, on the other uncleanness; on the one honesty, on the other fraud; on the one piety, on the other wickedness; on the one consistency, on the other insanity; on the one honour, on the other baseness; on the one continence, on the other lust; in short, equity, temperance, fortitude, prudence, all the virtues contend against iniquity with luxury, against indolence, against rashness, against all the vices; lastly, abundance contends against destitution, good plans against baffled designs, wisdom against madness, well-founded hope against universal despair. In a contest and war of this sort, even if the zeal of men were to fail, will not the immortal gods compel such numerous and excessive vices to be defeated by these most eminent virtues?

XII. And as this is the case, O Romans, do ye, as I have said before, defend your house with guards and vigilance.

I have taken care and made arrangements that there shall be sufficient protection for the city without distressing you and without any tumult. All the colonists and citizens of your municipal towns, being informed by me of this nocturnal sally of Catiline, will easily defend their cities and territories; the gladiators which he thought would be his most numerous and most trusty band, although they are better disposed than part of the patricians, will be held in check by our power. Quintus Metellus, whom I, making provision for this, sent on to the Gallic and Picenian territory, will either overwhelm the man, or will prevent all his motions and attempts; but with respect to the arrangement of all other matters, and maturing and acting on our plans, we shall consult the senate, which, as you are aware, is convened.

Now once more I wish those who have remained in the city, and who, contrary to the safety of the city and of all of you, have been left in the city by Catiline, although they are enemies, yet because they were born citizens, to be warned again and again by me. If my lenity has appeared to any one too remiss, it has been only waiting that that might break out which was lying hid. As to the future, I cannot now forget that this is my country, that I am the consul of these citizens; that I must either live with them, or die for them. There is no guard at the gate, no one plotting against their path; if any one wishes to go, he can provide for himself; but if any one stirs in the city, and if I detect not only any action, but any attempt or design against the country, he shall feel that there are in this city vigilant consuls, eminent magistrates, a brave senate, arms, and prisons; which our ancestors appointed as the avengers of nefarious and convicted crimes.

XIII. And all this shall be so done, O Romans, that affairs of the greatest importance shall be transacted with the least possible disturbance; the greatest dangers shall be avoided without any tumult; an internal civil war the most cruel and terrrible in the memory of man, shall be put an end to by me alone in the robe of peace acting as general and commander-in-chief. And this I will so arrange, O Romans, that if it can be by any means managed, even the most worthless man shall not suffer the punishment of his crimes in this city. But if the violence of open audacity, if danger impending over the republic drives me of necessity from this merciful disposition, at all events I will manage this, which seems

scarcely even to be hoped for in so great and so treacherous a war, that no good man shall fall, and that you may all be saved by the punishment of a few.

And I promise you this, O Romans, relying neither on my own prudence, nor on human counsels, but on many and manifest intimations of the will of the immortal gods; under whose guidance I first entertained this hope and this opinion; who are now defending their temples and the houses of the city, not afar off, as they were used to, from a foreign and distant enemy, but here on the spot, by their own divinity and present help. And you, O Romans, ought to pray to and implore them to defend from the nefarious wickedness of abandoned citizens, now that all the forces of all enemies are defeated by land and sea, this city which they have ordained to be the most beautiful and flourishing of all cities.

THE THIRD ORATION OF M. T. CICERO AGAINST LUCIUS CATILINA.

ADDRESSED TO THE PEOPLE.

THE ARGUMENT.

While Cicero was addressing the preceding speech to the people, a debate was going on in the senate of which we have no account. In the meanwhile Catiline, after staying a few days on the road to raise the country as he passed along, where his agents had been previously busy among the people, proceeded to Manlius's camp with the fasces and all the ensigns of military command displayed before him. Upon this news the senate immediately declared him and Manlius public enemies; they offered pardon to all his followers who should return to their duty by a certain day; and ordered the consuls to make new levies, and that Antonius should follow Catiline with his army, and Cicero remain behind to protect the city.

In the meantime Lentulus, and the other conspirators who remained behind, were proceeding with their designs. And among other steps, they decided on endeavouring to tamper with some ambassadors from the Allobroges,[1] who were at that moment within the city, as the Allobroges were supposed not to be very well affected to the Roman power. At first these ambassadors appear to have willingly given

[1] The Allobroges occupied the districts of Dauphiné and Savoy.

ear to their proposals; but after a while they began to consider the difficulty of the business proposed to them, and the danger which would ensue to their state if it failed after they had become implicated in it; and accordingly they revealed the business to Quintus Fabius Sanga, the patron of their city, who communicated it to Cicero Cicero desired the ambassadors to continue to listen to the proposals of the conspirators, till they had become fully acquainted with the extent of the plot, and till they were able to furnish him with full evidence against the actors in it; and by his suggestion they required the conspirators to furnish them with credentials to show to their countrymen. This was thought reasonable by Lentulus and his party, and they accordingly appointed a man named Vulturcius to accompany them, who was to introduce them to Catiline on their road, in order to confirm the agreement, and to exchange pledges with him, and Lentulus also furnished them with a letter to Catiline under his own hand and seal, though not signed. Cicero being privately informed of all these particulars, concerted with the ambassadors the time and manner of their leaving Rome by night, and had them arrested on the Mulvian bridge, about a mile from the city, with these letters and papers in their possession. This was all done, and they brought as prisoners to Cicero's house early in the morning.

Cicero immediately summoned the senate; and at the same time he sent for Lentulus, Cethegus, and others of the conspirators who were more especially implicated, such as Gabinius and Statilius, who all came immediately to his house, being ignorant of the discovery that had taken place. Being informed also that a quantity of arms had been provided by Cethegus for the purpose of the conspiracy, he orders Caius Sulpicius, one of the prætors, to search his house, and he did so, and found a great number of swords and daggers ready cleaned and fit for use.

He then proceeds to meet the senate in the Temple of Concord, with the ambassadors and conspirators in custody. He relates the whole affair to them, and introduces Vulturcius to be examined before them. Cicero, by the order of the senate, promises him pardon and reward if he reveals what he knew. On which he confesses everything; tells them that he had letters from Lentulus to Catiline to urge him to avail himself of the assistance of the slaves, and to lead his army with all expedition against Rome; in order, when the city had been set on fire, and the massacre commenced, that he might be able to intercept and destroy those who fled.

Then the ambassadors were examined, who declared that they had received letters to the chief men of their nation from Lentulus, Cethegus, and Statilius; and that they, and Lucius Cassius also, begged them to send a body of cavalry into Italy, and that Lentulus assured them, from the Sibylline books, that he was the third[1] Cornelius who was destined to reign at Rome. The letters were produced and opened. On the sight of them the conspirators respectively acknowledged them to be theirs, and Lentulus was even so conscience-stricken that he confessed his whole crime.

The senate passed a vote acknowledging the services of Cicero in the

[1] Cinna and Sylla had been the two former Cornelii.

most ample terms, and voted that Lentulus should be deposed from his office of prætor, and, with all the other conspirators, committed to safe custody. Cicero, after the senate adjourned, proceeded to the forum and gave an account to the people of everything which had passed, both in regard to the steps that he had taken to detect the whole conspiracy, and to convict the conspirators; and also of what had taken place in the senate, and of the votes and resolutions which that body had just passed.

While the prisoners were before the senate he had copies of their examinations and confessions taken down, and dispersed through Italy and all the provinces. This happened on the third of December.

I. YOU see this day, O Romans, the republic, and all your lives, your goods, your fortunes, your wives and children, this home of most illustrious empire, this most fortunate and beautiful city, by the great love of the immortal gods for you, by my labours and counsels and dangers, snatched from fire and sword, and almost from the very jaws of fate, and preserved and restored to you.

And if those days on which we are preserved are not less pleasant to us, or less illustrious, than those on which we are born, because the joy of being saved is certain, the good fortune of being born uncertain, and because we are born without feeling it, but we are preserved with great delight; ay, since we have, by our affection and by our good report, raised to the immortal gods that Romulus who built this city, he, too, who has preserved this city, built by him, and embellished as you see it, ought to be held in honour by you and your posterity; for we have extinguished flames which were almost laid under and placed around the temples and shrines, and houses and walls of the whole city; we have turned the edge of swords drawn against the republic, and have turned aside their points from your throats. And since all this has been displayed in the senate, and made manifest, and detected by me, I will now explain it briefly, that you, O citizens, that are as yet ignorant of it, and are in suspense, may be able to see how great the danger was, how evident and by what means it was detected and arrested. First of all, since Catiline, a few days ago, burst out of the city, when he had left behind the companions of his wickedness, the active leaders of this infamous war, I have continually watched and taken care, O Romans, of the means by which we might be safe amid such great and such carefully concealed treachery.

II. Further, when I drove Catiline out of the city, (for I do not fear the unpopularity of this expression, when that is

more to be feared that I should be blamed because he has departed alive,) but then when I wished him to be removed, I thought either that the rest of the band of conspirators would depart with him, or that they who remained would be weak and powerless without him.

And I, as I saw that those whom I knew to be inflamed with the greatest madness and wickedness were among us, and had remained at Rome, spent all my nights and days in taking care to know and see what they were doing, and what they were contriving; that, since what I said would, from the incredible enormity of the wickedness, make less impression on your ears, I might so detect the whole business that you might with all your hearts provide for your safety, when you saw the crime with your own eyes. Therefore, when I found that the ambassadors of the Allobroges had been tampered with by Publius Lentulus, for the sake of exciting a Transalpine war and commotion in Gaul, and that they, on their return to Gaul, had been sent with letters and messages to Catiline on the same road, and that Vulturcius had been added to them as a companion, and that he too had had letters given him for Catiline, I thought that an opportunity was given me of contriving what was most difficult, and which I was always wishing the immortal gods might grant, that the whole business might be manifestly detected not by me alone, but by the senate also, and by you.

Therefore, yesterday I summoned Lucius Flaccus and C. Pomtinus, the prætors, brave men and well-affected to the republic. I explained to them the whole matter, and showed them what I wished to have done. But they, full of noble and worthy sentiments towards the republic, without hesitation, and without any delay, undertook the business, and when it was evening, went secretly to the Mulvian bridge, and there so distributed themselves in the nearest villas, that the Tiber and the bridge was between them. And they took to the same place, without any one having the least suspicion of it, many brave men, and I had sent many picked young men of the prefecture of Reate, whose assistance I constantly employ in the protection of the republic, armed with swords. In the meantime, about the end of the third watch, when the ambassadors of the Allobroges, with a great retinue and Vulturcius with them, began to come upon the Mulvian bridge, an attack is made upon them; swords are drawn both by

them and by our people; the matter was understood by the prætors alone, but was unknown to the rest.

III. Then, by the intervention of Pomtinus and Flaccus, the fight which had begun was put an end to; all the letters which were in the hands of the whole company are delivered to the prætors with the seals unbroken; the men themselves are arrested and brought to me at daybreak. And I immediately summoned that most worthless contriver of all this wickedness, Gabinius, as yet suspecting nothing; after him, P. Statilius is sent for, and after him Cethegus; but Lentulus was a long time in coming,—I suppose, because, contrary to his custom, he had been up a long time the night before, writing letters.

But when those most noble and excellent men of the whole city, who, hearing of the matter, came in crowds to me in the morning, thought it best for me to open the letters before I related the matter to the senate, lest, if nothing were found in them, so great a disturbance might seem to have been caused to the state for nothing, I said I would never so act as shrink from referring matter of public danger to the public council. In truth if, O Romans, these things which had been reported to me had not been found in them, yet I did not think I ought, in such a crisis of the republic, to be afraid of the imputation of over-diligence. I quickly summoned a full senate, as you saw; and meantime, without any delay, by the advice of the Allobroges, I sent Caius Sulpicius the prætor, a brave man, to bring whatever arms he could find in the house of Cethegus, whence he did bring a great number of swords and daggers.

IV. I introduced Vulturcius without the Gauls. By the command of the senate, I pledged him the public faith for his safety. I exhorted him fearlessly to tell all he knew. Then, when he had scarcely recovered himself from his great alarm, he said: that he had messages and letters for Catiline, from Publius Lentulus, to avail himself of the guard of the slaves, and to come towards the city with his army as quickly as possible; and that was to be done with the intention that, when they had set fire to the city on all sides, as it had been arranged and distributed, and had made a great massacre of the citizens, he might be at hand to catch those who fled, and to join himself to the leaders within the city. But the Gauls being introduced, said that an oath had been administered to

them, and letters given them by Publius Lentulus, Cethegus, and Statilius, for their nation; and that they had been enjoined by them, and by Lucius Cassius, to send cavalry into Italy as early as possible; that infantry should not be wanting; and that Lentulus had assured him, from the Sibylline oracles and the answers of soothsayers, that he was that third Cornelius to whom the kingdom and sovereignty over this city was fated to come; that Cinna and Sylla had been before him; and that he had also said that was the year destined to the destruction of this city and empire, being the tenth year after the acquittal of the virgins, and the twentieth after the burning of the Capitol. But they said there had been this dispute between Cethegus and the rest,—that Lentulus and others thought it best that the massacre should take place and the city be burnt at the Saturnalia, but that Cethegus thought it too long to wait.

V. And, not to detain you, O Romans, we ordered the letters to be brought forward which were said to have been given them by each of the men. First, I showed his seal to Cethegus; he recognised it: we cut the thread; we read the letter. It was written with his own hand: that he would do for the senate and people of the Allobroges what he had promised their ambassadors; and that he begged them also to do what their ambassadors had arranged. Then Cethegus, who a little before had made answer about the swords and daggers which had been found in his house, and had said that he had always been fond of fine arms, being stricken down and dejected at the reading of his letters, convicted by his own conscience, became suddenly silent. Statilius, being introduced, owned his handwriting and his seal. His letters were read, of nearly the same tenor: he confessed it. Then I showed Lentulus his letters, and asked him whether he recognised the seal? He nodded assent. But it is, said I, a well-known seal;—the likeness of your grandfather, a most illustrious man, who greatly loved his country and his fellow-citizens; and it, even though silent, ought to have called you back from such wickedness.

Letters are read of the same tenor to the senate and people of the Allobroges. I offered him leave, if he wished to say anything of these matters: and at first he declined to speak; but a little afterwards, when the whole examination had been gone through and concluded, he rose. He asked the Gauls what he

had had to do with them? why they had come to his house? and he asked Vulturcius too. And when they had answered him briefly and steadily, under whose guidance they had come to him, and how often; and when they asked him whether he had said nothing to them about the Sibylline oracles; then he on a sudden, mad with wickedness, showed how great was the power of conscience; for though he might have denied it, he suddenly, contrary to every one's expectation, confessed it: so not only did his genius and skill in oratory, for which he was always eminent, but even, through the power of his manifest and detected wickedness, that impudence, in which he surpassed all men, and audacity deserted him.

But Vulturcius on a sudden ordered the letters to be produced and opened which he said had been given to him for Catiline, by Lentulus. And though Lentulus was greatly agitated at that, yet he acknowledged his seal and his handwriting; but the letter was anonymous, and ran thus:—"Who I am you will know from him whom I have sent to you: take care to behave like a man, and consider to what place you have proceeded, and provide for what is now necessary for you: take care to associate to yourself the assistance of every one, even of the powerless." Then Gabinius being introduced, when at first he had begun to answer impudently, at last denied nothing of those things which the Gauls alleged against him. And to me, indeed, O Romans, though the letters, the seals, the handwriting, and the confession of each individual seemed most certain indications and proofs of wickedness, yet their colour, their eyes, their countenance, their silence, appeared more certain still; for they stood so stupified, they kept their eyes so fixed on the ground, at times looking stealthily at one another, that they appeared now not so much to be informed against by others as to be informing against themselves.

VI. Having produced and divulged these proofs, O Romans, I consulted the senate what ought to be done for the interests of the republic. Vigorous and fearless opinions were delivered by the chief men, which the senate adopted without any variety; and since the decree of the senate is not yet written out, I will relate to you from memory, O citizens, what the senate has decreed. First of all, a vote of thanks to me is passed in the most honourable words, because the republic has been delivered from the greatest dangers by my valour

and wisdom, and prudence. Then Lucius Flaccus and Caius Pomtinus, the prætors, are deservedly and rightly praised, because I had availed myself of their brave and loyal assistance. And also, praise is given to that brave man, my colleague, because he had removed from his counsels, and from the counsels of the republic, those who had been accomplices in this conspiracy. And they voted that Publius Lentulus, when he had abdicated the prætorship, should be given into custody; and also, that Caius Cethegus, Lucius Statilius, Publius Gabinius, who were all present, should be given into custody: and the same decree was passed against Lucius Cassius, who had begged for himself the office of burning the city; against Marcus Caparius, to whom it had been proved that Apulia had been allotted for the purpose of exciting disaffection among the shepherds; against Publius Furius, who belongs to the colonies which Lucius Sylla led to Fæsulæ; against Quintus Manlius Chilo, who was always associated with this man Furius in his tampering with the Allobroges; against Publius Umbrenus, a freedman, by whom it was proved that the Gauls were originally brought to Gabinius.

And the senate, O citizens, acted with such lenity, that, out of so great a conspiracy, and such a number and multitude of domestic enemies, it thought that since the republic was saved, the minds of the rest might be restored to a healthy state by the punishment of nine most abandoned men. And also a supplication[1] was decreed in my name, (which is the first time since the building of the city that such an honour has ever been paid to a man in a civil capacity,) to the immortal gods, for their singular kindness. And it was decreed in these words, "because I had delivered the city from conflagration, the citizens from massacre, and Italy from war." And if this supplication be compared with others, O citizens, there is this difference between them,—that all others have been appointed because of the successes of the

[1] A supplication was a solemn thanksgiving to the gods, decreed by the senate, when all the temples were opened and the statues of the gods placed in public upon couches (*pulvinaria*), to which the people offered up their thanksgivings and prayers. It was usually decreed on the intelligence arriving of any great victory, and the number of days which it was to last was proportioned to the importance of the victory. It was generally regarded as a prelude to a triumph. Of course, from what has been said, it must have been usually confined to generals; who laid aside the *toga* on leaving the city to assume the command of the army, and assumed the *paludamentum*, or military robe.

republic; this one alone for its preservation. And that which was the first thing to be done, has been done and executed; for Publius Lentulus, though, being convicted by proofs and by his own confession, by the judgment of the senate he had lost not only the rights of a prætor, but also those of a citizen, still resigned his office; so that, though Caius Marcius, that most illustrious of men, had no scruples about putting to death Caius Glaucius the prætor, against whom nothing had been decreed by name, still we are relieved from that scruple in the case of Publius Lentulus, who is now a private individual.

VII. Now, since, O citizens, you have the nefarious leaders of this most wicked and dangerous war taken prisoners and in your grasp, you ought to think that all the resources of Catiline,—all his hopes and all his power, now that these dangers of the city are warded off, have fallen to pieces. And, indeed, when I drove him from the city, I foresaw in my mind, O citizens, that if Catiline were removed, I had no cause to fear either the drowsiness of Publius Lentulus, or the fat of Lucius Cassius, or the mad rashness of Cassius Cethegus. He alone was to be feared of all these men, and that, only as long as he was within the walls of the city. He knew everything, he had access to everybody. He had the skill and the audacity to address, to tempt, and to tamper with every one. He had acuteness suited to crime; and neither tongue nor hand ever failed to support that acuteness. Already he had men he could rely on, chosen and distributed for the execution of all other business; and when he had ordered anything to be done, he did not think it was done on that account. There was nothing to which he did not personally attend and see to,—for which he did not watch and toil. He was able to endure cold, thirst, and hunger.

Unless I had driven this man, so active, so ready, so audacious, so crafty, so vigilant in wickedness, so industrious in criminal exploits, from his plots within the city to the open warfare of the camp, (I will express my honest opinion, O citizens,) I should not easily have removed from your necks so vast a weight of evil. He would not have determined on the Saturnalia[1] to massacre you,—he would not

[1] The Saturnalia was a feast of Saturn at which extraordinary licence and indulgence was allowed to all the slaves; it took place at the end of December, while this speech of Cicero was delivered early in November

have announced the destruction of the republic, and even the day of its doom so long beforehand,—he would never have allowed his seal and his letters, the undeniable witnesses of his guilt, to be taken, which now, since he is absent, has been so done that no larceny in a private house has ever been so thoroughly and clearly detected as this vast conspiracy against the republic. But if Catiline had remained in the city to this day, although, as long as he was so, I met all his designs and withstood them; yet, to say the least, we should have had to fight with him, and should never, while he remained as an enemy in the city, have delivered the republic from such dangers, with such ease, such tranquillity, and such silence.

VIII. Although all these things, O Romans, have been so managed by me, that they appear to have been done and provided for by the order and design of the immortal gods; and as we may conjecture this because the direction of such weighty affairs scarcely appears capable of having been carried out by human wisdom; so, too, they have at this time so brought us present aid and assistance, that we could almost behold them without eyes. For to say nothing of those things, namely, the firebrands seen in the west in the night time, and the heat of the atmosphere,—to pass over the falling of thunderbolts and the earthquakes,—to say nothing of all the other portents which have taken place in such numbers during my consulship, that the immortal gods themselves have been seeming to predict what is now taking place; yet, at all events, this which I am about to mention, O Romans, must be neither passed over nor omitted.

For you recollect, I suppose, when Cotta and Torquatus were consuls, that many towers in the Capitol were struck with lightning, when both the images of the immortal gods were moved, and the statues of many ancient men were thrown down, and the brazen tablets on which the laws were written were melted. Even Romulus, who built this city, was struck, which, you recollect, stood in the Capitol, a gilt statue, little and sucking, and clinging to the teats of the wolf. And when at this time the soothsayers were assembled out of all Etruria, they said that slaughter, and conflagration, and the overthrow of the laws, and civil and domestic war, and the fall of the whole city and empire was at hand, unless the immortal gods, being appeased in every possible manner, by their own power turned aside, as I may say, the very fates themselves.

Therefore, according to their answers, games were celebrated for ten days, nor was anything omitted which might tend to the appeasing of the gods. And they enjoined also that we should make a greater statue of Jupiter, and place it in a lofty situation, and (contrary to what had been done before) turn it towards the east. And they said that they hoped that if that statue which you now behold looked upon the rising of the sun, and the forum, and the senate-house, then those designs which were secretly formed against the safety of the city and empire would be brought to light, so as to be able to be thoroughly seen by the senate and by the Roman people. And the consuls ordered it to be so placed; but so great was the delay in the work, that it was never set up by the former consuls, nor by us before this day.

IX. Here who, O Romans, can there be so obstinate against the truth, so headstrong, so void of sense, as to deny that all these things which we see, and especially this city, is governed by the divine authority and power of the immortal gods? Forsooth, when this answer had been given,—that massacre, and conflagration, and ruin was prepared for the republic; and that, too, by profligate citizens, which, from the enormity of the wickedness, appeared incredible to some people, you found that it had not only been planned by wicked citizens, but had even been undertaken and commenced. And is not this fact so present that it appears to have taken place by the express will of the good and mighty Jupiter, that, when this day, early in the morning, both the conspirators and their accusers were being led by my command through the forum to the Temple of Concord, at that very time the statue was being erected? And when it was set up, and turned towards you and towards the senate, the senate and you yourselves saw everything which had been planned against the universal safety brought to light and made manifest.

And on this account they deserve even greater hatred and greater punishment, for having attempted to apply their fatal and wicked fire, not only to your houses and homes, but even to the shrines and temples of the Gods. And if I were to say that it was I who resisted them, I should take too much to myself, and ought not to be borne. He—he, Jupiter, resisted them. He determined that the Capitol should be safe, he saved these temples, he saved this city, he saved all of you.

It is under the guidance of the immortal gods, O Romans, that I have cherished the intention and desires which I have, and have arrived at such undeniable proofs. Surely, that tampering with the Allobroges would never have taken place, so important a matter would never have been so madly entrusted, by Lentulus and the rest of our internal enemies, to strangers and foreigners, such letters would never have been written, unless all prudence had been taken by the immortal gods from such terrible audacity. What shall I say? That Gauls, men from a state scarcely at peace with us, the only nation existing which seems both to be able to make war on the Roman people, and not to be unwilling to do so,—that they should disregard the hope of empire and of the greatest success voluntarily offered to them by patricians, and should prefer your safety to their own power—do you not think that that was caused by divine interposition? especially when they could have destroyed us, not by fighting, but by keeping silence.

X. Wherefore, O citizens, since a supplication has been decreed at all the altars, celebrate those days with your wives and children; for many just and deserved honours have been often paid to the immortal gods, but juster ones never. For you have been snatched from a most cruel and miserable destruction, and you have been snatched from it without slaughter, without bloodshed, without an army, without a battle. You have conquered in the garb of peace, with me in the garb of peace for your only general and commander.

Remember, O citizens, all civil dissensions, and not only those which you have heard of, but these also which you yourselves remember and have seen. Lucius Sylla crushed Publius Sulpicius;[1] he drove from the city Caius Marius the guardian of this city; and of many other brave men some he drove from the city, and some he murdered. Cnæus Octavius the consul drove his colleague by force of arms out of the city; all this place was crowded with heaps of carcases and

[1] Sulpicius procured a law to be passed for taking the command against Mithridates from Sylla and giving it to Marius; Sylla came to Rome with his army and slew Sulpicius, when Marius fled to Africa. Sylla made Octavius and Cinna consuls, who quarrelled after he was gone, and Cinna went over to the party of Marius, who returned to Rome. Lepidus and Catulus were consuls the year after the death of Sylla, and they quarrelled because Lepidus wished to rescind all the acts of Sylla. Lepidus was defeated, fled to Sardinia, and died there.

flowed with the blood of citizens; afterwards Cinna and Marius got the upper hand; and then most illustrious men were put to death, and the lights of the state were extinguished. Afterwards Sylla avenged the cruelty of this victory; it is needless to say with what a diminution of the citizens, and with what disasters to the republic. Marcus Lepidus disagreed with that most eminent and brave man Quintus Catulus. His death did not cause as much grief to the republic as that of the others.

And these dissensions, O Romans, were such as concerned not the destruction of the republic, but only a change in the constitution. They did not wish that there should be no republic, but that they themselves should be the chief men in that which existed; nor did they desire that the city should be burnt, but that they themselves should flourish in it. And yet all those dissensions, none of which aimed at the destruction of the republic, were such that they were to be terminated not by a reconciliation and concord, but only by internecine war among the citizens. But in this war alone, the greatest and most cruel in the memory of man,—a war such as even the countries of the barbarians have never waged with their own tribes,—a war in which this law was laid down by Lentulus, and Catiline, and Cassius, and Cethegus, that every one, who could live in safety as long as the city remained in safety, should be considered as an enemy,—in this war I have so managed matters, O Romans, that you should all be preserved in safety; and though your enemies had thought that only such a number of the citizens would be left as had held out against an interminable massacre, and only so much of the city as the flames could not devour, I have preserved both the city and the citizens unhurt and undiminished.

XI. And for these exploits, important as they are, O Romans, I ask from you no reward of virtue, no badge of honour, no monument of my glory, beyond the everlasting recollection of this day. In your minds I wish all my triumphs, all my decorations of honour, the monuments of my glory, the badges of my renown, to be stored and laid up. Nothing voiceless can delight me, nothing silent,—nothing, in short, such as even those who are less worthy can obtain. In your memory, O Romans, my name shall be cherished, in your discourses it shall grow, in the monuments of your letters it shall grow old and strengthen; and I feel assured

that the same day which I hope will be for everlasting, will be remembered for ever, so as to tend both to the safety of the city and the recollection of my consulship; and that it will be remembered that there existed in this city at the same time two citizens, one of whom limited the boundaries of your empire only by the regions of heaven, not by those of the earth, while the other preserved the abode and home of that same empire.

XII. But since the fortune and condition of those exploits which I have performed is not the same with that of those men who have directed foreign wars—because I must live among those whom I have defeated and subdued, they have left their enemies either slain or crushed,—it is your business O Romans, to take care, if their good deeds are a benefit to others, that mine shall never be an injury to me. For that the wicked and profligate designs of audacious men shall not be able to injure you, I have taken care; it is your business to take care that they do not injure me. Although, O Romans, no injury can be done to me by them,—for there is a great protection in the affection of all good men, which is procured for me for ever; there is great dignity in the republic, which will always silently defend me; there is great power in conscience, and those who neglect it, when they desire to attack me will destroy themselves.

There is moreover that disposition in me, O Romans, that I not only will yield to the audacity of no one, but that I always voluntarily attack the worthless. And if all the violence of domestic enemies being warded off from you turns itself upon me alone, you will have to take care, O Romans, in what condition you wish those men to be for the future, who for your safety have exposed themselves to unpopularity and to all sorts of dangers. As for me, myself, what is there which now can be gained by me for the enjoyment of life, especially when neither in credit among you, nor in the glory of virtue, do I see any higher point to which I can be desirous to climb?

That indeed I will take care of, O Romans, as a private man to uphold and embellish the exploits which I have performed in my consulship: so that, if there has been any unpopularity incurred in preserving the republic, it may injure those who envy me, and may tend to my glory. Lastly, I will so behave myself in the republic as always to remember what I

have done, and to take care that they shall appear to have been done through virtue, and not by chance. Do you, O Romans, since it is now night, worship that Jupiter, the guardian of this city and of yourselves, and depart to your homes; and defend those homes, though the danger is now removed, with guard and watch as you did last night. That you shall not have to do so long, and that you shall enjoy perpetual tranquillity, shall, O Romans, be my care.

THE FOURTH ORATION OF M. T. CICERO AGAINST LUCIUS CATILINA

DELIVERED IN THE SENATE.

THE ARGUMENT.

The night after the events mentioned in the argument to the preceding oration, Cicero's wife Terentia, with the vestal virgins, was performing at home the mystic rites of the Bona Dea, while Cicero was deliberating with his friends on the best mode of punishing the conspirators. Terentia interrupted their deliberations by coming in to inform them of a prodigy which had just happened; that after the sacrifice in which she had been engaged was over, the fire revived spontaneously; on which the vestal virgins had sent her to him, to inform him of it, and to bid him pursue what he was then thinking of and intending for the good of his country, since the goddess had given this sign that she was watching over his safety and glory.

The next day the senate ordered public rewards to the ambassadors and to Vulturcius; and showed signs of intending to proceed with extreme rigour against the conspirators; when, on a sudden, rumours arose of plots having been formed by the slaves of Lentulus and Cethegus for their masters' rescue; which obliged Cicero to double all the guards, and determined him to prevent any repetition of such attempts by bringing before the senate without delay the question of the punishment of the prisoners. On which account he summoned the senate to meet the next morning.

There were many difficulties in the matter. Capital punishments were unusual and very unpopular at Rome. And there was an old law of Porcius Lecca, a tribune of the people, which granted to all criminals who were capitally condemned an appeal to the people; and also a law had been passed, since his time, by Caius Gracchus, to prohibit the taking away the life of any citizen without a formal hearing before the people. And these considerations had so much weight with some of the senators, that they absented themselves from the senate during this debate, in order to have no share in sentencing

prisoners of such high rank to death. The debate was opened by Silanus, the consul elect, who declared his opinion, that those in custody, and those also who should be taken subsequently, should all be put to death. Every one who followed him agreed with him, till Julius Cæsar, the prætor elect, (who has been often suspected of having been, at least to some extent, privy to the conspiracy,) rose, and in an elaborate speech proposed that they should not be put to death, but that their estates should be confiscated, and they themselves kept in perpetual confinement. Cato opposed him with great earnestness. But some of Cicero's friends appeared inclined to Cæsar's motion, thinking it a safer measure for Cicero himself; but when Cicero perceived this, he rose himself, and discussed the opinions both of Silanus and Cæsar in the following speech, which decided the senate to vote for their condemnation. And as soon as the vote had passed, Cicero went immediately from the senate house, took Lentulus from the custody of his kinsman Lentulus Spinther, and delivered him to the executioner. The other conspirators, Cethegus, Statilius, Gabinius, &c., were in like manner conducted to execution by the prætors; and Cicero was conducted home to his house in triumph by the whole body of the senate and by the knights, the whole multitude following him, and saluting him as their deliverer.

I. I SEE, O conscript fathers, that the looks and eyes of you all are turned towards me; I see that you are anxious not only for your own danger and that of the republic, but even, if that be removed, for mine. Your good-will is delightful to one amid evils, and pleasing amid grief; but I entreat you, in the name of the immortal gods, lay it aside now, and, forgetting my safety, think of yourselves and of your children. If, indeed, this condition of the consulship has been allotted to me, that I should bear all bitterness, all pains and tortures, I will bear them not only bravely but even cheerfully, provided that by my toils dignity and safety are procured for you and for the Roman people.

I am that consul, O conscript fathers, to whom neither the forum in which all justice is contained, nor the Campus Martius,[1] consecrated to the consular assemblies, nor the senate house, the chief assistance of all nations, nor my own home, the common refuge of all men, nor my bed devoted to rest, in short, not even this seat of honour, this curule chair, has ever been free from the danger of death, or from plots and treachery. I have been silent about many things, I have borne much, I have conceded much, I have remedied

[1] The *Campus Martius* was consecrated or restored to Mars after the expulsion of the Tarquins; the *comitia centuriata* at which all magistrates were created were held there.

many things with some pain to myself, amid the alarm of you all. Now if the immortal gods have determined that there shall be this end to my consulship, that I should snatch you, O conscript fathers, and the Roman people from miserable slaughter, your wives and children and the vestal virgins from most bitter distress, the temples and shrines of the gods, and this most lovely country of all of us, from impious flames, all Italy from war and devastation; then, whatever fortune is laid up for me by myself, it shall be borne. If, indeed, Publius Lentulus, being led on by soothsayers, believed that his name was connected by destiny with the destruction of the republic, why should not I rejoice that my consulship has taken place almost by the express appointment of fate for the preservation of the republic?

II. Wherefore, O conscript fathers, consult the welfare of yourselves, provide for that of the republic; preserve yourselves, your wives, your children, and your fortunes; defend the name and safety of the Roman people; cease to spare me, and to think of me. For, in the first place, I ought to hope that all the gods who preside over this city will show me gratitude in proportion as I deserve it; and in the second place, if anything does happen to me, I shall fall with a contented and prepared mind; and, indeed, death cannot be disgraceful to a brave man, nor premature to one of consular rank, nor miserable to a wise man. Not that I am a man of so iron a disposition as not to be moved by the grief of a most dear and affectionate brother now present, and by the tears of all these men by whom you now see me surrounded. Nor does my fainting wife, my daughter prostrate with fear, and my little son whom the republic seems to me to embrace as a sort of hostage for my consulship, the son-in-law who, awaiting the end of that day, is now standing in my sight, fail often to recal my mind to my home. I am moved by all these circumstances, but in such a direction as to wish that they all may be safe together with you, even if some violence overwhelms me, rather than that both they and we should perish together with the republic.

Wherefore, O conscript fathers, attend to the safety of the republic; look round upon all the storms which are impending, unless you guard against them. It is not Tiberius Gracchus, who wished to be made a second time a tribune of the people; it is not Caius Gracchus, who endeavoured to excite the par-

tisans of the agrarian law; it is not Lucius Saturninus, who slew Memmius, who is now in some danger, who is now brought before the tribunal of your severity. They are now in your hands who withstood all Rome, with the object of bringing conflagration on the whole city, massacre on all of you, and of receiving Catiline; their letters are in your possession, their seals, their handwriting, and the confession of each individual of them; the Allobroges are tampered with, the slaves are excited, Catiline is sent for; the design is actually begun to be put in execution, that all should be put to death, so that no one should be left even to mourn the name of the republic, and to lament over the downfal of so mighty a dominion.

III. All these things the witnesses have informed you of, the prisoners have confessed, you by many judgments have already decided; first, because you have thanked me in unprecedented language, and have passed a vote that the conspiracy of abandoned men has been laid open by my virtue and diligence; secondly, because you have compelled Publius Lentulus to abdicate the prætorship; again, because you have voted that he and the others about whom you have decided should be given into custody; and above all, because you have decreed a supplication in my name, an honour which has never been paid to any one before acting in a civil capacity; last of all, because yesterday you gave most ample rewards to the ambassadors of the Allobroges and to Titus Vulturcius; all which acts are such that they, who have been given into custody by name, without any doubt seem already condemned by you.

But I have determined to refer the business to you as a fresh matter, O conscript fathers, both as to the fact, what you think of it, and as to the punishment, what you vote. I will state what it behoves the consul to state. I have seen for a long time great madness existing in the republic, and new designs being formed, and evil passions being stirred up, but I never thought that so great, so destructive a conspiracy as this was being meditated by citizens. Now to whatever point your minds and opinions incline, you must decide before night. You see how great a crime has been made known to you; if you think that but few are implicated in it you are greatly mistaken; this evil has spread wider than you think; it has spread not only throughout Italy, but it

has even crossed the Alps, and creeping stealthily on, it has already occupied many of the provinces; it can by no means be crushed by tolerating it, and by temporising with it; however you determine on chastising it, you must act with promptitude.

IV. I see that as yet there are two opinions. One that of Decius Silanus, who thinks that those who have endeavoured to destroy all these things should be punished with death; the other, that of Caius Cæsar, who objects to the punishment of death, but adopts the most extreme severity of all other punishment. Each acts in a manner suitable to his own dignity and to the magnitude of the business with the greatest severity. The one thinks that it is not right that those, who have attempted to deprive all of us and the whole Roman people of life, to destroy the empire, to extinguish the name of the Roman people, should enjoy life and the breath of heaven common to us all, for one moment; and he remembers that this sort of punishment has often been employed against worthless citizens in this republic. The other feels that death was not appointed by the immortal gods for the sake of punishment, but that it is either a necessity of nature, or a rest from toils and miseries; therefore wise men have never met it unwillingly, brave men have often encountered it even voluntarily. But imprisonment, and that too perpetual, was certainly invented for the extraordinary punishment of nefarious wickedness; therefore he proposes that they should be distributed among the municipal towns. This proposition seems to have in it injustice if you command it, difficulty if you request it; however let it be so decreed if you like.

For I will undertake, and, as I hope, I shall find one who will not think it suitable to his dignity to refuse what you decide on for the sake of the universal safety. He imposes besides a severe punishment on the burgesses of the municipal town if any of the prisoners escape; he surrounds them with the most terrible guard, and with everything worthy of the wickedness of abandoned men. And he proposes to establish a decree that no one shall be able to alleviate the punishment of those whom he is condemning by a vote of either the senate or the people. He takes away even hope, which alone can comfort men in their miseries; besides this, he votes that their goods should be confiscated; he leaves life

alone to these infamous men, and if he had taken that away, he would have relieved them by one pang of many tortures of mind and body, and of all the punishment of their crimes. Therefore, that there might be some dread in life to the wicked, men of old have believed that there were some punishments of that sort appointed for the wicked in the shades below; because in truth they perceived that if this were taken away death itself would not be terrible.

V. Now, O conscript fathers, I see what is my interest; if you follow the opinion of Caius Cæsar, (since he has adopted this path in the republic which is accounted the popular one,) perhaps since he is the author and promoter of this opinion, the popular violence will be less to be dreaded by me; if you adopt the other opinion, I know not whether I am not likely to have more trouble; but still let the advantage of the republic outweigh the consideration of my danger. For we have from Caius Cæsar, as his own dignity and as the illustrious character of his ancestors demanded, a vote as a hostage of his lasting good-will to the republic; it has been clearly seen how great is the difference between the lenity of demagogues, and a disposition really attached to the interests of the people. I see that of those men who wish to be considered attached to the people one man is absent, that they may not seem forsooth to give a vote about the lives of Roman citizens. He only three days ago gave Roman citizens into custody, and decreed me a supplication, and voted most magnificent rewards to the witnesses only yesterday. It is not now doubtful to any one what he, who voted for the imprisonment of the criminals, congratulation to him who had detected them, and rewards to those who had proved the crime, thinks of the whole matter, and of the cause. But Caius Cæsar considers that the Sempronian[1] law was passed about Roman citizens, but that he who is an enemy of the epublic can by no means be a citizen; and moreover that he very proposer of the Sempronian law suffered punishment by the command of the people. He also denies that Lentulus, a briber and a spendthrift, after he has formed such cruel and

[1] The Sempronian law was proposed by Caius Gracchus, B. C. 123, and enacted that the people only should decide respecting the life or civil condition of a citizen. It is alluded to also in the oration Pro Rabir. c. 4, where Cicero says, "Caius Gracchus passed a law that no decision should be come to about the life of a Roman citizen without your command," speaking to the *Quirites*.

bitter plans about the destruction of the Roman people, and the ruin of this city, can be called a friend of the people. Therefore this most gentle and merciful man does not hesitate to commit Publius Lentulus to eternal darkness and imprisonment, and establishes a law to all posterity that no one shall be able to boast of alleviating his punishment, or hereafter to appear a friend of the people to the destruction of the Roman people. He adds also the confiscation of their goods, so that want also and beggary may be added to all the torments of mind and body.

VI. Wherefore, if you decide on this you give me a companion in my address, dear and acceptable to the Roman people; or if you prefer to adopt the opinion of Silanus, you will easily defend me and yourselves from the reproach of cruelty, and I will prevail that it shall be much lighter. Although, O conscript fathers, what cruelty can there be in chastising the enormity of such excessive wickedness? For I decide from my own feeling. For so may I be allowed to enjoy the republic in safety in your company, as I am not moved to be somewhat vehement in this cause by any severity of disposition, (for who is more merciful than I am?) but rather by a singular humanity and mercifulness. For I seem to myself to see this city, the light of the world, and the citadel of all nations, falling on a sudden by one conflagration. I see in my mind's eye miserable and unburied heaps of cities in my buried country; the sight of Cethegus and his madness raging amid your slaughter is ever present to my sight. But when I have set before myself Lentulus reigning, as he himself confesses that he had hoped was his destiny, and this Gabinius arrayed in the purple, and Catiline arrived with his army, then I shudder at the lamentation of matrons, and the flight of virgins and of boys, and the insults of the vestal virgins; and because these things appear to me exceedingly miserable and pitiable, therefore I show myself severe and rigorous to those who have wished to bring about this state of things. I ask, forsooth, if any father of a family, supposing his children had been slain by a slave, his wife murdered, his house burnt, were not to inflict on his slaves the severest possible punishment, would he appear clement and merciful, or most inhuman and cruel? To me he would seem unnatural and hard-hearted who did not soothe his own pain and anguish by the pain and torture of the criminal. And so we

in the case of these men who desired to murder us, and our wives, and our children,—who endeavoured to destroy the houses of every individual among us, and also the republic, the home of all,—who designed to place the nation of the Allobroges on the relics of this city, and on the ashes of the empire destroyed by fire;—if we are very rigorous, we shall be considered merciful; if we choose to be lax, we must endure the character of the greatest cruelty, to the damage of our country and our fellow-citizens.

Unless, indeed, Lucius[1] Cæsar, a thoroughly brave man, and of the best disposition towards the republic, seemed to any one to be too cruel three days ago, when he said that the husband of his own sister, a most excellent woman, (in his presence and in his hearing,) ought to be deprived of life,—when he said that his grandfather had been put to death by command of the consul, and his youthful son, sent as an ambassador by his father, had been put to death in prison. And what deed had they done like these men? had they formed any plan for destroying the republic? At that time great corruption was rife in the republic, and there was the greatest strife between parties. And, at that time, the grandfather of this Lentulus, a most illustrious man, put on his armour and pursued Gracchus; he even received a severe wound that there might be no diminution of the great dignity of the republic. But this man, his grandson, invited the Gauls to overthrow the foundations of the republic; he stirred up the slaves, he summoned Catiline, he distributed us to Cethegus to be massacred, and the rest of the citizens to Gabinius to be assassinated, the city he allotted to Cassius to burn, and the plundering and devastating of all Italy he assigned to Catiline. You fear, I think, lest in the case of such unheard-of and abominable wickedness you should seem to decide anything with too great severity; when we ought much more to fear lest by being remiss in punishing we should appear cruel to our country, rather than appear by the severity of our irritation too rigorous to its most bitter enemies.

VII. But, O conscript fathers, I cannot conceal what I

[1] The brother-in-law of Lucius Cæsar was Marcus Fulvius, whose death, at the command of Opimius the consul, is referred to in the 2d cap. 1st Cat. He sent his son to the consul to treat for his surrender, whom Opimius sent back the first time, and forbade to return to him when he did return, he put him to death.

hear; for sayings are bruited about, which come to my ears, of those men who seem to fear that I may not have force enough to put in execution the things which you determine on this day. Everything is provided for, and prepared, and arranged, O conscript fathers, both by my exceeding care and diligence, and also by the still greater zeal of the Roman people for the retaining of their supreme dominion, and for the preserving of the fortunes of all. All men of all ranks are present, and of all ages; the forum is full, the temples around the forum are full, all the approaches to this place and to this temple are full. For this is the only cause that has ever been known since the first foundation of the city, in which all men were of one and the same opinion—except those, who, as they saw they must be ruined, preferred to perish in company with all the world rather than by themselves.

These men I except, and I willingly set them apart from the rest; for I do not think that they should be classed in the number of worthless citizens, but in that of the most bitter enemies. But, as for the rest; O ye immortal gods! in what crowds, with what zeal, with what virtue do they agree in defence of the common dignity and safety. Why should I here speak of the Roman knights? who yield to you the supremacy in rank and wisdom, in order to vie with you in love for the republic,—whom this day and this cause now reunite with you in alliance and unanimity with your body, reconciled after a disagreement of many years. And if we can preserve for ever in the republic this union now established in my consulship, I pledge myself to you that no civil and domestic calamity can hereafter reach any part of the republic. I see that the tribunes of the treasury—excellent men—have united with similar zeal in defence of the republic, and all the notaries.[1] For as this day had by chance brought them in crowds to the treasury, I see that they were diverted from an anxiety for the money due to them, from an expectation of their capital, to a regard for the common safety. The entire multitude of honest men, even the poorest, is present; for who is there to whom these temples, the sight of the city, the possession of liberty,

[1] The notaries at Rome were in the pay of the state; they were chiefly employed in making up the public accounts. In the time of Cicero it seems to have been lawful for any one to obtain the office of *scriba* by purchase, (see Cic. in Verr. ii. 79,) and freedmen and their sons frequently availed themselves of this privilege

—in short, this light and this soil of his, common to us all, is not both dear and pleasant and delightful?

VIII. It is worth while, O conscript fathers, to know the inclinations of the freedmen; who, having by their good fortune obtained the rights of citizens, consider this to be really their country, which some who have been born here, and born in the highest rank, have considered to be not their own country, but a city of enemies. But why should I speak of men of this body whom their private fortunes, whom their common republic, whom, in short, that liberty which is most delightful has called forth to defend the safety of their country? There is no slave who is only in an endurable condition of slavery who does not shudder at the audacity of citizens, who does not desire that these things may stand, who does not contribute all the good-will that he can, and all that he dares, to the common safety.

Wherefore, if this consideration moves any one, that it has been heard that some tool of Lentulus is running about the shops,—is hoping that the minds of some poor and ignorant men may be corrupted by bribery; that, indeed, has been attempted and begun, but no one has been found either so wretched in their fortune or so abandoned in their inclination as not to wish the place of their seat and work and daily gain, their chamber and their bed, and, in short, the tranquil course of their lives, to be still preserved to them. And far the greater part of those who are in the shops,—ay, indeed, (for that is the more correct way of speaking,) the whole of this class is of all the most attached to tranquillity; their whole stock, forsooth, their whole employment and livelihood, exists by the peaceful intercourse of the citizens, and is wholly supported by peace. And if their gains are diminished whenever their shops are shut, what will they be when they are burnt? And, as this is the case, O conscript fathers, the protection of the Roman people is not wanting to you; do you take care that you do not seem to be wanting to the Roman people.

IX. You have a consul preserved out of many dangers and plots, and from death itself, not for his own life, but for your safety. All ranks agree for the preservation of the republic with heart and will, with zeal, with virtue, with their voice. Your common country, besieged by the hands and weapons of an impious conspiracy, stretches forth her hands to you as a suppliant; to you she recommends herself, to you she recom-

mends the lives of all the citizens, and the citadel, and the Capitol, and the altars of the household gods, and the eternal unextinguishable fire of Vesta, and all the temples of all the gods, and the altars and the walls and the houses of the city. Moreover, your own lives, those of your wives and children, the fortunes of all men, your homes, your hearths, are this day interested in your decision.

You have a leader mindful of you, forgetful of himself—an opportunity which is not always given to men; you have all ranks, all individuals, the whole Roman people, (a thing which in civil transactions we see this day for the first time,) full of one and the same feeling. Think with what great labour this our dominion was founded, by what virtue this our liberty was established, by what kind favour of the gods our fortunes were aggrandized and ennobled, and how nearly one night destroyed them all. That this may never hereafter be able not only to be done, but not even to be thought of, you must this day take care. And I have spoken thus, not in order to stir you up who almost outrun me myself, but that my voice, which ought to be the chief voice in the republic, may appear to have fulfilled the duty which belongs to me as consul.

X. Now, before I return to the decision, I will say a few words concerning myself. As numerous as is the band of conspirators,—and you see that it is very great,—so numerous a multitude of enemies do I see that I have brought upon myself. But I consider them base and powerless and despicable and abject. But if at any time that band shall be excited by the wickedness and madness of any one, and shall show itself more powerful than your dignity and that of the republic, yet, O conscript fathers, I shall never repent of my actions and of my advice. Death, indeed, which they perhaps threaten me with, is prepared for all men; such glory during life as you have honoured me with by your decrees no one has ever attained to. For you have passed votes of congratulation to others for having governed the republic successfully, but to me alone for having saved it.

Let Scipio be thought illustrious, he by whose wisdom and valour Hannibal was compelled to return into Africa, and to depart from Italy. Let the second Africanus be extolled with conspicuous praise, who destroyed two cities most hostile to this empire, Carthage and Numantia. Let Lucius Paullus be thought a great man, he whose triumphal car was graced

by Perseus, previously a most powerful and noble monarch. Let Marius be held in eternal honour, who twice delivered Italy from siege, and from the fear of slavery. Let Pompey be preferred to them all—Pompey, whose exploits and whose virtues are bounded by the same districts and limits as the course of the sun. There will be, forsooth, among the praises of these men, some room for my glory, unless haply i be a greater deed to open to us provinces whither we may fly, than to take care that those who are at a distance may, when conquerors, have a home to return to.

Although in one point the circumstances of foreign triumph are better than those of domestic victory; because foreign enemies, either if they be crushed become one's servants, or if they be received into the state, think themselves bound to us by obligation; but those of the number of citizens who become depraved by madness and once begin to be enemies to their country,—those men, when you have defeated their attempts to injure the republic, you can neither restrain by force nor conciliate by kindness. So that I see that an eternal war with all wicked citizens has been undertaken by me; which, however, I am confident can easily be driven back from me and mine by your aid, and by that of all good men, and by the memory of such great dangers, which will remain, not only among this people which has been saved, but in the discourse and minds of all nations for ever. Nor, in truth, can any power be found which will be able to undermine and destroy your union with the Roman knights, and such unanimity as exists among all good men.

XI. As, then, this is the case, O conscript fathers, instead of my military command,—instead of the army,—instead of the province[1] which I have neglected, and the other badges of honour which have been rejected by me for the sake of protecting the city and your safety,—in place of the ties of clientship and hospitality with citizens in the provinces, which, however, by my influence in the city, I study to preserve with as much toil as I labour to acquire them,—in place of all these things, and in reward for my singular zeal

[1] Cicero, in order to tempt Antonius to aid him in counteracting the treasonable designs of Catiline, had given up to him the province of Macedonia, which had fallen to his own lot; and having accepted that of Cisalpine Gaul in exchange for it, he gave that also to Quintus Metellus; being resolved to receive no emolument, directly or indirectly, from his consulship.

in your behalf, and for this diligence in saving the republic which you behold, I ask nothing of you but the recollection of this time and of my whole consulship. And as long as that is fixed in your minds, I shall think I am fenced round by the strongest wall. But if the violence of wicked men shall deceive and overpower my expectations, I recommend to you my little son, to whom, in truth, it will be protection enough, not only for his safety, but even for his dignity, if you recollect that he is the son of him who has saved all these things at his own single risk.

Wherefore, O conscript fathers, determine with care, as you have begun, and boldly, concerning your own safety, and that of the Roman people, and concerning your wives and children; concerning your altars and your hearths, your shrines and temples; concerning the houses and homes of the whole city; concerning your dominion, your liberty, and the safety of Italy and the whole republic. For you have a consul who will not hesitate to obey your decrees, and who will be able, as long as he lives, to defend what you decide on, and of his own power to execute it.[1]

[1] This speech was spoken, and the criminals executed, on the fifth of December. But Catiline was not yet entirely overcome. He had with him in Etruria two legions,—about twelve thousand men; of which, however, not above one quarter were regularly armed. For some time by marches and countermarches he eluded Antonius, but when the news reached his army of the fate of the rest of the conspirators, it began to desert him in great numbers. He attempted to escape into Gaul, but found himself intercepted by Metellus, who had been sent thither by Cicero with three legions. Antonius is supposed not to have been disinclined to connive at his escape, if he had not been compelled as it were by his quæstor Sextus and his lieutenant Petreius to force him to a battle, in which, however, Antonius himself, being ill of the gout, did not take the command, which devolved on Petreius, who after a severe action destroyed Catiline and his whole army, of which every man said to have been slain in the battle.

THE ORATION OF M. T. CICERO IN DEFENCE OF L. MURENA, PROSECUTED FOR BRIBERY.

THE ARGUMENT.

Lucius Murena was one of the consuls elect; the other being Silanus, the brother-in-law of Cato. Cato, however, instigated Sulpicius, one of the most eminent lawyers in Rome, and a defeated competitor for the consulship, to prosecute Murena for bribery, under the new law passed by Cicero, (mentioned in the argument to the first oration against Catiline,) though he brought no charge against Silanus, who was as guilty as Murena, if there was any guilt at all. Murena had served as lieutenant to Lucullus in the Mithridatic war. Murena was defended by Crassus, Hortensius, and Cicero. We have neither of the speeches of his other advocates; and even the speech of Cicero is not in a perfect state. Murena was unanimously acquitted, partly perhaps from consideration of the argument which Cicero dwelt upon very earnestly, of what great importance it was, at such a perilous time, (for this oration was spoken in the interval between the flight of Catiline to the camp of Manlius, and the final detection and condemnation of the conspirators who remained behind,) to have a consul of tried bravery and military experience. It is remarkable that Sulpicius, the prosecutor, was a most intimate friend of Cicero, who had exerted all his influence to procure his election in this very contest for the consulship; and so also was Cato; nor did the opposition which Cicero made to them in this case cause any interruption to their intimacy, and we shall find, in the Philippics, Cicero exerting himself to procure public funeral honours for Sulpicius.

I. WHAT I entreated of the immortal gods, O judges, according to the manners and institutions of our ancestors, on that day when, after taking the auspices in the comitia centuriata,[1] I declared Lucius Murena to have been elected consul,—namely, that that fact might turn out gloriously and happily for me and for my office, and for the Roman nation and people,—that same thing do I now pray for from the same

[1] The *comitia centuriata*, or as they were sometimes called *majora*, were the assembly in which the people gave their votes according to the classification instituted by Servius Tullius; they were held in the Campus Martius without the city, and in reference to their military organization they were summoned by the sound of the horn, not by the voice of the lictor. All magistrates were elected in these comitia.

immortal gods, that the consulship may be obtained by that same man with safety, and that your inclinations and opinions may agree with the wishes and suffrages of the Roman people, and that that fact may bring to you and to the Roman people peace, tranquillity, ease, and unanimity. And if that solemn prayer of the comitia, consecrated under the auspices of the consul, has as much power and holy influence as the dignity of the republic requires, I pray also that the matter may turn out happily, fortunately, and prosperously to those men to whom the consulship was given when I presided over the election.

And as this is the case, O judges, and as all the power of the immortal gods is either transferred to, or at all events is shared with you, the same consul recommends him now to your good faith who before recommended him to the immortal gods; so that he being both declared consul and being defended by the voice of the same man, may uphold the kindness of the Roman people to your safety and that of all the citizens. And since in this duty which I have undertaken the zeal of my defence has been found fault with by the accusers, and even the very fact of my having undertaken the cause at all, before I begin to say anything of Lucius Murena, I will say a few words on behalf of myself; not because at this time the defence of my duty seems to me more important than that of his safety, but in order that, when what I have done is approved of by you, I may be able with the greater authority to repel the attacks of his enemies upon his honour, his reputation, and all his fortunes.

II. And first of all I will answer Marcus Cato, a man who directs his life by a certain rule and system, and who most carefully weighs the motives of every duty, about my own duty. Cato says it is not right, that I who have been consul and the very passer[1] of the law of bribery and corruption, and who behaved so rigorously in my own consulship, should take up the cause of Lucius Murena; and his reproach has great weight with me, and makes me desirous to make not only

[1] There had been several previous laws against bribery and corruption (*de ambitu*). The *Lex Acilia*, passed B.C. 67, imposed a fine on the offending party, with exclusion from the senate, and from all public offices. The *Lex Tullia*, passed in Cicero's consulship, added banishment for ten years; and, among other restrictions, forbade any one to exhibit gladiators within two years of his being a candidate, unless he was required to do so on a fixed day by a testator's will.

you, O judges, whom I am especially bound to satisfy, but also Cato himself, a most worthy and upright man, approve the reasons of my action. By whom then, O Marcus Cato, is it more just that a consul should be defended than by a consul? Who can there be, who ought there to be, dearer to me in the republic, than he to whom the republic which has been supported by my great labours and dangers is delivered by me alone to be supported for the future? For if, in the demanding back things which may be alienated, he ought to incur the hazard of the trial who has bound himself by a legal obligation, surely still more rightly in the trial of a consul elect, that consul who has declared him consul ought most especially to be the first mover of the kindness of the Roman people, and his defender from danger.

And if, as is accustomed to be done in some states, an advocate were appointed to this cause by the public, that man would above all others be assigned to one invested with honours as his defender, who having himself enjoyed the same honour, brought to his advocacy no less authority than ability. But if those who are being wafted from the main into harbour are wont with the greatest care to inform those who are sailing out of harbour, of the character of storms, and pirates, and of places, because nature prompts us to favour those who are entering on the same dangers which we have passed through, of what disposition ought I to be, who after having been much tossed about am now almost in sight of land, towards him by whom I see the greatest tempests of the republic about to be encountered? Wherefore, if it is the part of a virtuous consul not only to see what is being done, but to foresee what is likely to happen, I will show in another place how much it is for the interest of the common safety that there should be two consuls in the republic on the first of January. And if that be the case, then it is not so much my duty which ought to summon me to defend the fortunes of a man who is my friend, as the republic which ought to invite the consul to the defence of the common safety.

III. For as to my having passed a law concerning bribery and corruption, certainly I passed it so as not to abrogate that law which I have long since made for myself concerning defending my fellow-citizens from dangers. If, indeed, I confessed that a largess had been distributed, and were to defend it as having been rightly done, I should be acting wrongly,

even if another had passed the law; but when I am saying in defence that nothing has been done contrary to law, then what reason is there that my having passed the law should be an obstacle to my undertaking the defence?

He says that it does not belong to the same severity of character, to have banished from the city by words, and almost by express command, Catiline, when planning the destruction of the republic within its very walls, and now to speak on behalf of Lucius Murena. But I have always willingly acted the part of lenity and clemency, which nature itself has taught me; but I have not sought the character of severity and rigour; but I have supported it when imposed upon me by the republic, as the dignity of this empire required at the time of the greatest peril to the citizens. But if then, when the public required vigour and severity, I overcame my nature, and was as severe as I was forced to be, not as I wished to be; now, when all causes invite me to mercy and humanity, with what great zeal ought I to obey my nature and my usual habits? and concerning my duty of defending, and your method of prosecuting, perhaps I shall have again to speak in another part of my speech.

But, O judges, the complaint of Servius Sulpicius, a most wise and accomplished man, moved me no less than the accusation of Cato; for he said that he was exceedingly and most bitterly vexed that I had forgotten my friendship and intimacy with him, and was defending the cause of Lucius Murena against him. I wish, O judges, to satisfy him, and to make you arbitrators between us. For as it is a sad thing to be accused with truth in a case of friendship, so, even if you be falsely accused, it is not to be neglected. I, O Servius Sulpicius, both allow that according to my intimacy with you I did owe you all my zeal and activity to assist you in your canvass, and I think I displayed it. When you stood for the consulship, nothing on my part was wanting to you which could have been expected either from a friend, or from an obliging person, or from a consul. That time has gone by,—the case is changed. I think, and am persuaded, that I owed you as much aid as ever you have ventured to require of me against the advancement of Lucius Murena; but no aid at all against his safety. Nor does it follow, because I stood by you when you were a candidate for the consulship, that on that account I ought now to be an assistant to you in the same

way, when you are attacking Murena himself. And this is not only not praiseworthy,—it is not even allowable, that we may not defend even those who are most entirely strangers to us when our friends accuse them.

IV. But, in truth, there is, O judges, between Murena and myself an ancient and great friendship, which shall not be overwhelmed in a capital trial by Servius Sulpicius, merely because it was overcome by superior considerations when he was contesting an honourable office with that same person. And if this cause had not existed, yet the dignity of the man, and the honourable nature of that office which he has obtained, would have branded me with the deepest reproach of pride and cruelty, if in so great a danger I had repudiated the cause of a man so distinguished by his own virtues and by the honours paid him by the Roman people. For it is not now in my power,—it is not possible, for me to shrink from devoting my labour to alleviate the dangers of others. For when such rewards have been given me for this diligence of mine, such as before now have never been given to any one, to abandon those labours by which I have earned them, as soon as I have received them, would be the act of a crafty and ungrateful man.

If, indeed, I may rest from my labours,—if you advise me that I can do so,—if no reproach of indolence, none of unworthy arrogance, none of inhumanity is incurred by so doing, in good truth I will willingly rest. But if flying from toil convicts me of laziness,—if rejection of suppliants convicts me of arrogance,—if neglect of my friends is a proof of worthlessness, then, above all others, this cause is such an one as no industrious, or merciful, or obliging man can abandon. And you may easily form your opinion of this matter, O Servius, from your own pursuits. For if you think it necessary to give answers to even the adversaries of your friends when they consult you about law, and if you think it shameful, when you have been retained as an advocate for him in whose cause you have come forward, to fail; be not so unjust, as, when your springs are open even to your enemies, to think it right that our small streams should be closed even against our friends.

Forsooth, if my intimacy with you had prevented my appearing in this cause, and if the same thing had happened to Quintus Hortensius and Marcus Crassus, most honourable

men, and to others also by whom I know that your affection is greatly esteemed, the consul elect would have had no defender in that city in which our ancestors intended that even the lowest of the people should never want an advocate. But I, O judges, should think myself wicked if I had failed my friend,—cruel if I had failed one in distress,—arrogant if I had failed the consul. So that what ought to be given to friendship shall be abundantly given by me; so that I will deal with you, O Servius, as if my brother, who is the dearest of all men to me, stood in your place. What ought to be given to duty, to good faith, to religion, that I will so regulate as to recollect that I am speaking contrary to the wish of one friend to defend another friend from danger.

V. I understand, O judges, that this whole accusation is divided into three parts; and that one of them refers to finding fault with Murena's habits of life, another to his contest for the dignity, and a third to charges of bribery and corruption. And of these three divisions, that first, which ought to have been the weightiest of all, was so weak and trifling, that it was rather some general rule of accusing, than any real occasion for finding fault, which prompted them to say anything about the way of life of Lucius Murena. For Asia has been mentioned as a reproach to him, which was not sought by him for the sake of pleasure and luxury, but was traversed by him in the performance of military labours; but if he while a young man had not served under his father when general, he would have seemed either to have been afraid of the enemy, or of the command of his father, or else to have been repudiated by his father. Shall we say that, when all the sons who wear the prætexta[1] are accustomed to sit on the chariot of those who are celebrating a triumph, this man ought to have shunned adorning the triumph of his father with military gifts, so as almost to share his father's triumph for exploits which they had performed in common?

But this man, O judges, both was in Asia and was a great assistance to that bravest of men, his own father, in his dangers, a comfort to him in his labours, a source of congratulation to him in his victory. And if Asia does carry with it a suspicion of luxury, surely it is a praiseworthy thing,

[1] The *toga prætexta* was a robe bordered with purple, worn by the higher magistrates, and by freeborn children till they arrived at the age of manhood.

not never to have seen Asia, but to have lived temperately in Asia. So that the name of Asia should not have been objected to Lucius Murena, a country whence renown was derived for his family, lasting recollection for his race, honour and glory for his name, but some crime or disgrace, either incurred in Asia, or brought home from Asia. But to have served campaigns in that war which was not only the greatest but the only war which the Roman people was waging at that time, is a proof of valour; to have served most willingly under his father, who was commander-in-chief, is a proof of piety; that the end of his campaign was the victory and triumph of his father, is a proof of good fortune. There is, therefore, no room in these matters for speaking ill of him, because praise takes up the whole room.

VI. Cato calls Lucius Murena a dancer. If this be imputed to him truly, it is the reproach of a violent accuser; but if falsely, it is the abuse of a scurrilous railer. Wherefore, as you are a person of such influence, you ought not, O Marcus Cato, to pick up abusive expressions out of the streets, or out of some quarrel of buffoons; you ought not rashly to call a consul of the Roman people a dancer; but to consider with what other vices besides that man must be tainted to whom that can with truth be imputed. For no man, one may almost say, ever dances when sober, unless perhaps he be a madman, nor in solitude, nor in a moderate and sober party; dancing is the last companion of prolonged feasting, of luxurious situation, and of many refinements. You charge me with that which must necessarily be the last of all vices, you say nothing of those things without which this vice absolutely cannot exist: no shameless feasting, no improper love, no carousing, no lust, no extravagance is alleged; and when those things which have the name of pleasure, and which are vicious, are not found, do you think that you will find the shadow of luxury in that man in whom you cannot find the luxury itself?

Can nothing, therefore, be said against the life of Lucius Murena? Absolutely nothing, I say, O judges. The consul elect is defended by me on this ground, that no fraud of his, no avarice, no perfidy, no cruelty, no wanton word can be alleged against him in his whole life. It is well. The foundations of the defence are laid; for we are not as yet defending this virtuous and upright man with my own panegyric,

which I will employ presently, but almost by the confession of his adversaries.

VII. And now that this is settled, the approach to the contest for this dignity, which was the second part of the accusation, is more easy to me. I see that there is in you, O Servius Sulpicius, the greatest dignity of birth, of integrity, of industry, and of all the other accomplishments which a man ought to rely on when he offers himself as a candidate for the consulship. I know that all those qualities are equal in Lucius Murena, and so equal that he can neither be surpassed in worth by you, nor can himself surpass you in worth. You have spoken slightingly of the family of Lucius Murena, you have extolled your own; but if you dwell on this topic so as to allow no one to be considered as born of a good family, unless he be a patrician, you will compel the common people again to secede to the Aventine Hill.[1] But if there are honourable and considerable families among the plebeians,—both the great-grandfather of Lucius Murena, and his grandfather, were prætors; and his father, when he had triumphed most splendidly and honourably for exploits performed in his prætorship, left the steps towards the acquisition of the consulship more easy, because that honour which was due to the father was demanded by the son.

But your nobility, O Servius Sulpicius, although it is most eminent, yet it is known rather to men versed in literature and history, but not much so to the people and to the voters. For your father was in the rank of the knights, your grandfather was renowned for no conspicuous action. So that the recollection of your nobility is to be extracted not from the modern conversation of men, but from the antiquity of annals. So that I also am accustomed to class you in our number, because you by your own virtue and industry though you are the son of a Roman knight, have yet earned the being considered worthy of the very highest advancement. Nor did it ever seem to me that there was less virtue in Quintus Pompeius, a new man and a most brave man, than in that most high-born man, Marcus Æmilius. Indeed, it is a proof of the same spirit and genius, to hand down to his pos-

[1] This refers to the time of Appius the decemvir, when the soldiers, at the call of Virginius, after the death of Virginia, occupied the Aventine, and were joined by great part of the plebs, demanding the abolition of the decemvirate.

terity, as Pompeius did, an honourable name, which he had not received from his ancestors; and, as Scaurus did, to renew the recollection of his family which was almost extinct.

VIII. Although I now thought, O judges, that it had been brought about by my labours, that a want of nobleness of birth should not be objected to many brave men, who were neglected, though men were praising not only the Curii, the Catos, the Pompeii, those ancient new but most distinguished men, but also, these more modern new men, the Marii, and Didii, and Cœlii. But when I, after so great an interval, had broken down those barriers of nobility, so that entrance to the consulship should hereafter be opened, as it was in the time of our ancestors, not more to high birth than to virtue, I did not think when a consul-elect of an ancient and illustrious family was being defended by the son of a Roman knight, himself a consul, that the accusers would say anything about newness of family. In truth it happened to me myself to stand against two patricians, one a most worthless and audacious man, the other a most modest and virtuous one; yet I surpassed Catiline in worth, Galba in popularity. But if that ought to have been imputed as a crime to a new man, forsooth, I should have wanted neither enemies nor detractors.

Let us, therefore, give up saying anything about birth, the dignity of which is great in both the candidates; let us look at the other points. He stood for the quæstorship at the same time with me, and I was appointed first. We need not answer every point; for it cannot escape the observation of any one of you, when many men are appointed equal in dignity, but only one can obtain the first place, that the order of the dignity and of the declaration of it are not the same, because the declaration has degrees, but the dignity of all is usually the same. But the quæstorship of each was given them by almost an equal decision of the lots: the one had by the Titian law a quiet and orderly province; you had that one of Ostia, at the name of which, when the quæstors distribute the provinces by lot, a shout is raised,—a province not so much pleasant and illustrious as troublesome and vexatious. The name of each was together in the quæstorship. For the drawing of the lots gave you no field on which your virtue could display itself and make itself known.

IX. The remaining space of time is dedicated to the contest. It was employed by each in a very dissimilar fashion. Servius

adopted the civil service, full of anxiety and annoyance, of an swering, writing, cautioning; he learned the civil law; he worked early and late, he toiled, he was visible to every one, he endured the folly of crowds, he tolerated their arrogance, he bore all sorts of difficulties, he lived at the will of others, not at his own. It is a great credit, a thing pleasing to men, for one man to labour hard in that science which will profit many.

What has Murena been doing in the meantime? He was lieutenant to Lucius Lucullus, a very brave and wise man, and a consummate general; and in this post he commanded an army, he fought a battle, he engaged the enemy, he routed numerous forces of the enemy, he took several cities, some by storm, some by blockade. He traversed that populous and luxurious Asia you speak of, in such a manner as to leave in it no trace either of his avarice or of his luxury; in a most important war he so behaved himself that he performed many glorious exploits without the commander-in-chief; but the commander-in-chief did nothing without him. And all these things, although I am speaking in the presence of Lucius Lucullus, yet that we may not appear to have a licence of invention granted us by him on account of the danger we are in, we are borne witness to in the public despatches; in which Lucius Lucullus gives him such praise as no ambitious nor envious commander-in-chief could have given another while dividing with him the credit of his exploits.

There is in each of the rivals the greatest honesty, the greatest worth; which I, if Servius will allow me, will place in equal and in the same panegyric. But he will not let me; he discusses the military question; he attacks the whole of his services as lieutenant; he thinks the consulship is an office requiring diligence and all this daily labour. "Have you been," says he, "so many years with the army? you can never have been near the forum. Have you been away so long? and then, when after a long interval you arrive, will you contend in dignity with those who have made their abode in the forum?" First of all, as to that assiduity of ours, O Servius, you know not what disgust, what satiety, it sometimes causes men; it was, indeed, exceedingly advantageous for me myself that my influence was in the sight of all men; but I overcame the weariness of me by my own great labour; and you, perhaps, have done the same thing, but yet a regret at our absence would have been no injury to either of us.

But, to say no more of this, and to return to the contest of studies and pursuits; how can it be doubted that the glory of military exploits contributes more dignity to aid in the acquisition of the consulship, than renown for skill in civil law? Do you wake before the night is over in order to give answers to those who consult you? He has done so in order to arrive betimes with his army at the place to which he is marching. The cock-crow wakens you, but the sound of the trumpet rouses him: you conduct an action; he is marshalling an army: you take care lest your clients should be convicted; he lest his cities or camp be taken. He occupies posts, and exercises skill to repel the troops of the enemy, you to keep out the rain; he is practised in extending the boundaries of the empire, you in governing the present territories; and in short, for I must say what I think, preeminence in military skill excels all other virtues.

X. It is this which has procured its name for the Roman people; it is this which has procured eternal glory for this city; it is this which has compelled the whole world to submit to our dominion; all domestic affairs, all these illustrious pursuits of ours, and our forensic renown, and our industry, are safe under the guardianship and protection of military valour. As soon as the first suspicion of disturbance is heard of, in a moment our arts have not a word to say for themselves.

And since you seem to me to embrace that knowledge of the law which you have, as if it were a darling daughter, I will not permit you to lie under such a mistake as to think that, whatever it may be, which you have so thoroughly learnt, anything very preeminent. For your other virtues of continence, of gravity, of justice, of good faith, and all other good qualities, I have always considered you very worthy of the consulship and of all honour; but as for your having learnt civil law, I will not say you have wasted your pains, but I will say that there is no way made to lead to the consulship by that profession; for all arts which can conciliate for us the good-will of the Roman people ought to possess both an admirable dignity, and a very delightful utility.

XI. The highest dignity is in those men who excel in military glory. For all things which are in the empire and in the constitution of the state, are supposed to be defended and strengthened by them. There is also the greatest usefulness

in them, since it is by their wisdom and their danger that we can enjoy both the republic and also our own private possessions. The power of eloquence also is no doubt valuable and full of dignity, and it has often been of influence in the election of a consul to be able by wisdom and oratory to sway the minds of the senate and the people, and those who decide on affairs. A consul is required who may be able sometimes to repress the madness of the tribunes, who may be able to bend the excited populace, who may resist corruption. It is not strange, if, on account of this faculty, even men who were not nobly born have often obtained the consulship; especially when this same quality procures a man great gratitude, and the firmest friendship, and the greatest zeal in his behalf; but of all this there is nothing, O Sulpicius, in your profession.

First of all, what dignity can there be in so limited a science? For they are but small matters, conversant chiefly about single letters and punctuation between words. Secondly, if in the time of our ancestors there was any inclination to marvel at that study of yours, now that all your mysteries are revealed, it is wholly despised and disregarded. At one time few men knew whether a thing might be lawfully done or not; for men ordinarily had no records; those were possessed of great power who were consulted, so that even days for consultation were begged of them beforehand, as from the Chaldean astrologers. A certain notary was found, by name Cnæus Flavius, who could deceive[1] the most wary, and who set the people records to be learnt by heart each day, and who pilfered their own learning from the profoundest lawyers. So they, being angry because they were afraid, lest, when their daily course of action was divulged and understood, people would be able to proceed by law without their assistance, adopted a sort of cipher in order to make their presence necessary in every cause.

XII. When this might have been well transacted thus—"The Sabine farm is mine." "No; it is mine:"—then a trial; they would not have it so. "The farm," says he, "which is in the territory which is called Sabine:"—verbose enough—well, what next? "That farm, I say, is mine according to the rights of Roman citizens." What then?—"and

[1] The Latin strictly is, "pierce the eyes of ravens." It was a proverbial expression.

therefore I summon you according to law, seizing you by the hand."

The man of whom the field was demanded did not know how to answer one who was so talkatively litigious. The same lawyer goes across, like a Latin flute-player,—says he, "In the place from whence you summoned me having seized me by the hand, from thence I recal you there." In the meantime, as to the prætor, lest he should think himself a fine fellow and a fortunate one, and himself say something of his own accord, a form of words is composed for him also, absurd in other points, and especially in this: "Each of them being alive and being present, I say that that is the way." "Enter on the way." That wise man was at hand who was to show them the way. "Return on your path." They returned with the same guide. These things, I may well suppose, appeared ridiculous to full-grown men; that men when they have stood rightly and in their proper place should be ordered to depart, in order that they might immediately return again to the place they had left. Everything was tainted with the same childish folly. "When I behold you in the power of the law." And this,—"But do you say this who claim the right?" And while all this was made a mystery of, they who had the key to the mystery were necessarily sought after by men; but as soon as these things were revealed, and were bandied about and sifted in men's hands, they were found to be thoroughly destitute of wisdom, but very full of fraud and folly.

For though many things have been excellently settled by the laws, yet most of them have been depraved and corrupted by the genius of the lawyers. Our ancestors determined that all women, on account of the inferiority of their understanding, should be under the protection of trustees. These men have found out classes of trustees, whose power is subordinate to that of the women. The one party did not wish the domestic sacrifices to be abolished in families; by the ingenuity of the others old men were found to marry by the form called coemptio,[1] for the sake of getting rid of these

[1] *Coemptio* was "a ceremony of marriage consisting in a mock sale, whereby the bride and bridegroom sold themselves to each other." Riddle in voce. "*Coemptio* was effected by *mancipatio*, and consequently the wife was in mancipio."—Smith, Dict. Ant. p. 603, § v., v. *Marriage*, (Roman.)

sacred ceremonies. Lastly, in every part of the civil law they neglected equity itself, but adhered to the letter of the law; as for instance, because in somebody's books they found the name of Caia, they thought that all the women who had married by coemptio were called Caias. And that often appears marvellous to me, that so many men of such ability should now for so many years have been unable to decide whether the proper expressions to use be the day after to-morrow or the third day, a judge or an arbiter, a cause or a proceeding.

XIII. Therefore, as I said before, the dignity of a consul has never been consistent with that science; being one consisting wholly of fictitious and imaginary formulas. And its right to public gratitude was even much smaller. For that which is open to every one, and which is equally accessible to me and to my adversary, cannot be considered as entitled to any gratitude. And therefore you have now, not only lost the hope of conferring a favour, but even the compliment that used to be paid to you by men asking your permission to consult you. No one can be considered wise on account of his proficiency in that knowledge which is neither of any use at all out of Rome, nor at Rome either during the vacations. Nor has any one any right to be considered skilful in law, because there cannot be any difference between men in a branch of knowledge with which they are all acquainted. And a matter is not thought the more difficult for being contained in a very small number of very intelligible documents. Therefore, if you excite my anger, though I am excessively busy, in three days I will profess myself a lawyer. In truth, all that need be said about the written law is contained in written books; nor is there anything written with such precise accuracy, that I cannot add to the formula, "which is the matter at present in dispute." If you answer what you ought, you will seem to have made the same answer as Servius; if you make any other reply, you will seem to be acquainted with and to know how to handle disputed points.

Wherefore, not only is the military glory which you slight to be preferred to your formulas and legal pleas; but even the habit of speaking is far superior, as regards the attainment of honours, to the profession to the practice of which you devote yourself. And therefore many men appear to me to have preferred this at first; but afterwards, being unable to attain eminence in this profession, they have descended to

the other. Just as men say, when talking of Greek practitioners, that those men are flute-players who cannot become harp-players, so we see some men, who have not been able to make orators, turn to the study of the law. There is great labour in the practice of oratory. It is an important business, one of great dignity, and of most exceeding influence. In truth, from you lawyers men seek some degree of advantage; but from those who are orators they seek actual safety. In the next place, your replies and your decisions are constantly overturned by eloquence, and cannot be made firm except by the advocacy of the orator; in which if I had made any great proficiency myself, I should be more sparing while speaking in its praise; but at present I am saying nothing about myself, but only about those men who either are or have been great in oratory.

XIV. There are two occupations which can place men in the highest rank of dignity; one, that of a general, the other, that of an accomplished orator. For by the latter the ornaments of peace are preserved, by the former the dangers of war are repelled. But the other virtues are of great importance from their own intrinsic excellence, such as justice, good faith, modesty, temperance; and in these, O Servius, all men know that you are very eminent. But at present I am speaking of those pursuits calculated to aid men in the attainment of honours, and not about the intrinsic excellency of each pursuit. For all those occupations are dashed out of our hands at once, the moment the slightest new commotion begins to have a warlike sound. In truth, as an ingenious poet and a very admirable author says, the moment there is a mention of battle, "away is driven" not only your grandiloquent pretences to prudence, but even that mistress of all things, "wisdom. Everything is done by violence. The orator," not only he who is troublesome in speaking, and garrulous, but even "the good orator is despised; the horrid soldier is loved." But as for your profession, that is trampled under foot; "men seek their rights not by law, but hand to hand by the sword," says he.

And if that be the case, then I think, O Sulpicius, the forum must yield to the camp; peace must yield to war, the pen to the sword, and the shade to the sun. That, in fact, must be the first thing in the city, by means of which the city itself is the first of all cities. But Cato is busy proving that

we are making too much of all these things in our speech; and that we have forgotten that that Mithridatic war was carried on against nothing better than women. However, my opinion is very different, O judges; and I will say a little on that subject; for my cause does not depend on that.

For if all the wars which we have carried on against the Greeks are to be despised, then let the triumph of Marcus Curius over king Pyrrhus be derided; and that of Titus Flamininus over Philip; and that of Marcus Fulvius over the Ætolians; and that of Lucius Paullus over king Perses; and that of Quintus Metellus over the false Philip; and that of Lucius Mummius over the Corinthians. But, if all these wars were of the greatest importance, and if our victories in them were most acceptable, then why are the Asiatic nations and that Asiatic enemy despised by you? But, from our records of ancient deeds, I see that the Roman people carried on a most important war with Antiochus; the conqueror in which war, Lucius Scipio, who had already gained great glory when acting in conjunction with his brother Publius, assumed the same honour himself by taking a surname from Asia, as his brother did, who, having subdued Africa, paraded his conquest by the assumption of the name of Africanus. And in that war the renown of your ancestor Marcus Cato was very conspicuous; but he, if he was, as I make no doubt that he was, a man of the same character as I see that you are, would never have gone to that war, if he had thought that it was only going to be a war against women. Nor would the senate have prevailed on Publius Africanus to go as lieutenant to his brother, when he himself, a little while before, having forced Hannibal out of Italy, having driven him out of Africa, and having crushed the power of Carthage, had delivered the republic from the greatest dangers, if that war had not been considered an important and formidable war.

XV. But if you diligently consider what the power of Mithridates was, and what his exploits were, and what sort of a man he was himself, you will in truth prefer this king to all the kings with whom the Roman people has ever waged war;—a man whom Lucius Sylla,—not a very inexperienced general, to say the least of it,—at the head of a numerous and powerful army, after a severe battle, allowed to depart having made peace with him, though he had overrun all Asia with war: whom Lucius Murena, my client's father, after having

warred against him with the greatest vigour and vigilance, left greatly checked indeed, but not overwhelmed: a king, who, having taken several years to perfect his system and to strengthen his warlike resources, became so powerful and enterprising that he thought himself able to unite the Atlantic to the Black Sea, and to combine the forces of Sertorius with his own. And when two consuls had been sent to that war, with the view of one pursuing Mithridates, and the other protecting Bithynia, the disasters which befel one of them by land and sea greatly increased the power and reputation of the king. But the exploits of Lucius Lucullus were such that it is impossible to mention any war which was more important, or in which greater abilities and valour were displayed. For when the violence of the entire war had broken against the walls of Cyzicus, and as Mithridates thought that he should find that city the door of Asia, and that, if that were once broken down and forced, the whole province would be open to him, everything was so managed by Lucullus that the city of our most faithful allies was defended, and all the forces of the king were wasted away by the length of the siege. What more need I say? Do you think that that naval battle at Tenedos, when the enemy's fleet were hastening on with rapid course and under most eager admirals towards Italy, full of hope and courage, was a trifling engagement—an insignificant contest? I will say nothing of battles; I pass over the sieges of towns. Being at length expelled from his kingdom, still his wisdom and his influence were so great, that, combining his forces with those of the king of Armenia, he reappeared with new armies and new resources of every kind.

XVI. And if it were my business now to speak of the achievements of our army and of our general, I might mention many most important battles. But that is not the present question. This I do say:—If this war, and this enemy,—if that king was a proper object for contempt, the senate and Roman people would not have thought it one to be undertaken with such care, nor would they have carried it on for so many years, nor would the glory of Lucullus be as great as it is. Nor would the Roman people have entrusted the care of putting a finishing stroke to it to Cnæus Pompeius; though of all his battles, numberless as they are, that appears to me to have been the most desperate and to have

been maintained on both sides with the greatest vigour, which he fought against the king. And when Mithridates had escaped from that battle, and had fled to the Bosphorus, a place which no army could approach, still, even in the extremity of his fortunes, and as a fugitive, he retained the name of a king. Therefore, Pompeius himself, having taken possession of his kingdom, having driven the enemy away from all his coasts, and from all his usual places of resort, still thought that so much depended on his single life, that though, by his victory, he had got possession of everything which he had possessed, or had approached, or even had hoped for, still he did not think the war entirely over till he drove him from life also. And do you, O Cato, think lightly of this man as an enemy, when so many generals warred against him for so many years, with so long a series of battles? when, though driven out and expelled from his kingdom, his life was still thought of such importance, that it was not till the news arrived of his death, that we thought the war over? We then say in defence of Lucius Murena, that as a lieutenant in this war he approved himself a man of the greatest courage, of singular military skill, and of the greatest perseverance; and that all his conduct at that time gave him no less a title to obtain the consulship than this forensic industry of ours gave us.

XVII. "But in the standing for the prætorship, Servius was elected first." Are you going (as if you were arguing on some written bond) to contend with the people that, whatever place of honour they have once given any one, that same rank they are bound to give him in all other honours? For what sea, what Euripus do you think exists, which is liable to such commotions,—to such great and various agitations of waves, as the storms and tides by which the comitia are influenced? The interval of one day,—the lapse of one night,—often throws everything into confusion. The slightest breeze of rumour sometimes changes the entire opinions of people. Often, even, everything is done without any apparent cause, in a manner entirely at variance with the opinions that have been expressed, or that, indeed, are really entertained; so that sometimes the people marvels that that has been done which has been done, as if it were not itself that has done it. Nothing is more uncertain than the common people,—nothing more obscure than men's wishes,—nothing more treacherous

than the whole nature of the comitia. Who expected that Lucius Philippus, a man of the greatest abilities, and industry, and popularity, and nobleness of birth, could be beaten by Marcus Herennius? Who dreamt of Quintus Catulus, a man eminent for all the politer virtues, for wisdom and for integrity, being beaten by Cnæus Mallius? or Marcus Scaurus, a man of the highest character, an illustrious citizen, a most intrepid senator, by Quintus Maximus? Not only none of all these things were expected to happen, but not even when they had happened could any one possibly make out why they had happened. For as storms arise, often being heralded by some well-known token in the heavens, but often also quite unexpectedly from no imaginable reason, but from some unintelligible cause; so in the popular tempests of the comitia you may often understand by what signs a storm was first raised, but often, too, the cause is so obscure, that the tempest appears to have been raised by chance.

XVIII. But yet, if an account of them must be given, two qualities were particularly missed in the prætorship, the existence of which in Murena now was of the greatest use to him in standing for the consulship: one was the expectation of a largess, which had got abroad through some rumour, and owing to the zeal and conversation of some of his competitors; the other, that those men who had been witnesses of all his liberality and virtue in the province and in the discharge of his office as lieutenant, had not yet left Rome. Fortune reserved each of these advantages for him, to aid him in his application for the consulship. For the army of Lucius Lucullus, which had come hither for his triumph, was also present at the comitia in aid of Lucius Murena, and his prætorship afforded a most splendid proof of his liberality, of which there was no mention when he was standing for the prætorship. Do these things appear to you trifling supports and aids towards obtaining the consulship? Is the good-will of the soldiery a trifle? who are both intrinsically powerful through their own numbers, and also by their influence among their connexions, and who in declaring a consul have great weight among the entire Roman people. Are the votes of the army a trifle? No; for it is generals, and not interpreters of words, who are elected at the consular comitia. Most influential, then, is such a speech as this,—"He refreshed me when I was wounded. He gave me a share of the plunder.

He was the general when we took that camp—when we fought that battle. He never imposed harder work on the soldier than he underwent himself. He was as fortunate as he is brave." What weight do you not suppose this must have to gaining a reputation and good-will among men? Indeed, if there is a sort of superstition in the comitia, that up to this time the omen to be drawn from the vote of the prerogative[1] tribe has always proved true, what wonder is there that in such a meeting the reputation of good fortune and such discourse as this has had the greatest weight?

XIX. But if you think these things trifling, though they are most important; and if you prefer the votes of these quiet citizens to those of the soldiers; at all events, you cannot think lightly of the beauty of the games exhibited by this man, and the magnificence of his theatrical spectacles; and these things were of great use to him in this last contest. For why need I tell you that the people and the great mass of ignorant men are exceedingly taken with games? It is not very strange. And that is a sufficient reason in this case; for the comitia are the comitia of the people and the multitude. If, then, the magnificence of games is a pleasure to the people, it is no wonder that it was of great service to Lucius Murena with the people. But if we ourselves, who, from our constant business, have but little time for amusement, and who are able to derive many pleasures of another sort from our business itself, are still pleased and interested by exhibitions of games, why should you marvel at the ignorant multitude being so? Lucius Otho,[2] a brave man, and an intimate friend of mine, restored not only its dignity, but also its pleasure to the equestrian order; and, therefore, this law which relates to the games is the most acceptable of all laws, because by it that most honourable order of men is restored not only to its honours, but also to the enjoyment of its amusements. Games, then, believe me, are a great delight to men, even to those who are ashamed to own it, and not to

[1] In the *comitia centuriata* the people voted in their centuries; the order in which the centuries voted was decided by lot, and that which gave its vote first was called the *centuria prærogativa*. The question of a *tribus prærogativa* is a more disputed point; but on this see Smith, Dict. Ant. p. 997, v. *Tribus*, (Roman.)

[2] This refers to the law of Lucius Roscius Otho, (called Roscia Lex by Horace,) by which the fourteen rows of seats next to those of the senators were reserved for the knights.

those only who confess it, as I found to be the case in my contest for the consulship; for we also had a theatrical representation as our competitor. But if I who, as ædile, had exhibited those shows of games, was yet influenced by the games exhibited by Antonius, do you not suppose that that very silver stage exhibited by this man, which you laugh at, was a serious rival to you, who, as it happened, had never given any games at all? But, in truth, let us allow that these advantages are all equal,—let exertions displayed in the forum be allowed to be equal to military achievements,—let the votes of the quiet citizens be granted to be of equal weight with those of the soldiers,—let it be of equal assistance to a man to have exhibited the most magnificent games, and never to have exhibited any at all; what then? Do you think that in the prætorship itself there was no difference between your lot and that of my client Murena?

XX. His department was that which we and all your friends desired for you; that, namely, of deciding the law; a business in which the importance of the business transacted procures great credit for a man, and the administration of justice earns him popularity; for which department a wise prætor, such as Murena was, avoids giving offence by impartiality in his decisions, and conciliates good-will by his good temper in hearing the cases brought before him. It is a very creditable employment, and very well adapted to gain a man the consulship, being one in which the praise of justice, integrity and affability is crowned at the last by the pleasure of the games which he exhibits. What department was it that your lot gave you? A disagreeable and odious one. That of inquiry into peculation, pregnant on the one side with the tears and mourning apparel of the accused, full on the other side of imprisonment and informers. In that department of justice judges are forced to act against their will, are retained by force contrary to their inclination. The clerk is hated, the whole body is unpopular. The gratifications given by Sylla are found fault with. Many brave men,—indeed, a considerable portion of the city is offended; damages are assigned with severity. The man who is pleased with the decision soon forgets it; he who loses his cause is sure to remember it. Lastly, you would not go to your province. I cannot find fault with that resolution in you, which, both as prætor and consul, I have adopted in my own case. But still Lucius

Murena's conduct in his province procured him the affection of many influential men, and a great accession of reputation On his road he held a levy of troops in Umbria. The republic enabled him to display his liberality, which he did so effectually as to engage in his interest many tribes which are connected with the municipalities of that district. And in Gaul itself, he contrived by his equity and diligence to enable many of our citizens to recover debts which they had entirely despaired of. In the meantime you were living at Rome, ready to help your friends. I confess that—but still recollect this, that the inclinations of some friends are often cooled towards those men by whom they see that provinces are despised.

XXI. And since I have proved, O judges, that in this contest for the consulship Murena had the same claims of worth that Sulpicius had, accompanied with a very different fortune as respects the business of their respective provinces, I will say more plainly in what particular my friend Servius was inferior; and I will say those things while you are now hearing me,—now that the time of the elections is over,—which I have often said to him by himself before the affair was settled. I often told you, O Servius, that you did not know how to stand for the consulship; and, in respect to those very matters which I saw you conducting and advocating in a brave and magnanimous spirit, I often said to you that you appeared to me to be a brave senator rather than a wise candidate. For, in the first place, the terrors and threats of accusations which you were in the habit of employing every day, are rather the part of a fearless man; but they have an unfavourable effect on the opinion of the people as regards a man's hopes of getting anything from them, and they even disarm the zeal of his friends. Somehow or other, this is always the case; and it has been noticed, not in one or two instances only, but in many; so that the moment a candidate is seen to turn his attention to provocations, he is supposed to have given up all hopes of his election.

What, then, am I saying? Do I mean that a man is not to prosecute another for any injury which he may have received? Certainly I mean nothing of the sort. But the times for prosecuting and for standing for the consulship are different. I consider that a candidate for any office, especially for the consulship, ought to come down into the forum and

into the Campus Martius with great hopes, with great courage, and with great resources. But I do not like a candidate to be looking about for evidence—conduct which is a sure forerunner of a repulse. I do not like his being anxious to marshal witnesses rather than voters. I do not fancy threats instead of caresses,—declamation where there should be salutation; especially as, according to the new fashion now existing, all candidates visit the houses of nearly all the citizens, and from their countenances men form their conjectures as to what spirits and what probabilities of success each candidate has. "Do you see how gloomy that man looks? how dejected? He is out of spirits; he thinks he has no chance; he has laid down his arms." Then a report gets abroad,—"Do you know that he is thinking of a prosecution? He is seeking for evidence against his competitors; he is hunting for witnesses. I shall vote for some one else, as he knows that he has no chance." The most intimate friends of such candidates as that are dispirited and disarmed, they abandon all anxiety in the matter,—they give up a business which is so manifestly hopeless, or else they reserve all their labour and influence to countenance their friend in the trial and prosecution which he is meditating.

XXII. And, besides all this, the candidate himself cannot devote his whole thoughts, and care, and attention, and diligence to his own election; for he has also in his mind the thoughts of his prosecution—a matter of no small importance, but in truth of the very greatest. For it is a very serious business to be preparing measures by which to deprive a man, especially one who is not powerless or without resources, of his rights as a citizen; one who is defended both by himself and by his friend,—ay, and perhaps also by strangers. For we all of us naturally hasten to save any one from danger; and, if we are not notoriously enemies to them, we tender, even to utter strangers, when menaced by danger affecting their station as citizens, the services and zeal which are strictly speaking due only to the causes of our friends. On which account I, who know by experience the troubles attending on standing for office, on defending and accusing prisoners, consider that the truth in respect of each business stands thus,—that in standing for an office, eagerness is the chief thing; in defending a man, a regard for one's duty is the principal thing shown; in accusing a man, the labour is

greatest. And therefore I say decidedly that it is quite impossible for the same man to do justice properly to the part of an accuser and a candidate for the consulship. Few can play either part well; no one can do justice to both. Did you, when you turned aside out of the course prescribed for you as a candidate, and when you had transferred your attention to the task of prosecuting, think that you could fulfil all the requirements of both? You were greatly mistaken if you did; for what day was there after you once entered on that prosecution, that you did not devote the whole of it to that occupation?

XXIII. You demanded a law about bribery, though there was no deficiency of laws on that matter, for there was the Calpurnian law, framed with the greatest severity. Your inclinations and your wish procured compliance with your demand; but the whole of that law might perhaps have armed your accusation, if you had had a guilty defendant to prosecute; but it has been of great injury to you as a candidate. A more severe punishment for the common people was demanded by your voice. The minds of the lower orders were agitated. The punishment of an exile was demanded in the case of any one of our order being convicted. The senate granted it to your request; but still it was with no good will that they established a more severe condition for our common fortunes at your instigation. Punishment was imposed on any one who made the excuse of illness. The inclinations of many men were alienated by this step, as by it they were forced either to labour to the prejudice of their health, or else through the distress of illness they were compelled to abandon the other enjoyments of life. What, then, are we to say of this? Who passed this law? He, who, in so doing, acted in obedience to the senate, and to your wish. He, in short, passed it to whom it was not of the slightest personal advantage. Do you think that those proposals which, with my most willing consent, the senate rejected in a very full house, were but a slight hindrance to you? You demanded the confusion of the votes of all the centuries, the extension of the Manilian law,[1] the equalisation of all interest, and dignity, and

[1] This was not the Manilian law, in support of which Cicero spoke, to confer the command in Asia on Pompeius; but a law enacting that the votes should be counted without any regard to the centuries in which they were given; but this law was repealed soon after its enactment.

of all the suffrages. Honourable men, men of influence in their neighbourhoods and municipalities, were indignant that such a man should contend for the abolition of all degrees in dignity and popularity. You also wished to have judges selected by the accuser at his pleasure, the effect of which would have been, that the secret dislikes of the citizens, which are at present confined to silent grumblings, would have broken out in attacks on the fortunes of every eminent man.

All these measures were strengthening your hands as a prosecutor, but weakening your chance as a candidate. And by them all a violent blow was struck at your hopes of success, as I warned you; and many very severe things were said about it by that most able and most eloquent man, Hortensius, owing to which my task of speaking now is the more difficult; as, after both he had spoken before me, and also Marcus Crassus, a man of the greatest dignity, and industry, and skill as an orator, I, coming in at the end, was not to plead some part of the cause, but to say with respect to the whole matter whatever I thought advisable. Therefore I am forced to recur to the same ideas, and to a great extent, O judges, I have to contend with a feeling of satiety on your part.

XXIV. But still, O Servius, do you not see that you completely lay the axe to the root of your chance as a candidate, when you give the Roman people cause for apprehension that Catiline might be made consul through your neglect, and, I may almost say, abandonment of your canvass, while you were intent on your prosecution? In truth, men saw that you were hunting about for evidence; that you yourself looked gloomy, your friends out of spirits; they noticed your visits, your inquiries after proofs, your privy meetings with your witnesses, your conferences with your junior counsel; all which matters are certainly apt to make the countenance of a candidate look darker. Meantime they saw Catiline cheerful and joyous, accompanied by a band of youths, with a body-guard of informers and assassins, elated by the hopes which he placed in the soldiers, and, as he himself said, by the promises of my colleagues; surrounded, too, with a numerous body of colonists from Arretium and Fæsulæ—a crowd made conspicuous by the presence of men of a very different sort in it, men who had been ruined by the disasters in the time of Sylla. His own countenance was full of fury; his eyes glared with wickedness; his discourse breathed nothing

out arrogance. You might have thought that he had assured himself of the consulship, and that he had got it locked up at home. Murena he despised. Sulpicius he considered as his prosecutor, not as a competitor. He threatened him with violence; he threatened the republic.

XXV. And I need not remind you with what terror all good men were seized in consequence of these occurrences, and how entirely they would all have despaired of the republic if he had been made consul. All this you yourselves recollect; for you remember, when the expressions of that wicked gladiator got abroad, which he was said to have used at a meeting at his own house, when he said that it was impossible for any faithful defender of the miserable citizens to be found, except a man who was himself miserable; that men in an embarrassed and desperate condition ought not to trust the promises of men of a flourishing and fortunate estate; and therefore that those who were desirous to replace what they had spent, and to recover what they had lost, had better consider what he himself owed, what he possessed, and what he would dare to do; that that man ought to be very fearless and thoroughly overwhelmed by misfortune, who was to be the leader and standard-bearer of unfortunate men. Then, therefore, when these things had been heard, you recollect that a resolution of the senate was passed, on my motion, that the comitia should not be held the next day, in order that we might be able to discuss these matters in the senate. Accordingly, the next day, in a full meeting of the senate, I addressed Catiline himself, and desired him, if he could, to give some explanation of these reports which had been brought to me. And he—for he was not much addicted to disguising his intentions—did not attempt to clear himself, but openly avowed and adopted the statements. For he said then, that there were two bodies of the republic,—the one weak with a weak head, the other powerful without a head,—and that, as this last had deserved well of him, it should never want a head as long as he lived. The whole senate groaned at hearing itself addressed in such language, and passed a resolution not severe enough for such unworthy conduct; for some of them were against too rigorous a resolution, because they had no fear; and some, because they had a great deal. Then he rushed forth from the senate, triumphing and exulting,—a man who never ought to have been allowed to leave it alive,

especially as that very same man in the same place had made answer to Cato, that gallant man who was threatening him with a prosecution, a few days before, that if any fire were kindled against his own fortunes, he would put it out, not with water, but by the general ruin.

XXVI. Being influenced then by these facts, and knowing that men who were already associated in a conspiracy were being brought down by Catiline into the Campus Martius, armed with swords, I myself descended into the campus with a guard of brave men, and with that broad and shining breastplate, not in order to protect me, (for I knew that Catiline would aim at my head and neck, not at my chest or body,) but in order that all good men might observe it, and, when they saw their consul in fear and in danger, might, as they did, throng together for my assistance and protection. Therefore, as, O Servius, men thought you very remiss in prosecuting the contest, and saw Catiline inflamed with hope and desire, all who wished to repel that pest from the republic immediately joined the party of Murena. And in the consular comitia the sudden inclination of men's feelings is often of great weight, especially as, in this case, it took the direction of a very gallant man, who was assisted by many other concurrent aids in his application for the office. He was born of a most honourable father and ancestors; he had passed his youth in a most modest manner; he had discharged the office of a lieutenant with great credit; he had been prætor, as such he had been approved as a judge; he had been popular through his liberality; he had been highly honoured in his province; he had been very diligent in his canvass, and had carried it on so as neither to give way if any one threatened him, nor to threaten any one himself. Can we wonder that the sudden hope which Catiline now entertained of obtaining the consulship was a great assistance to this man?

The third topic which I have got to speak about refers to the charge of bribery; which has been already entirely refuted by those who have spoken before me, but which must still be discussed by me, since such is the will of Murena. And while speaking on this point, I will reply to what Postumius, my own intimate friend, a most accomplished man, has said about the trials of agents, and about sums of money which he asserts have been found; and to what Servius Sulpicius, that able and virtuous young man, has said about the

centuries of the knights; and to what Marcus Cato, a man eminent in every kind of virtue, has said about his own accusation, about the resolution of the senate, and about the republic in general.

XXVII. But first of all I will say a little, which has just occurred to me, about the hard fortune of Lucius Murena. For I have often before now, O judges, judging both by the miseries of others, and by my own daily cares and labours, considered those men fortunate, who, being at a distance from the pursuits of ambition, have addicted themselves to ease and tranquillity of life; and now especially I am so affected by these serious and unexpected dangers of Lucius Murena, that I am unable adequately to express my pity for the common condition of all of us, or for his particular state and fortune; who while, after an uninterrupted series of honours attained by his family and his ancestors, he was endeavouring to mount one step higher in dignity, has incurred the danger of losing both the honours bequeathed to him by his forefathers, and those too which have been acquired by himself, and now, on account of his pursuit of this new honour, is brought into the danger of losing his ancient fortune also. And as these are weighty considerations, O judges, so is this the most serious matter of all, that he has men for accusers who, instead of proceeding to accuse him on account of their private enmity against him, have become his personal enemies, being carried away by their zeal for their accusation. For, to say nothing of Servius Sulpicius, who, I am aware, is influenced not by any wrong done by Lucius Murena, but only by the party spirit engendered by the contest for honour, his father's friend, Cnæus Postumius, is his accuser, an old neighbour and intimate friend of his own, as he says himself; who has mentioned many reasons for his intimacy with him, while he has not been able to mention one for any enmity towards him. Servius Sulpicius accuses him, the companion of his son,—he, by whose genius all the friends of his father ought to be only the more defended. Marcus Cato accuses him, who, though he has never been in any matter whatever at variance with Murena, yet was born in this city under such circumstances that his power and genius ought to be a protection to many who were even entire strangers to him, and ought to be the ruin of hardly any personal enemy.

In the first instance then I will reply to Cnæus Postumius,

who, somehow or other, I know not how, while a candidate for the prætorship, appears to me to be a straggler into the course marked out for the candidates for the consulship, as the horse of a vaulter might escape into the course marked out for the chariot races. And if there is no fault whatever to be found with his competitors, then he has made a great concession to their worth in desisting from his canvass. But if any one of them has committed bribery, then he must look for some friend who will be more inclined to prosecute an injury done to another than one done to himself.

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XXVIII. I come now to Marcus Cato, who is the mainstay and prop of the whole prosecution; who is, however, so zealous and vehement a prosecutor, that I am much more afraid of the weight of his name, than of his accusation. And with respect to this accuser, O judges, first of all I will entreat you not to let Cato's dignity, nor your expectation of his tribuneship, nor the high reputation and virtue of his whole life, be any injury to Lucius Murena. Let not all the honours of Marcus Cato which he has acquired in order to be able to assist many men, be an injury to my client alone. Publius Africanus had been twice consul, and had destroyed those two terrors of this empire, Carthage and Numantia, when he prosecuted Lucius Cotta. He was a man of the most splendid eloquence, of the greatest good faith, of the purest integrity; his authority was as great almost as that of the Roman people itself, in that empire which had been mainly saved by his means. I have often heard old men say that this very extraordinarily high character of the accuser was of the greatest service to Lucius Cotta. Those wise men who then were the judges in that cause, did not like any one to be defeated in a trial, if he was to appear overwhelmed only by the excessive influence of his adversary. What more shall I say? Did not the Roman people deliver Sergius Galba (the fact is preserved in the recollection of every one) from your grandfather, that most intrepid and prosperous man, Marcus Cato, who was zealously seeking his ruin? At all times in this city the whole people, and also the judges, wise men, looking far into futurity, have resisted the overweening power of prosecutors. I do not like an accuser bringing his personal power, or any predominant influence, or his own eminent authority, or his own excessive popularity, into a

court of justice. Let all these things have weight to ensure the safety of the innocent, to aid the weak, to succour the unfortunate. But in a case where the danger and ruin of citizens may ensue, let them be rejected. For if perchance any one should say that Cato would not have come forward as an accuser if he had not previously made up his mind about the justice of the cause, he will then be laying down a most unjust law, O judges, and establishing a miserable condition for men in their danger, if he thinks that the opinion of an accuser is to have against a defendant the weight of a previous investigation legally conducted.

XXIX. I, O Cato, do not venture to find fault with your intentions, by reason of my extraordinarily high opinion of your virtue; but in some particulars I may perhaps be able slightly to amend and reform them. "You are not very wrong," said an aged tutor to a very brave man; "but if you are wrong, I can set you right." But I can say with the greatest truth that you never do wrong, and that your conduct is never such in any point as to need correction, but only such as occasionally to require being guided a little. For nature has herself formed you for honesty, and gravity, and moderation, and magnanimity, and justice; and for all the virtues required to make a great and noble man. To all these qualities are added an education not moderate, nor mild, but, as it seems to me, a little harsh and severe, more so than either truth or nature would permit. And since we are not to address this speech either to an ignorant multitude, or to any assembly of rustics, I will speak a little boldly about the pursuits of educated men, which are both well known and agreeable to you, O judges, and to me. Learn then, O judges, that all these good qualities, divine and splendid as they are, which we behold in Marcus Cato, are his own peculiar attributes. The qualities which we sometimes wish for in him, are not all those which are implanted in a man by nature, but some of them are such as are derived from education. For there was once a man of the greatest genius, whose name was Zeno, the imitators of whose example are called Stoics. His opinions and precepts are of this sort: that a wise man is never influenced by interest; never pardons any man's fault; that no one is merciful except a fool and a trifler; that it is not the part of a man to be moved or pacified by entreaties; that wise men, let them be ever so deformed, are

the only beautiful men; if they be ever such beggars, they are the only rich men; if they be in slavery, they are kings. And as for all of us who are not wise men, they call us runaway slaves, exiles, enemies, lunatics. They say that all offences are equal; that every sin is an unpardonable crime; and that he does not commit a less crime who kills a cock, if there was no need to do so, than the man who strangles his father. They say that a wise man never feels uncertain on any point, never repents of anything, is never deceived in anything, and never alters his opinion.

XXX. All these opinions that most acute man, Marcus Cato, having been induced by learned advocates of them, has embraced; and that, not for the sake of arguing about them, as is the case with most men, but of living by them. Do the Publicans ask for anything? "Take care that their influence has no weight." Do any suppliants, miserable and unhappy men, come to us? "You will be a wicked and infamous man if you do anything from being influenced by mercy." Does any one confess that he has done wrong, and beg pardon for his wrong doing? "To pardon is a crime of the deepest dye."—"But it is a trifling offence." "All offences are equal." You say something. "That is a fixed and unalterable principle" "You are influenced not by the facts, but by your opinion." "A wise man never forms mere opinions." "You have made a mistake in some point." He thinks that you are abusing him—And in accordance with these principles of his are the following assertions: "I said in the senate, that I would prosecute one of the candidates for the consulship." "You said that when you were angry." "A wise man never is angry." "But you said it for some temporary purpose." "It is the act," says he, "of a worthless man to deceive by a lie; it is a disgraceful act to alter one's opinion; to be moved by entreaties is wickedness; to pity any one is an enormity." But our philosophers, (for I confess, O Cato, that I too, in my youth, distrusting my own abilities, sought assistance from learning,) our philosophers, I say, men of the school of Plato and Aristotle, men of soberness and moderation, say that private interest does sometimes have weight even with a wise man. They say that it does become a virtuous man to feel pity; that there are different gradations of offences, and different degrees of punishment appropriate to each; that a man with every proper regard for firmness may pardon

offences; that even the wise man himself has sometimes nothing more than opinion to go upon, without absolute certainty; that he is sometimes angry; that he is sometimes influenced and pacified by entreaty; that he sometimes does change an opinion which he may have expressed, when it is better to do so; that he sometimes abandons his previous opinions altogether; and that all his virtues are tempered by a certain moderation.

XXXI. If any chance, O Cato, had conducted, endowed with your existing natural disposition, to those tutors, you would not indeed have been a better man than you are, nor a braver one, nor more temperate, nor more just than you are, (for that is not possible,) but you would have been a little more inclined to lenity; you would not, when you were not induced by any enmity, or provoked by any personal injury, accuse a most virtuous man, a man of the highest rank and the greatest integrity; you would consider that as fortune had entrusted the guardianship of the same year to you[1] and to Murena, that you were connected with him by some certain political union; and the severe things which you have said in the senate you would either not have said, or you would have guarded against their being applied to him, or you would have interpreted them in the mildest sense. And even you yourself, (at least that is my opinion and expectation,) excited as you are at present by the impetuosity of your disposition, and elated as you are both by the vigour of your natural character and by your confidence in your own ability, and inflamed as you are by your recent study of all these precepts, will find practice modify them, and time and increasing years soften and humanise you. In truth, those tutors and teachers of virtue, whom you think so much of, appear to me themselves to have carried their definitions of duties somewhat further than is agreeable to nature; and it would be better if, when we had in theory pushed our principles to extremities, yet in practice we stopped at what was expedient. "Forgive nothing." Say rather, forgive some things, but not everything. "Do nothing for the sake of private influence." Certainly resist private influence when virtue and good faith require you to do so. "Do not be moved by pity." Certainly if it is to extinguish all impartiality; nevertheless, there is some credit due to humanity. "Abide by your own opinion." Very true, unless some other sounder opinion convinces you. That great

[1] Cato was tribune elect.

Scipio was a man of this sort, who had no objection to do the same thing that you do; to keep a most learned man, a man of almost divine wisdom, in his house; by whose conversation and precepts, although they were the very same that you are so fond of, he was nevertheless not made more severe, but (as I have heard said by old men) he was rendered most merciful. And who was more mild in his manners than Caius Lælius? who was more agreeable than he? (devoted to the same studies as you;) who was more virtuous or more wise than he? I might say the same of Lucius Philus, and of Caius Gallus; but I will conduct you now into your own house. Do you think that there was any man more courteous, more agreeable; any one whose conduct was more completely regulated by every principle of virtue and politeness, than Cato, your great-grandfather? And when you were speaking with truth and dignity of his virtue, you said that you had a domestic example to imitate. That indeed is an example set up for your imitation in your own family; and the similarity of nature ought rather to influence you who are descended from him than any one of us; but still that example is as much an object for my imitation as for yours. But if you were to add his courtesy and affability to your own wisdom and impartiality, I will not say that those qualities which are now most excellent will be made intrinsically better, but they will certainly be more agreeably seasoned.

XXXII. Wherefore, to return to the subject which I began to speak of, take away the name of Cato out of the cause; remove and leave out of the question all mention of authority, which in courts of justice ought either to have no influence at all, or only influence to contribute to some one's safety; and discuss with me the charges themselves. What do you accuse him of, Cato? What action of his is it that you bring before the court? What is your charge? Do you accuse him of bribery? I do not defend bribery. You blame me because you say I am defending the very conduct which I brought in a law to punish. I punished bribery, not innocence. And any real case of bribery I will join you in prosecuting if you please. You have said that a resolution of the senate was passed, on my motion, "that if any men who had been bribed had gone to meet the candidates, if any hired men followed them, if places were given men to see the shows of gladiators according to their tribes, and also, if dinners were given to the common people, that appeared to be a violation of the Calpurnian law."

Therefore the senate decides that these things were done in violation of the Calpurnian law if they were done at all; it decides what there is not the least occasion for, out of complaisance for the candidates. For there is a great question whether such things have been done or not. That, if they have been done, they were done in violation of the law, no one can doubt. It is, therefore, ridiculous to leave that uncertain which was doubtful, but to give a positive decision on that point which can be doubtful to no one. And that decree is passed at the request of all the candidates; in order that it might be quite impossible to make out from the resolution of the senate whose interests were consulted, or against whose interests it was passed. Prove, then, that these actions have been done by Lucius Murena; and then I will grant to you that they have been done in violation of the law.

XXXIII. "Many men went to meet him as he was departing from his province, when he was a candidate for the consulship." That is a very usual thing to do. Who is there whom people do not go out to meet on his return home? "What a number of people they were." In the first place, if I am not able to give you any exact account of it, what wonder is it if many men did go out to meet such a man on his arrival, being a candidate for the consulship? If they had not done so, it would have appeared much more strange. What then? Suppose I were even to add, what there would be nothing unusual in, that many had been asked to go? Would that be matter of accusation, or at all strange, that, in a city in which we, when we are asked, often come to escort the sons of even the lowest rank, almost before the night is over, from the furthest part of the city, men should not mind going at the third hour into the Campus Martius, especially when they have been invited in the name of such a man as Murena? What then? What if all the societies had come to meet him, of which bodies many are sitting here as judges? What if many men of our own most honourable order had come? What then? What if the whole of that most officious body of candidates, which will not suffer any man to enter the city except in an honourable manner, had come, or even our prosecutor himself—if Postumius had come to meet him with a numerous crowd of his dependents? What is there strange in such a multitude? I say nothing of his clients, his neighbours, his tribesmen, or the whole army of Lucullus, which, just at that time, had come to Rome to his triumph: I say

this, that that crowd, paying that gratuitous mark of respect, was never backward in paying respect not only to the merit of any one, but even to his wishes.

"But a great many people followed him." Prove that it was for hire, and I will admit that that was a crime: but if the fact of hire be absent, what is there that you object to?

XXXIV. "What need is there," says he, "of an escort?" Are you asking me what is the need of that which we have always availed ourselves of? Men of the lower orders have only one opportunity of deserving kindness at the hands of our order, or of requiting services,—namely, this one attention of escorting us when we are candidates for offices. For it is neither possible, nor ought we or the Roman knights to require them to escort the candidates to whom they are attached for whole days together; but if our house is frequented by them, if we are sometimes escorted to the forum, if we are honoured by their attendance for the distance of one piazza, we then appear to be treated with all due observance and respect; and those are the attentions of our poorer friends who are not hindered by business, of whom numbers are not wont to desert virtuous and beneficent men. Do not then, O Cato, deprive the lower class of men of this power of showing their dutiful feelings; allow these men, who hope for everything from us, to have something also themselves, which they may be able to give us. If they have nothing beyond their own vote, that is but little; since they have no interest which they can exert in the votes of others. They themselves, as they are accustomed to say, cannot plead for us, cannot go bail for us, cannot invite us to their houses; but they ask all these things of us, and do not think that they can requite the services which they receive from us by anything but by their attentions of this sort. Therefore they resisted the Fabian law, which regulated the number of an escort, and the resolution of the senate, which was passed in the consulship of Lucius Cæsar. For there is no punishment which can prevent the regard shown by the poorer classes for this description of attention. "But spectacles were exhibited to the people by their tribes, and crowds of the common people were invited to dinner." Although this, O judges, was not done by Murena at all, but done in accordance with all usage and precedent by his friends, still, being reminded of the fact, I recollect how many votes these investigations held in the senate have lost us, O Servius. For what time was

there ever, either within our own recollection or that of our fathers, in which this, whether you call it ambition or liberality, did not exist, to the extent of giving a place in the circus and in the forum to one's friends, and to the men of one's own tribe? The men of the poorer classes first, who had not yet obtained from those of their own tribe * * *

XXXV. * * * that the prefect of the carpenters[1] once gave a place to the men of his own tribe. What will they decide with respect to the eminent men who have erected regular stalls in the circus, for the sake of their own tribesmen? All these charges of escort, of spectacles, of dinners, are brought forward by the multitude, O Servius, as proofs of your over-scrupulous diligence; but still as to those counts of the indictment, Murena is defended by the authority of the senate. And why not? Does the senate think it a crime to go to meet a man? No; but it does, if it be done for a bribe. Prove that it was so. Does the senate think it a crime for many men to follow him? No; but it does, if they were hired. Prove it. Or to give a man a place to see the spectacles? or to ask a man to dinner? Not by any means; but to give every one a seat, to ask every one one meets to dinner. "What is every one?" Why, the whole body of citizens. If, then, Lucius Natta, a young man of the highest rank, as to whom we see already of what sort of disposition he is, and what sort of man he is likely to turn out, wished to be popular among the centuries of the knights, both because of his natural connexion with them, and because of his intentions as to the future, that will not be a crime in, or matter of accusation against his stepfather; nor, if a vestal virgin, my client's near relation, gave up her place to see the spectacle in his favour, was that any other than a pious action, nor is he liable to any charge on that ground. All these are the kind offices of intimate friends, the services done to the poorer classes, the regular privileges of candidates.

But I must change my tone; for Cato argues with me on rigid and stoic principles. He says that it is not true that good-will is conciliated by food. He says that men's judg-

[1] Besides the classes into which the centuries were divided, and the four supernumerary centuries of *accensi*, *velati*, *proletarii*, and *capite censi*, there were three centuries classed according to their occupation. The *fabri*, or carpenters, who were attached to the centuries of the first class; the *cornicines*, or hornblowers, and *liticines*, or trumpeters, who were reckoned with the fourth class.

ments, in the important business of electing to magistracies, ought not to be corrupted by pleasures. Therefore, if any one, to promote his canvass, invites another to supper, he must be condemned. "Shall you," says he, "seek to obtain supreme power, supreme authority, and the helm of the republic, by encouraging men's sensual appetites, by soothing their minds, by tendering luxuries to them? Are you asking employment as a pimp from a band of luxurious youths, or the sovereignty of the world from the Roman people?" An extraordinary sort of speech! but our usages, our way of living, our manners, and the constitution itself, rejects it. For the Lacedæmonians, the original authors of that way of living and of that sort of language, men who lie at their daily meals on hard oak benches, and the Cretans, of whom no one ever lies down to eat at all, have neither of them preserved their political constitutions or their power better than the Romans, who set apart times for pleasure as well as times for labour; for one of those nations was destroyed by a single invasion of our army, the other only preserves its discipline and its laws by means of the protection afforded to it by our supremacy.

XXXVI. Do not, then, O Cato, blame with too great severity of language the principles of our ancestors, which facts, and the length of time that our power has flourished under them, justify. There was, in the time of our ancestors, a learned man of the same sect, an honourable citizen, and one of high rank, Quintus Tubero. He, when Quintus Maximus was giving a feast to the Roman people, in the name of his uncle Africanus, was asked by Maximus to prepare a couch for the banquet, as Tubero was a son of the sister of the same Africanus. And he, a most learned man and a Stoic, covered for that occasion some couches made in the Carthaginian fashion, with skins of kids, and exhibited some Samian[1] vessels, as if Diogenes the Cynic had been dead, and not as if he were paying respect to the obsequies of that godlike Africanus; a man with respect to whom Maximus, when he was pronouncing his funeral panegyric on the day of his death, expressed his gratitude to the immortal gods for having caused that man to be born in this republic above all others, for that it was quite inevitable that the sovereignty of the world must belong to that state of which he was a citizen.

[1] Samian vessels were made of an inferior earthenware; Carthaginian couches were very low and narrow.

At the celebration of the obsequies of such a man the Roman people was very indignant at the perverse wisdom of Tubero, and therefore he, a most upright man, a most virtuous citizen, though he was the grandson of Lucius Paullus, the sister's son, as I have said before, of Publius Africanus, lost the prætorship by his kid skins.

The Roman people disapproves of private luxury, but admires public magnificence. It does not love profuse banquets, still less does it love sordid and uncivilized behaviour. It makes a proper distinction between different duties and different seasons; and allows of vicissitudes of labour and pleasure. For as to what you say, that it is not right for men's minds to be influenced, in appointing magistrates, by any other consideration than that of the worth of the candidates, this principle even you yourself—you, a man of the greatest worth—do not in every case adhere to. For why do you ask any one to take pains for you, to assist you? You ask me to make you governor over myself, to entrust myself to you. What is the meaning of this? Ought I to be asked this by you, or should not you rather be asked by me to undertake labour and danger for the sake of my safety? Nay more, why is it that you have a nomenclator[1] with you? for in so doing, you are practising a trick and a deceit. For if it be an honourable thing for your fellow-citizens to be addressed by name by you, it is a shameful thing for them to be better known to your servant than to yourself. If, though you know them yourself, it seems better to use a prompter, why do you sometimes address them before he has whispered their names in your ear? Why, again, when he has reminded you of them, do you salute them as if you knew them yourself? And why, after you are once elected, are you more careless about saluting them at all? If you regulate all these things by the usages of the city, it is all right; but if you choose to weigh them by the precepts of your sect, they will be found to be entirely wrong. Those enjoyments, then, of games, and gladiators, and banquets, all which things our ancestors desired, are not to be taken away from the Roman people, nor ought candidates to be forbidden the exercise of that kindness which is liberality rather than bribery.

[1] The *nomenclator* was a slave who accompanied the candidate in going his rounds, and told him the name of every one he met, so that he might be able to accost them as if they were personally known to himself.

XXXVII. Oh, but it is the interest of the republic that has induced you to become a prosecutor. I do believe, O Cato, that you have come forward under the influence of those feelings and of that opinion. But you err out of ignorance. That which I am doing, O judges, I am doing out of regard to my friendship for Lucius Murena and to his own worth, and I also do assert and call you all to witness that I am doing it for the sake of peace, of tranquillity, of concord, of liberty, of safety,—ay, even for the sake of the lives of us all. Listen, O judges, listen to the consul,—I will not speak with undue arrogance, I will only say, who devotes all his thoughts day and night to the republic. Lucius Catiline did not despise and scorn the republic to such a degree as to think that with the forces which he took away with him he could subdue this city. The contagion of that wickedness spreads more widely than any one believes: more men are implicated in it than people are aware of. It is within the city,—the Trojan horse, I say, is within the city; but you shall never be surprised sleeping by that while I am consul. You ask of me why I am afraid of Catiline? I am not; and I have taken care that no one should have any reason to be afraid of him; but I do say that those soldiers of his, whom I see present here, are objects of fear: nor is the army which Lucius Catiline now has with him as formidable as those men are who are said to have deserted that army; for they have not deserted it, but they have been left by him as spies, as men placed in ambuscade, to threaten our lives and liberties. Those men are very anxious that an upright consul and an able general, a man connected both by nature and by fortune with the safety of the republic, should by your decision be removed from the office of protecting the city, from the guardianship of the state. Their swords and their audacity I have procured the rejection of in the campus, I have disarmed them in the forum, I have often checked them at my own house; but if you now give them up one of the consuls, they will have gained much more by your votes than by their own swords. That which I, in spite of the resistance of many, have managed and carried through, namely, that on the first of January there should be two consuls in the republic, is of great consequence, O judges. Never believe that by consuls of moderate abilities, or by the ordinary modes of proceeding

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It is not some unjust law, some mischievous bribery, or some improprieties in the republic that have just been heard of, that are the real objects for your inquiry now. Plans have been formed in this state, O judges, for destroying the city, for massacring the citizens, for extinguishing the Roman name. They are citizens,—citizens, I say, (if indeed it is lawful to call them by this name,) who are forming and have formed these plans respecting their own country. Every day I am counteracting their designs, disarming their audacity, resisting their wickedness. But I warn you, O judges; my consulship is now just at an end. Do not refuse me a successor in my diligence; do not refuse me him, to whom I am anxious to deliver over the republic in a sound condition, that he may defend it from these great dangers.

XXXVIII. And do you not see, O judges, what other evil there is added to these evils? I am addressing you,—you, O Cato. Do you not foresee a storm in your year of office? for in yesterday's assembly there thundered out the mischievous voice of a tribune[1] elect, one of your own colleagues; against whom your own mind took many precautions, and so too did all good men, when they invited you to stand for the tribuneship. Everything which has been plotted for the last three years, from the time when you know that the design of massacring the senate was first formed by Lucius Catiline and by Cnæus Piso, is now breaking out on these days, in these months, at this time. What place is there, O judges, what time, what day, what night is there, that I have not been delivered and escaped from their plots and attacks, not only by my own prudence, but much more by the providence of the gods? It was not that they wished to slay me as an individual, but that they wished to get rid of a vigilant consul, and to remove him from the guardianship of the republic; and they would be just as glad, O Cato, to remove you too, if they could by any means contrive to do so; and believe me, that is what they are wishing and planning to do They see how much courage, how much ability, how much authority, how much protection for the republic there is in you; but they think that, when they have once seen the power of the tribunes stripped of the support which it derives

[1] He means Quintus Metellus Nepos, the same man who afterwards prevented his making an address to the people on his resigning his consulship

from the authority and assistance of the consuls, they will then find it easier to crush you when you are deprived of your arms and vigour. For they have no fear of another consul being elected in the place of this one; they see that that will depend upon your colleagues; they hope that Silanus, an illustrious man, will be exposed to their attacks without any colleague; and that so will you without any consul; and that so will the republic without any protector. When such are our circumstances, and such our perils, it becomes you, O Marcus Cato, who have been born, not for my good, nor for your own good, but for that of your country, to perceive what are their real objects; to retain as your assistant, and defender, and partner in the republic, a consul who has no private desires to gratify, a consul (as this season particularly requires) formed by fortune to court ease, but by knowledge to carry on war, and by courage and practice to discharge in a proper manner whatever business you can impose upon him.

XXXIX. Although the whole power of providing for this rests with you, O judges,—you, in this cause, are the masters and directors of the whole republic,—if Lucius Catiline, with his council of infamous men whom he took out with him, could give his decision in this case, he would condemn Lucius Murena; if he could put him to death, he would. For his plans require the republic to be deprived of every sort of aid; they require the number of generals who may be opposed to his frenzy to be diminished; they require that greater power should be given to the tribunes of the people, when they have driven away their adversary, to raise sedition and discord. Will, then, thoroughly honourable and wise men, chosen out of the most dignified orders of the state, give the same decision that most profligate gladiator, the enemy of the republic, would give? Believe me, O judges, in this case you are deciding not only about the safety of Lucius Murena, but also on your own. We are in a situation of extreme danger; there is no means now of repairing the losses which we have already sustained, or of recovering the ground which we have lost. We must take care not only not to diminish the resources which we still have, but to provide ourselves with additional ones if that be possible. For the enemy is not on the Anio, which in the time of the Punic war appeared a most terrible thing, but he is in the city, in the forum; (O ye immortal gods! this cannot be said without a groan;) there

are even some enemies in this sacred temple of the republic, in the very senate-house itself. May the gods grant that my colleague, that most gallant man, may be able in arms to overtake and crush this impious piratical war of Catiline's. I, in the garb of peace, with you and all virtuous men for my assistants, will endeavour by my prudence to divide and destroy the dangers which the republic is pregnant with and about to bring forth. But still, what will be the consequences if these things slip through our hands and remain in vigour till the ensuing year? There will be but one consul; and he will have sufficient occupation, not in conducting a war, but in managing the election of a colleague. Those who will hinder him * * * * * *

That intolerable pest, * * * * * will break forth wherever it can find room; and even now it is threatening the Roman people; soon it will descend upon the suburban districts; frenzy will range at large among the camp, fear in the senate-house, conspiracy in the forum, an army in the Campus Martius, and devastation all over the country. In every habitation, and in every place, we shall live in fear of fire and sword. And yet all these evils, which have been so long making ready against us, if the republic is fortified by its natural means of protection, will be easily put down by the counsels of the magistrates and the diligence of private individuals.

XL. And as this is the case, O judges, in the first place for the sake of the republic, than which nothing ought to be of more importance in the eyes of every one, I do warn you, as I am entitled to do by my extreme diligence in the cause of the republic, which is well known to all of you,—I do exhort you, as my consular authority gives me a right to do,—I do entreat you, as the magnitude of the danger justifies me in doing, to provide for the tranquillity, for the peace, for the safety, for the lives of yourselves and of all the rest of your fellow-citizens. In the next place I do appeal to your good faith, O judges, (whether you may think that I do so in the spirit of an advocate or a friend signifies but little,) and beg of you, not to overwhelm the recent exaltation of Lucius Murena, an unfortunate man, of one oppressed both by bodily disease and by vexation of mind, by a fresh cause for mourning. He has been lately distinguished by the greatest kindness of the Roman people, and has seemed fortunate in being

the first man to bring the honours of the consulship into an old family, and a most ancient municipality. Now, in a mourning and unbecoming garb, debilitated by sickness, worn out with tears and grief, he is a suppliant to you, O judges, invoking your good faith, imploring your pity, fixing all his hopes on your power and your assistance. Do not, in the name of the immortal gods, O judges, deprive him not only of that office which he thought conferred additional honour on him, and at the same time of all the honours which he had gained before, and of all his dignity and fortune. And, O judges, what Lucius Murena is begging and entreating of you is no more than this; that if he has done no injury unjustly to any one, if he has offended no man's ears or inclination, if he has never (to say the least) given any one reason to hate him either at home or when engaged in war, he may in that case find among you moderation in judging, and a refuge for men in dejection, and assistance for modest merit. The deprivation of the consulship is a measure calculated to excite great feelings of pity, O judges. For with the consulship everything else is taken away too. And at such times as these the consulship itself is hardly a thing to envy a man. For it is exposed to the harangues of seditious men, to the plots of conspirators, to the attacks of Catiline. It is opposed single-handed to every danger, and to every sort of unpopularity. So that, O judges, I do not see what there is in this beautiful consulship which need be grudged to Murena, or to any other man among us. But those things in it which are calculated to make a man an object of pity, are visible to my eyes, and you too can clearly see and comprehend them.

XLI. If (may Jupiter avert the omen) you condemn this man by your decision, where is the unhappy man to turn? Home? What, that he may see that image of that most illustrious man his father, which a few days ago he beheld crowned with laurel when men were congratulating him on his election, now in mourning and lamentation at his disgrace? Or to his mother, who, wretched woman, having lately embraced her son as consul, is now in all the torments of anxiety, lest she should but a short time afterwards behold that same son stripped of all his dignity? But why do I speak of his home or of his mother, when the new punishment of the law deprives him of home, and parent, and of the intercourse with and sight of all his relations? Shall the

wretched man then go into banishment? Whither shall he go? Shall he go to the east, where he was for many years lieutenant, where he commanded armies, and performed many great exploits? But it is a most painful thing to return to a place in disgrace, from which you have departed in honour. Shall he hide himself in the opposite regions of the earth, so as to let Transalpine Gaul see the same man grieving and mourning, whom it lately saw with the greatest joy, exercising the highest authority? In that same province, moreover, with what feelings will he behold Caius Murena, his own brother? What will be the grief of the one, what will be the agony of the other? What will be the lamentations of both? How great will the vicissitudes of fortune appear, and what a change will there be in every one's conversation, when in the very places in which a few days before messengers and letters had repeated, with every indication of joy, that Murena had been made consul,—in the very places from which his own friends and his hereditary connexions flocked to Rome for the purpose of congratulating him, he himself arrives on a sudden as the messenger of his own misfortune! And if these things seem bitter, and miserable, and grievous,—if they are most foreign to your general clemency and merciful disposition, O judges, then maintain the kindness done to him by the Roman people; restore the consul to the republic; grant this to his own modesty, grant it to his dead father, grant it to his race and family, grant it also to Lanuvium, that most honourable municipality, the whole population of which you have seen watching this cause with tears and mourning. Do not tear from his ancestral sacrifices to Juno Sospita, to whom all consuls are bound to offer sacrifice, a consul who is so peculiarly her own. Him, if my recommendation has any weight, if my solemn assertion has any authority, I now recommend to you, O judges,—I the consul recommend him to you as consul, promising and undertaking that he will prove most desirous of tranquillity, most anxious to consult the interests of virtuous men, very active against sedition, very brave in war, and an irreconcilable enemy to this conspiracy, which is at this moment seeking to undermine the republic.

THE ORATION OF M. T. CICERO IN DEFENCE OF PUBLIUS SYLLA.

THE ARGUMENT.

Publius Sylla having been elected consul with Publius Autronius four years before, had been impeached for bribery, convicted, and deprived of his consulship. He had then been prosecuted by Torquatus. He was now impeached by the younger Torquatus, the son of his former prosecutor, as having been implicated in both of Catiline's conspiracies. (Autronius was accused also, and he also applied to Cicero to defend him, but Cicero, being convinced that he was guilty, not only refused to defend him, but appeared as a witness against him.) Torquatus's real motive appears to have been jealousy of the fame which Cicero had obtained in his consulship; and, in his speech for the prosecution, when he found that Cicero had undertaken Sylla's cause, he had attacked Cicero himself, and tried to bring him into unpopularity, calling him a king who assumed a power to save or to destroy just as he thought fit; and saying that he was the third foreign king that had reigned in Rome; Numa and Tarquin being the two former. Sylla was acquitted.

I. I SHOULD have been very glad, O judges, if Publius Sylla had been able formerly to retain the honour of the dignity to which he was appointed, and had been allowed, after the misfortune which befel him, to derive some reward from his moderation in adversity. But since his unfriendly fortune has brought it about that he has been damaged, even at a time of his greatest honour, by the unpopularity ensuing not only from the common envy which pursues ambitious men, but also by the singular hatred in which Autronius is held, and that even in this sad and deplorable wreck of his former fortunes, he has still some enemies whose hostility he is unable to appease by the punishment which has fallen upon him; although I am very greatly concerned at his distresses, yet in his other misfortunes I can easily endure that an opportunity should be offered to me of causing virtuous men to recognise my lenity and merciful disposition, which was formerly known to every one, but which has of late been interrupted as it

were; and of forcing wicked and profligate citizens, being again defeated and vanquished, to confess that, when the republic was in danger, I was energetic and fearless; now that it is saved, I am lenient and merciful. And since Lucius Torquatus, O judges, my own most intimate friend, O judges, has thought that, if he violated our friendship and intimacy somewhat in his speech for the prosecution, he could by that means detract a little from the authority of my defence, I will unite with my endeavours to ward off danger from my client, a defence of my own conduct in the discharge of my duty. Not that I would employ that sort of speech at present, O judges, if my own interest alone were concerned, for on many occasions and in many places I have had, and I often shall have, opportunities of speaking of my own credit. But as he, O judges, has thought that the more he could take away from my authority, the more also he would be diminishing my client's means of protection; I also think, that if I can induce you to approve of the principles of my conduct, and my wisdom in this discharge of my duty and in undertaking this defence, I shall also induce you to look favourably on the cause of Publius Sylla. And in the first place, O Torquatus, I ask you this, why you should separate me from the other illustrious and chief men of this city, in regard to this duty, and to the right of defending clients? For what is the reason why the act of Quintus Hortensius, a most illustrious man and a most accomplished citizen, is not blamed by you, and mine is blamed? For if a design of firing the city, and of extinguishing this empire, and of destroying this city, was entertained by Publius Sylla, ought not such projects to raise greater indignation and greater hatred against their authors in me than in Quintus Hortensius? Ought not my opinion to be more severe in such a matter, as to whom I should think fit to assist in these causes, whom to oppose, whom to defend, and whom to abandon? No doubt, says he, for it was you who investigated, you who laid open the whole conspiracy.

II. And when he says this, he does not perceive that the man who laid it open took care that all men should see that which had previously been hidden. Wherefore that conspiracy, if it was laid open by me, is now as evident in all its particulars to Hortensius as it is to me. And when you see that he, a man of such rank and authority, and virtue, and

wisdom, has not hesitated to defend this innocent Publius Sylla, I ask why the access to the cause which was open to Hortensius, ought to be closed against me? I ask this also,—if you think that I, who defend him, am to be blamed, what do you think of those excellent men and most illustrious citizens, by whose zeal and dignified presence you perceive that this trial is attended, by whom the cause of my client is honoured, by whom his innocence is upheld? For that is not the only method of defending a man's cause which consists in speaking for him. All who countenance him with their presence, who show anxiety in his behalf, who desire his safety, all, as far as their opportunities allow or their authority extends, are defending him. Ought I to be unwilling to appear on these benches on which I see these lights and ornaments of the republic, when it is only by my own numerous and great labours and dangers that I have mounted into their rank, and into this lofty position and dignity which I now enjoy? And that you may understand, O Torquatus, whom you are accusing, if you are offended that I, who have defended no one on inquiries of this sort, do not abandon Publius Sylla, remember also the other men, whom you see countenancing this man by their presence. You will see that their opinion and mine has been one and the same about this man's case, and about that of the others. Who of us stood by Varguntius? No one. Not even this Quintus Hortensius, the very man who had formerly been his only defender when prosecuted for corruption. For he did not think himself connected by any bond of duty with that man, when he, by the commission of such enormous wickedness, had broken asunder the ties of all duties whatever. Who of us countenanced Servius Sylla? who * * * ? who of us thought Marcus Læca or Caius Cornelius fit to be defended? who of all the men whom you see here gave the countenance of his presence to any one of those criminals? No one. Why was that? Because in other causes good men think that they ought not to refuse to defend even guilty men, if they are their own intimate personal friends; but, in this prosecution, there would not only be the fault of acting lightly, but there would be even some infection of wickedness which would taint one who defended that man whom he suspected of being involved in the guilt of planning the parricide of his country. What was the case of Autronius? did not his companions, did not his own

colleagues, did not his former friends, of whom he had at one time an ample number, did not all these men, who are the chief men in the republic, abandon him? Ay, and many of them even damaged him with their evidence. They made up their minds that it was an offence of such enormity, that they not only were bound to abstain from doing anything to conceal it, but that it was their duty to reveal it, and throw all the light that they were able upon it.

III. What reason is there then for your wondering, if you see me countenancing this cause in company with those men, whom you know that I also joined in discountenancing the other causes by absenting myself from them. Unless you wish me to be considered a man of eminent ferocity before all other men, a man savage, inhuman, and endowed with an extraordinary cruelty and barbarity of disposition. If this be the character which, on account of all my exploits, you wish now to fix upon my whole life, O Torquatus, you are greatly mistaken. Nature made me merciful, my country made me severe; but neither my country nor nature has ever required me to be cruel. Lastly, that same vehement and fierce character which at that time the occasion and the republic imposed upon me, my own inclination and nature itself has now relieved me of; for my country required severity for a short time, my nature requires clemency and lenity during my whole life. There is, therefore, no pretence for your separating me from so numerous a company of most honourable men. Duty is a plain thing, and the cause of all men is one and the same. You will have no reason to marvel hereafter, whenever you see me on the same side as you observe these men. For there is no side in the republic in which I have a peculiar and exclusive property. The time for acting did belong more peculiarly to me than to the others; but the cause of indignation, and fear, and danger was common to us all. Nor, indeed, could I have been at that time, as I was, the chief man in providing for the safety of the state, if others had been unwilling to be my companions. Wherefore, it is inevitable that that which, when I was consul, belonged to me especially above all other men, should, now that I am a private individual, belong to me in common with the rest. Nor do I say this for the sake of sharing my unpopularity with others, but rather with the object of allowing them to partake of my praises. I will give a share of my burden to no one;

but a share of my glory to all good men. "You gave evidence against Autronius," says he, "and you are defending Sylla." All this, O judges, has this object, to prove that, if I am an inconstant and fickle-minded man, my evidence ought not to be credited, and my defence ought not to carry any authority with it. But if there is found in me a proper consideration for the republic, a scrupulous regard to my duty and a constant desire to retain the good-will of virtuous men, then there is nothing which an accuser ought less to say than that Sylla is defended by me, but that Autronius was injured by my evidence against him. For I think that I not only carry with me zeal in defending causes, but also that my deliberate opinion has some weight; which, however, I will use with moderation, O judges, and I would not have used it at all if he had not compelled me.

IV. Two conspiracies are spoken of by you, O Torquatus; one, which is said to have been formed in the consulship of Lepidus and Volcatius, when your own father was consul elect; the other, that which broke out in my consulship. In each of these you say that Sylla was implicated. You know that I was not acquainted with the counsels of your father, a most brave man, and a most excellent consul. You know, as there was the greatest intimacy between you and me, that I knew nothing of what happened, or of what was said in those times; I imagine, because I had not yet become a thoroughly public character, because I had not yet arrived at the goal of honour which I proposed to myself, and because my ambition and my forensic labours separated me from all political deliberations. Who, then, was present at your counsels? All these men whom you see here, giving Sylla the countenance of their presence; and among the first was Quintus Hortensius—who, by reason of his honour and worth, and his admirable disposition towards the republic, and because of his exceeding intimacy with and excessive attachment to your father, was greatly moved by the thoughts of the common danger, and most especially by the personal peril of your father. Therefore, he was defended from the charge of being implicated in that conspiracy by that man who was present at and acquainted with all your deliberations, who was a partner in all your thoughts and in all your fears; and, elegant and argumentative as his speech in repelling this accusation was, it carried with it as much authority as it displayed

of ability. Of that conspiracy, therefore, which is said to have been formed against you, to have been reported to you, and to have been revealed by you, I was unable to say anything as a witness. For I not only found out nothing, but scarcely did any report or suspicion of that matter reach my ears. They who were your counsellors who became acquainted with these things in your company,—they who were supposed to be themselves menaced with that danger, who gave no countenance to Autronius, who gave most important evidence against him,—are now defending Publius Sylla, are countenancing him by their presence here; now that he is in danger they declare that they were not deterred by the accusation of conspiracy from countenancing the others, but by the guilt of the men. But for the time of my consulship, and with respect to the charge of the greatest conspiracy, Sylla shall be defended by me. And this partition of the cause between Hortensius and me has not been made by chance, or at random, O judges, but, as we saw that we were employed as defenders of a man against those accusations in which we might have been witnesses, each of us thought that it would be best for him to undertake that part of the case, concerning which he himself had been able to acquire some knowledge, and to form some opinions with certainty.

V. And since you have listened attentively to Hortensius, while speaking on the charge respecting the former conspiracy, now, I beg you, listen to this first statement of mine respecting the conspiracy which was formed in my consulship.

When I was consul I heard many reports, I made many inquiries, I learnt a great many circumstances, concerning the extreme peril of the republic. No messenger, no information, no letters, no suspicion ever reached me at any time in the least affecting Sylla. Perhaps this assertion ought to have great weight, when coming from a man who, as consul, had investigated the plots laid against the republic with prudence, had revealed them with sincerity, had chastised them with magnanimity, and who says that he himself never heard a word against Publius Sylla, and never entertained a suspicion of him. But I do not as yet employ this assertion for the purpose of defending him; I rather use it with a view to clear myself, in order that Torquatus may cease to wonder that I, who would not appear by the side of Autronius, am now defending Sylla. For what was the cause of Autronius? and what is the cause of Sylla? The

former tried to disturb and get rid of a prosecution for bribery by raising in the first instance a sedition among gladiators and runaway slaves, and after that, as we all saw, by stoning people, and collecting a violent mob. Sylla, if his own modesty and worth could not avail him, sought no other assistance. The former, when he had been convicted, behaved in such a manner, not only in his secret designs and conversation, but in every look and in his whole countenance, as to appear an enemy to the most honourable orders in the state, hostile to every virtuous man, and a foe to his country. The latter considered himself so bowed down, so broken down by that misfortune, that he thought that none of his former dignity was left to him, except what he could retain by his present moderation. And in this conspiracy, what union was ever so close as that between Autronius and Catiline, between Autronius and Lentulus? What combination was there ever between any men for the most virtuous purposes, so intimate as his connexion with them for deeds of wickedness, lust and audacity?—what crime is there which Lentulus did not plot with Autronius?—what atrocity did Catiline ever commit without his assistance? while, in the meantime, Sylla not only abstained from seeking the concealment of night and solitude in their company, but he had never the very slightest intercourse with them, either in conversation or in casual meetings. The Allobroges, those who gave us the truest information on the most important matters, accused Autronius, and so did the letters of many men, and many private witnesses. All that time no one ever accused Sylla; no one ever mentioned his name. Lastly, after Catiline had been driven out, or allowed to depart out of the city, Autronius sent him arms, trumpets, bugles, scythes,[1] standards, legions. He who was left in the city, but expected out of it, though checked by the punishment of Lentulus, gave way at times to feelings of fear, but never to any right feelings or good sense. Sylla, on the other hand, was so quiet, that all that time he was at Naples, where it is not supposed that there were any men who were implicated in or suspected of this crime; and the place itself is one not so well calculated to excite the feelings of men in distress, as to console them.

VI. On account, therefore, of this great dissimilarity be-

[1] Some commentators propose *fasces* instead of *falces* here, and it would certainly make much better sense.

tween the men and the cases, I also behaved in a different manner to them both. For Autronius came to me, and he was constantly coming to me, with many tears, as a suppliant, to beg me to defend him, and he used to remind me that he had been my schoolfellow in my childhood, my friend in my youth, and my colleague in the quæstorship. He used to enumerate many services which I had done him, and some also which he had done me. By all which circumstances, O judges, I was so much swayed and influenced, that I banished from my recollection all the plots which he had laid against me myself; that I forgot that Caius Cornelius had been lately sent by him for the purpose of killing me in my own house, in the sight of my wife and children. And if he had formed these designs against me alone, such is my softness and lenity of disposition, that I should never have been able to resist his tears and entreaties; but when the thoughts of my country, of your dangers, of this city, of all those shrines and temples which we see around us, of the infant children, and matrons, and virgins of the city occurred to me, and when those hostile and fatal torches destined for the entire conflagration of the whole city, when the arms which had been collected, when the slaughter and blood of the citizens, when the ashes of my country began to present themselves to my eyes, and to excite my feelings by the recollection, then I resisted him, then I resisted not only that enemy of his country, that parricide himself, but I withstood also his relations the Marcelli, father and son, one of whom was regarded by me with the respect due to a parent, and the other with the affection which one feels towards a son. And I thought that I could not, without being guilty of the very greatest wickedness, defend in their companion the same crimes which I had chastised in the case of others, when I knew him to be guilty. And, on the same principle, I could not endure to see Publius Sylla coming to me as a suppliant, or these same Marcelli in tears at his danger; nor could I resist the entreaties of Marcus Messala, whom you see in court, a most intimate friend of my own. For, neither was his cause disagreeable to my natural disposition, nor had the man or the facts anything in them at variance with my feelings of clemency. His name had never been mentioned, there was no trace whatever of him in the conspiracy; no information had touched him, no suspicion had been breathed of him. I undertook his cause. O Torquatus; I undertook it, and I did so

willingly, in order that, while good men had always, as I hope, thought me virtuous and firm not even bad men might be able to call me cruel.

VII. This Torquatus then, O judges, says that he cannot endure my kingly power. What is the meaning of my kingly power, O Torquatus? I suppose you mean the power I exerted in my consulship; in which I did not command at all, but, on the contrary, I obeyed the conscript fathers, and all good men. In my discharge of that office, O judges, kingly power was not established by me, but put down. Will you say that then, when I had such absolute power and authority over all the military and civil affairs of the state, I was not a king, but that now, when I am only a private individual, I have the power of a king? Under what title? "Why, because," says he, "those against whom you gave evidence were convicted, and the man whom you defend hopes that he shall be acquitted." Here I make you this reply, as to what concerns my evidence: that if I gave false evidence, you also gave evidence against the same man; if my testimony was true, then I say, that persuading the judges to believe a true statement, which one has made on oath, is a very different thing from being a king. And of the hopes of my client, I only say, that Publius Sylla does not expect from me any exertion of my influence or interest, or, in short, anything except to defend him with good faith. "But unless you," says he, "had undertaken his cause he would never have resisted me, but would have fled without saying a word in his defence." Even if I were to grant to you that Quintus Hortensius, being a man of such wisdom as he is, and that all these men of high character, rely not on their own judgment but on mine; if I were to grant to you, what no one can believe, that these men would not have countenanced Publius Sylla if I had not done so too; still, which is the king, he whom men, though perfectly innocent, cannot resist, or he who does not abandon men in misfortune? But here too, though you had not the least occasion for it, you took a fancy to be witty, when you called me Tarquin, and Numa, and the third foreign king of Rome. I won't say any more about the word king; but I should like to know why you called me a foreigner. For, if I am such, then it is not so marvellous that I should be a king,—because, as you say yourself, foreigners have before now been kings at Rome,—as that a foreigner should be a consul at Rome. "This is what I

mean," says he, "that you come from a municipal town." I confess that I do, and I add, that I come from that municipal town from which salvation to this city and empire has more than once proceeded. But I should like exceedingly to know from you, how it is that those men who come from the municipal towns appear to you to be foreigners. For no one ever made that objection to that great man, Marcus Cato the elder, though he had many enemies, or to Titus Coruncanius, or to Marcus Curius, or even to that great hero of our own times, Caius Marius, through many men envied him. In truth, I am exceedingly delighted that I am a man of such a character that, when you were anxious to find fault with me, you could still find nothing to reproach me with which did not apply also to the greater part of the citizens.

VIII. But still, on account of your great friendship and intimacy, I think it well to remind you of this more than once—all men cannot be patricians. If you would know the truth, they do not all even wish to be so; nor do those of your own age think that you ought on that account to have precedence over them. And if we seem to you to be foreigners, we whose name and honours have now become familiar topics of conversation and panegyric throughout the city and among all men, how greatly must those competitors of yours seem to be foreigners, who now, having been picked out of all Italy, are contending with you for honour and for every dignity! And yet take care that you do not call one of these a foreigner, lest you should be overwhelmed by the votes of the foreigners. For if they once bring their activity and perseverance into action, believe me they will shake those arrogant expressions out of you, and they will frequently wake you from sleep, and will not endure to be surpassed by you in honours, unless they are also excelled by you in virtue. And if, O judges, it is fit for me and you to be considered foreigners by the rest of the patricians, still nothing ought to be said about this blot by Torquatus. For he himself is, on his mother's side, a citizen of a municipal town; a man of a most honourable and noble family, but still he comes from Asculum. Either let him, then, show that the Picentians alone are not foreigners, or else let him congratulate himself that I do not put my family before his. So do not for the future call me a foreigner, lest you meet with a sterner refutation; and do not call me a king, lest you be laughed at

Unless, indeed, it appears to be the conduct of a king to live in such a manner as not to be slave not only to any man, but not even to any passion; to despise all capricious desires; to covet neither gold nor silver, nor anything else; to form one's opinions in the senate with freedom; to consider the real interests of the people, rather than their inclinations; to yield to no one, to oppose many men. If you think that this is the conduct of a king, then I confess that I am a king If my power, if my sway, if, lastly, any arrogant or haughty expression of mine moves your indignation, then you should rather allege that, than stoop to raise odium against me by a name, and to employ mere abuse and insult.

IX. If, after having done so many services to the republic, I were to ask for myself no other reward from the senate and people of Rome beyond honourable ease, who is there who would not grant it to me? If I were to ask, that they would keep all honours, and commands, and provinces, and triumphs, and all the other insignia of eminent renown to themselves, and that they would allow me to enjoy the sight of the city which I had saved, and a tranquil and quiet mind?—What, however, if I do not ask this? what, if my former industry, my anxiety, my assistance, my labour, my vigilance is still at the service of my friends, and ready at the call of every one? If my friends never seek in vain for my zeal on their behalf in the forum, nor the republic in the senate house; if neither the holiday earned by my previous achievements, nor the excuse which my past honours or my present age might supply me with, is employed to save me from trouble; if my good-will, my industry, my house, my attention, and my ears are always open to all men; if I have not even any time left to recollect and think over those things which I have done for the safety of the whole body of citizens; shall this still be called kingly power, when no one can possibly be found who would act as my substitute in it? All suspicion of aiming at kingly power is very far removed from me. If you ask who they are who have endeavoured to assume kingly power in Rome, without unfolding the records of the public annals, you may find them among the images in your own house. I suppose it is my achievements which have unduly elated me, and have inspired me with I know not how much pride. Concerning which deeds of mine, illustrious and immortal as they are, O judges, I can say thus much—that I, who have saved this city, and

the lives of all the citizens, from the most extreme dangers, shall have gained quite reward enough, if no danger arises to myself out of the great service which I have done to all men.

In truth, I recollect in what state it is that I have done such great exploits, and in what city I am living. The forum is full of those men whom I, O judges, have taken off from your necks, but have not removed from my own. Unless you think that they were only a few men, who were able to attempt or to hope that they might be able to destroy so vast an empire. I was able to take away their firebrands, to wrest their torches from their hands, as I did; but their wicked and impious inclinations I could neither cure nor eradicate. Therefore I am not ignorant in what danger I am living among such a multitude of wicked men, since I see that I have undertaken singlehanded an eternal war against all wicked men.

X. But if, perchance, you envy that means of protection which I have, and if it seems to you to be of a kingly sort,—namely, the fact that all good men of all ranks and classes consider their safety as bound up with mine,—comfort yourself with the reflection that the dispositions of all wicked men are especially hostile to and furious against me alone; and they hate me, not only because I repressed their profligate attempts and impious madness, but still more because they think, that, as long as I am alive, they can attempt nothing more of the same sort. But why do I wonder if any wicked thing is said of me by wicked men, where Lucius Torquatus himself, after having in the first place laid such a foundation of virtue as he did in his youth, after having proposed to himself the hope of the most honourable dignity in the state, and, in the second place, being the son of Lucius Torquatus, a most intrepid consul, a most virtuous senator, and at all times a most admirable citizen, is sometimes run away with by impetuosity of language? For when he had spoken in a low voice of the wickedness of Publius Lentulus, and of the audacity of all the conspirators, so that only you, who approve of those things, could hear what he said, he spoke with a loud querulous voice of the execution of Publius Lentulus and of the prison; in which there was, first of all, this absurdity, that when he wished to gain your approval of the inconsiderate things which he had said, but did not wish those

men, who were standing around the tribunal, to hear them, he did not perceive that, while he was speaking so loudly those men whose favour he was seeking to gain could not hear him, without your hearing him too, who did not approve of what he was saying; and, in the second place, it is a great defect in an orator not to see what each cause requires. For nothing is so inconsistent as for a man who is accusing another of conspiracy, to appear to lament the punishment and death of conspirators; which is not, indeed, strange to any one, when it is done by that tribune of the people who appears to be the only man left to bewail those conspirators; for it is difficult to be silent when you are really grieved. But, if you do anything of that sort, I do greatly marvel at you, not only because you are such a young man as you are, but because you do it in the very cause in which you wish to appear as a punisher of conspiracy. However, what I find fault with most of all, is this: that you, with your abilities and your prudence, do not maintain the true interest of the republic, but believe, on the contrary, that those actions are not approved of by the Roman people, which, when I was consul, were done by all virtuous men, for the preservation of the common safety of all.

XI. Do you believe that any one of those men who are here present, into whose favour you were seeking to insinuate yourself against their will, was either so wicked as to wish all these things to be destroyed, or so miserable as to wish to perish himself, and to have nothing which he wished to preserve? Is there any one who blames the most illustrious man of your family and name, who deprived his own son[1] of life in order to strengthen his power over the rest of his army; and do you blame the republic, for destroying domestic enemies in order to avoid being herself destroyed by them? Take notice then, O Torquatus, to what extent I shirk the avowal of the actions of my consulship. I speak, and I always will speak, with my loudest voice, in order that all men may be able to hear me: be present all of you with your minds, ye who are present with your bodies, ye in whose numerous attendance I take great pleasure; give me your attention

[1] This refers to the story of Titus Manlius Torquatus, who, in the Latin war (A.U.C. 415), put his own son to death for leaving his ranks (in forgetfulness of a general order issued by his father the consul) to fight Geminius Metius, whom he slew. The story is told by Livy, lib. iii. c. 7

and all your ears, and listen to me while I speak of what he believes to be unpopular topics. I, as consul, when an army of abandoned citizens, got together by clandestine wickedness, had prepared a most cruel and miserable destruction for my country; when Catiline had been appointed to manage the fall and ruin of the republic in the camp, and when Lentulus was the leader among these very temples and houses around us; I, I say, by my labours, at the risk of my own life, by my prudence, without any tumult, without making any extraordinary levies, without arms, without an army, having arrested and executed five men, delivered the city from conflagration, the citizens from massacre, Italy from devastation, the republic from destruction. I, at the price of the punishment of five frantic and ruined men, ransomed the lives of all the citizens, the constitution of the whole world, this city, the home of all of us, the citadel of foreign kings and foreign nations, the light of all people, the abode of empire. Did you think that I would not say this in a court of justice when I was not on my oath, which I had said before now in a most numerous assembly when speaking[1] on oath?

XII. And I will say this further, O Torquatus, to prevent any wicked man from conceiving any sudden attachment to, or any sudden hopes of you; and, in order that every one may hear it, I will say it as loudly as I can:—Of all those things which I undertook and did during my consulship in defence of the common safety, that Lucius Torquatus, being my constant comrade in my consulship, and having been so also in my prætorship, was my defender, and assistant, and partner in my actions; being also the chief, and the leader, and the standard-bearer of the Roman youth; and his father, a man most devoted to his country, a man of the greatest courage, of the most consummate political wisdom, and of singular firmness, though he was sick, still was constantly present at all my actions; he never left my side: he, by his zeal and

[1] This refers to Cicero's conduct when resigning his consulship. Metellus, as has been said before, refused to allow him to make a speech to the people, because, as he said, he had put Roman citizens to death without a trial; on which Cicero, instead of making oath in the ordinary formula, that he had discharged his duty with fidelity, swore with a loud voice "that the republic and the city had been saved by his unassisted labour;" and all the Roman people cried out with one voice that that statement was true to its fullest extent. See Cic. in Pis. 3.

wisdom and authority was of the very greatest assistance to me, overcoming the infirmity of his body by the vigour of his mind. Do you not see now, how I deliver you from the danger of any sudden popularity among the wicked, and reconcile you to all good men? who love you, and cherish you, and who always will cherish you; nor, if perchance you for a while abandon me, will they on that account allow you to abandon them and the republic and your own dignity.

But now I return to the cause; and I call you, O judges, to bear witness to this;—that this necessity of speaking of myself was imposed on me by him. For if Torquatus had been content with accusing Sylla, I too at the present time should have done nothing beyond defending him who had been accused; but when he, in his whole speech, inveighed against me, and when, in the very beginning, as I said, he sought to deprive my defence of all authority, even if my indignation had not compelled me to speak, still the necessity of doing justice to my cause would have demanded this speech from me.

XIII. You say that Sylla was named by the Allobroges. Who denies it? but read the information, and see how he was named. They said that Lucius Cassius had said that, among other men, Autronius was favourable to their designs. I ask, did Cassius say that Sylla was? Never. They say that they themselves inquired of Cassius what Sylla's opinions were. Observe the diligence of the Gauls. They, knowing nothing of the life or character of the man, but only having heard that he and Autronius had met with one common disaster, asked whether his inclinations were the same? What then? Even if Cassius had made answer that Sylla was of the same opinion, and was favourable to their views, still it would not seem to me that that reply ought to be made matter of accusation against him. How so? Because, as it was his object to instigate the barbarians to war, it was no business of his to weaken their expectations, or to acquit those men of whom they did entertain some suspicions. But yet he did not reply, that Sylla was favourable to their designs. And, in truth, it would have been an absurdity, after he had named every one else of his own accord, to make no mention of Sylla till he was reminded of him and asked about him. Unless you think this probable, that Lucius Cassius had quite forgotten the name of Publius Sylla. Even if the high rank of the

man, and his unfortunate condition, and the relics of his ancient dignity, had not made him notorious, still the mention of Autronius must have recalled Sylla to his recollection. In truth, it is my opinion, that, when Cassius was enumerating the authority of the chief men of the conspiracy, for the purpose of exciting the minds of the Allobroges, as he knew that the foreign nations are especially moved by an illustrious name, he would not have named Autronius before Sylla, if he had been able to name Sylla at all. But no one can be induced to believe this,—that the Gauls, the moment that Autronius was named, should have thought, on account of the similarity of their misfortunes, that it was worth their while to make inquiries about Sylla, but that Cassius, if he really was implicated in this wickedness, should never have once recollected Sylla, even after he had named Autronius. However, what was the reply which Cassius made about Sylla? He said that he was not sure. "He does not acquit him," says Torquatus. I have said before, that, even if he had accused him, when he was interrogated in this manner, his reply ought not to have been made matter of accusation against Sylla. But I think that, in judicial proceedings and examinations, the thing to be inquired is, not whether any one is exculpated, but whether any one is inculpated. And in truth, when Cassius says that he does not know, is he seeking to exculpate Sylla, or proving clearly enough that he really does not know? He is unwilling to compromise him with the Gauls. Why so? That they may not mention him in their information? What? If he had supposed that there was any danger of their ever giving any information at all, would he have made that confession respecting himself? He did not know it. I suppose, O judges, Sylla was the only person about whom Cassius was kept in the dark. For he certainly was well informed about every one else; and it was thoroughly proved that a great deal of the conspiracy was hatched at his house. As he did not like to deny that Sylla made one of the conspirators, his object being to give the Gauls as much hope as possible, and as he did not venture to assert what was absolutely false, he said that he did not know. But this is quite evident, that as he, who knew the truth about every one, said that he did not know about Sylla, the same weight is due to this denial of his as if he had said that he did know that he had nothing to do with the conspiracy

For when it is perfectly certain that a man is acquainted with all the conspirators, his ignorance of any one ought to be considered an acquittal of him. But I am not asking now whether Cassius acquits Sylla; this is quite sufficient for me, that there is not one word to implicate Sylla in the whole information of the Allobroges.

XIV. Torquatus being cut off from this article of his accusation, again turns against me, and accuses me. He says that I have made an entry in the public registers of a different statement from that which was really made. O ye immortal gods! (for I will give you what belongs to you; nor can I attribute so much to my own ability, as to think that I was able, in that most turbulent tempest which was afflicting the republic, to manage, of my own power, so many and such important affairs,—affairs arising so unexpectedly, and of such various characters,) it was you, in truth, who then inflamed my mind with the desire of saving my country; it was you who turned me from all other thoughts to the one idea of preserving the republic; it was you who, amid all that darkness of error and ignorance, held a bright light before my mind! I saw this, O judges, that unless, while the recollection of the senate on the subject was still fresh, I bore evidence to the authority and to the particulars of this information by public records, hereafter some one, not Torquatus, nor any one like Torquatus, (for in that indeed I have been much deceived,) but some one who had lost his patrimony, some enemy of tranquillity, some foe to all good men, would say that the information given had been different; in order the more easily, when some gale of odium had been stirred up against all virtuous men, to be able, amid the misfortunes of the republic, to discover some harbour for his own broken vessel. Therefore, having introduced the informers into the senate, I appointed senators to take down every statement made by the informers, every question that was asked, and every answer that was given. And what men they were! Not only men of the greatest virtue and good faith, of which sort of men there are plenty in the senate, but men, also, who I knew from their memory, from their knowledge, from their habit and rapidity of writing, could most easily follow everything that was said. I selected Caius Cosconius, who was prætor at the time; Marcus Messala, who was at the time standing for the prætorship; Publius Nigidius, and Appius

Claudius. I believe that there is no one who thinks that these men were deficient either in the good faith or in the ability requisite to enable them to give an accurate report.

XV. What followed? What did I do next? As I knew that the information was by these means entered among the public documents, but yet that those records would be kept in the custody of private individuals, according to the customs of our ancestors, I did not conceal it; I did not keep it at my own house; but I caused it at once to be copied out by several clerks, and to be distributed everywhere, and published and made known to the Roman people. I distributed it all over Italy, I sent copies of it into every province; I wish no one to be ignorant of that information, by means of which safety was procured for all. And I took this precaution, though at so disturbed a time, and when all opportunities of acting were so sudden and so brief, at the suggestion of some divine providence, as I said before, and not of my own accord, or of my own wisdom; taking care, in the first instance, that no one should be able to recollect of the danger to the republic, or to any individual, only as much as he pleased; and in the second place, that no one should be able at any time to find fault with that information, or to accuse us of having given credit to it rashly; and lastly, that no one should ever put any questions to me, or seek to learn anything from my private journals, lest I might be accused of either forgetting or remembering too much, and lest any negligence of mine should be thought discreditable, or lest any eagerness on my part might seem cruel.

But still, O Torquatus, I ask you, as your enemy was mentioned in the information, and as a full senate and the memory of all men as to so recent an affair was a witness of that fact; as my clerks would have communicated the information to you, my intimate friend and companion, if you had wished for it, even before they had taken a copy of it; when you saw that there were any incorrectnesses in it, why were you silent, why did you permit them? Why did you not make a complaint to me or to some friend of mine? or why did you not at least, since you are so well inclined to inveigh against your friends, expostulate passionately and earnestly with me? Do you, when your voice was never once heard at the time, when, though the information was read, and copied out, and published, you kept silence then,—do

you, I say, now on a sudden dare to bring forward a statement of such importance? and to place yourself in such a position that, before you can convict me of having tampered with the information, you must confess that you are convicted yourself of the grossest negligence, on your own information laid against yourself?

XVI. Was the safety of any one of such consequence to me as to induce me to forget my own? or to make me contaminate the truth, which I had laid open, by any lie? Or do you suppose that I would assist any one by whom I thought that a cruel plot had been laid against the republic, and most especially against me the consul? But if I had been forgetful of my own severity and of my own virtue, was I so mad, as, when letters are things which have been devised for the sake of posterity, in order to be a protection against forgetfulness, to think that the fresh recollection of the whole senate could be beaten down by my journal? I have been bearing with you, O Torquatus, for a long time. I have been bearing with you; and sometimes I, of my own accord, call back and check my inclination, when it has been provoked to chastise your speech. I make some allowance for your violent temper, I have some indulgence for your youth, I yield somewhat to our own friendship, I have some regard to your father. But unless you put some restraint upon yourself, you will compel me to forget our friendship, in order to pay due regard to my own dignity. No one ever attempted to attach the slightest suspicion to me, that I did not defeat him; but I wish you to believe me in this;—those whom I think that I can defeat most easily, are not those whom I take the greatest pleasure in answering. Do you, since you are not at all ignorant of my ordinary way of speaking, forbear to abuse my lenity. Do not think that the stings of my eloquence are taken away, because they are sheathed. Do not think that that power has been entirely lost, because I show some consideration for, and indulgence towards you. In the first place, the excuses which I make to myself for your injurious conduct, your violent temper, your age, and our friendship, have much weight with me; and, in the next place, I do not yet consider you a person of sufficient power to make it worth my while to contend and argue with you. But if you were more capable through age and experience, I should pursue the conduct which is habitual to me when I have been pro-

voked; at present I will deal with you in such a way that I shall seem to have received an injury rather than to have requited one.

XVII. Nor, indeed, can I make out why you are angry with me. If it is because I am defending a man whom you are accusing, why should not I also be angry with you, for accusing a man whom I am defending? "I," say you, "am accusing my enemy." And I am defending my friend. "But you ought not to defend any one who is being tried for conspiracy." On the contrary, no one ought to be more prompt to defend a man of whom he has never suspected any ill, than he who has had many reasons for forming opinions about other men. "Why did you give evidence against others?" Because I was compelled. "Why were they convicted?" Because my evidence was believed. "It is behaving like a king to speak against whomsoever you please, and to defend whomsoever you please." Say, rather, that it is slavery not to be able to speak against any one you choose, and to defend any one you choose. And if you begin to consider whether it was more necessary for me to do this, or for you to do that, you will perceive that you could with more credit fix a limit to your enmities than I could to my humanity.

But when the greatest honours of your family were at stake, that is to say, the consulship of your father, that wise man your father was not angry with his most intimate friends for defending and praising Sylla. He was aware that this was a principle handed down to us from our ancestors, that we were not to be hindered by our friendship for any one, from warding off dangers from others. And yet that contest was far from resembling this trial. Then, if Publius Sylla could be put down, the consulship would be procured for your father, as it was procured; it was a contest of honour; you were crying out, that you were seeking to recover what had been taken from you, in order that, having been defeated in the Campus Martius, you might succeed in the forum. Then, those who were contending against you for Sylla's safety, your greatest friends, with whom you were not angry on that account, deprived you of the consulship, resisted your acquisition of honour; and yet they did so without any rupture of your mutual friendship, without violating any duty, according to ancient precedent and the established principles of every good man.

XVIII. But now what promotion of yours am I opposing? or what dignity of yours am I throwing obstacles in the way of? What is there which you can at present seek from this proceeding? Honour has been conferred on your father; the insignia of honour have descended to you. You, adorned with his spoils, come to tear the body of him whom you have slain; I am defending and protecting him who is lying prostrate and stripped of his arms. And on this you find fault with me, and are angry because I defend him. But I not only am not angry with you, but I do not even find fault with your proceeding. For I imagine that you have laid down a rule for yourself as to what you thought that you ought to do, and that you have appointed a very capable judge of your duty. "Oh, but the son of Caius Cornelius accuses him, and that ought to have the same weight as if his father had given information against him." O wise Cornelius,—the father, I mean, —who left all the reward which is usually given for information, but has got all the discredit which a confession can involve, through the accusation brought by his son! However, what is it that Cornelius gives information of by the mouth of that boy? If it is a part of the business which is unknown to me, but which has been communicated to Hortensius, let Hortensius reply. If, as you say, his statement concerns that crew of Autronius and Catiline, when they intended to commit a massacre in the Campus Martius, at the consular comitia, which were held by me; we saw Autronius that day in the Campus. And why do I say *we* saw? I myself saw him— (for you at that time, O judges, had no anxiety, no suspicions; I, protected by a firm guard of friends at that time, checked the forces and the endeavours of Catiline and Autronius). Is there, then, any one who says that Sylla at that time had any idea of coming into the Campus? And yet, if at that time he had united himself with Catiline in that society of wickedness, why did he leave him? why was not he with Autronius? why, when their cases were similar, are not similar proofs of criminality found? But since Cornelius himself even now hesitates about giving information against him, he, as you say, contents himself with filling up the outline of his son's information. What then does he say about that night, when, according to the orders of Catiline, he came into the Scythemakers'[1] street, to the house of Marcus Lecca, that night which followed the

[1] This was the name of a street.

sixth of November, in my consulship? that night which of all the moments of the conspiracy was the most terrible and the most miserable. Then the day in which Catiline should leave the city, then the terms on which the rest should remain behind, then the arrangement and division of the whole city, with regard to the conflagration and the massacre, was settled. Then your father, O Cornelius, as he afterwards confessed, begged for himself that especial employment of going the first thing in the morning to salute me as consul, in order that, having been admitted, according to my usual custom and to the privilege which his friendship with me gave him, he might slay me in my bed.

XIX. At this time, when the conspiracy was at its height; when Catiline was starting for the army, and Lentulus was being left in the city; when Cassius was being appointed to superintend the burning of the city, and Cethegus the massacre; when Autronius had the part allotted to him of occupying Italy; when, in short, everything was being arranged, and settled, and prepared; where, O Cornelius, was Sylla? Was he at Rome? No, he was very far away. Was he in those districts to which Catiline was betaking himself? He was still further from them. Was he in the Camertine, or Picenian, or Gallic district? lands which the disease, as it were, of that frenzy had infected most particularly. Nothing is further from the truth; for he was, as I have said already, at Naples. He was in that part of Italy which above all others was free from all suspicion of being implicated in that business. What then does he state in his information, or what does he allege,—I mean Cornelius, or you who bring these messages from him? He says that gladiators were bought, under pretence of some games to be exhibited by Faustus, for the purposes of slaughter and tumult.—Just so; —the gladiators are mentioned whom we know that he was bound to provide according to his father's will. "But he seized on a whole household of gladiators; and if he had left that alone, some other troop might have discharged the duty to which Faustus was bound." I wish this troop could satisfy not only the envy of parties unfavourable to him, but even the expectations of reasonable men. "He was in a desperate hurry, when the time for the exhibition was still far off." As if, in reality, the time for the exhibition was not drawing very near. This household of slaves

was got without Faustus having any idea of such a step; for he neither knew of it, nor wished it. But there are letters of Faustus's extant, in which he begs and prays Publius Sylla to buy gladiators, and to buy this very troop: and not only were such letters sent to Publius Sylla, but they were sent also to Lucius Cæsar, to Quintus Pompeius, and to Caius Memmius, by whose advice the whole business was managed. But Cornelius [1] was appointed to manage the troop. If in the respect of the purchase of this household of gladiators no suspicion attaches to the circumstances, it certainly can make no difference that he was appointed to manage them afterwards. But still, he in reality only discharged the servile duty of providing them with arms; but he never did superintend the men themselves; that duty was always discharged by Balbus, a freedman of Faustus.

XX. But Sittius was sent by him into further Spain, in order to excite sedition in that province. In the first place, O judges, Sittius departed, in the consulship of Lucius Julius and Caius Figulus, some time before this mad business of Catiline's, and before there was any suspicion of this conspiracy. In the second place, he did not go there for the first time, but he had already been there several years before, for the same purpose that he went now. And he went, not only with an object, but with a necessary object, having some important accounts to settle with the king of Mauritania. But then, after he was gone, as Sylla managed his affairs as his agent, he sold many of the most beautiful farms of Publius Sittius, and by this means paid his debts; so that the motive which drove the rest to this wickedness, the desire, namely, of retaining their possessions, did not exist in the case of Sittius, who had diminished his landed property to pay his debts. But now, how incredible, how absurd is the idea that a man who wished to make a massacre at Rome, and to burn down this city, should let his most intimate friend depart, should send him away into the most distant countries! Did he so in order the more easily to effect what he was endeavouring to do at Rome, if there were seditions in Spain?—"But these things were done independently, and had no connexion with one another." Is it possible, then, that he should have thought

[1] This Cornelius is not the Roman knight mentioned before; but some freedman of Publius Sylla.

it desirable, when engaged in such important affairs, in such novel, and dangerous, and seditious designs, to send away a man thoroughly attached to himself, his most intimate friend, one connected with himself by reciprocal good offices and by constant intercourse? It is not probable that he should send away, when in difficulty, and in the midst of troubles of his own raising, the man whom he had always kept with him in times of prosperity and tranquillity.

But is Sittius himself (for I must not desert the cause of my old friend and host) a man of such a character, or of such a family and such a school, as to allow us to believe that he wished to make war on the republic? Can we believe that he, whose father, when all our other neighbours and borderers revolted from us, behaved with singular duty and loyalty to our republic, should think it possible himself to undertake a nefarious war against his country? A man whose debts we see were contracted, not out of luxury, but from a desire to increase his property, which led him to involve himself in business; and who, though he owed debts at Rome, had very large debts owing to him in the provinces and in the confederate kingdoms; and when he was applying for them he would not allow his agents to be put in any difficulty by his absence, but preferred having all his property sold, and being stripped himself of a most beautiful patrimony, to allowing any delay to take place in satisfying his creditors. And of men of that sort I never, O judges, had any fear when I was in the middle of that tempest which afflicted the republic. The sort of men who were formidable and terrible, were those who clung to their property with such affection that you would say it was easier to tear their limbs from them than their lands; but Sittius never thought that there was such a relationship between him and his estates; and therefore he cleared himself, not only from all suspicion of such wickedness as theirs, but even from being talked about, not by arms, but at the expense of his patrimony.

XXI. But now, as to what he adds, that the inhabitants of Pompeii were excited by Sylla to join that conspiracy and that abominable wickedness, what sort of statement that is I am quite unable to understand. Do the people of Pompeii appear to have joined the conspiracy? Who has ever said so? or when was there the slightest suspicion of this fact? "He separated then," says he, "from the settlers, in order that when

he had excited dissensions and divisions within, he might be able to have the town and nation of Pompeii in his power." In the first place, every circumstance of the dissension between the natives of Pompeii and the settlers was referred to the patrons of the town, being a matter of long standing, and having been going on many years. In the second place, the matter was investigated by the patrons in such a way, that Sylla did not in any particular disagree with the opinions of the others. And lastly, the settlers themselves understand that the natives of Pompeii were not more defended by Sylla than they themselves were. And this, O judges, you may ascertain from the number of settlers, most honourable men, here present; who are here now, and are anxious and above all things desirous that the man, the patron, the defender, the guardian of that colony, (if they have not been able to see him in the safe enjoyment of every sort of good fortune and every honour,) may at all events, in the present misfortune by which he is attacked, be defended and preserved by your means. The natives of Pompeii are here also with equal eagerness, who are accused as well as he is by the prosecutors; men whose differences with the settlers about walks and about votes have not gone to such lengths as to make them differ also about their common safety. And even this virtue of Publius Sylla appears to me to be one which ought not to be passed over in silence;—that though that colony was originally settled by him, and though the fortune of the Roman people has separated the interests of the settlers from the fortunes of the native citizens of Pompeii, he is still so popular among, and so much beloved by both parties, that he seems not so much to have dispossessed the one party of their lands as to have settled both of them in that country.

XXII. "But the gladiators, and all those preparations for violence, were got together because of the motion of Cæcilius." And then he inveighed bitterly against Cæcilius, a most virtuous and most accomplished man, of whose virtue and constancy, O judges, I will only say thus much,—that he behaved in such a manner with respect to that motion which he brought forward, not for the purpose of doing away with, but only of relieving his brother's misfortune, that, though he wished to consult his brother's welfare, he was unwilling to oppose the interests of the republic; he proposed his law

under the impulse of brotherly affection, and he abandoned it because he was dissuaded from it by his brother's authority. And Sylla is accused by Lucius Cæcilius, in that business in which both of them deserve praise. In the first place Cæcilius, for having proposed a law by which he appeared to wish to rescind an unjust decision; and Sylla, who reproved him, and chose to abide by the decision. For the constitution of the republic derives its principal consistency from formal legal decisions. Nor do I think that any one ought to yield so much to his love for his brother as to think only of the welfare of his own relations, and to neglect the common safety of all. He did not touch the decision already given, but he took away the punishment for bribery which had been lately established by recent laws. And, therefore, by this motion he was seeking, not to rescind a decision, but to correct a defect in the law. When a man is complaining of a penalty, it is not the decision with which he is finding fault, but the law. For the conviction is the act of judges, and that is let stand; the penalty is the act of the law, and that may be lightened. Do not, therefore, alienate from your cause the inclinations of those orders of men which preside over the courts of justice with the greatest authority and dignity. No one has attempted to annul the decision which has been given; nothing of that sort has been proposed. What Cæcilius always thought while grieved at the calamity which had befallen his brother, was, that the power of the judges ought to be preserved unimpaired, but that the severity of the law required to be mitigated.

XXIII. But why need I say more on this topic? I might speak perhaps, and I would speak willingly and gladly, if affection and fraternal love had impelled Lucius Cæcilius a little beyond the limits which regular and strict duty requires of a man; I would appeal to your feelings, I would invoke the affection which every one feels for his own relations; I would solicit pardon for the error of Lucius Cæcilius, from your own inmost thoughts and from the common humanity of all men. The law was proposed only a few days; it was never begun to be put in train to be carried; it was laid on the table in the senate. On the first of January, when we had summoned the senate to meet in the Capitol, nothing took precedence of it; and Quintus Metellus the prætor said, that what he was saying was by the command of Sylla; that Sylla did

not wish such a motion to be brought forward respecting his case. From that time forward Cæcilius applied himself to many measures for the advantage of the republic; he declared that he by his intercession would stop the agrarian law, which was in every part of it denounced and defeated by me. He resisted infamous attempts at corruption; he never threw any obstacles in the way of the authority of the senate. He behaved himself in his tribuneship in such a manner, that, laying aside all regard for his own domestic concerns, he thought of nothing for the future but the welfare of the republic. And even in regard to this very motion, who was there of us who had any fears of Sylla or Cæcilius attempting to carry any point by violence? Did not all the alarm that existed at that time, all the fear and expectation of sedition, arise from the villany of Autronius? It was his expressions and his threats which were bruited abroad · it was the sight of him. the multitudes that thronged to him, the crowd that escorted him, and the bands of his abandoned followers, that caused all the fear of sedition which agitated us. Therefore, Publius Sylla, as this most odious man was then his comrade and partner, not only in honour but also in misfortune, was compelled to lose his own good fortune, and to remain under a cloud without any remedy or alleviation.

XXIV. At this point you are constantly reading passages from my letter, which I sent to Cnæus Pompeius about my own achievements, and about the general state of the republic; and out of it you seek to extract some charge against Publius Sylla. And because I wrote that an attempt of incredible madness, conceived two years before, had broken out in my consulship, you say that I, by this expression, have proved that Sylla was in the former conspiracy. I suppose I think that Cnæus Piso, and Catiline, and Vargunteius were not able to do any wicked or audacious act by themselves, without the aid of Publius Sylla! But even if any one had had a doubt on that subject before, would he have thought (as you accuse him of having done) of descending, after the murder of your father, who was then consul, into the Campus on the first of January with the lictors? This suspicion, in fact, you removed yourself, when you said that he had prepared an armed band and cherished violent designs against your father, in order to make Catiline consul. And if I grant you this, then you must grant to me that Sylla, when he was voting for Catiline, had

no thoughts of recovering by violence his own consulship, which he had lost by a judicial decision. For his character is not one, O judges, which is at all liable to the imputation of such enormous, of such atrocious crimes.

For I will now proceed, after I have refuted all the charges against him, by an arrangement contrary to that which is usually adopted, to speak of the general course of life and habits of my client. In truth, at the beginning I was eager to encounter the greatness of the accusation, to satisfy the expectations of men, and to say something also of myself, since I too had been accused. But now I must call you back to that point to which the cause itself, even if I said nothing, would compel you to direct all your attention.

XXV. In every case, O judges, which is of more serious importance than usual, we must judge a good deal as to what every one has wished, or intended, or done, not from the counts of the indictment, but from the habits of the person who is accused. For no one of us can have his character modelled in a moment, nor can any one's course of life be altered, or his natural disposition changed on a sudden. Survey for a moment in your mind's eye, O judges, (to say nothing of other instances,) these very men who were implicated in this wickedness. Catiline conspired against the republic. Whose ears were ever unwilling to believe in this attempt on the part of a man who had spent his whole life, from his boyhood upwards, not only in intemperance and debauchery, but who had devoted all his energies and all his zeal to every sort of enormity, and lust, and bloodshed? Who marvelled that that man died fighting against his country, whom all men had always thought born for civil war? Who is there that recollects the way in which Lentulus was a partner of informers, or the insanity of his caprices, or his perverse and impious superstition, who can wonder that he cherished either wicked designs, or insane hopes? Who ever thinks of Caius Cethegus and his expedition into Spain, and the wound inflicted on Quintus Metellus Pius, without seeing that a prison was built on purpose to be the scene of his punishment? I say nothing of the rest, that there may be some end to my instances. I only ask you, silently to recollect all those men who are proved to have been in this conspiracy. You will see that every one of those men was convicted by his own manner of life, before he was condemned by our suspicion.

And as for Autronius himself, (since his name is the most nearly connected with the danger in which my client is, and with the accusation which is brought against him,) did not the manner in which he had spent all his early life convict him? He had always been audacious, violent, profligate. We know that in defending himself in charges of adultery, he was accustomed to use not only the most infamous language, but even his fists and his feet. We know that he had been accustomed to drive men from their estates, to murder his neighbours, to plunder the temples of the allies, to disturb the courts of justice by violence and arms; in prosperity to despise every body, in adversity to fight against all good men; never to regard the interests of the republic, and not to yield even to fortune herself. Even if he were not convicted by the most irresistible evidence, still his own habits and his past life would convict him.

XXVI. Come now, compare with those men the life of Publius Sylla, well known as it is to you and to all the Roman people; and place it, O judges, as it were before your eyes. Has there ever been any act or exploit of his which has seemed to any one, I will not say audacious, but even rather inconsiderate? Do I say any act? Has any word ever fallen from his lips by which any one could be offended? Ay, even in that terrible and disorderly victory of Lucius Sylla, who was found more gentle or more merciful than Publius Sylla? How many men's wives did he not save by begging them of Lucius Sylla! How many men are there of the highest rank and of the greatest accomplishments, both of our order and of the equestrian body, for whose safety he laid himself under obligations to Lucius Sylla! whom I might name, for they have no objection; indeed they are here to countenance him now, with the most grateful feelings towards him. But, because that service is a greater one than one citizen ought to be able to do to another, I entreat of you to impute to the times the fact of his having such power, but to give him himself the credit due to his having exerted it in such a manner. Why need I speak of the other virtues of his life? of his dignity? of his liberality? of his moderation in his own private affairs? of his splendour on public occasions? For, though in these points he has been crippled by fortune, yet the good foundations laid by nature are visible. What a house was his! what crowds frequented it daily! How great was the dignity of his behaviour

to his friends! How great was their attachment to him! What a multitude of friends had he of every order of the people! These things, which had been built up by long time and much labour, one single hour deprived him of. Publius Sylla, O judges, received a terrible and a mortal wound; but still it was an injury of such a sort as his way of life and his natural disposition might seem liable to be exposed to. He was judged to have too great a desire for honour and dignity. If no one else was supposed to have such desires in standing for the consulship, then he was judged to be more covetous than the rest. But if this desire for the consulship has existed in some other men also, then, perhaps, fortune was a little more unfavourable to him than to others. But, after this misfortune, who ever saw Publius Sylla otherwise than grieving, dejected, and out of spirits? Who ever suspected that he was avoiding the sight of men and the light of day, out of hatred, and not rather out of shame? For, though he had many temptations to frequent this city and the forum, by reason of the great attachment of his friends to him,—the only consolation which remained to him in his misfortunes,—still he kept out of your sight; and though he might have remained here, as far as the law went, he almost condemned himself to banishment.

XXVII. In such modest conduct as this, O judges, and in such a life as this, will you believe that there was any room left for such enormous wickedness? Look at the man himself; behold his countenance. Compare the accusation with his course of life. Compare his life, which has been laid open before you from his birth up to this day, with this accusation. I say nothing of the republic, to which Sylla has always been most devoted. Did he wish these friends of his, being such men as they are, so attached to him, by whom his prosperity had been formerly adorned, by whom his adversity is now comforted and relieved, to perish miserably, in order that he himself might be at liberty to pass a most miserable and infamous existence in company with Lentulus, and Catiline, and Cethegus, with no other prospect for the future but a disgraceful death? That suspicion is not consistent,—it is, I say, utterly at variance with such habits, with such modesty, with such a life as his, with the man himself. That sprang up, a perfectly unexampled sort of barbarity; it was an incredible and amazing insanity. The foulness of that unheard-of

wickedness broke out on a sudden, taking its rise from the countless vices of profligate men accumulated ever since their youth.

Think not, O judges, that that violence and that attempt was the work of human beings; for no nation ever was so barbarous or so savage, as to have (I will not say so many, but even) one implacable enemy to his country. They were some savage and ferocious beasts, born of monsters, and clothed in human form. Look again and again, O judges; for there is nothing too violent to be said in such a cause as this. Look deeply and thoroughly into the minds of Catiline, Autronius, Cethegus, Lentulus, and the rest. What lusts you will find in these men, what crimes, what baseness, what audacity, what incredible insanity, what marks of wickedness, what traces of parricide, what heaps of enormous guilt! Out of the great diseases of the republic, diseases of long standing, which had been given over as hopeless, suddenly that violence broke out; in such a way, that when it was put down and got rid of, the state might again be able to become convalescent and to be cured; for there is no one who thinks that if those pests remained in the republic, the constitution could continue to exist any longer. Therefore they were some Furies who urged them on, not to complete their wickedness, but to atone to the republic for their guilt by their punishment.

XXVIII. Will you then, O judges, now turn back Publius Sylla into this band of rascals, out of that band of honourable men who are living and have lived as his associates? Will you transfer him from this body of citizens, and from the familiar dignity in which he lives with them, to the party of impious men, to that crew and company of parricides? What then will become of that most impregnable defence of modesty? in what respect will the purity of our past lives be of any use to us? For what time is the reward of the character which a man has gained to be reserved, if it is to desert him at his utmost need, and when he is engaged in a contest in which all his fortunes are at stake—if it is not to stand by him and help him at such a crisis as this? Our prosecutor threatens us with the examinations and torture of our slaves; and though we do not suspect that any danger can arise to us from them, yet pain reigns in those tortures; much depends on the nature of every one's mind, and the fortitude of a person's body. The inquisitor manages everything; caprice

regulates much, hope corrupts them, fear disables them, so that, in the straits in which they are placed, there is but little room left for truth.

Is the life of Publius Sylla, then, to be put to the torture? is it to be examined to see what lust is concealed beneath it? whether any crime is lurking under it, or any cruelty, or any audacity? There will be no mistake in our cause, O judges, no obscurity, if the voice of his whole life, which ought to be of the very greatest weight, is listened to by you. In this cause we fear no witness; we feel sure that no one knows, or has ever seen, or has ever heard anything against us. But still, if the consideration of the fortune of Publius Sylla has no effect on you, O judges, let a regard for your own fortune weigh with you. For this is of the greatest importance to you who have lived in the greatest elegance and safety, that the causes of honourable men should not be judged of according to the caprice, or enmity, or worthlessness of the witnesses; but that in important investigations and sudden dangers, the life of every man should be the most credible witness. And do not you, O judges, abandon and expose it, stripped of its arms, and defenceless, to envy and suspicion Fortify the common citadel of all good men, block up the ways of escape resorted to by the wicked. Let that witness be of the greatest weight in procuring either safety or punishment for a man, which is the only one that, from its own intrinsic nature, can with ease be thoroughly examined, and which cannot be suddenly altered and remodelled.

XXIX. What? Shall this authority, (for I must continually speak of that, though I will speak of it with timidity and moderation,)—shall, I say, this authority of mine, when I have kept aloof from the cause of every one else accused of this conspiracy, and have defended Sylla alone, be of no service to my client? This is perhaps a bold thing to say, O judges; a bold thing, if we are asking for anything; a bold thing, if, when every one else is silent about us, we will not be silent ourselves. But if we are attacked, if we are accused, if we are sought to be rendered unpopular, then surely, O judges, you will allow us to retain our liberty, even if we cannot quite retain all our dignity. All the men of consular rank are accused at one swoop; so that the name of the most honourable office in the state appears now to carry with it more unpopularity than dignity. "They stood by Catiline,"

says he, "and praised him." At that time there was no conspiracy known of or discovered. They were defending a friend. They were giving their suppliant the countenance of their presence. They did not think the moment of his most imminent danger a fit time to reproach him with the infamy of his life. Moreover, even your own father, O Torquatus, when consul, was the advocate of Catiline when he was prosecuted on a charge of extortion: he knew he was a bad man, but he was a suppliant; perhaps he was an audacious man, but he had once been his friend. And, as he stood by him after information of that first conspiracy had been laid before him, he showed that he had heard something about him, but that he had not believed it. "But he did not countenance him by his presence at the other trial, when the rest did." If he himself had afterwards learnt something, of which he had been ignorant when consul, still we must pardon those men who had heard nothing since that time. But if the first accusation had weight, it ought not to have had more weight when it was old than when it was fresh. But if your parent, even when he was not without suspicion of danger to himself, was still induced by pity to do honour to the defence of a most worthless man by his curule chair, by his own private dignity, and by that of his office as consul, then what reason is there for reproaching the men of consular rank who gave Catiline the countenance of their presence? "But the same men did not countenance those who were tried for their accession to this conspiracy before Sylla." Certainly not; they resolved that no aid, no assistance, no support ought to be given by them to men implicated in such wickedness. And that I may speak for a moment of their constancy and attachment to the republic, whose silent virtue and loyalty bears witness in behalf of every one of them, and needs no ornaments of language from any one,—can any one say that any time there were men of consular rank more virtuous, more fearless, or more firm, than those who lived in these critical and perilous times, in which the republic was nearly overwhelmed? Who of them did not, with the greatest openness, and bravery, and earnestness, give his whole thoughts to the common safety? Nor need I confine what I say to the men of consular rank. For this credit is due to all those accomplished men who have been prætors, and indeed to the whole senate in common; so that it is plain that never, in the

memory of man, was there more virtue in that order, greater attachment to the republic, or more consummate wisdom. But because the men of consular rank were especially mentioned, I thought I ought to say thus much in their behalf; and that that would be enough, as the recollection of all men would join me in bearing witness, that there was not one man of that rank who did not labour with all his virtue, and energy, and influence, to preserve the republic.

XXX. But what comes next? Do I, who never praised Catiline, who never as consul countenanced Catiline when he was on his trial, who have given evidence respecting the conspiracy against others,—do I seem to you so far removed from sanity, so forgetful of my own consistency, so forgetful of all the exploits which I have performed, as, though as consul I waged war against the conspirators, now to wish to preserve their leader, and to bring my mind now to defend the cause and the life of that same man whose weapon I lately blunted, and whose flames I have but just extinguished? If, O judges, the republic itself, which has been preserved by my labours and dangers, did not by its dignity recal me to wisdom and consistency, still it is an instinct implanted by nature, to hate for ever the man whom you have once feared, with whom you have contended for life and fortune, and from whose plots you have escaped. But when my chief honours and the great glory of all my exploits are at stake; when, as often as any one is convicted of any participation in this wickedness, the recollection of the safety of the city having been secured by me is renewed, shall I be so mad as to allow those things which I did in behalf of the common safety to appear now to have been done by me more by chance and by good fortune than by virtue and wisdom? "What, then, do you mean? Do you," some one will say, perhaps, "claim that a man shall be judged innocent, just because you have defended him?" But I, O judges, not only claim nothing for myself to which any one can object, but I even give up and abandon pretensions which are granted and allowed me by every one. I am not living in such a republic,—I have not exposed my life to all sorts of dangers for the sake of my country at such a time,—they whom I have defeated are not so utterly extinct,—nor are those whom I have preserved so grateful, that I should think it safe to attempt to assume more than all my enemies and enviers may endure It would

appear an offensive thing for him who investigated the conspiracy, who laid it open, who crushed it, whom the senate thanked in unprecedented language, to whom the senate decreed a supplication, which they had never decreed to any one before for civil services, to say in a court of justice, "I would not have defended him if he had been a conspirator." I do not say that, because it might be offensive; I say this, which in these trials relating to the conspiracy I may claim a right to say, speaking not with authority but with modesty, "I who investigated and chastised that conspiracy would certainly not defend Sylla, if I thought that he had been a conspirator." I, O judges, say this, which I said at the beginning, that when I was making a thorough inquiry into those great dangers which were threatening everybody, when I was hearing many things, not believing everything, but guarding against everything, not one word was said to me by any one who gave information, nor did any one hint any suspicion, nor was there the slightest mention in any one's letters, of Publius Sylla.

XXXI. Wherefore I call you, O gods of my country and of my household, to witness,—you who preside over this city and this empire,—you who have preserved this empire, and these our liberties, and the Roman people,—you who by your divine assistance protected these houses and temples when I was consul,—that I, with a free and honest heart, am defending the cause of Publius Sylla; that no crime has been concealed by me knowingly, that no wickedness undertaken against the general safety has been kept back or defended by me. I, when consul, found out nothing about this man, I suspected nothing, I heard of nothing. Therefore I, the same person who have seemed to be vehement against some men, inexorable towards the rest of the conspirators, (I paid my country what I owed her; what I am now doing is due to my own invariable habits and natural disposition,) am as merciful, O judges, as you yourselves. I am as gentle as the most soft-hearted among you. As far as I was vehement in union with you, I did nothing except what I was compelled to do: I came to the assistance of the republic when in great danger; I raised my sinking country; influenced by pity for the whole body of citizens, we were then as severe as was necessary. The safety of all men would have been lost for ever in one night, if that severity had not been exercised; but as I was led on to the

punishment of wicked men by my attachment to the republic, so now I am led to secure the safety of the innocent by my own inclination.

I see, O judges, that in this Publius Sylla there is nothing worthy of hatred, and many circumstances deserving our pity. For he does not now, O judges, flee to you as a suppliant for the sake of warding off calamity from himself, but to prevent his whole family and name from being branded with the stigma of nefarious baseness. For as for himself, even if he be acquitted by your decision, what honours has he, what comforts has he for the rest of his life, in which he can find delight or enjoyment? His house, I suppose, will be adorned; the images of his ancestors will be displayed; he himself will resume his ornaments and his usual dress. All these things, O judges, are lost to him; all the insignia and ornaments of his family, and his name, and his honour, were lost by the calamity of that one decision. But he is anxious not to be called the destroyer, the betrayer, the enemy of his country; he is fearful of leaving such disgrace to a family of such renown; he is anxious that this unhappy child may not be called the son of a conspirator, a criminal, and a traitor. He fears for this boy, who is much dearer to him than his own life, anxious, though he cannot leave him the undiminished inheritance of his honours, at all events not to leave him the undying recollection of his infamy. This little child entreats you, O judges, to allow him occasionally to congratulate his father, if not with his fortunes unimpaired, at least to congratulate him in his affliction. The roads to the courts of justice and to the forum are better known to that unhappy boy, than the roads to his playground or to his school. I am contending now, O judges, not for the life of Publius Sylla, but for his burial. His life was taken from him at the former trial; we are now striving to prevent his body from being cast out. For what has he left which need detain him in this life? or what is there to make any one think such an existence life at all?

XXXII. Lately, Publius Sylla was a man of such consideration in the state, that no one thought himself superior to him either in honour, or in influence, or in good fortune. Now, stripped of all his dignity, he does not seek to recover what has been taken away from him; but he does entreat you, O judges, not to take from him the little which fortune has left

him in his disasters,—namely, the permission to bewail his calamities in company with his parent, with his children, with his brother, and with his friends. It would be becoming for even you yourself, O Torquatus, to be by this time satisfied with the miseries of my client. Although you had taken nothing from Sylla except the consulship, yet you ought to be content with that. For it was a contest for honour, and not enmity, which originally induced you to take up this cause. But now that, together with his honour, everything else has been taken from him,—now that he is desolate, crushed by this miserable and grievous fortune, what is there which you can wish for more? Do you wish to deprive him of the enjoyment of the light of day, full as it is to him of tears and grief, in which he now lives amid the greatest grief and torment? He would gladly give it up, if you would release him from the foul imputation of this most odious crime. Do you seek to banish him as an enemy, when, if you were really hard-hearted, you would derive greater enjoyment from seeing his miseries than from hearing of them? Oh, wretched and unhappy was that day on which Publius Sylla was declared consul by all the centuries! O how false were the hopes! how fleeting the good fortune! how blind the desire! how unreasonable the congratulations! How soon was all that scene changed from joy and pleasure to mourning and tears, when he, who but a short time before had been consul elect, had on a sudden no trace left of his previous dignity. For what evil was there which seemed then to be wanting to him when he was thus stripped of honour, and fame, and fortune? or what room could there be left for any new calamity? The same fortune continues to pursue him which followed him from the first; she finds a new source of grief for him; she will not allow an unfortunate man to perish when he has been afflicted in only one way, and by only one disaster.

XXXIII. But now, O judges, I am hindered by my own grief of mind from saying any more about the misery of my client. That consideration belongs to you, O judges. I rest the whole cause on your mercy and your humanity. You, after a rejection of several judges, of which we had no suspicion, have sat as judges suddenly appointed to hear our cause, having been chosen by our accusers from their hopes of your severity, but having been also given to us by fortune as the protectors of our innocence. As I have been anxious as

to what the Roman people thought of me, because I had been severe towards wicked men, and so have undertaken the first defence of an innocent man that was offered to me, so do you also mitigate that severity of the courts of justice which has been exerted now for some months against the most audacious of men, by your lenity and mercy. The cause itself ought to obtain this from you; and besides, it is due to your virtue and courage to show that you are not the men to whom it is most advisable for an accuser to apply after having rejected other judges. And in leaving the matter to your decision, O judges, I exhort you, with all the earnestness that my affection for you warrants me in using, so to act that we, by our common zeal, (since we are united in the service of the republic,) and you, by your humanity and mercy, may repel from us both the false charge of cruelty.

THE SPEECH OF M. T. CICERO FOR AULUS LICINIUS ARCHIAS, THE POET.

THE ARGUMENT.

Archias was a Greek poet, a native of Antioch, who came to Rome in the train of Lucullus, when Cicero was a child. He assumed the names of Aulus and Licinius, the last out of compliment to the Luculli, and Cicero had been for some time a pupil of his, and had retained a great regard for him. A man of the name of Gracchus now prosecuted him as a false pretender to the rights of a Roman citizen, according to the provisions of the *lex Papiria*. But Cicero contends that he is justified by that very law, for Archias before coming to Rome had stayed at Heraclea, a confederate city, and had been enrolled as a Heraclean citizen; and in the *lex Papiria* it was expressly provided that those who were on the register of any confederate city as its citizens, if they were residing in Italy at the time the law was passed, and if they made a return of themselves to the prætor within sixty days, were to be exempt from its operation. However, the greatest part of this oration is occupied, not in legal arguments, but in a panegyric on Archias, who is believed to have died soon afterwards; and he must have been a very old man at the time that it was spoken, as it was nearly forty years previously that he had first come to Rome.

I. If there be any natural ability in me, O judges,—and I know how slight that is; or if I have any practice as a speaker,—and in that line I do not deny that I have some

experience; or if I have any method in my oratory, drawn from my study of the liberal sciences, and from that careful training to which I admit that at no part of my life have I ever been disinclined; certainly, of all those qualities, this Aulus Licinius is entitled to be among the first to claim the benefit from me as his peculiar right. For as far as ever my mind can look back upon the space of time that is past, and recal the memory of its earliest youth, tracing my life from that starting-point, I see that Archias was the principal cause of my undertaking, and the principal means of my mastering, those studies. And if this voice of mine, formed by his encouragement and his precepts, has at times been the instrument of safety to others, undoubtedly we ought, as far as lies in our power, to help and save the very man from whom we have received that gift which has enabled us to bring help to many and salvation to some. And lest any one should, perchance, marvel at this being said by me, as the chief of his ability consists in something else, and not in this system and practice of eloquence, he must be told that even we ourselves have never been wholly devoted to this study. In truth, all the arts which concern the civilising and humanising of men, have some link which binds them together, and are, as it were, connected by some relationship to one another.

II. And, that it may not appear marvellous to any one of you, that I, in a formal proceeding like this, and in a regular court of justice, when an action is being tried before a prætor of the Roman people, a most eminent man, and before most impartial judges, before such an assembly and multitude of people as I see around me, employ this style of speaking, which is at variance, not only with the ordinary usages of courts of justice, but with the general style of forensic pleading; I entreat you in this cause to grant me this indulgence, suitable to this defendant, and as I trust not disagreeable to you,—the indulgence, namely, of allowing me, when speaking in defence of a most sublime poet and most learned man, before this concourse of highly-educated citizens, before this most polite and accomplished assembly, and before such a prætor as him who is presiding at this trial, to enlarge with a little more freedom than usual on the study of polite literature and refined arts, and, speaking in the character of such a man as that, who, owing to the tranquillity of his

life and the studies to which he has devoted himself, has but little experience of the dangers of a court of justice, to employ a new and unusual style of oratory. And if I feel that that indulgence is given and allowed me by you, I will soon cause you to think that this Aulus Licinius is a man who not only, now that he is a citizen, does not deserve to be expunged from the list of citizens, but that he is worthy, even if he were not one, of being now made a citizen.

III. For when first Archias grew out of childhood, and out of the studies of those arts by which young boys are gradually trained and refined, he devoted himself to the study of writing. First of all at Antioch, (for he was born there, and was of high rank there,) formerly an illustrious and wealthy city, and the seat of learned men and of liberal sciences; and there it was his lot speedily to show himself superior to all in ability and credit. Afterwards, in the other parts of Asia, and over all Greece, his arrival was so talked of wherever he came, that the anxiety with which he was expected was even greater than the fame of his genius; but the admiration which he excited when he had arrived, exceeded even the anxiety with which he was expected. Italy was at that time full of Greek science and of Greek systems, and these studies were at that time cultivated in Latium with greater zeal than they now are in the same towns; and here too at Rome, on account of the tranquil state of the republic at that time, they were far from neglected. Therefore, the people of Tarentum, and Rhegium, and Neapolis, presented him with the freedom of the city and with other gifts; and all men who were capable of judging of genius thought him deserving of their acquaintance and hospitality. When, from this great celebrity of his, he had become known to us though absent, he came to Rome, in the consulship of Marius and Catulus. It was his lot to have those men as his first consuls, the one of whom could supply him with the most illustrious achievements to write about, the other could give him, not only exploits to celebrate, but his ears and judicious attention. Immediately the Luculli, though Archias was as yet but a youth,[1] received him in their house. But it was not

[1] The Latin is *prætextatus*. Before he had exchanged the *prætexta* for the *toga virilis*. It has generally been thought that the age at which this exchange was made was seventeen, but Professor Long, the highest possible authority on all subjects of Latin literature, and

only to his genius and his learning. but also to his natural disposition and virtue, that it must be attributed that the house which was the first to be opened to him in his youth, is also the one in which he lives most familiarly in his old age. He at that time gained the affection of Quintus Metellus, that great man who was the conqueror of Numidia, and his son Pius. He was eagerly listened to by Marcus Æmilius; he associated with Quintus Catulus,—both with the father and the sons. He was highly respected by Lucius Crassus; and as for the Luculli, and Drusus, and the Octavii, and Cato, and the whole family of the Hortensii, he was on terms of the greatest possible intimacy with all of them, and was held by them in the greatest honour. For, not only did every one cultivate his acquaintance who wished to learn or to hear anything, but even every one pretended to have such a desire.

IV. In the meantime, after a sufficiently long interval, having gone with Lucius Lucullus into Sicily, and having afterwards departed from that province in the company of the same Lucullus, he came to Heraclea. And as that city was one which enjoyed all the rights of a confederate city to their full extent, he became desirous of being enrolled as a citizen of it. And, being thought deserving of such a favour for his own sake, when aided by the influence and authority of Lucullus, he easily obtained it from the Heracleans. The freedom of the city was given him in accordance with the provisions of the law of Silvanus and Carbo: "If any men had been enrolled as citizens of the confederate cities, and if, at the time that the law was passed, they had a residence in Italy, and if within sixty days they had made a return of themselves to the prætor." As he had now had a residence at Rome for many years, he returned himself as a citizen to the prætor, Quintus Metellus, his most intimate friend. If

especially on Roman law, says, (Smith, Dict. Ant. v. *Impubes*,) "The *toga virilis* was assumed at the Liberalia in the month of March; and though no age appears to have been positively fixed for the ceremony, it probably took place, as a general rule, on the feast which next followed the completion of the fourteenth year, though it is certain that the completion of the fourteenth year was not always the time observed." Even supposing Archias to have been seventeen, it appears rather an early age for him to have established such a reputation as Cicero speaks of, and perhaps, as not being at that time a Roman citizen, he probably did not wear the *prætexta* at all; the expression is not to be taken literally, but we are merely to understand generally that he was quite a young man.

we have nothing else to speak about except the rights of citizenship and the law, I need say no more. The cause is over. For which of all these statements, O Gratius, can be invalidated? Will you deny that he was enrolled, at the time I speak of, as a citizen of Heraclea? There is a man present of the very highest authority, a most scrupulous and truthful man, Lucius Lucullus, who will tell you not that he thinks it, but that he knows it; not that he has heard of it, but that he saw it; not even that he was present when it was done, but that he actually did it himself. Deputies from Heraclea are present, men of the highest rank; they have come expressly on account of this trial, with a commission from their city, and to give evidence on the part of their city; and they say that he was enrolled as a Heraclean. On this you ask for the public registers of the Heracleans, which we all know were destroyed in the Italian war, when the register office was burnt. It is ridiculous to say nothing to the proofs which we have, but to ask for proofs which it is impossible for us to have; to disregard the recollection of men, and to appeal to the memory of documents; and when you have the conscientious evidence of a most honourable man, the oath and good faith of a most respectable municipality, to reject those things which cannot by any possibility be tampered with, and to demand documentary evidence, though you say at the same moment that that is constantly played tricks with. "But he had no residence at Rome." What, not he who for so many years before the freedom of the city was given to him, had established the abode of all his property and fortunes at Rome? "But he did not return himself." Indeed he did, and in that return which alone obtains with the college of prætors the authority of a public document.

V. For as the returns of Appius were said to have been kept carelessly, and as the trifling conduct of Gabinius, before he was convicted, and his misfortune after his condemnation, had taken away all credit from the public registers, Metellus, the most scrupulous and moderate of all men, was so careful, that he came to Lucius Lentulus, the prætor, and to the judges, and said that he was greatly vexed at an erasure which appeared in one name. In these documents, therefore, you will see no erasure affecting the name of Aulus Licinius. And as this is the case, what reason have you for doubting about his citizenship, especially as he was enrolled as a citizen of

other cities also? In truth, as men in Greece were in the habit of giving rights of citizenship to many men of very ordinary qualifications, and endowed with no talents at all, or with very moderate ones, without any payment, it is likely, I suppose, that the Rhegians, and Locrians, and Neapolitans, and Tarentines should have been unwilling to give to this man, enjoying the highest possible reputation for genius, what they were in the habit of giving even to theatrical artists. What, when other men, who not only after the freedom of the city had been given, but even after the passing of the Papian law, crept somehow or other into the registers of those municipalities, shall he be rejected who does not avail himself of those other lists in which he is enrolled, because he always wished to be considered a Heraclean? You demand to see our own censor's returns. I suppose no one knows that at the time of the last census he was with that most illustrious general, Lucius Lucullus, with the army; that at the time of the preceding one he was with the same man when he was in Asia as quæstor; and that in the census before that, when Julius and Crassus were censors, no regular account of the people was taken. But, since the census does not confirm the right of citizenship, but only indicates that he, who is returned in the census, did at that time claim to be considered as a citizen, I say that, at that time, when you say, in your speech for the prosecution, that he did not even himself consider that he had any claim to the privileges of a Roman citizen, he more than once made a will according to our laws, and he entered upon inheritances left him by Roman citizens; and he was made honourable mention of by Lucius Lucullus, both as prætor and as consul, in the archives kept in the treasury.

VI. You must rely wholly on what arguments you can find. For he will never be convicted either by his own opinion of his case, or by that which is formed of it by his friends.

You ask us, O Gratius, why we are so exceedingly attached to this man. Because he supplies us with food whereby our mind is refreshed after this noise in the forum, and with rest for our ears after they have been wearied with bad language. Do you think it possible that we could find a supply for our daily speeches, when discussing such a variety of matters unless we were to cultivate our minds by the study of literature; or that our minds could bear being kept so constantly

on the stretch if we did not relax them by that same study? But I confess that I am devoted to those studies; let others be ashamed of them if they have buried themselves in books without being able to produce anything out of them for the common advantage, or anything which may bear the eyes of men and the light. But why need I be ashamed, who for many years have lived in such a manner as never to allow my own love of tranquillity to deny me to the necessity or advantage of another, or my fondness for pleasure to distract, or even sleep to delay my attention to such claims? Who then can reproach me, or who has any right to be angry with me, if I allow myself as much time for the cultivation of these studies as some take for the performance of their own business, or for celebrating days of festival and games, or for other pleasures, or even for the rest and refreshment of mind and body, or as others devote to early banquets, to playing at dice, or at ball? And this ought to be permitted to me, because by these studies my power of speaking and those faculties are improved, which, as far as they do exist in me, have never been denied to my friends when they have been in peril. And if that ability appears to any one to be but moderate, at all events I know whence I derive those principles which are of the greatest value. For if I had not persuaded myself from my youth upwards, both by the precepts of many masters and by much reading, that there is nothing in life greatly to be desired, except praise and honour, and that while pursuing those things all tortures of the body, all dangers of death and banishment are to be considered but of small importance, I should never have exposed myself, in defence of your safety, to such numerous and arduous contests, and to these daily attacks of profligate men. But all books are full of such precepts, and all the sayings of philosophers, and all antiquity is full of precedents teaching the same lesson; but all these things would lie buried in darkness, if the light of literature and learning were not applied to them. How many images of the bravest men, carefully elaborated, have both the Greek and Latin writers bequeathed to us, not merely for us to look at and gaze upon, but also for our imitation! And I, always keeping them before my eyes as examples for my own public conduct, have endeavoured to model my mind and views by continually thinking of those excellent men.

VII. Some one will ask, "What? were those identical

great men, whose virtues have been recorded in books, accomplished in all that learning which you are extolling so highly?" It is difficult to assert this of all of them; but still I know what answer I can make to that question: I admit that many men have existed of admirable disposition and virtue, who, without learning, by the almost divine instinct of their own mere nature, have been, of their own accord, as it were, moderate and wise men. I even add this, that very often nature without learning has had more to do with leading men to credit and to virtue, than learning when not assisted by a good natural disposition. And I also contend, that when to an excellent and admirable natural disposition there is added a certain system and training of education, then from that combination arises an extraordinary perfection of character; such as is seen in that god-like man, whom our fathers saw in their time, Africanus; and in Caius Lælius and Lucius Furius, most virtuous and moderate men; and in that most excellent man, the most learned man of his time, Marcus Cato the elder; and all these men, if they had been to derive no assistance from literature in the cultivation and practice of virtue, would never have applied themselves to the study of it. Though, even if there were no such great advantage to be reaped from it, and if it were only pleasure that is sought from these studies, still I imagine you would consider it a most reasonable and liberal employment of the mind: for other occupations are not suited to every time, nor to every age or place; but these studies are the food of youth, the delight of old age; the ornament of prosperity, the refuge and comfort of adversity; a delight at home, and no hindrance abroad; they are companions by night, and in travel, and in the country.

VIII. And if we ourselves were not able to arrive at these advantages, nor even taste them with our senses, still we ought to admire them, even when we saw them in others. Who of us was of so ignorant and brutal a disposition as not lately to be grieved at the death of Roscius? who, though he was an old man when he died, yet, on account of the excellence and beauty of his art, appeared to be one who on every account ought not to have died. Therefore, had he by the gestures of his body gained so much of our affections, and shall we disregard the incredible movements of the mind, and the rapid operations of genius? How often have I seen this

man Archias, O judges,—(for I will take advantage of your kindness, since you listen to me so attentively while s eaking in this unusual manner,)—how often have I seen him, when he had not written a single word, repeat extempore a great number of admirable verses on the very events which were passing at the moment! How often have I seen him go back, and describe the same thing over again with an entire change of language and ideas! And what he wrote with care and with much thought, that I have seen admired to such a degree, as to equal the credit of even the writings of the ancients. Should not I, then, love this man? should I not admire him? should not I think it my duty to defend him in every possible way? And, indeed, we have constantly heard from men of the greatest eminence and learning, that the study of other sciences was made up of learning, and rules, and regular method; but that a poet was such by the unassisted work of nature, and was moved by the vigour of his own mind, and was inspired, as it were, by some divine wrath. Wherefore rightly does our own great Ennius call poets holy; because they seem to be recommended to us by some especial gift, as it were, and liberality of the gods. Let then, judges, this name of poet, this name which no barbarians even have ever disregarded, be holy in your eyes, men of cultivated minds as you all are. Rocks and deserts reply to the poet's voice; savage beasts are often moved and arrested by song; and shall we, who have been trained in the pursuit of the most virtuous acts, refuse to be swayed by the voice of poets? The Colophonians say that Homer was their citizen; the Chians claim him as theirs; the Salaminians assert their right to him; but the men of Smyrna loudly assert him to be a citizen of Smyrna, and they have even raised a temple to him in their city. Many other places also fight with one another for the honour of being his birth-place.

IX. They, then, claim a stranger, even after his death, because he was a poet; shall we reject this man while he is alive, a man who by his own inclination and by our laws does actually belong to us? especially when Archias has employed all his genius with the utmost zeal in celebrating the glory and renown of the Roman people? For when a young man, he touched on our wars against the Cimbri, and gained the favour even of Caius Marius himself, a man who was tolerably proof against this sort of study. For there was no one so

disinclined to the Muses as not willingly to endure that the praise of his labours should be made immortal by means of verse. They say that the great Themistocles, the greatest man that Athens produced, said, when some one asked him what sound or whose voice he took the greatest delight in hearing, "The voice of that by whom his own exploits were best celebrated." Therefore, the great Marius was also exceedingly attached to Lucius Plotius, because he thought that the achievement which he had performed could be celebrated by his genius. And the whole Mithridatic war, great and difficult as it was, and carried on with so much diversity of fortune by land and sea, has been related at length by him; and the books in which that is sung of, not only make illustrious Lucius Lucullus, that most gallant and celebrated man, but they do honour also to the Roman people. For, while Lucullus was general, the Roman people opened Pontus, though it was defended both by the resources of the king and by the character of the country itself. Under the same general the army of the Roman people, with no very great numbers, routed the countless hosts of the Armenians. It is the glory of the Roman people that, by the wisdom of that same general, the city of the Cyzicenes, most friendly to us, was delivered and preserved from all the attacks of the kind, and from the very jaws as it were of the whole war. Ours is the glory which will be for ever celebrated, which is derived from the fleet of the enemy which was sunk after its admirals had been slain, and from the marvellous naval battle off Tenedos: those trophies belong to us, those monuments are ours, those triumphs are ours. Therefore, I say that the men by whose genius these exploits are celebrated, make illustrious at the same time the glory of the Roman people. Our countryman, Ennius, was dear to the elder Africanus; and even on the tomb of the Scipios his effigy is believed to be visible, carved in the marble. But undoubtedly it is not only the men who are themselves praised who are done honour to by those praises, but the name of the Roman people also is adorned by them. Cato, the ancestor of this Cato, is extolled to the skies. Great honour is paid to the exploits of the Roman people. Lastly, all those great men, the Maximi, the Marcelli, and the Fulvii, are done honour to, not without all of us having also a share in the panegyric.

X. Therefore our ancestors received the man who was the cause of all this, a man of Rudiæ, into their city as a citizen; and shall we reject from our city a man of Heraclea, a man sought by many cities, and made a citizen of ours by these very laws?

For if any one thinks that there is a smaller gain of glory erived from Greek verses than from Latin ones, he is greatly mistaken, because Greek poetry is read among all nations, Latin is confined to its own natural limits, which are narrow enough. Wherefore, if those achievements which we have performed are limited only by the bounds of the whole world, we ought to desire that, wherever our vigour and our arms have penetrated, our glory and our fame should likewise extend. Because, as this is always an ample reward for those people whose achievements are the subject of writings, sc especially is it the greatest inducement to encounter labours and dangers to all men who fight for themselves for the sake of glory. How many historians of his exploits is Alexander the Great said to have had with him; and he, when standing on Cape Sigeum at the grave of Achilles, said,—"O happy youth, to find Homer as the panegyrist of your glory!" And he said the truth; for, if the Iliad had not existed, the same tomb which covered his body would have also buried his renown. What, did not our own Magnus, whose valour has been equal to his fortune, present Theophanes the Mitylenæan, a relater of his actions, with the freedom of the city in an assembly of the soldiers? And those brave men, our countrymen, soldiers and country-bred men as they were, still being moved by the sweetness of glory, as if they were to some extent partakers of the same renown, showed their approbation of that action with a great shout. Therefore, I suppose, if Archias were not a Roman citizen according to the laws, he could not have contrived to get presented with the freedom of the city by some general! Sylla, when he was giving it to the Spaniards and Gauls, would, I suppose, have refused him if he had asked for it! a man whom we ourselves saw in the public assembly, when a bad poet of the common people had put a book in his hand, because he had made an epigram on him with every other verse too long, immediately ordered some of the things which he was selling at the moment to be given him as a reward, on condition of not writing anything more about him for the future. Would not he who

thought the industry of a bad poet still worthy of some reward, have sought out the genius, and excellence, and copiousness in writing of this man? What more need I say? Could he not have obtained the freedom of the city from Quintus Metellus Pius, his own most intimate friend, who gave it to many men, either by his own request, or by the intervention of the Luculli? especially when Metellus was so anxious to have his own deeds celebrated in writing, that he gave his attention willingly to poets born even at Cordova, whose poetry had a very heavy and foreign flavour.

XI. For this should not be concealed, which cannot possibly be kept in the dark, but it might be avowed openly: we are all influenced by a desire of praise, and the best men are the most especially attracted by glory. Those very philosophers even in the books which they write about despising glory, put their own names on the title-page. In the very act of recording their contempt for renown and notoriety, they desire to have their own names known and talked of. Decimus Brutus, that most excellent citizen and consummate general, adorned the approaches to his temples and monuments with the verses of Attius. And lately that great man Fulvius, who fought with the Ætolians, having Ennius for his companion, did not hesitate to devote the spoils of Mars to the Muses. Wherefore, in a city in which generals, almost in arms, have paid respect to the name of poets and to the temples of the Muses, these judges in the garb of peace ought not to act in a manner inconsistent with the honour of the Muses and the safety of poets.

And that you may do that the more willingly, I will now reveal my own feelings to you, O judges, and I will make a confession to you of my own love of glory,—too eager perhaps, but still honourable. For this man has in his verses touched upon and begun the celebration of the deeds which we in our consulship did in union with you, for the safety of this city and empire, and in defence of the life of the citizens and of the whole republic. And when I had heard his commencement, because it appeared to me to be a great subject and at the same time an agreeable one, I encouraged him to complete his work. For virtue seeks no other reward for its labours and its dangers beyond that of praise and renown; and if that be denied to it, what reason is there, O judges, why in so small and brief a course of life as is allotted to us, we should

impose such labours on ourselves? Certainly, if the mind had no anticipations of posterity, and if it were to confine all its thoughts within the same limits as those by which the space of our lives is bounded, it would neither break itself with such severe labours, nor would it be tormented with such cares and sleepless anxiety, nor would it so often have to fight for its very life. At present there is a certain virtue in every good man, which night and day stirs up the mind with the stimulus of glory, and reminds it that all mention of our name will not cease at the same time with our lives, but that our fame will endure to all posterity.

XII. Do we all who are occupied in the affairs of the state, and who are surrounded by such perils and dangers in life, appear to be so narrow-minded, as, though to the last moment of our lives we have never passed one tranquil or easy moment, to think that everything will perish at the same time as ourselves? Ought we not, when many most illustrious men have with great care collected and left behind them statues and images, representations not of their minds but of their bodies, much more to desire to leave behind us a copy of our counsels and of our virtues, wrought and elaborated by the greatest genius? I thought, at the very moment of performing them, that I was scattering and disseminating all the deeds which I was performing, all over the world for the eternal recollection of nations. And whether that delight is to be denied to my soul after death, or whether, as the wisest men have thought, it will affect some portion of my spirit, at all events, I am at present delighted with some such idea and hope.

Preserve then, O judges, a man of such virtue as that of Archias, which you see testified to you not only by the worth of his friends, but by the length of time during which they have been such to him; and of such genius as you ought to think is his, when you see that it has been sought by most illustrious men. And his cause is one which is approved of by the benevolence of the law, by the authority of his municipality, by the testimony of Lucullus, and by the documentary evidence of Metellus. And as this is the case, we do entreat you, O judges, if there may be any weight attached, I will not say to human, but even to divine recommendation in such important matters, to receive under your protection that man who has at all times done honour to your generals and to the exploits of the Roman people,—who even in these recent

perils of our own, and in your domestic dangers, promises to give an eternal testimony of praise in our favour, and who forms one of that band of poets who have at all times and in all nations been considered and called holy, so that he may seem relieved by your humanity, rather than overwhelmed by your severity.

The things which, according to my custom, I have said briefly and simply, O judges, I trust have been approved by all of you. Those things which I have spoken, without regarding the habits of the forum or judicial usage, both concerning the genius of the man and my own zeal in his behalf, I trust have been received by you in good part. That they have been so by him who presides at this trial, I am quite certain.

THE SPEECH OF M. T. CICERO IN DEFENCE OF LUCIUS FLACCUS.

THE ARGUMENT.

Lucius Valerius Flaccus had been prætor in Cicero's consulship, and had received the thanks of the senate for his zeal and vigour in the arrest of Catiline's accomplices; but he was now accused by Publius Lælius of rapine and oppression in the province of Asia, which had fallen to his lot after his prætorship. Part of the charge was on the ground that he had prohibited the Jews from carrying out of his province the gold which they used to collect annually throughout the empire for the temple at Jerusalem, and that he had seized it all, and remitted it to Rome. Hortensius was joined with Cicero in the defence; as is mentioned by Cicero in the last epistle of the second book of the Letters to Atticus; where he says, "With how much copiousness, with how much nobleness, with how much elegance, did your friend Hortensius[1] extol me to the skies, both when he was speaking of the prætorship of Flaccus, and of the times of the Allobroges."

We may observe, since there has been some dispute as to the order in which this oration should be printed, that it cannot have been spoken before the year 695, A. U. C., in the consulship of Caius Julius Cæsar and Marcus Calpurnius Bibulus, for Cicero's consulship took place A. U. C. 691, and after that Flaccus was occupied as proprætor for three years in Asia, and it could not have been before the expiration of his prætorship, and his return from it, that this prosecution was instituted. Flaccus was acquitted.

This oration is imperfect and mutilated in some places.

I. WHEN in the greatest perils of this city and empire, in the most important and terrible disasters of the republic, I was repelling slaughter from you, your wives, and your children,

[1] But some editions here read *Hortalus*.

devastation from your temples, your altars, from the city, and from Italy, with Lucius Flaccus, the companion and assistant of my counsels and my dangers, I used to hope, O judges, that I should some time or other be an assistant of Lucius Flaccus towards obtaining honour, rather than an advocate to defend him from calamity. For what reward of dignity could there be which the Roman people would deny to him, when it had always given them to his ancestors; when Lucius Flaccus had imitated the ancient glory of the Valerian family in delivering his country, nearly five hundred years after the existence of the republic?

But, if by chance there had existed at any time any detractor from this service, any enemy of this virtue, any envier of this renown, still I thought that Lucius Flaccus would have to encounter the judgment of an ignorant mob, (with no real danger, indeed,) rather than that of most wise and carefully chosen men. I never, indeed, imagined that any one would bring danger upon, or devise plots against, his fortunes, by means of those very men, by whose influence, and under whose protection, the safety, not only of all the citizens, but even of all nations, was at that time defended and preserved. And if it was fated ever to happen that any one should devise mischief to Lucius Flaccus, still I never thought, O judges, that Decimus Lælius, the son of a most virtuous man, himself a man of the fairest expectations and of the highest dignity, would adopt an accusation which is more suitable to the hatred and madness of wicked citizens than to his virtue and to the training of his early years. Indeed, as I had often seen well-founded enmities with citizens who had deserved well of their country, laid aside by the most illustrious men, I did not think that any friend of the republic, after the affection of Lucius Flaccus had been thoroughly tried, would take up a fresh quarrel against him without having received any injury.

But since, O judges, many things have deceived us, both in our own affairs and in those of the republic, those things which must be borne, we bear. This only we ask of you,—that you will consider that the whole strength of the republic,—the whole constitution of the state,—all the memory of past, and the safety of present, and the hope of future time, hangs and depends upon your power, upon your votes, upon this single trial. If ever the republic has had need to

implore the wisdom, the gravity, the prudence and the foresight of her judges, she implores it now, – she implores it, I say, at this present time.

II. You are not now about to decide on the constitution of Lydians, or Mysians, or Phrygians, who, under the influence of some compulsion or excitement, have come before you; but on your own republic,—on the constitution of your own state,—on the common safety,—on the hope of all good men, if there is any such still remaining to support the minds and thoughts of brave citizens. Every other refuge of good men,—every other protection of innocent men,—every bulwark of the republic, wisdom, assistance, and laws, has failed. For whom else can I appeal to? whom can I cite? whom can I entreat? The senate? Nay; the senate itself implores assistance from you, and feels that the confirmation of its authority is submitted to your decision. The Roman knights? You yourselves, the fifty chief men of that body, will declare how far your sentiments are in unison with those of the rest. Shall I appeal to the Roman people? That body has delivered over to you all its power over us in our case. Wherefore, unless we can maintain in this place, and before you, and by your means, O judges, I will not say our authority, for that is lost, but our safety, which hangs on a slender hope, and that hope our last, we have no place of refuge beyond to which we can betake ourselves. Unless perchance, O judges, you fail to see, as yet, what is the real object of this proceeding, what is really at stake, and what is the cause, the foundations of which are being now laid. The man has been condemned who slew Catiline when he was bearing his hostile standards against his country. What reason is there why he who drove Catiline from the city should be exempt from fear? That man is demanded for punishment who discovered the proofs of the common destruction of all which was then being planned. Why should he feel safe who took care to produce and divulge those proofs? The partners of his counsels, his ministers and comrades are harassed. What are the leaders, and chiefs, and principal men of his party to expect? And I wish that my enemies, and those of all good men, would rather attack me; we should then see whether at that time all good men were my guides or my companions in preserving the common safety of * * * * * *

(He preferred saying they were strangled.
What did my friend Cætra wish?
And what did Decianus?
I wish it really was mine. The senate to a great extent * *
O ye immortal gods! that Lentulus)[1] * * *

[What[2] was the use of bringing forward foreign evidence,] when his domestic life and his natural disposition was notorious? Therefore, I will not, O Decimus Lælius, allow you to assume this law and this condition as applicable to yourself and to the rest for the future, and to us at present; [so as to lay down a rule that we are to accommodate our defences to the will of the prosecutors, and not come to those assertions to which our cause of itself leads us.]

When you have branded his youth, when you have stigmatized the rest of his life with stains of infamy, when you have brought forward the ruin of his private affairs, and his disgrace in the city, and his vices and crimes in Spain, and Gaul, and Cilicia, and Crete, in which provinces he lived in no great obscurity, then we shall hear what the people of Tmolus and the Lorymeni think of Lucius Flaccus. But the man whom so many and such influential provinces wish to be saved,—whom many citizens from all parts of Italy defended, being bound to him by intimate connexion and old friendship,—whom this the common country of us all holds fast in her embrace, on account of her fresh recollection of his great services,—him, even if all Asia demands him for punishment, I will defend,—his enemies I will resist. What if it is not all Asia that demands him, nor the best part of it, nor even any part without bribery, nor of its own accord, nor rightly, nor in a manner according to custom, nor with truth, nor with any conscientious regard to justice or honesty? If it only demands him because it has been persuaded, and tampered with, and excited, and compelled to do so,—if it has backed this prosecution with its name impiously, and rashly, and covetously, and with great inconsistency, speaking only by the mouth of the most needy witnesses, and if the province itself has no grounds to complain with truth of any injuries done by him; still, O judges, will these statements,

[1] The passages between parentheses ( ) are from a Vatican MS. first inserted in the text by Nobbe.

[2] The passages between brackets [ ] are additions of Beier from a Milan MS. inserted in the same way by Orellius.

heard with reference to a very brief epoch, diminish the credit due to actions which we really know, extending over a long period of time?

I, therefore, as his defender, will preserve this order which his enemy avoids; and I will pursue and follow up the prosecutor, and of my own accord I will demand the accusation from our adversary. What is it, O Lælius? Have you at any time been able to stigmatize the youth of Lucius Flaccus, who has passed his time, not in the shade, nor in the common pursuits and training of those of his age? In truth, even as a boy he went with his father, the consul, to the wars; and yet, even as to this very fact you accused him of something because [something appeared able to be said so as to excite suspicion.]

III. With what charges, then, O Lælius, do you attack my client, being such a man as he is? He was in Cilicia a military tribune when Publius Servilius was the general; not a word is said about that. He was quæstor to Marcus Piso in Spain; not a word has been uttered about his quæstorship. He was present at the greater part of the Cretan war, and went through all its hardships in the company of that consummate general. The accusation is dumb with regard to this period. His discharge of his duties as judge during his prætorship,—a business of great intricacy, and affording numberless causes for suspicion and enmities, is not touched. Nay more, though it fell in a most critical and perilous time of the republic, it is praised even by his enemies. "Oh, but damaging evidence has been given against him." Before I say by whom it was given, by what hopes, by what violence, by what means the witnesses were urged on, and what insignificant, needy, treacherous, audacious men they were, I will speak of their whole class, and of the condition in which all of us are placed. In the name of the immortal gods, O judges, will you ask of unknown witnesses in what way the man decided trials in Asia, who the year before had sat as judge at Rome? And will you yourselves form no conjectures on the subject? In a jurisdiction so various, many decrees were issued,—many desires of influential men were set at nought; and yet, what words, (I will not say of suspicion, for that is often false, but) of anger or indignation were ever once uttered against him? And is that man to be put on his trial for covetousness, who, when employed on a

business affording numerous opportunities for such conduct, shunned all base gain,—who, in a city much given to evil speaking, and in an office surrounded with suspicion, avoided, not only all accusation, but even a single hard name? I pass over points which I ought not to pass over, that in his private affairs no covetous action, no eagerness about money matters, no sordid conduct in the management of his estate can be alleged against him. By what witnesses, then, can I refute these men except by you? Shall that villager from near Tmolus,—a man not only a stranger to us, but not even known among his own neighbours,—teach you what sort of a man Lucius Flaccus is? whom you yourselves have known to be most modest as a youth; whom our most extensive provinces have found to be a most conscientious man, and whom our armies know by experience to be a thoroughly brave soldier and vigilant general, and as a lieutenant and quæstor most moderate; whom you yourselves, being witnesses on the spot of his conduct, have judged to be a thoroughly wise and consistent senator, a most upright prætor, and a citizen wholly devoted to the republic.

IV. Will you, then, listen to others as witnesses on those points, respecting which you yourselves ought rather to bear witness to others? And what witnesses are they? In the first place, I will say that they are Greeks, (that is the case of them all.) Not that I, for my own part, would be more inclined than others to refuse credit to that nation; for if ever there was any one of our countrymen not averse to that race of men, and proving himself so by zeal and good-will, I think that I am that man, and that I was so even more when I had more leisure; but there are in that body many virtuous, many learned, many modest men, and they have not been brought hither to this trial. There are also many impudent, illiterate worthless persons, and those I see here, impelled by various motives. But I say this of the whole race of Greeks; allow them learning, I allow them a knowledge of many arts; I do not deny them wit in conversation, acuteness of talents, and fluency in speaking; even if they claim praise for other sorts of ability, I will not make any objection; but a scrupulous regard to truth in giving their evidence is not a virtue that that nation has ever cultivated; they are utterly ignorant what is the meaning of that quality, they know nothing of its authority or of its weight. Where does that

expression, "Give evidence for me, and I will give evidence for you," come from? is it supposed to be a phrase of the Gauls, or of the Spaniards? It belongs wholly to the Greeks; so that even those who do not understand Greek know what form of expression is used by the Greeks for this. Therefore, when they give their evidence, remark with what a countenance, with what confidence they give it; and then you will become aware how scrupulous they are as to what evidence they give. They never reply precisely to a question. They always answer an accuser more than he asks them. They never feel any anxiety to make what they say seem probable to any one; but are solicitous only how to get out what they have got to say. Marcus Lurco gave evidence against Flaccus, being angry (as he said himself) because his freedman had been condemned by a decision of his involving infamy. He said nothing which could injure him, though he was eager to do so; for his conscientious regard to his oath prevented him. And yet with what modesty, with what trembling and paleness did he say what he did! How ready to give evidence was Publius Septimius; how angry was he about some former trial, and about his steward: yet he hesitated; yet his scrupulousness was at times at variance with his anger. Marcus Cœlius was an enemy to Flaccus, because, as Flaccus had thought it wrong for one publican to decide on the case of another publican, though the case was ever so evident, he had been removed from the list of judges. And yet he restrained himself, and brought nothing into the court which could injure Flaccus except his own inclination to do so.

V. If these men had been Greeks, and if our habits and principles had not had more influence than indignation and hostility, they all would have said that they had been plundered, and harassed, and stripped of their fortunes. When a Greek witness comes forward with a desire to injure a man, he does not think of the words of his oath, but of what he can say to injure him. He thinks it a most shameful thing to be defeated, to be detected, to allow his enemy's innocence to be proved. That is the contest for which he prepares himself; he cares for nothing beyond. Therefore, it is not the best men, nor the wisest, but the most impudent and talkative men who are selected as witnesses. But you, even in private trials about the most trifling matters, carefully weigh the character of a witness; even if you know the person of the man, and his name

and his tribe, still you think it right to inquire into his habits. And when a man of our citizens gives his evidence, how carefully does he restrain himself; how scrupulously does he regulate all his expressions; how fearful is he, and anxious not to say anything covetously, or angrily,—not to say one word more or less than is necessary! Do you think that those Greeks are so too? men to whom an oath is a joke, evidence a plaything, your opinion of them a shadow; men who place all their credit, and profit, and reputation, and triumph in telling the most impudent lies. But I will not spin out what I have got to say. Indeed, my speech would be interminable if I were to take it into my head to unfold the faithlessness of the whole nation in giving evidence. But I will come nearer home; I will speak of these witnesses whom you have brought forward.

We have got a most zealous prosecutor, O judges, and an enemy in every respect violent and furious against us. I trust that he may be of great use to his friends and to the republic; but, at all events, he has undertaken this case and this prosecution, as if he were impelled by some most extraordinary eagerness. What a company attended him while pursuing his investigations! Company, do I say? rather, what an army! what profusion! what expense! what prodigality was there! And though these statements are of service to my case, still I do not make them without apprehension lest Lælius should think that I am seeking by my oration to make him talked about, or to excite odium against him, in a business which he has undertaken for the sole object of acquiring credit.

VI. Therefore, I will pass over all this part of the subject. I will only beg of you, O judges, if you have heard anything yourselves by common report and in ordinary conversation, about force, and violence, and arms, and troops, to recollect it, and to remember, because of the unpopularity of such conduct, that by this recent law, a certain number of companions has been fixed as the greatest number that ought to attend a man while prosecuting such an inquiry. However, to say nothing of violence, what conduct is this? which, since it was adopted according to the privileges and customs of prosecutors, we cannot impeach, but still we are compelled to complain of it; I mean, first of all, the making a statement which has been bruited abroad over all Asia, (different people having had regular districts assigned to them, in which they were to

spread the report,) that Cneus Pompeius, because he is a most zealous enemy to Lucius Flaccus, had begged of Decimus Lælius, his father's and his own most intimate friend, to prosecute him on this charge, and that he placed at his disposal for the furtherance of this business, all his own authority, and influence, and resources, and riches. And this appeared all the more probable to the Greeks, because a little before they had seen Lælius in the same province with Flaccus, and on terms of great intimacy with him. And as the authority of Pompeius is great with every one, as indeed it ought to be, so especially is it predominant in that province which he has lately delivered from the war which pirates and kings were waging against it. He did this besides: those who did not wish to leave their homes he terrified with a summons to give their evidence; those who could not remain at home he provided with a large and liberal sum for travelling expenses. And thus this young man, full of ability, worked on the wealthy by fear, on the poor by bribes, on the stupid by leading them into mistakes; and by these means he extorted those beautiful decrees which have been read to you,—decrees which were not passed by any formal vote or regular authority, nor under the sanction of an oath, but carried by holding up the hand, and by the loud shouts of an excited multitude.

VII. O for the admirable customs and principles which we received from our ancestors, if we could but keep them! but somehow or other they have slipped through our fingers. For our ancestors, those wise and upright men, would not permit the public assembly to have any authority to make laws; they chose that whatever the common people decided, or whatever the burgesses wished to enact, should be ordered or forbidden, after the assembly was adjourned, and after all the parts had been properly arranged, by the different ranks, classes, and ages, distributed in their tribes and centuries, after having listened to the advocates of the proposal on which the vote was to be taken, and after the proposal itself had been for many days before the people, and had had its merits inquired into. But all the republics of the Greeks are governed by the rashness of the assembly while sitting. Therefore, to say no more of this Greece, which has long since been overthrown and crushed through the folly of its own counsels; that ancient country, which once flourished with riches, and power, and glory, fell owing to that one evil, the immoderate

liberty and licentiousness of the popular assemblies. When inexperienced men, ignorant and uninstructed in any description of business whatever, took their seats in the theatre, then they undertook inexpedient wars; then they appointed seditious men to the government of the republic; then they banished from the city the citizens who had deserved best of the state. But if these things were constantly taking place at Athens, when that was the first city, not only in Greece, but in almost all the world, what moderation do you suppose there was in the assemblies in Phrygia and Mysia? It is usually men of those nations who throw our own assemblies into confusion; what do you suppose is the case when they are by themselves? Athenagoras, that celebrated man of Cyme, was beaten with rods, because, at a time of famine, he had ventured to export corn. An assembly was summoned at the request of Lælius. Athenagoras came forward, and being a Greek among Greeks, he said a good deal, not about his fault, but in the way of complaining of his punishment. They voted by holding up their hands. A decree was passed. Is this evidence? The men of Pergamus, having been lately feasted, having been a little while before glutted with every sort of present,—I mean, all the cobblers and girdle-makers in Pergamus,—cried out whatever Mithridates (who governed that multitude, not by his authority, but by fattening them up) chose. Is this the testimony of that city? I brought witnesses from Sicily in pursuance of the public resolution of the island. But the evidence that I brought was the evidence not of an excited assembly, but of a senate on its oath. So that I am not now arguing against the reception of evidence; but you are to decide whether these statements are to be considered evidence.

VIII. A virtuous young man, born in an honourable rank, and eloquent, comes with a most numerous and splendidly appointed train into a town of the Greeks. He demands an assembly. He frightens wealthy men and men of authority from opposing him by summoning them to give evidence; he tempts the needy and worthless by the hope of being employed on the commission, and by a public grant for the expenses of their journey, and also by his own private liberality. What trouble is it to excite artisans, and shopkeepers, and all such dregs of a city, against any man, and especially against one who has lately had the supreme authority there,

and could not possibly be very popular, on account of the odium attached to the very name of supreme power? And is it strange that those men who abominate the sight of our faces, who detest our name, who hate our tax on pastures, and our tenths, and our harbour dues, more than death itself, should gladly seize on every opportunity of injuring us that presents itself? Remember, therefore, that when you hear decrees you are not hearing evidence; that you are listening to the rashness of the common people; that you are listening to the assertions of all the most worthless men; that you are listening to the murmurs of the ignorant, to the voice of an inflamed assembly of a most worthless nation. Therefore examine closely into the nature and motive of all their accusations, and you will find no reason for them except the hopes by which they have been led on, or the terrors and threats by which they have been driven * * * * *

IX. The cities have nothing in the treasury, nothing in their revenues. There are two ways of raising money,—by tribute, or by loan. No lists of creditors are brought forward; no exaction of tribute is accounted for. But I pray you to remark how cheerfully they are in the habit of producing false accounts, and of entering in their accounts whatever suits them, forming your opinions by the letters of Cnæus Pompeius to Hypsæus, and of Hypsæus to Pompeius.

[*The letters of Pompeius and of Hypsæus are read.*]

Do not we appear to prove to you clearly enough, by the authority of these men, the profligate habits and impudent licentiousness of the Greeks? Unless, perchance, we suppose that those men who deceived Cnæus Pompeius, and that, too, when he was on the spot, and when there was no one tempting them to do so, were likely now to be either timid or scrupulous, when Lælius urged them to bear witness against Lucius Flaccus in his absence. But, even suppose those documents were not tampered with in their own city, still what authority or what credit can they now have here? The law orders them to be brought to the prætor within three days, and to be sealed up with the seals of the judges; they are scarcely brought within thirty days. In order that the writings may not be easily tampered with, therefore the law orders that after they have been sealed up they shall be kept in a public office; but these are sealed up after they have been tampered with. What difference, then, does it make,

whether they are brought to the judges so long after the proper time, or whether they are not brought at all?

X. What shall we say if the zeal of the witnesses is in partnership, as it were, with the prosecutor? shall they still be considered witnesses? What, then, is become of that expectation which ought to have a place in courts of justice? For formerly, when a prosecutor had said anything with bitterness and vehemence, and when the counsel for the defence had made a supplicatory and submissive reply, the third step expected was the appearance of the witnesses, who either spoke without any partisanship at all, or else they in some degree concealed their desires. But what is the case here? They are sitting with the prosecutor; they rise up from the prosecutor's bench; they use no concealment; they feel no apprehension. Do I complain of where they sit? They come with him from his house; if they trip at one word, they will have no place to return to. Can any one be a witness, when the prosecutor can examine him without any anxiety, and have not the slightest fear of his giving him any answer which he is unwilling to hear? Where, then, is the oratorical skill, which formerly used to be looked for either in the prosecutor or in the counsel for the defence? "He examined the witness cleverly; he came up to him cunningly; he scolded him; he led him where he pleased; he convicted him and made him dumb." Why need you ask a man questions, Lælius, who, even before you have pronounced the words "I ask you," will pour out more assertions than you enjoined him before you left home? And why should I, the counsel for the defence, ask him questions, since the course to be taken with respect to witnesses is either to invalidate their testimony or to impeach their characters? But by what discussion can I refute the evidence of men who say "We gave," and no more? Am I then to make a speech against the man, when my speech can find no room for argument? What can I say against an utter stranger? I must then be content with complaining and lamenting, as I have been some time doing, the general iniquity of the whole prosecution, and, in the first place, the whole class of witnesses; for that nation is the witness which is the least scrupulous of all in giving evidence. I come nearer,—I say that that is not evidence which you yourself call decrees; but that it is only the grumbling of needy men, and a sort of random movement of a miserable Greek

assembly. I will come in still further,—he who has done it is not present; he who is said to have paid the money is not brought hither; no private letters are produced; the public documents have been retained in the power of the prosecutors. The main point of my argument concerns the witnesses. These men are living with our enemies, they come into court with our adversaries, they are dwelling in the same house with our prosecutors. Do you think that this is an examination and an inquiry into the truth, or an endeavour to fix a stain, and bring ruin upon innocence? for there are many things of such a sort, O judges, that even if they deserve to be neglected, as far as the individual whom they more immediately affect is concerned, are still to be dreaded, because of the state of facts of which they betoken the existence, and because of the precedents which they afford.

XI. If I were defending a man of the lowest rank, of no splendour of reputation, and recommended by no innocence of character, still, relying on the rights of common humanity and mercy, I should beg from citizens, on behalf of another citizen, that you would not give up your fellow-citizen and your suppliant to witnesses who are strangers to you; who are urged on to give their evidence; who are the companions, and messmates, and comrades of the prosecutor; to men who from their fickleness are Greeks, but who, as far as cruelty goes, are barbarians: I should entreat you not to leave posterity so dangerous a precedent for their imitation. But when the interests of Lucius Flaccus are at stake, a man of whom I may say that the first man who was made consul of his family[1] was the first man that was ever consul in this city; a man by whose valour the kings were banished, and liberty was established in this republic; a family which has endured to this time with a continued series of honours and commands, and of glorious achievements; and when Lucius Flaccus has not only not degenerated from this everlasting and well-attested virtue of his ancestors, but as prætor has especially devoted himself to the glory of asserting the liberty of his country, seeing that that was the especial glory and characteristic of his family,—can I fear lest any mischievous precedent be established in the case of this defendant, when, even

[1] This is not quite true, for Cicero is referring to Publius Valerius, surnamed Publicola, and he was not the first consul; but was elected as a substitute for Collatinus, who, with Brutus, was the first consul.

if he had committed any slight fault, all good men would think that they ought rather to connive at it? That, however, I not only do not request, but I beg and entreat you, O judges, to scrutinise the whole case most vigilantly, with all your eyes, as they say. None of the charges will be found borne witness to with conscientiousness, or founded in truth, or extorted by indignation; but, on the contrary, you will see that it is all redolent of lust, passion, party spirit, bribery, and perjury.

XII. Now that the universal cupidity of those men is ascertained, I will proceed to the separate complaints and charges of the Greeks. They complain that money was levied from the cities under the name of money for a fleet. And we admit, O judges, that that was done. But if this be a crime, the guilt must consist either in the fact that it was not lawful so to levy money; or in the fact that the ships were not wanted; or in the third alternative, that no fleet put to sea while he was prætor. That you may see that this levy was lawful, listen, I pray you, to what the senate decreed, when I was consul, in which it did not depart at all from the former decrees of many years running.

[*The resolution of the senate is read.*]

The next thing is for us to inquire whether there was need of the fleet, or not. Is it then the Greeks or any foreign nations who are to be judges of this, or your prætors, your generals, your commanders-in-chief? I indeed think that, in a district and province of that sort, which is surrounded by the sea, dotted all over with harbours, and girt with islands, a fleet is requisite not only for the sake of protection, but as an ornament of the empire. For there were these principles and there was this greatness of mind in our ancestors, that, while in their private affairs, and as to their own personal expenses, they lived contented with a little, and without the smallest approach to luxury; where the empire and the dignity of the state was concerned, they brought everything up to a high pitch of splendour and magnificence. For in a man's private affairs he desires the credit of moderation, but in public affairs dignity is the object aimed at. But even if he had a fleet for the sake of protection, who will be so unjust as to blame it? —"There were no pirates." What? who could certify beforehand that there would be none? "You are taking away,"

said he, "from the glory of Pompeius." Say, rather, that you yourself are increasing his difficulties. For he destroyed the fleets of the pirates, their cities, and harbours, and places of refuge. By his surpassing valour and incredible rapidity of motion he established a maritime peace; but this he neither undertook nor ought to have undertaken,—namely, to submit to appear worthy of prosecution if a single pirate's boat was anywhere seen. Therefore he himself in Asia, when he had terminated every war, both by land and sea, nevertheless levied a fleet on those self-same cities. And if he then thought that step was necessary, when everything might have been safe and tranquil through fear of his name, while he was still in those countries, what do you think that Flaccus ought to have decided on and to have done after he had departed?

XIII. What? did not we decree, by the advice of Pompeius himself, in the consulship of Silanus and Murena, that a fleet should put to sea to sail round Italy? Did not we, at the very same time that Lucius Flaccus was levying sailors in Asia, exact four millions three hundred thousand sesterces for fleets to defend the Mediterranean and Adriatic? What did we do the year after? was not money exacted for the use of the fleet when Marcus Curius and Publius Sextilius were quæstors? What? were there not all this time cavalry on the sea-coast? for that is the surpassing glory of Pompeius,—first of all, that those pirates who, when the conduct of the maritime war was first entrusted to him, wandered about straggling over the whole sea, were soon reduced under our power; in the next place, that Syria is ours, that Cilicia is occupied by us, that Cyprus, through the instrumentality of king Ptolemæus is reduced to a state in which it can venture to do nothing; moreover, that Crete, owing to the valour of Metellus, is ours; that the pirates have now no ports from which they can set out, none to which they can return; that all the bays, and promontories, and shores, and islands, and maritime cities, are now contained within the barriers of our empire.

But if, when Flaccus was prætor, there had been not one pirate at sea, still his diligence would not have deserved to be blamed. For I should think that the reason of there being no pirates at sea was, because he had a fleet. What will you say if I prove by the evidence of Lucius Oppius, of Lucius Agrius,

of Caius Cestius, Roman knights, and also of this most illustrious man here present, Cnæus Domitius, who was an ambassador in Asia at the time, that at that very time in which you yourself affirm that there was no need of a fleet, numbers of men were taken prisoners by the pirates? Still will the wisdom of Flaccus, as shown in raising crews for the fleet, be found fault with? What if a man of high rank, a citizen of Adramyttium, was even slain by the pirates,—a man whose name is known to nearly all of us, Atyanas the boxer, a victor at Olympia? and this victory is considered among the Greeks (since we are speaking of their wisdom) a greater and more glorious thing than to have had a triumph is reckoned at Rome. "But you took no prisoners." How many most illustrious men have had the command of the sea-coast, who, though they had taken no pirate prisoner, still made the sea safe? For taking prisoners depends on chance, on place, on accident, on opportunity. And the caution which shows itself in defence has an easy task; being aided not only by lurking places in concealed spots, but by the sudden fall or change of winds and weather.

XIV. The last thing that we have to inquire into is, whether that fleet really sailed with oars and sails, or only on paper, and as far as the expense went. Can that then be denied, of which all Asia is witness, that the fleet was distributed into two divisions, so that one division should sail above Ephesus, the other below Ephesus? in the one fleet Marcus Crassus, that most noble man, sailed from Ænas to Asia; with the other division Flaccus sailed from Asia to Macedonia. In what then is it that we look in vain for the diligence of the prætor? Is it in the number of the ships, or in the equal division of the expense? He demanded just one half the fleet which Pompeius required. Could he be more economical? And he divided the expense according to the proportions settled by Pompeius, which was adapted to the division made by Sylla, who, when he had arranged all the cities in Asia according to the proportion that they were to bear of the expense imposed on the whole provinces, adopted a rule which Pompeius and Flaccus followed in raising the necessary sums, and even to this day the whole sum is not collected. But he makes no return of it. What does he gain by that? for when he takes on himself the burden of having levied the money, he avows what you wish to

have considered as a crime. How then can any one be induced to believe that, by not returning an account of that money, he deserves to bring an accusation on himself, when there would be no crime at all in the business if he made the return? But you deny that my brother, who succeeded Lucius Flaccus, levied any money for the purpose of crews for the fleet. Indeed, I am delighted to hear this praise of my brother Quintus, but I am still more pleased at other and more important reasons for praise of him. He decided on a different course; he saw a different state of things. He thought that whenever any intelligence of pirates was received, he could get together a fleet as suddenly as he could wish. And lastly, my brother was the very first man in Asia who ventured to relieve the cities from this expense of furnishing crews. But it is usual to think that a crime, when any one establishes charges which had not been established before; not when a successor merely changes some of the charges established by his predecessors. Flaccus could not know what others would do after his time; he only saw what others had done.

XV. But some mention has been made of charges brought by the common consent of all Asia; I will now touch on the cases of individual cities—and of them, the first that I will speak of shall be the city of Æmon. The crier with a loud voice calls for the deputies from Æmon; one comes forward, Asclepiades. Let them come forward. Have you compelled even the crier to proclaim a lie? I suppose this one deputy is a man who can support the dignity of his city by his sole authority;—a man condemned by decisions involving the greatest infamy in his own city; stigmatised in the public records; of whose disgraceful acts, and adulteries, and licentiousness there are letters of the people of Æmon in existence, which I think it better to pass over, not only on account of their length, but on account of the scandalous obscenity of the language. He said that two hundred and six thousand drachmas had been given to Flaccus at the public expense. He only said so—he produced no confirmation of his statement, no proof; but he added this,—which most certainly he ought to have proved, for it was a personal affair of his own,—that he, as a private individual, had paid two hundred and six thousand drachmas. The quantity that that most impudent man says was taken from him was a sum that he never

even ventured to wish to be the possessor of. He says that he gave it as a contribution from Aulus Sextilius, and from his own brothers. Sextilius was able to give such a sum; as for his own brothers, they are partners in his beggary. Let us then hear what Sextilius says; then let his brothers themselves come forward; let them lie as shamelessly as they please, and let them say that they gave what they never possessed; still, perhaps, when they are produced face to face with us, they will say something in which they may be detected. "I have not brought Sextilius with me as a witness," says he. Give me the accounts then. "I have not brought them down." At least produce your brothers. "I never summoned them." Are we then to fear as an accusation or as a piece of evidence, what Asclepiades by himself affirms, a man needy as to fortune, infamous as to character, condemned by every one's opinion, relying on his own impudence and audacity, without any account-books or any one to support his evidence? He also said that the panegyric which we mentioned as having been given by the men of Æmon to Flaccus, is false; a panegyric, says he, which we ought to be glad to be without. For when that admirable representative of his city beheld the public seal, he said that his own fellow-citizens and all the rest of the Greeks were accustomed to seal at the moment whatever required it. Do you then take that panegyric to yourself. For the life and character of Flaccus do not depend on the evidence of the citizens of Æmon. For you grant to me, (an admission which this cause especially requires,) that there is no authority, no consistency, no firm wisdom in the Greeks, and, above all, no proper regard to truth in giving their evidence; unless, indeed, henceforward there is to be this distinction made between the evidence and your speech, that the cities are to be said to have allowed something to Flaccus when absent, but are to appear to have neither written nor sealed anything suited to the occasion, so as to save Lælius, though he was present, though he himself undertook the management of the business himself, and though he alarmed them and threatened them, availing himself of the power of the law, of the privileges of a prosecutor, and of all his own private resources.

XVI. In truth, O judges, I have often seen important facts detected and discovered through mere trifles, as in the case of

this Asclepiades. This panegyric, which has been produced by us, had been sealed with that Asiatic chalk which is known to nearly all of us; which all men use not only on public but also on their private letters, and which we every day see used in letters sent by publicans, and in letters addressed to each individual among us. Nor indeed did the witness himself, when he saw the seal, say that we were producing a forged document, but he alleged the worthless character of all Asiatics,—a matter which we willingly and easily grant to him. Our panegyric then,—which he says was given to us because of that particular occasion, and by so saying in fact allows was given to us,—was sealed with chalk. But on that evidence, which is said to have been given to the prosecutor, we saw the seal was wax. Here, O judges, if I thought that you were influenced by the decrees of the Æmonensians, and by the letters of the rest of the Phrygians, I should cry out, and argue with all the vigour of which I was master. I should call to witness the publicans; I should invoke the traders; I should implore the aid of your own consciences: the wax being seen, I should feel sure that the audacious forgery of the whole evidence was evidently detected and discovered, and laid bare to you. But at present I will not triumph too violently, nor be too much elated at this, nor will I inveigh against that trifler as if he were a witness, nor will I allow myself to be moved at all with respect to any part of this testimony of the Æmonensians, whether it has been forged here, as appears likely on the face of it, or whether it has really been sent from Æmon, as it is said to have been. In truth, I will not fear the evidence of the men to whom I make over that panegyric, since, as Asclepiades says, they are utterly insignificant.

XVII. I come now to the evidence of the people of Dorylæum, who, when they were brought into court, said that they had lost their public documents near some caverns. O the shepherds (I know not who they were), the literary shepherds! if they took nothing from those men except the letters! But we suspect that there is some other reason, and that we should not think those men quite destitute of all cunning. There is, I imagine, a heavier penalty at Dorylæum than among other people, for forging or tampering with written documents. If they had produced the genuine letters, there was no accusation in them, if they produced forged ones, there was a

penalty for such an act. They thought the finest thing they could do was to say that they were lost. Let them be quiet then, and allow me to set this down as so much gain, and to turn to something else. They will not allow me to do so. For some one or other gives them a lift, and says that he, as a private person, had given him money. But this cannot possibly be endured. He who reads things from those public documents which have been in the power of the prosecutor, ought not to carry any weight with him; but, nevertheless, a formal trial appears to take place when the documents themselves, of whatever character they may be, are produced. But when a man, whom not one of you has ever seen, whom no living mortal has ever heard of, only says, "I gave," will you hesitate, O judges, to save a most noble citizen from this most unknown of Phrygians? And this very man was lately disbelieved by three honourable and worthy Roman knights, when in a case in which a man's liberty was at stake, he said that the man who was claimed was his own kinsman. How has it come about that the man who was not considered a trustworthy witness as to his own blood and family, is a credible authority concerning a public injury? And when this Dorylæan was lately carried out to burial in the presence of a great multitude and numerous assembly of you, Lælius tried to excite odium against Lucius Flaccus by imputing his death to him. You are acting unjustly, O Lælius, if you think that it is our risk whether your comrades live or die; especially as I think that this instance proceeded from your own carelessness. For you gave a Phrygian, a man who had never seen a fig-tree, a whole basket of figs; and his death was to some extent a relief to you, for you lost a very voracious guest. But what good did it to Flaccus, as he was well enough till he came forward here, and who died after he had put out his sting and delivered his evidence? But that prop of your cause, Mithridates, was retained as a witness by us and examined two whole days; and, after he had said all that he wished, departed reproved, convicted, and broken down, and now walks about in a breastplate. That learned and sagacious man is afraid that Lucius Flaccus may burden himself with a crime, now that he cannot escape him as a witness; so that he, who, before the evidence was given, restrained himself, when he might have got something by the deed, is likely now to add the guilt of an enormous crime to the charge of covet-

ousness, which is only supported by false evidence. But since Quintus Hortensius has spoken at great length and with great acuteness concerning this witness, and respecting the whole charge which has reference to Mithridates, we, as we originally intended, will proceed to the other points.

XVIII. The principal man in stirring up all the Greeks,—he who is sitting with the prosecutors.—Heraclides of Temnos, a silly chattering fellow, but (in his own opinion) so learned, that he calls himself even their tutor, and so ambitious, that he salutes all of you and of us every day. Old as he is, he has not yet been able to get admission into the senate of Temnos; and he, the man who professes himself able to teach the art of speaking to others, has himself been convicted in some very discreditable trials. Of similar good fortune was Nicomedes, who came with him as a deputy, who was not allowed to enter the senate on any terms, but had been convicted of theft, and of defrauding his partner. For Lysanias, the chief man of the deputation, obtained the rank of senator; but as he showed himself rather too much devoted to the riches of the republic, he was convicted of peculation, and lost his property and his title of senator. These three men tried to render the accounts of even our own treasury false. For they returned themselves as having nine slaves, when they had in reality come without one single companion. I see at the first framing of the decree Lysanias was present, he, whose brother's property was sold by public order during the prætorship of Flaccus, because he did not pay what he owed to the people. Besides him there is Philippus, the son-in-law of Lysanias; and Hermobius, whose brother also, by name Poles, was convicted of embezzling the public money.

XIX. These men say that they gave Flaccus and those who were with him fifteen thousand drachmas. I have to do with a most active city, and one which is an admirable hand at keeping its accounts; a city in which not a farthing can be disposed of without the intervention of five prætors, three quæstors, and four bankers, who are elected in that city by the burgesses Of all that number not one has been brought hither as a witness; and when they return that money as having been given to Flaccus by name, they say that they gave him also a still larger sum, entered as having been given for the repair of a temple. But this is not a very consistent story; for either everything ought to have been kept secret, or

else everything ought to have been returned without any disguise. When they enter the money as having been given to Flaccus, naming him expressly, they fear nothing, they apprehend nothing. When they return the money as having been given for a public work, then all of a sudden those same men begin to be afraid of the very man whom they had despised before. If the prætor gave the money, as it is set down, he drew it from the quæstor, the quæstor from the public bank, the public bank derived it either from revenue or from tribute. All this will never be like a crime, unless you explain to me the whole business both with respect to the persons and to the accounts. Or, as it is written in this same decree, that the most illustrious men of the city,—men who had had the highest honours of the state conferred on them,—were circumvented by him while he was prætor, why are they not present in court, or why, at all events, are they not named in the decree? For I do not suppose that Heraclides, who is pricking up his head, is the person here intended. For is he one of the most eminent of the citizens, when Hermippus brought him here for trial? a man who did not even receive his present commission to come on this deputation from his fellow-citizens by their voluntary choice, but who went all the way from Tmolus to solicit it? a man on whom no honour was ever conferred in his own city; and the only business which ever has been entrusted to him, is one which is usually entrusted to the most insignificant people. He, in the prætorship of Titus Aufidius, was appointed guardian of the public corn. And when he had received money from Publius Varinius the prætor for this purpose, he concealed it from his fellow-citizens, and charged the whole of the expense to them. And after this was made known and revealed at Temnos, by letters which were sent thither by Publius Varinius, and when Cnæus Lentulus, he who was the censor, the patron of the people of Temnos, had sent letters on the same subject, no one ever afterwards saw that man Heraclides at Temnos. And that you may be thoroughly aware of his impudence, listen, I entreat you, to the cause which excited the animosity of this most worthless man against Flaccus.

XX. He bought at Rome a farm in the district of Cyme, from a minor whose name was Meculonius. Having made himself out in words to be a rich man,—though he had in reality nothing beyond the stock of impudence which you

see,—he borrowed the money from Sextus Stola, one of our judges now present, a man of the highest consideration, who is acquainted with the circumstances, and not unacquainted with the man; but who trusted him on the security of Publius Fulvius Veratius, a most unexceptionable man. And to pay this loan he borrowed money of Caius and Marcus Fufius, Roman knights, men of the highest character. Here, in truth, he caught a weasel asleep, as people say; for he cheated Hermippus, a learned man, his own fellow-citizen, who ought to have known him well enough; for on his security he borrowed money of the Fufii. Hermippus, without feeling any anxiety, goes away to Temnos, as he said that he would pay the Fufii the money which he had borrowed on his security, out of what he received from his pupils. For he, as a rhetorician, had some rich men for pupils whom he was going to make as foolish again as they were when they came to him, (for they could acquire nothing from him, except an ignorance of every sort of learning;) but he could not infatuate any one to such an extent as to get him to lend him a single farthing. Therefore, having left Rome secretly, and cheated numbers of people by trifling loans, he came into Asia; and when Hermippus asked him what he had done about the bond given to the Fufii, he said that he paid the entire sum to the Fufii. In the mean time, not long afterwards, a freedman comes to Hermippus with letters from the Fufii. The money is demanded of Hermippus. Hermippus demands it of Heraclides; however, he himself satisfies the claim of the Fufii, who are at a distance, and discharges the security which he had given. He then prosecutes Heraclides, in spite of all his fuming and shuffling, in a formal manner: the cause is tried before judges.

Do not fancy, O judges, that the impudence of cheats and repudiators is not one and the same in all places. This man did the very same things which debtors here are in the habit of doing. He denied that he had ever borrowed any money at all at Rome. He asserted that he had actually never heard the name of the Fufii; and he attacked Hermippus himself, a most modest and virtuous man, an ancient friend and hereditary connexion of my own, the most eminent and accomplished man in his city, with every sort of reproach and abuse. But after this voluble gentleman had delivered himself in that fashion with a prodigious rapidity of eloquence

for some time, all of a sudden, when the evidence of the Futii and the items of their claim were read, though a most audacious man, he got alarmed; though a most talkative one, he became dumb. Therefore, the judges at the first trial gave a decision against him, in a matter which certainly did not admit of much doubt. As he did not comply with their decision, he was given up to Hermippus, and put in prison by him.

XXI. Now you know the honesty of the man, and the value of his evidence, and the whole reason of his enmity to Flaccus. Having been released by Hermippus after having sold him a few slaves, he came to Rome, from thence he returned into Asia, when my brother Quintus had succeeded Flaccus in that government, and went to him and related his story in this manner; saying that the judges, being compelled and put in fear by the violence of Flaccus, had given a false decision against their will. My brother, as became his impartiality and prudence, decreed that if he demurred to the previous decision, he was to give security to double the amount; and that if he said that they were compelled by fear at the first trial, he should have the same judges again. He refused this; and as if there had been no trial and no decision, he began on the spot to demand back from Hermippus the slaves which he himself had sold him. Marcus Gratidius, the lieutenant, before whom he went, refused to give him leave to proceed with the action, but declared that he should adhere to the decision already given. A second time, as he had no place anywhere where he could remain, he betook himself to Rome. Hermippus, who never yields to his impudence, follows him hither. Heraclides demands from Caius Plotius, a senator, a man of the highest character, who had served in Asia as lieutenant, some slaves, which he said he had sold under compulsion, at a time when an unjust decision had been given against him. Quintus Naso, a most accomplished man, who had been prætor, is appointed judge; and when he showed that he was going to give sentence in favour of Plotius, Heraclides left the judge, and abandoned the whole cause as if he had not had a fair and legal trial. Do I appear to you, O judges, to be dwelling too much on each individual witness, and not to be discussing the whole class of witnesses, as I originally intended? I come now to Lysanias, of the same city,—your own especial witness, Decia-

tius,—a man whom you, as you had known him at Temnos when a youth, since he had pleased you when naked, wished to be always naked. You took him from Temnos to Apollonia. You lent money to him while quite a youth, at great interest, having taken good security for the loan. You say that the securities have been forfeited to you, and to this day you detain them and keep them in your possession. And you have compelled this man to come forward to give evidence as a witness by the hope of recovering his paternal estate. And as he has not yet given his evidence, I am waiting to see what it is that he will state. For I know the sort of men that they are,—I know their habits, I know their licentious ways. Therefore, although I am certain what he is prepared to state, still I will not argue against it before he has stated it; for if I do, he will alter it all and invent something else. Let him, then, keep what he has prepared; and I will keep myself fresh for whatever statements he makes.

XXII. I come now to that state to which I myself have shown great kindness and done many great services, and which my brother has shown the greatest attachment to and fondness for. And if that city had brought its complaints before you by the mouth of creditable and respectable men, I should be a little more concerned about it; but now what am I to think? Am I to think that the Trallians entrusted their cause to Mæandrius, a needy, sordid man, without honour, without character, without income? Where were the Pythodori, the Ætideni, the Lepisos, and the other men who are well known among us, and who are of high rank among their own people? where is their splendid and high-spirited display of the respectability of their city? Would they not have been ashamed, if they had been serious about this business, that Mæandrius should be called, I will not say their deputy, but even a Trallian at all? Would they ever have entrusted to this man as their deputy,—to this man as their public witness, Lucius Flaccus the hereditary patron of their city, whose father and ancestors had been so before him, to be ruined by the evidence of their city? This cannot be the fact, O judges; it never can be.

I myself lately saw in some trial a Trallian witness of the name of Philodorus, I saw Parrhasius, I saw Archidemus, when this identical man Mæandrius came to me as a sort of attorney, suggesting to me what I might say, if I pleased

against his own fellow-citizens and his own city. For there is nothing more worthless than that fellow,—nothing more needy, nothing more infamous. Wherefore, if the Trallians employ him as the relator of their indignation, and the keeper of their letters, and the witness of their injuries, and the utterer of their complaints, let them lower their high tone for the future, let them restrain their high spirit, let them bridle their arrogance, let them confess that the best representative of their city is to be found in the person of Mæandrius. But if they themselves have always thought this man a man to be buffeted and trampled upon at home, let them cease to think that there is any authority in that evidence which there is no respectable person to father.

XXIII. But I will explain what the facts of the case really are, that you may know why that city was neither severe in attacking Flaccus, nor very anxious to defend him. The city was offended with him on account of the affair of Castricius; concerning the whole of which Hortensius has made a sufficient reply. Very much against its will, it had paid Castricius some money which had long been due to him. Hence comes all its hatred to Flaccus, and this is his whole offence. And when Lælius had arrived in that city among a set of angry men, and had re-opened their indignation with respect to Castricius by mentioning the subject, the chief men jumped up and left the place, and refused to be present in that assembly, and would not assist in carrying the decree, or in framing the deposition. And to such an extent was that assembly deprived of the presence of the nobles of the city, that Mæandrius was the chief of the chief men present; and it was by his tongue, acting like a sort of fan of sedition, that assembly of needy men was ventilated. Therefore, now learn the justice of the grief and complaints of a city, a moderate city as I have always considered it, and a worthy one, as the citizens themselves wish it to be thought. They complain that the money which was deposited amongst them, in the name of Flaccus's father,—money which had been collected from different cities,—has been taken away from them. At another time I will inquire of them what power Flaccus had in the matter. At present I only ask the Trallians, whether they say the money, which they complain has been taken from them, was their own,—was a contribution from the other cities for their use. I wish to hear this. We do not

say so, says he. What then? We say that it was brought to us—entrusted to us in the name of Lucius Flaccus, the father of this man, for the days of festival and the games which were to be celebrated in his honour. What then? "This you had no right to touch." Presently I will see to that; but first of all I will deal with this. A dignified, a wealthy, a noble city complains that it is not allowed to retain what does not belong to it. It says that it has been plundered, because it has not in its possession what never was its own What can be said or imagined more shameless than this? A town was selected in which, above all others, the money contributed by all Asia for the honours of Lucius Flaccus should be deposited. All this money was transferred from the purpose of doing him honour, and employed in gainful traffic and usury. Many years afterwards it was recovered.

XXIV. What injury was done to the city? "But the city is very indignant at it." I dare say. For the profit is wrenched from it contrary to its hopes, which had already been devoured in expectation. "But it complains;" and a most impudent complaint it is. For we cannot reasonably complain of everything at which we are annoyed. "But it accuses him in the severest language." Not the city, but ignorant men do so, who have been stirred up by Mæandrius. And while on this topic I beg you over and over again to recollect how great is the rashness of a multitude,—how great the peculiar levity of Greeks,—and how great is the influence of a seditious speech in a public assembly. Even here, in this most dignified and well-regulated of cities, when the forum is full of courts of justice, full of magistrates, full of most excellent men and citizens,—when the senate-house, the chastiser of rashness, the directress in the path of duty, commands and surveys the rostra, still what storms do we see excited in the public assemblies? What do you think is the case at Tralles? is it the same as is the case at Pergamus? Unless, perchance, these cities wish it to be believed that they could more easily be influenced by one letter of Mithridates, and impelled to violate the claims of their friendship with the Roman people, and their own plighted faith, and all the rights and duties of humanity, than to injure by their evidence the son of a man whom they had thought it necessary to drive from their walls by force of arms. Do not, then, oppose to me the names of those noble cities, for those whom this

family has scorned as enemies, it will never be afraid of as witnesses. But you must confess, if your cities are governed by the counsels of your chief men, that it was not by the rashness of the multitude, but by the deliberate counsel of the nobles, that war was undertaken by those cities against the Roman people; or if that disturbance was at that time caused by the rashness of the ignorant mob, then permit me to separate the errors of the Roman people from the general cause.

XXV. "But he had no right to lay hands on that money." Had his father Flaccus a right to touch it or not? If he had a right, as he undoubtedly had, to take money which had been contributed for the purposes of his honours, then the son did right in taking away the money belonging to his father from those men from whom he on his own account took nothing; but if the father Flaccus had not a right to take it, still after his death, not only his son, but any heir, must have had a perfect right to take it. And at that time, indeed, the Trallians, as they themselves had been for many years putting out that money at high interest, nevertheless obtained from Flaccus all that they desired; nor were they so shameless as to venture to say what Lælius said,—namely, that Mithridates had taken this money from them. For who was there who did not know that Mithridates was more anxious about adorning Tralles than plundering it? And if I were to speak of these matters as they ought to be spoken of, I should, O judges, press more strongly than I have as yet done, the point of how much credit it was reasonable for you to give Asiatic witnesses. I should recal your recollections to the time of the Mithridatic war, to that miserable and inhuman massacre of all the Roman citizens, in so many cities, at one and the same moment. I should remind you of our prætors who were surrendered, of our ambassadors who were thrown into prison, of almost all memory of the Roman name and every trace of its empire effaced, not only from the habitations of the Greeks, but even from their writings. They called Mithridates a god, they called him their father and the preserver of Asia, they called him Evius, Nysius, Bacchus, Liber. It was the same time, when all Asia shut its gates against Lucius Flaccus, the consul, and not only received that Cappadocian into their cities, but even spontaneously invited him. Let us be allowed, if not to forget these things, at least

to be silent respecting them. Let me be allowed rather to complain of the inconstancy of the Greeks than of their cruelty. Are these two men to have influence with a people which they wished utterly to destroy? For whomsoever they could they slew while in the garb of peace; as far as depended on them they annihilated the name of Roman citizens.

XXVI. Shall they then give themselves airs in a city which they hate? among those people whom, if they had their will, they would not look upon? in that republic to the destruction of which it was their power that was unequal, and not their inclination? Let them behold this noble body of ambassadors and panegyrists of Flaccus who have come from the real honest Greece. Then let them weigh themselves in the balance, let them compare themselves with these men; then, if they dare, let them compare their dignity with that of these men.

Athenians are here, citizens of that city from which civilization, learning, religion, corn, laws, and institutions are supposed to have arisen, and to have been disseminated over the whole earth—that city, for the possession of which there is said to have been, by reason of its beauty, a contest even among the gods: a city which is of that antiquity that she is said to have produced her citizens from her own womb, so that the same land is called the parent, and nurse, and country of her people. And she is of such authority that the name of Greece, now enfeebled and almost broken, rests upon the glory of this city.

Lacedæmonians are here; men of that city, whose tried and glorious virtue is considered not only to be implanted in them by nature, but also to be fortified by discipline. The only men in the whole world who have been living for now seven hundred years and more under one system, and under laws which have never been altered.

Many deputies are here from all Achaia, Bœotia, and Thessaly, places in which Lucius Flaccus has lately been in command as lieutenant, under Metellus as commander-in-chief. Nor do I pass you over, O Marseilles, you who have known Lucius Flaccus as soldier and as quæstor,—a city, the strict discipline and wisdom of which I do not know whether I might not say was superior, not only to that of Greece, but to that of any nation whatever; a city which, though so far separated from the districts of all the Greeks, and from their

fashions and language, and though placed in the extremity of the world and surrounded by tribes of Gauls, and washed with the waves of barbarism, is so regulated and governed by the counsels of its chief men, that there is no nation which does not find it easier to praise its institutions than to imitate them. Flaccus has these states as his panegyrists and as witnesses of his innocence, so that we may resist the covetousness of some Greeks by the assistance of others.

XXVII. Although, who is there who is ignorant, provided he has only taken the most ordinary trouble to make himself acquainted with these matters, that there are in reality three different races of Greeks; of which the Athenians are one, being considered an Ionic nation; the Æolians are another; the third were called Dorians. And the whole of this land of Greece, which flourished so greatly with fame, with glory, with learning, and many arts, and even with wide dominion and military renown, occupies as you know, and always has occupied, but a small part of Europe. It surrounded the sea-coast of Asia with cities after it had subdued it in war; not in order to increase the prosperity of Asia by fortifying it with colonies, but in order to keep its hold upon it by placing it in a state of siege. Wherefore I beseech you, O you Asiatic witnesses, that when you wish to recollect with accuracy what amount of authority you bring into a court of justice, you would yourselves describe Asia, and remember, not what foreigners are accustomed to say of you, but what you yourselves affirm of your own races. For, as I think, the Asia that you talk of consists of Phrygia, Mysia, Caria, and Lydia. Is it then a proverb of ours or of yours that a Phrygian is usually made better by beating? What more? Is not this a common saying of you all with respect to the whole of Caria, if you wish to make any experiment accompanied with danger, that you had better try it on a Carian? Moreover what saying is there in Greek conversation more ordinary and well known, than, when any one is spoken of contemptuously, to say that he is the very lowest of the Mysians? For why should I speak of Lydia? What Greek ever wrote a comedy in which the principal slave was not a Lydian? What injury, then, is done to you, if we decide that we are to adhere to the judgment which you have formed of yourselves? In truth, I think that I have said enough and more than enough of the whole race of witnesses from Asia But still it is your duty,

O judges, to weigh in your minds and thoughts everything which can be said against the insignificance, the inconstancy, and the covetousness of the men, even if these points are not sufficiently enlarged upon by me.

XXVIII. The next thing is that charge about the Jewish gold. And this, forsooth, is the reason why this cause is pleaded near the steps of Aurelius. It is on account of this charge, O Lælius, that this place and that mob has been selected by you. You know how numerous that crowd is, how great is its unanimity, and of what weight it is in the popular assemblies. I will speak in a low voice, just so as to let the judges hear me. For men are not wanting who would be glad to excite that people against me and against every eminent man; and I will not assist them and enable them to do so more easily. As gold, under pretence of being given to the Jews, was accustomed every year to be exported out of Italy and all the provinces to Jerusalem, Flaccus issued an edict establishing a law that it should not be lawful for gold to be exported out of Asia. And who is there, O judges, who cannot honestly praise this measure? The senate had often decided, and when I was consul it came to a most solemn resolution that gold ought not to be exported. But to resist this barbarous superstition were an act of dignity, to despise the multitude of Jews, which at times was most unruly in the assemblies in defence of the interests of the republic, was an act of the greatest wisdom. "But Cnæus Pompeius, after he had taken Jerusalem, though he was a conqueror, touched nothing which was in that temple." In the first place, he acted wisely, as he did in many other instances, in leaving no room for his detractors to say anything against him, in a city so prone to suspicion and to evil speaking. For I do not suppose that the religion of the Jews, our enemies, was any obstacle to that most illustrious general, but that he was hindered by his own modesty. Where then is the guilt? Since you nowhere impute any theft to us, since you approve of the edict, and confess that it was passed in due form, and do not deny that the gold was openly sought for and produced, the facts of the case themselves show that the business was executed by the instrumentality of men of the highest character. There was a hundredweight of gold, more or less, openly seized at Apamea, and weighed out in the forum at the feet of the prætor, by Sextus Cæsius, a Roman knight,

a most excellent and upright man; twenty pounds weight or a little more were seized at Laodicea, by Lucius Peducæus, who is here in court, one of our judges; some was seized also at Adramyttium, by Cnæus Domitius, the lieutenant, and a small quantity at Pergamus. The amount of the gold is known; the gold is in the treasury; no theft is imputed to him; but it is attempted to render him unpopular. The speaker turns away from the judges, and addresses himself to the surrounding multitude. Each city, O Lælius, has its own peculiar religion; we have ours. While Jerusalem was flourishing, and while the Jews were in a peaceful state, still the religious ceremonies and observances of that people were very much at variance with the splendour of this empire, and the dignity of our name, and the institutions of our ancestors. And they are the more odious to us now, because that nation has shown by arms what were its feelings towards our supremacy. How dear it was to the immortal gods is proved by its having been defeated, by its revenues having been farmed out to our contractors, by its being reduced to a state of subjection.

XXIX. Wherefore, since you see that all that which you wished to impute to him as a crime is turned to his credit, let us now come to the complaints of the Roman citizens. And let the first be that of Decianus. What injury, then, O Decianus, has been done to you? You are trading in a free city. First of all, allow me to be a little curious. How long shall you continue to live there as a trader, especially since you are born of such a rank as you are? You have now for thirty years been frequenting the forum,—the forum, I mean, of Pergamus. After a very long interval, if at any time it is convenient to you to travel, you come to Rome. You bring a new face, an old name; Tyrian garments, in which respect I envy you, that with only one cloak you look so smart for such a length of time. However, be it so. You like to practise commerce. Why not at Pergamus? at Smyrna? at Tralles? where there are many Roman citizens, and where magistrates of our own preside in the courts of justice. You are fond of case: lawsuits, crowds, and prætors are odious to you. You delight in the freedom of the Greeks. Why, then, do you alone treat the people of Apollonides, the allies who of all others are the most attached to the Roman people and the most faithful, in a more miserable manner than either

Mithridates, or than your own father ever treated them? Why do you prevent them from enjoying their own liberty? why do you prevent them from being free? They are of all Asia the most frugal, the most conscientious men, the most remote from the luxury and inconstancy of the Greeks; they are fathers of families, are content with their own, farmers, country-people. They have lands excellent by nature, and improved by diligence and cultivation. In this district you wished to have some farms. I should greatly prefer, (and it would have been more for your interest too, if you wanted some fertile lands,) that you should have got some here somewhere in the district of Crustumii, or in the Capenate country. However, be it so. It is an old saying of Cato's,—"that money is balanced by distance." It is a very long way from the Tiber to the Cäicus,—a place in which Agamemnon himself would have lost his way, if he had not found Telephus for his guide. However, I give up all that. You took a fancy to the town. The country delighted you. You might have bought it.

XXX. Amyntas is by birth, by rank, by universal opinion, and by his riches, the first man of that state. Decianus brought his mother-in-law, a woman of weak mind, and tolerably rich, over to his side, and, while she was ignorant of what his object was, he established his household in the possession of her estates. He took away from Amyntas his wife, then in a state of pregnancy, who was confined with a daughter in Decianus's house, and to this very day both the wife and daughter of Amyntas are in Decianus's house. Is there any one of all these circumstances invented by me, O Decianus? All the nobles know these facts—virtuous men are acquainted with them—our own citizens are acquainted with them—all the merchants of ordinary consequence are acquainted with them. Rise, Amyntas: demand back from Decianus, not your money, not your estates; let him even keep your mother-in-law for himself; but let him restore your wife, let him restore the daughter to her miserable father: for the limbs which he has weakened with stones, with sticks, with weapons, the hands which he has crushed, the fingers which he has broken, the sinews which he has cut through, those he cannot restore. The daughter,—restore the daughter, I say, O Decianus, to her unhappy father. Do you wonder that you could not get Flaccus to approve of this conduct? I should like to know who you did persuade to approve of it? You contrived

fictitious purchases, you put up advertisements of estates in concert with some wretched women,—open frauds. According to the laws of the Greeks it was necessary to name a guardian to look after these matters. You named Polemocrates, a hired slave and minister of your designs. Polemocrates was prosecuted by Dion for treachery and fraud on account of this very guardianship. What a crowd was there from all the neighbouring towns on every side! What was their indignation! How universal were their complaints! Polemocrates was convicted by every single vote; the sales were annulled, the advertisements were cancelled. Do you restore the property? You bring to the men of Pergamus, and beg them to enter in their public registers, those beautiful advertisements and purchases of yours. They refuse, they reject them. And yet who were the men who did so? The men of Pergamus, your own panegyrists. For you appear to me to boast as much of the panegyric of the citizens of Pergamus, as if you had arrived at all the honours which had been attained by your ancestors. And you thought yourself in this respect better off than Lælius, that the city of Pergamus praised you. Is the city of Pergamus more honourable than that of Smyrna? Even the men of Pergamus themselves do not assert that.

XXXI. I wish that I had leisure enough to read the decree of the Smyrnæans, which they made respecting the dead Castricius. In the first place, that he was to be brought into the city, which is an honour not granted to others; in the next place, that young men should bear his coffin; and lastly, that a golden crown should be put upon the dead body. These honours were not paid to that most illustrious man, Publius Scipio, when he had died at Pergamus. But what language, O ye immortal gods, do they use concerning him, calling him "the glory of his country, the ornament of the Roman people, the flower of the youth." Wherefore, O Decianus, if you are desirous of glory, I advise you to seek other distinctions. The men of Pergamus laughed at you. What? Did you not understand that you were being made sport of, when they read those words to you, "most illustrious man, of most extraordinary wisdom, of singular ability." I assure you they were joking with you. But when they put a golden crown at the head of their letters, in reality they did not entrust you with more gold than they would trust to a jackdaw; could you not even perceive the neatness and

facetiousness of the men? They, then,—those men of Pergamus,—repudiated the advertisements which you produced. Publius Orbius, a man both prudent and incorruptible, gave every decision that he did give against you.

XXXII. You received more favour from Publius Globulus, an intimate friend of mine. I wish that neither he nor I may repent it.[1] * * * * * * You add real causes of the enmity between you, that your father as tribune of the people prosecuted the father of Lucius Flaccus when he was curule ædile. But that ought not to have been very annoying even to Flaccus's father himself; especially as he, who was prosecuted, was afterwards made prætor and consul, and the man who prosecuted him could not even remain in the city as a private individual. But if you thought that a reasonable ground for enmity, why, when Flaccus was military tribune, did you serve as a soldier in his legion, when by the military law you might have avoided the injustice of the tribune? And why did the prætor summon you, his hereditary enemy, to his counsels? And how sacredly such obligations are accustomed to be observed, you all know. At present we are prosecuted by men who were our counsellors. "Flaccus issued a decree." Did he issue a different decree from what he ought? "against freemen." Was it contrary to the resolution to which the senate had come? "He issued this decree against an absent man." When you were in the same place, and when you refused to come forward, that is a different thing from being absent.

[*The resolution of the senate and the decree of Flaccus are read.*]

What next? suppose he had not made a decree, but had only issued an edict, who could have found fault with him with truth? Are you going to find fault with the letters of my brother, full of humanity and equity. The same[2] letters which, having been given by me * * * * * Read the letters of Quintus Cicero.

[*The letters of Quintus Cicero are read.*]

What? did the people of Apollonides, when they had an

[1] There are a few words here hopelessly corrupt, which are omitted in the translation. Orellius prints it—"Flaccum in curia decrevissent veridicas. Adjungis," etc., and in a note gives up the whole passage as corrupt. Nobbe puts the stop before veridicas.

[2] This passage is given up by every commentator as incurably corrupt.

opportunity, report these things to Flaccus? Were they not argued in court before Orbius? Were they not reported to Orbius? Did not the deputies of Apollonia report to our senate, in my consulship, all the demands which they had to make respecting the injuries which they had received from this one man, Decianus?

"Oh, but you gave in an estimate of these farms also at the census." I say nothing of their being other people's property; I say nothing of their having been got possession of by violence; I say nothing of the conviction by the Apollonidians that ensued; I say nothing of the business having been repudiated by the people of Pergamus; I say nothing of the fact that restitution of the whole was compelled by our magistrates; I say nothing of the fact that neither by law, nor in fact, nor even by the right of occupation, did they belong to you. I only ask this; whether those farms can be bought and sold by the civil law; whether they come under the provisions of the civil law, whether or no they are freehold, whether they can be registered at the treasury and before the censor? Lastly, in what tribe did you register those farms? You managed it so, that if any serious emergency had arisen, tribute might have been levied on the same farms both at Apollonides and at Rome. However, be it so; you were in a boastful humour. You wanted a great amount of land to be registered as yours, and of that land too, which cannot be distributed among the Roman people. Besides that, you were registered as possessed of money in hand, cash to the amount of a hundred and thirty thousand sesterces. I do not suppose that you counted that money; but I pass over all these things. You registered the slaves of Amyntas; and, in that respect, you did not wrong; for Amyntas is the owner of those slaves. And at first indeed he was alarmed when he heard that you had registered his slaves. He consulted lawyers. It was agreed by all of them that if Decianus could make other people's property his by registering it as such, he would have very great * * *

XXXIII. You now know the cause of the enmity by which Decianus was excited to communicate to Lælius this grand accusation against Flaccus. For Lælius framed his complaint in this way, when he was speaking of the perfidy of Decianus: "He, who was my original informant; who communicated the facts of the case; whom I have followed, he has been bribed by Flaccus, he has deserted and abandoned me." Have

you, then, been the prime mover in bringing that man into peril of all his fortunes, whose counsellor you had been, with whom you had preserved all the privileges of your rank, a most virtuous man, a man born of a most noble family, a man who had done great services to the republic? Forsooth, I will defend Decianus, who has become suspected by you through no fault of his own. Believe me, he was not bribed; for what was there which could have been got by bribing him? Could he have contrived for the trial to last longer? Why, the law only allows six hours altogether. How much would Decianus rather have taken away from those six hours, if he had wished to serve you. In truth, that is what he himself suspects,—you envied the ingenuity of your junior counsel. Because he discharged the part which he had undertaken with wit, and examined the witnesses cleverly,[1] * * * But if this be probable, at all events it is not very probable that Decianus was bribed by Flaccus. And the rest of the case is just as improbable, as is what Lucceius says, that Lucius Flaccus had wished to give him two millions of sesterces to induce him to break his word. And do you accuse that man of avarice who you say was willing to abstain from taking two millions of sesterces? For when he was buying you, what was it that he was buying? Was it your desertion to his side? If you did come over to us, what share in the cause were we to give you? were we to allot to you the part of explaining the designs of Lælius? of saying what witnesses proceeded from his house? What? did not we ourselves see that they were living together? Who is there who does not know that? Is there the slightest doubt that the documents were in Lælius's power? or, was he bribing you not to accuse him with vigour and with eloquence? Now you give cause for suspicion; for you spoke in such a manner that some point or other does seem to have been carried with you.

XXXIV. "But a great and intolerable injury was done to Andrus Sextilius." As, when his wife Valeria had died without a will, Flaccus managed the business in such a way as if the inheritance belonged to himself. And in that I should be glad to know what you find fault with,—is it, that he asserted anything which was false? How do you prove it?

[1] What follows here in the text is quite unintelligible, and is given up by Orellius as hopelessly corrupt; and probably there is some corruption for the next few lines which I have attempted to translate.

"She was," says he, "a person of good family." O man, learned in the law! What? cannot inheritances legally come from women of good family? "She was," says he, "under the power of her husband." Now I understand you; but was she so by use[1] or by purchase? It could not be by use; for legitimate guardianship cannot be annulled except by the consent of all the guardians. By purchase? Then it must have been with the consent of all of them; and certainly you will not say that that of Flaccus was obtained. That alternative remains which he did not cease asserting loudly; "that Flaccus ought not, when he was prætor, to have attended to his own private concerns, or to have made any mention of the inheritance." I hear, O Lucius Lucullus, that very great inheritances came to you, to you who are about to decide as judge on the case of Lucius Flaccus, on account of your exceeding liberality and of the great services which you had done your friends, during the time that you were governing the province of Asia with consular power. If any one had said that those inheritances belonged to him, would you have given them up? You, O Titus Vettius, if any inheritance in Africa comes to you, will you abandon it? or, will you retain it as your own, without being liable to the imputation of avarice, without any sacrifice of your dignity? "But the possession of the inheritance of which we are speaking was demanded in the name of Flaccus, when Globulus was prætor." Well then, it was not any sudden violence, nor the idea of any favourable opportunity, nor force, nor any peculiarity of time, nor the possession of command and of the forces which induced Flaccus to commit this injury.

And, therefore, it is to this point that Marcus Lurco also, a most excellent man, and a great friend of mine, has especially addressed the sting of his evidence. He said, that it was not becoming for a prætor in his province to claim money from a private individual. Why, I should like to know, O Lurco, is it not becoming? It is not becoming to force or extort money, or to receive money contrary to the laws; but you will never convince me that it is not becoming to claim it, unless you can show that it is not lawful to do so. Is it right to accept of

[1] The marriage *per coemptionem* has already been explained. "Marriage was also effected by *usus*, if a woman lived with a man for a whole year as his wife."—Smith, Dict. Ant. p. 602, v. *Marriage*, q. v.

honorary lieutenancies for the sake of exacting what is one's due, as you yourselves have done lately, and as many good men have often done, (and I, indeed, find no fault with such conduct; I see that our allies complain of it;) and, do you think a prætor, if he, being in his province, does not abandon an inheritance which comes to him, is not only to be blamed but even to be condemned?

XXXV. "But Valeria," says he, "had given up all her money as dower to her husband." None of those assertions can be admitted, unless you prove that she was not under the guardianship of Flaccus. If she was, whatever money on her marriage was assigned to her husband without his consent, the assignment is null. But still you saw that Lurco was angry with Flaccus, although out of regard to his own dignity he was guided by some moderation in giving his evidence. For he did not conceal, or think it at all necessary to be silent about the cause of his anger. He complained that his freedman had been condemned by Flaccus when he was prætor. O how miserable is the condition of those who have the government of provinces! in which diligence is sure to bring enmity; carelessness is sure to incur reproach; severity is dangerous; liberality meets only with ingratitude. The conversation addressed to one is insidious; the flattery with which one is courted is mischievous; the countenance which every one wears towards you is friendly; the disposition of numbers is hostile; dislikes are secret; caresses are open; they wait with eagerness for the coming prætors, they fawn on those who are present, they abandon and betray those who are departing. But let us give over complaining, lest we should seem to be extolling our own wisdom in declining all provinces.

He sent letters about the steward of Publius Septimius, a man of great accomplishments, which steward had committed murder. You might have seen Septimius burning with anger. He allowed (in accordance with his edict) an action against a freedman of Lurco to proceed. Lurco is his enemy. What then? Was Asia to be abandoned to the freedmen of influential and powerful men? or has Flaccus any personal hostility of any sort with your freedmen? or do you hate his severity when displayed in your own causes, and in those of your freedmen, though you praise impartiality when it is we who are on our trial?

XXXVI. But that man Andro, who was stripped of all his

property, as you say, has not come forward to give his evidence. What if he had? Suppose he had come. Caius Cæcilius was the arbitrator of the settlement come to in that case. How noble, how upright, how conscientious a man! Caius Sextilius was a witness to it, the son of Lurco's sister; a modest, and consistent, and sensible man. If there was any violence employed in the business, any fraud, any fear, any trickery, still who compelled any arrangement to be made at all? who compelled the parties to have recourse to an arbitrator? What will you say, if all that money was restored to this young man by Lucius Flaccus? if it was claimed by him? if it was collected for him? and if this was done through the agency of this Antiochus who is here in court, the freedman of this youth's father, and a man most highly esteemed by the elder Flaccus? Do we not then seem not only to escape from the charge of covetousness, but even to deserve the credit of very extraordinary liberality? For he gave up to the young man his relation the whole of their joint inheritance, which by law ought to have belonged to both of them in equal shares; and he himself touched none of Valeria's property. What he had resolved to do, being influenced by the young man's amiable character, and not by the great amount of his patrimony, that he not only did, but did most liberally and courteously. From which it ought to be understood that he had not taken the money in violation of the laws, when he was so very liberal in abandoning the inheritance.

But the charge respecting Falcidius is a serious one. He says that he gave fifty talents to Flaccus. Let us hear the man himself. He is not here. How then does he say it? His mother produces one letter, and his sister produces a second; and they say that he had written to them to say that he had given this large sum to Flaccus. Therefore he, whom, if he were to swear while holding by the altar, no one would believe, is to be allowed to prove whatever he pleases by a letter without being put on his oath at all! And what a man he is! how unfriendly to his fellow-citizens; a man who preferred squandering a sufficiently ample patrimony, which he might have spent among us here, in Grecian banquets! What was his object in leaving this city? in depriving himself of the glorious liberty existing here? in undergoing all the danger of a voyage? just as if he might not have devoured his property here at Rome. Now at last this jolly son writes to

his mother, an old woman not very likely to suspect him, and clears himself by a letter, in order to appear not to have spent all that money with which he had crossed the sea, but to have given it to Flaccus.

XXXVII. But those crops of the Trallians had been sold when Globulus was prætor. Falcidius had bought them for nine hundred thousand sesterces. If he gives so much money to Flaccus, he assuredly gives it to secure the ratification of that purchase. He then buys something which certainly was worth a great deal more than he gave for it; he pays for it out of his profit; he never touches his capital. Therefore he makes the less profit. Why does he order his Alban farm to be sold? Why, besides, does he caress his mother in this way? Why does he try to overreach the imbecility of his sister and mother by letters? Lastly, why do we not hear the man's own statement? He is detained, I suppose, in the province. His mother says he is not. "He would have come," says the prosecutor, "if he had been summoned." You certainly would have compelled him to come, if you had thought your statement would receive any real confirmation from his appearing as a witness. But you were unwilling to take the man away from his business. There was an arduous contest before him; a very severe battle with the Greeks; who, however, as I think, are defeated and overthrown. For he by himself beat all Asia in the size of his cups, and in his power of drinking. But still, who was it, O Lælius, who gave you information about those letters? The women say that they do not know. Who is it then? Did the man himself tell you that he had written to his sister and mother? or did he write at your entreaty? But do you put no questions to Marcus Æbutius, a most sensible and virtuous man, a relation of Falcidius? Do you decline to examine Caius Manilius his son-in-law, a man of equal integrity? men who certainly must have heard something of so large a sum of money, if it had been given. Did you, O Decianus, think that you were going to prove so heavy a charge, by reading these letters, and bringing forward these women, while the author whom you were quoting was kept at a distance? Especially when you yourself, by not producing Falcidius, declared your own opinion that a forged letter would have more weight than the feigned voice and simulated indignation of the man himself if present.

But why keep on so long discussing and expostulating about

the letters of Falcidius, or about Andron Sextilius, or about the income of Decianus, and say nothing about the safety of all of us, about the fortunes of the state, and the general interests of the republic? the whole of which are at stake in this trial, and are resting on your shoulders,—on yours, I say, you who are our judges. You see in what critical times, in what uncertain and variable circumstances, we are all at present placed.

XXXVIII. There are certain men who are planning many other things, and who are labouring most especially to cause your inclinations, your formal decisions, and sentences to appear in a most unfavourable and odious light to all the most respectable citizens. You have given many important decisions in a manner suited to the dignity of the republic, and particularly you have given many respecting the guilt of the conspirators. They do not think that the republic has been turned upside down enough, unless they can overwhelm citizens who have deserved well of the republic, with the same punishment as that with which this impious man Caius Antonius has been crushed. Be it so. He had some particular misdeeds of his own to bear up against. And yet even he (I say this on my own responsibility) would never have been condemned if you had been his judges; he, a man by whose condemnation the tomb of Catiline was decked with flowers, and the sepulchres of all those most audacious men and domestic enemies were honoured with assemblies and banquets, and by which the shade of Catiline was appeased. Now an expiation for the death of Lentulus is sought to be obtained at Flaccus's expense, and by your instrumentality. What victim can you offer more acceptable to the manes of Publius Lentulus,—who intended, after you had been all murdered amid the embraces of your children and your wives, to bury you beneath the burning ruins of your country,—than you will offer, if you satiate his impious hatred towards all of us in the blood of Lucius Flaccus? Let us then offer a sacrifice to Lentulus, let us make atonement to Cethegus, let us recal the exiles, let us in our turn, if you, O judges, think fit, suffer the punishment due to too great piety, and to the greatest possible affection towards our country. At this moment we are being mentioned by name by the informers; accusations are being invented against us; dangers are being prepared for us. And if they did these things by the instrumentality of

others,—if, in short, by using the name of the people, they had excited a mob of ignorant citizens, we could bear it with more equanimity.

But this can never be borne, that they should think that, by means of senators and knights of Rome, who have done all these things with a view to the safety of all the citizens, by their common decision, animated with one idea, and inspired with one and the same virtue, the prime movers, and leaders, and chief actors in these transactions, can be deprived of all their fortunes, and be expelled from the city. In truth, they are acquainted with the feelings and inclinations of the Roman people; by every means which it is master of, the Roman people indicates what are its opinions and feelings; there is no diversity of opinion, or of inclination, or of language. Wherefore, if any one summons me, I come. I not only do not object to the Roman people as arbitrators in my cause, but I even demand them. Let there be no violence; let weapons and stones be kept at a distance; let the artisans depart; let the slaves be silent. No one who hears me will be so unjust, if he be only a free man and a citizen, as not to think that he ought rather to think of rewards for me than of punishment.

XXXIX. O ye immortal gods! what can be more miserable than this? We who wrested fire and sword out of the hands of Publius Lentulus, are trusting now to the judgment of an ignorant multitude, and are in dread of the sentence of chosen men and most honourable citizens. Our fathers by their decision delivered Marcus Aquillius, who had been convicted of many charges of avarice, proved by abundant evidence, because he had behaved gallantly in the Servile war. I, when consul, lately defended Cnæus Piso; who, because he had been a gallant and fearless consul, was preserved to the republic uninjured. I, when consul, defended also Lucius Murena, the consul elect. Not one of the judges in that case—though they were most eminent men who were the prosecutors—thought that they ought to entertain for one moment the accusation of bribery, because, while Catiline was still waging war against the republic, they agreed with me that it was necessary for them to have two consuls on the first of January. Aulus Thermius, an innocent and virtuous man, and one adorned with every sort of distinction, has been twice acquitted this year, when I have defended him. How great was the joy, how great were the congratulations of the

Roman people at that event, for the sake of the republic! Wise and grave judges have always, when deciding in criminal trials, considered what the interests of the state, and the general safety, and the present necessities of the republic required. When the voting tablets are given to you, O judges, it will not be Flaccus alone who will be interested in their verdict; the generals and all those who are leaders in the preservation of the city will all be interested; all good men will be interested; you yourselves will be interested; your children, your own lives, your country, the general safety, will all be interested in your vote. In this cause you are not determining about foreign nations, or about the allies; you are deciding on the welfare of your own selves and your own republic.

XL. And if the consideration of the provinces has more weight with you than that of your own interests, I not only do not object, but I even demand that you should be influenced by the authority of the provinces. In truth, we will oppose to the province of Asia first of all a great part of the same province, which has sent deputies and panegyrists to stand up and defend this man from danger; in the next place we will set against it the province of Gaul, the province of Cilicia, the province of Spain, and the province of Crete; and against Greeks, whether they be Lydians, Mysians, or Phrygians, shall be set the men of Massilia, the Rhodians, the Lacedæmonians, the Athenians, and all Achaia, Thessaly, and Bœotia. Septimius and Cælius, the witnesses for them, shall be balanced by Publius Servilius and Quintus Metellus, as witnesses of this man's moderation and integrity. The Asiatic jurisdiction shall be replied to by the jurisdiction of the city; and the whole conduct and entire life of Lucius Flaccus shall defend him from accusations brought against him, all relying on the transactions of a single year.

And if, O judges, it ought to avail Lucius Flaccus that, as tribune of the soldiers, as quæstor, as lieutenant to the most illustrious generals, he has behaved among the most distinguished armies, and in the most important provinces, in a manner worthy of his ancestors; let it also avail him, that before your own eyes, at a time of general danger to you all, he united his fate to mine, and shared my danger; let the panegyrics of most honourable municipalities and colonies avail him; let the most glorious and genuine praise of the Roman senate and Roman people avail him.

On that night, that night which nearly brought eternal darkness on this city, when the Gauls were invited to war, when Catiline was invited into the city, when the conspirators were invited to bring fire and sword upon us all; when I, O Flaccus, invoking heaven and night, was with tears entreating your aid, and you in tears were listening to me; when I commended to your honest and well-proved loyalty the safety of the city and of the citizens. You, O Flaccus, being at that time prætor, took the messengers of the general destruction; it was you who arrested that plague[1] of the republic which was contained in letters; you brought the proofs of our danger, you brought the aid that was to secure our safety to me and to the senate. What thanks were then given you by me! how did the senate, how did all good men thank you! Who would then have thought that any good man would ever refuse to Caius Pomptinus, that bravest of men, or to you, I will not say safety, but any imaginable honour? Oh those nones of December; what a time was that when I was consul! a day that I may fairly call the birth-day of this city, or at all events its day of salvation.

XLI. Oh that night which that day followed! happy was it for this city; but, wretched man that I am, I fear it may still prove disastrous to me myself. What spirit was then shown by Lucius Flaccus! (for I will say nothing about myself,) what devotion to his country, what virtue, what firmness! But why do I speak of those things which then, at the time that they happened, were extolled to the skies by the cordial agreement of all men, by the unanimous voice of the Roman people, by the testimony in their favour of the whole world? Now I fear, not only that they may be no advantage to my client, but that they may even be some injury to him. Indeed, I sometimes fancy that the memory of bad men is much more lively than that of good men. It is I, if any disaster happens to you, O Flaccus, it is I who shall have betrayed you; it is that pledge of mine which will be in fault, that promise of mine, that undertaking of mine, when I promised, that if we by our joint efforts could preserve the republic, you, as long as you lived, should not only be defended, but also honoured by the espousal of your cause by all virtuous

[1] He refers to the ambassadors of the Allobroges, and to the letters from Lentulus, &c. which were found in their possession. See the Arguments to the Catilinarian orations.

men. I did think, O judges, I did hope that, even if our honour appeared to you a consideration of no importance, at all events you would take care of our safety. But if, O judges this terrible injury should overwhelm Lucius Flaccus, (may the immortal gods avert the omen!) still he will never repent of having provided for your safety, of having consulted the interests of you, and of your wives, and of your children, and your entire welfare. It will always be his feeling that he owed such sentiments to the nobleness of his race, and to his religion, and to his country; do you, O judges, take care that you have no cause to repent of not having spared such a citizen. For how few are they who adopt these principles in the republic; who desire only to please you, and men like you; who think the authority of every virtuous and honourable man and body of men of the greatest weight, seeing that that path is both the one which leads most easily to honours, and everything which they desire.

XLII. But let everything else belong to our adversaries: let them keep to themselves power, and honours, and all the best opportunities of attaining all other advantages; let it be allowed to those men who have striven to preserve all these things, to be at least safe themselves. Do not think, O judges, that they, who are now starting fresh, who have not as yet arrived at honours, are not looking anxiously for the result of this trial. If the exceeding affection of Lucius Flaccus for all good men, and his great devotion to the republic, turns out an injury to him, who do you expect will in future be so insane, as not to think that path of life which he has hitherto been accustomed to consider slippery and dangerous, preferable to this level and steady one? But if you, O judges, are tired of such citizens, declare it; those who can, will change their opinions; those who have their path still to choose will soon make up their minds what to do; we who have advanced as far as we have, must bear this result of our rashness. If you wish as many as possible to be of this opinion, you will declare by this decision what your sentiments are. By your decision in this case, O judges, you will give this unhappy suppliant to you and to your children, precepts by which to regulate his life. If you preserve his father to him, you will prescribe to him what sort of citizen he himself ought to be. If you take his father from him, you will show that there is no reward held out by you to

virtuous and wise and consistent conduct. And he now, (since he is of that age that he is able to feel for his father's agony, but not yet to be any assistance to his father in his dangers,) he, I say, entreats you not to add his father's tears to his sorrow, or his weeping to his father's misery. He fixes his eyes on me also, he implores me by his looks, he, as I may say, appeals to my good faith, and claims of me that honour for his father which I once promised him in return for the safety of his country. Pity his family, O judges; pity that most gallant father; pity the son: preserve to the republic that most noble and glorious name, either for the sake of the blood, or of the antiquity of the family, or else for the sake of the individual.

THE SPEECH OF M. T. CICERO AFTER HIS RETURN.

ADDRESSED TO THE SENATE.

THE ARGUMENT.

Cicero by his conduct in the conspiracy of Catiline had made many enemies, as there were many citizens of high rank and great influence more or less implicated in that treason. And besides those men, he had mortally offended a profligate senator, named Clodius, against whom he had appeared as a witness on a trial for impiety. Clodius, (by the assistance of Julius Cæsar, who was offended with Cicero for refusing to support the measures of the triumvirate,) got adopted as a plebeian, in order to be made tribune of the people, so as to have the greater power to annoy Cicero. He was elected tribune A. U. C. 696. And the consuls, Lucius Calpurnius Piso Cæsoninus and Aulus Gabinius, were also enemies to Cicero. After some preliminary laws, mostly aimed, in Cicero's opinion, at him, Clodius proposed a special law, "that whoever had taken away the life of a citizen uncondemned and without a trial, should be prohibited from fire and water." This alluded especially to Cicero's having executed the accomplices of Catiline; and he accordingly changed his dress, as it was usual for people to do in the case of a public impeachment, and appeared in the streets in a mourning robe, and the whole body of the knights and the young nobility, to the number of twenty thousand, as he says himself in his speech to the people after his return, also changed their dress, and accompanied him about the city to protect him from the insults of Clodius's partisans, and to implore the assistance of the people. And all this body went to the consuls to implore their favour for Cicero; but Piso refused to see them, and Gabinius treated

them with the greatest insolence, which caused such indignation in the assembly, that Ninnius the tribune made a motion (which was carried unanimously) that the senate also should put on mourning robes. The consuls issued an edict forbidding them to do so. On one occasion Clodius with his slaves fell on Cicero's partisans, and attacked them so violently that Hortensius was nearly killed, and Vibienus, a senator, died of the wounds he received. Cæsar openly espoused the cause of Clodius, declaring that he had always thought the proceedings against Lentulus and the rest irregular and illegal. And Pompey, who had at first espoused Cicero's cause, began to be alarmed, and to avoid giving him any effectual assistance. And the disturbances in Rome rose to such a height, that Cicero, by the advice of his friends, and especially of Cato, Hortensius, and Atticus, went into voluntary exile.

As soon as he had departed, Clodius filled the forum with his own partisans and his slaves, and proposed a law in the following terms: "Whereas Marcus Tullius Cicero has put Roman citizens to death unheard and uncondemned; and for that end forged the authority and decree of the senate; may it please you to ordain that he be interdicted from fire and water; that nobody presume to harbour or receive him, on pain of death; and that whoever shall move, speak, vote, or take any step towards recalling him, shall be treated as a public enemy, unless those should first be recalled to life whom Cicero unlawfully put to death."[1] The name of Sedulius, one of the meanest of the people, was affixed to the law as if he had been its proposer, who afterwards declared that he was not in Rome at the time, and that he had known nothing about it.

Cicero went to Thessalonica. He had not been gone more than two months when Ninnius made a motion in the senate to recal him, and to repeal the law which Clodius had enacted against him; and it would have been carried had not Ælius Ligur, one of the tribunes, interposed his veto. The senate, however, passed a resolution that no business should be proceeded with till the consuls had prepared a new law respecting Cicero's affairs. Pompey, too, began to feel the want of Cicero's assistance, and consulted Cæsar as to the expediency of promoting his recal

The new consuls were Publius Cornelius Lentulus, a warm friend of Cicero, and Quintus Metellus Nepos, who had been his enemy, but who now, out of complaisance to the triumvirate, promised to assist in his restoration. One of the tribunes elect, whose name was Sextus, was also very eager in his cause; but Clodius bribed two of those who were coming into office, Servius Atilius Serranus and Numerius Quintius Gracchus, to oppose all measures for his restoration. On the first of January, the moment that the new consuls entered on their office, Lentulus made a motion in the senate for Cicero's recal; Metellus also spoke in favour of it, and Cotta, whose opinion was first asked, declared that as Cicero had not been banished legally, but had only retired from the city of his own accord for the sake of peace, there was

[1] I take the terms of this law from Middleton's Life, from which, indeed, I have abridged this argument; which is in some degree the argument of the three following speeches.

no law requisite for his recal, but that a vote of the senate would be sufficient. The motion would have passed at once had not Serranus interposed his veto. Great disturbances ensued in Rome; Fabricius, one of the tribunes favourable to Cicero, was attacked with a party of his friends by Clodius at the head of a band of gladiators, whom he had purchased; and great numbers of citizens were slain, so that Cicero says, (Pro Sextio, 35—38,) that there had never been such bloodshed in Rome except in the time of Cinna. The senate passed a resolution that no business should be done till the vote for Cicero's recal was carried, and ordered the consuls to summon all the people of Italy who wished well to the state to come to the assistance and defence of Cicero. Pompey was at this time at Capua acting as chief magistrate of his new colony, where he presided in person at their making a decree in Cicero's honour, and took the trouble likewise of visiting all the other colonies and chief towns in those parts, to appoint them a day of general rendezvous at Rome to assist at the promulgation of the desired law. At last a decree to recal Cicero was carried, to the great joy of all the people; but for some time Clodius was enabled to prevent any regular law being passed to that effect, till at last all his partisans were afraid to stand by him any longer, and it was not until the fourth of August that the law was finally carried.

Cicero, in anticipation of it, had already embarked for Italy, and on the fifth of August he landed at Brundusium. He was received with the greatest honours by every town through which he passed on his way to Rome, and multitudes came from all quarters to see him and to escort him; and on his arrival in the city he was received with universal acclamations.

He arrived in the city on the fourth of September, and the next day the consuls summoned the senate to give him an opportunity of addressing that body, when he made the following speech.

I. If, O conscript fathers, I return you thanks in a very inadequate manner for your kindness to me, and to my brother, and to my children, (which shall never be forgotten by us,) I beg and entreat you not to attribute it so much to any coldness of my disposition, as to the magnitude of the service which you have done me. For what fertility of genius, what copiousness of eloquence can be so great, what language can be found of such divine and extraordinary power, as to enable any one, I will not say to do due honour to the universal kindness of you all towards us, but even to count up and enumerate all the separate acts of kindness which we have received from you? You have restored to me my brother, whom I have wished for above all things; you have restored me to my most affectionate brother; you have restored us parents to our children, and our children to us; you have restored to us our dignity, our rank, our fortunes, the re-

public, which we reverence above all things, and our country, than which nothing can be dearer to us; you have restored us, in short, to ourselves.

And if we ought to consider our parents most dear to us because by them our life, our property, our freedom, and our rights as citizens have been given to us; if we love the immortal gods, by whose kindness we have preserved all those things, and have also had other benefits added to them; if we are most deeply attached to the Roman people, owing to the honours paid to us, by whom we have been placed in this most noble council, and in the very highest rank and dignity, and in this citadel of the whole earth; if we are devoted to this order of the senate, by which we have been frequently distinguished by most honourable decrees in our favour;—surely it is a boundless and infinite obligation which we are under to you, who, by your singular zeal and unanimity in my behalf, have combined at one time the benefits done us by our parents, the bounty of the immortal gods, the honours conferred on us by the Roman people, and your own frequent decisions in my case; in such a manner that, owing, as we do, much to you, and great gratitude to the Roman people, and innumerable thanks to our parents, and everything to the immortal gods, the honours and enjoyments which we had separately before by their instrumentality, we have now recovered all together by your kindness.

II. Therefore, O conscript fathers, we seem by your agency to have obtained a species of immortality; a thing too great to be even wished for by men. For what time will there ever be in which the memory and fame of your kindnesses to me will perish? The memory of your kindness, who, at the very time that you were besieged by violence, and arms, and terror, and threats, not long after my departure, all agreed in recalling me, at the motion of Lucius Ninnius, a most fearless and virtuous man; the most faithful, and (if it had come to a battle) the least timid defender of my safety that that fatal year could produce. After the power of making a formal decree to that effect was refused to you by the means of that tribune of the people, who, as he was unable of himself to injure the republic, destroyed it, as far as he could, by the wickedness of another, you never kept silence concerning me, you never ceased to demand my safety from those consuls who had sold it. Therefore, at last it was owing to your

authority and your zeal that that very year which I had preferred to have fatal to myself rather than to my country, elected these men as tribunes, who proposed a law concerning my safety, and constantly brought it under your notice. For the consuls being modest men, and having a regard for the laws, were hindered by a law, not by the one which had been passed concerning me, but by one respecting themselves, when my enemy had carried a clause, that when those men had come to life again who nearly destroyed the state, then I might return to the city. By which action he confessed two things,—both that he longed for them to be living, and also that the republic would be in great peril, if either the enemies and murderers of the republic came to life again, or if I did not return.

Therefore, in that very year when I had departed, and when the chief man of the state was forced to defend his own life, not by the protection of the laws, but by that of his own walls,—when the republic was without consuls, and bereft, like an orphan, not only of its regular parents, but even of its annual guardians,—when you were forbidden to deliver your opinions,—when the chief clause of my proscription was repeatedly read,—still you never hesitated to consider my safety as united with the general welfare.

III. But when, by the singular and admirable virtue of Publius Lentulus the consul, you began on the first of January to see light arising in the republic out of the clouds and darkness of the preceding year,—when the great reputation of Quintus Metellus, that most noble and excellent man, and the virtue and loyalty of the prætors, and of nearly all the tribunes of the people, had likewise come to the aid of the republic,—when Cnæus Pompeius, the greatest man for virtue, and glory, and achievements that any nation or any age has ever produced, the most illustrious man that memory can suggest, thought that he could again come with safety into the senate,—then your unanimity with respect to my safety was so great that my body only was absent, my dignity had already returned to this country. And that month you were able to form an opinion as to what was the difference between me and my enemies. I abandoned my own safety, in order to save the republic from being (for my sake) stained with the blood of the citizens; they thought fit to hinder my return, not by the votes of the Roman people, but by a river of blood.

Therefore, after those events, you gave no answers to the citizens, or the allies, or to kings; the judges gave no decisions; the people came to no vote on any matter; this body issued no declarations by its authority; you saw the forum silent, the senate-house mute, the city dumb and dispirited. And then, too, when he had gone away, who, being authorized by you, had resisted murder and conflagration, you saw men rushing all over the city with sword and firebrand; you saw the houses of the magistrates attacked, the temples of the gods burnt, the fasces of a most admirable man and illustrious consul burnt, the holy person of a most fearless and virtuous officer, a tribune of the people, not only laid hands on and insulted, but wounded with the sword and killed. And by that murder some magistrates were so alarmed, that, partly out of fear of death, partly out of despair for the republic, they in some degree forsook my cause; but others remained behind, whom neither terror, nor violence, nor hope, nor fear, nor promises, nor threats, nor arms, nor firebrands, could influence so as to make them cease to stand by your authority, and the dignity of the Roman people, and my safety.

IV. The chief of those men was Publius Lentulus, the parent and god of my life, and fortune, and memory, and name. He thought that the best proof that he could give of his virtue, the best indication that he could afford of his disposition, the greatest ornament with which he could embellish his consulship, would be the restoration of me to myself, to my friends, to you, and to the republic. And as soon as ever he was appointed consul elect, he never hesitated to express an opinion concerning my safety worthy both of himself and of the republic. When the veto was interposed by the tribune of the people,—when that admirable clause was read: "That no one should make any motion before you; that no one should propose any decree to you; that no one should raise any discussion, or make any speech, or take any vote, or frame any law;" he thought all that, as I have said before, a proscription and not a law, by which a citizen who had deserved well of the republic was by name, and without any trial, taken from the senate and the republic at the same time. But as soon as he entered on his office, I will not say what did he do before, but what else did he do at all, except labour by my preservation to establish your authority and

dignity on a firm basis for the future? O ye immortal gods! what great kindness do you appear to have shown me, in making Publius Lentulus consul this year. How much greater still would your bounty have been, had he been so the preceding year; for I should not have been in want of such medicine as a consul could give, unless I had fallen by a wound inflicted by a consul. I had been often told by one of the wisest of men and one of the most virtuous of citizens, Quintus Catulus, that it was not often that there was one wicked consul, but that there had never been two at the same time since the foundation of Rome, except in that terrible time of Cinna. Wherefore, he used to say that my interest would always be firmly secured, as long as there was even one virtuous consul in the republic. And he would have spoken the truth, if that state of things with respect to consuls could have remained lasting and perpetual, that, as there never had been two bad ones in the republic, so there never should be. But if Quintus Metellus had been at that time consul, who was then my enemy, do you doubt what would have been his feelings with regard to my preservation, when you see that he was a mover and seconder of the measure proposed for my restoration? But at that time there were two consuls, whose minds, narrow, contemptible, mean, grovelling, dark, and dirty, were unable to look properly at, or to uphold, or to support the mere name of the consulship, much less the splendour of that honour, and the importance of that authority. They were not consuls, but dealers in provinces, and sellers of your dignity. One of whom demanded back from me, in the hearing of many, Catiline, his lover; the other reclaimed Cethegus, his cousin;—the two most wicked men in the memory of man, who (I will not call them consuls, but robbers) not only deserted, in a cause in which, above all others, the welfare of the republic and the dignity of the consulship was concerned but betrayed me, and opposed me, and wished to see me stripped of all aid, not only from themselves, but also from you and from the other orders of the state. One of them, however, deceived neither me nor any one else.

V. For who ever could have any hope of any good existing in that man, the earliest period of whose life was made openly subservient to every one's lusts; who had not the heart to repel the obscene impurity of men from the holiest portion of his person? who, after he had ruined his own estate with

no less activity than he afterwards displayed in his endeavours to ruin the republic, supported his indigence and his luxury by every sort of pandering and infamy; who, if he had not taken refuge at the altar of the tribuneship, would not have been able to escape from the authority of the prætor, nor the multitude of his creditors, nor the seizure of his goods. And if he had not, while in discharge of that office, passed that law about the piratical war, he, in truth, would have yielded to his own poverty and wickedness, and had recourse to piracy himself; and he would have done so with less injury to the republic than he did by remaining within our walls as an impious enemy and robber. It was he who was inspecting victims, and sitting in the discharge of that duty, when a tribune of the people procured a law to be passed that no regard should be had to the auspices,—that no one should on that account be allowed to interrupt the assembly or the comitia, or to put his veto on the passing of a law; and that the Ælian and Fufian[1] laws should have no validity, which our ancestors had enacted, intending them to be the firmest protection of the republic against the insanity of the tribunes. And he also afterwards, when a countless multitude of virtuous men had come to him from the Capitol as suppliants, and in mourning garments, and when all the most noble young men of Rome, and all the Roman knights, had thrown themselves at the feet of that most profligate pander, with what an expression of countenance did that curled and perfumed debauchee reject, not only the tears of the citizens, but even the prayers of his country! Nor was he content with that, but he even went up to the assembly, and there said what even if his man Catiline had come to life again he would not have dared to say,—that he would make the Roman knights pay for the nones of December of my consulship, and for the Capitoline Hill; and he not only said this, but he even summoned those before him that suited him. And this imperious consul actually banished from the city Lucius Lamia, a Roman knight, a man of the highest character, and a very eager advocate of my safety, because of his intimacy with me, and very much attached to the state, as it was

[1] "The *Ælia lex* and *Fufia lex* were passed about the end of the sixth century of the city, and gave all magistrates the *obnuntiatio*, or power of preventing or dissolving the *comitia* by observing the omens, and declaring them to be unfavourable."—Smith. Dict. Ant. p. 560, v. *Lex*.

likely that a man of his fortune would be. And when you had passed a resolution to change your garments, and had changed them, and though, indeed, all virtuous men had already done the same thing, he, reeking with perfumes, clad in his toga prætexta, which all the prætors and ædiles had at that time laid aside, derided your mourning garb, and the grief of a most grateful city, and did what no tyrant ever did,—he issued an edict that you should lament your disasters in secret, and not presume openly to bewail the miseries of your country.

VI. And when in the Circus Flaminius[1] (I will not say the consul had been conducted into the assembly by a tribune of the people, but) the archpirate had been brought in by another robber, he came first, a man of what exceeding dignity, full of wine, sleep, and debauchery! with hair dripping with ointments, with carefully arranged locks, with heavy eyes, moist cheeks, a husky and drunken voice; and he, a grave authority, said that he was greatly displeased at citizens having been executed without having been formally condemned. Where is it that this great authority has lain hid so long out of our sight? Why has the extraordinary virtue of this ringletted dunce been wasted so long in scenes of debauchery and gluttony? For that other man, Cæsoninus Calventius, from his youth up has been habituated to the forum, though, except his assumed and crafty melancholy there was no single thing to recommend him,—no knowledge of the law, no skill in speaking, no knowledge of military affairs or of men, no liberality. And if, while passing him, you noticed how ungentlemanlike, and rough, and sulky he looked, though you might think him a barbarian and a boor, still you would not suppose him to be lascivious and profligate. You would think it made no difference whether you were standing in the forum with this man, or with a barbarian from Æthiopia; there he was, in that sense, without flavour, a mute, slow, uncivilized piece of goods. You would be apt to suppose him a Cappadocian just escaped out of a lot of slaves for sale. Then, again, how lustful was he at home,—how impure, how intemperate. He was not like a front-door, open for the reception of legitimate pleasures, but

[1] The Circus Flaminius was outside the walls of the city, and the assembly was held there to allow Cæsar to be present, who, being now invested with a military command, could not come into the city.

rather a postern for all sorts of secret gratification. And when he began to devote himself to literature, and, beastly glutton that he was, to learn philosophy with the Greeks, then he became an Epicurean, not because he was really much devoted to that sect, such as it is, but because he was caught by that one expression about pleasure. And he has masters, none of those foolish fellows who go on for whole days discussing duty and virtue,—who exhort men to labour, to industry, to encounter dangers for the sake of their country; but men who argue that no hour ought to be unoccupied by pleasure; that in every part of the body there ought always to be some joy and delight to be perceived. He uses his masters as a sort of superintendents of his lusts; they seek out and scent out all sorts of pleasures; they are the seasoners and furnishers of his banquets; they appraise and value the different pleasures; they give a formal decision and judgment as to how much indulgence ought to be allowed to each separate pleasure. He, becoming accomplished in all these arts, despised this most prudent city to such a degree, that he thought that all his lusts and all his atrocities could be concealed, if he only thrust his ill-omened face into the forum.

VII. He deceived me, though I will not so much say me (for I know, from my connexion with the Pisos, how much the Transalpine blood on his mother's side had removed him from the qualities of that family), but he deceived you and the Roman people, not by his wisdom or his eloquence, as is often the case with many men, but by his wrinkled brow and solemn look. Lucius Piso, did you dare at that time, with that eye, (I will not say with that mind,) with that forehead, (I will not say with that character,) and with that arrogance, (for I cannot say, after such achievements,) to unite with Aulus Gabinius in forming plans for my ruin? Did not the odour of that man's perfumes, or his breath reeking with wine, or his forehead marked with the traces of the curling-iron, lead you to think that, as you were like him in reality, you were no longer able to use the impenetrability of your countenance to conceal such enormous atrocities? Did you dare to combine with that man to abandon the consular dignity,—the existing condition of the republic,—the authority of the senate,—the fortunes of a citizen who had above all others deserved well of the republic, to the provinces? While you

were consul, according to your edicts and commands, it was not allowed to the Roman senate or people to come to the assistance of the republic, I will not say by their votes and their authority, but even by their grief and their mourning garb.

Did you think that you were consul at Capua, a city where there was once the abode of arrogance, or at Rome, where all the consuls that ever existed before you were obedient to the senate? Did you dare, when you were brought forward in the Flaminian Circus, with your colleague, to say that you had always been merciful? by which expression you declared that the senate and all virtuous men were cruel at the time that I warded off ruin from the republic. You were a merciful man when you handed me over,—me, your own relation, —me, whom at your comitia you had appointed as chief guardian of the prerogative tribe, whose opinions on the calends of January you had asked then,—bound and helpless to the enemies of the republic! You repelled my son-in-law, your own kinsman; you repelled your own near relation, my daughter, with most haughty and inhuman language, from your knees; and you, also, O man of singular mercy and clemency, when I, together with the republic, had fallen, not by a blow aimed by a tribune, but by a wound inflicted by a consul, behaved with such wickedness and such intemperance, that you did not allow one single hour to elapse between the time of my disaster and your plunder; you did not allow even time for the lamentations and groans of the city to die away. It was not yet openly known that the republic had fallen, when you thought fit to arrange its interment. At one and the same moment my house was plundered and set on fire, my property from my house on the Palatine Hill was taken to the house of the consul who was my neighbour, the goods from my Tusculan villa were also taken to the house of my neighbour there, the other consul; when, while the same mob of artisans were giving their votes, the same gladiator proposing and passing laws, the forum being unoccupied, not only by virtuous men, but even by free citizens, and being entirely empty, the Roman people being utterly ignorant what was going on, the senate being beaten down and crushed, there being two wicked and impious consuls, the treasury, the prisoners, the legions, allies and military commands, were given away as they pleased.

VIII. But the ruin wrought by these consuls you, O consuls, have prevented from spreading further by your virtue, being assisted as you have been by the admirable loyalty and diligence of the tribunes of the people and the prætors. What shall I say of that most illustrious man, Titus Annius?[1] or, who can ever speak of such a citizen in an adequate or worthy manner? For when he saw that a wicked citizen, or, it would be more correct to say, a domestic enemy, required (if it were only possible to employ the laws) to be crushed by judicial proceedings, or that, if violence hindered and put an end to the courts of justice, in that case audacity must be put down by virtue, madness by courage, rashness by wisdom, hand by hand, violence by violence, he first of all prosecuted him for violence; when he saw that the very man whom he was prosecuting had destroyed the courts of justice, he took care that he should not be able to carry everything by violence. He taught us that neither private houses, nor temples, nor the forum, nor the senate-house could be defended from the bands of domestic robbers without the greatest gallantry, and large resources and numerous forces. He was the first man after my departure who relieved the virtuous from fear, and deprived the audacious of hope; who delivered this august body from alarm, and the city from slavery. And Publius Sextius following the same line of conduct with equal virtue, courage, and loyalty, thought that there were no enmities, no efforts of violence, no attacks, no dangers even to his life, which it became him to shun, in defence of my safety, of your authority, and of the constitution of the state. He, by his diligence, so recommended the cause of the senate, thrown into disorder as it was by the harangues of wicked men, to the multitude, that your name soon became the most popular of all names, your authority the object of the greatest affection to all men. He defended me by every means that a tribune of the people could employ; and supported me by every sort of kind attention, just as if he had been my own brother; by his clients, and freedmen, and household, and resources, and letters, I was so much supported, that he seemed to be not only my assistant under, but my partner in calamity. Now

[1] This was Titus Annius Milo, by which last name he is best known to us. He was tribune, and finding it impossible to bring Clodius to justice in the legal way, resolved to deal with him according to his own fashion, and bought a troop of gladiators, at the head of whom he had daily skirmishes with him in the streets.

you have seen the kindness and zeal of the others; how devoted to me was Caius Cestilius, how attached to you, how uniformly faithful to our cause. What did Marcus Cispius do? I know how much I owe to him and to his father and brother; and they, though they had some personal grudge against me on their own private account, still disregarded their private dislike out of recollection of my services to the state. Also, Titus Fadius, who was my quæstor, and Marcus Curtius, to whose father I was quæstor, cherished the memory of our connexion with all zeal, and affection, and courage. Caius Messius made many speeches in my behalf, for the sake both of our friendship and of the republic. And he at the beginning proposed a special law respecting my safety. If Quintus Fabricius could only have effected, in spite of violence and arms, what he endeavoured to do in my behalf, we should have recovered our position in the month of January. His own inclination prompted him to labour for my safety, violence checked him, your authority recalled him.

IX. Of what disposition towards me the prætors were, you were able to form an opinion when Lucius Cæcilius, in his private character, laboured to support me from his own resources, and in his public capacity proposed a law respecting my safety, in concert with all his colleagues, and refused the plunderers of my property permission to support their actions by legal proceedings. But Marcus Calidius, the moment he was elected, showed by his vote how dear my safety was to him. Caius Septimius, Quintus Valerius, Publius Crassus, Sextus Quintilius, and Caius Cornutus, all devoted all their energies to the promotion of my interests and those of the republic.

And while I gladly make mention of these things, I am not unwilling to pass over the wicked actions done by some people with a view to injure me. It is not suited to my fortunes at present to remember injuries, which, even if I were able to revenge them, I still would rather forget. All my life is to be devoted to a different object: to that of showing my gratitude to those who have deserved well of me; to preserving those friendships which have been tried in the fire; to waging war against my open enemies; to pardoning my timid friends; to avoiding the showing those who deserted me any indignation at having been forced to leave the city; to console those who promoted my return by a proper display of my dignity. And if I had no other duty before me for all the

rest of my life, except to appear sufficiently grateful to the very originators and prime movers and authors of my safety, still I should think the period that remains to me of life too brief, I will not say for requiting, but even for enumerating the kindnesses which have been shown to me. For, when shall I, or when will all my relations, be able to show proper gratitude to this man and to his children? What memory, what force of genius, what amount of deference and respect will be a fit return for such numerous and immense services? He was the first man who held out to me the promise and faith of a consul when I was overwhelmed and miserable; he it was who recalled me from death to life, from despair to hope, from destruction to safety. His affection for me, his zeal for the republic, was so great, that he kept thinking how he might not only relieve my calamity, but how he might even make it honourable. For what could be more honourable, what could happen to me more creditable, than that which you decreed on his motion, that all people from all Italy, who desired the safety of the republic, should come forward for the sole purpose of supporting and defending me, a ruined and almost broken-hearted man? So that the senate summoned the citizens and the whole of Italy to come from all their lands and from every town to the defence of one man, with the very same force of expression which had never been used but three times before since the foundation of Rome, and at those times it was the consul who used it in behalf of the entire republic, addressing himself to those only who could hear his voice.

X. What could I leave to my posterity more glorious than the fact, that the senate had declared its judgment that any citizen who did not defend me, did not desire the safety of the republic? Therefore your authority, and the preeminent dignity of the consul, had this great effect, that every one thought that he was committing a shameful crime if he did not come to that summons. And this same consul, when that incredible multitude, when Italy itself I might almost say, had come to Rome, summoned you repeatedly to the Capitol; and at that time you had an opportunity of seeing what great power excellence of natural disposition and true nobleness have. For Quintus Metellus, himself an enemy of mine, and a brother of an enemy of mine, as soon as he was assured of your inclinations, laid aside his own private dislike to me,

and allowed Publius Servilius, a most illustrious man, and also a most virtuous one, and a most intimate friend of my own, to recal him, by what I may call the divine influence of his authority and eloquence, to the exploits and virtues of his race and of their common family, so as to take to his counsels his brother, in the shades below, the companion of my fortunes, and all the Metelli, those most admirable citizens, summoning them as it were from Acheron; and among them the great conqueror of Numidia, whose departure from his country formerly seemed grievous to all the citizens, but scarcely even vexatious to himself. He, therefore, turns out now, not only a defender of my safety, having been previously to this one kindness of his always my enemy, but even the seconder of my restoration to my dignity. And on that day when you met in the senate to the number of four hundred and seventeen, and when all these magistrates were present, one alone dissented; he who thought that the conspirators could by his law be awakened from the shades below. And on that day when in most weighty and copious language you delivered your decision, that the republic had been preserved by my counsels, he as consul again took care that the same things should be said by the chief men of the state in the assembly the next day; and he then spoke on my behalf with the greatest eloquence, and brought the assembly into such a state, all Italy standing by and listening, that no one would listen to the hateful and detested voice of any of my hired or profligate enemies.

XI. To these acts of his, being not only aids to my safety, but even ornaments of my dignity, you yourselves added the rest that was wanting. You decreed that no one should by any means whatever hinder that matter from proceeding; that if any one did try to interpose any obstacle, you would be very angry and indignant; that he would be acting in a manner contrary to the interests of the republic, and the safety of good men, and the unanimous wish of the citizens; and that such a man was instantly to be reported to you. And you passed a vote that, if they persisted in interposing obstacles, I was to return in spite of them. Why need I tell how thanks were given to all those who had come up from the municipal towns; or that they were entreated to be present with equal eagerness on that day when the whole affair was consummated? Lastly, why need I tell what you

did on that day which Publius Lentulus has made as a birthday to me, and to my brother, and to our children, to be recollected not only by us, who are now alive, but by all our race for ever? On which day, in the comitia centuriata, which our ancestors rightly called and considered the real comitia, he summoned us back to our country, so that the same centuries which had made me consul should declare their approval of my consulship. On that day what citizen was there who thought it right, whatever his age or state of health might be, to deny himself the opportunity of giving his vote for my safety? When did you ever see such a multitude assembled in the Campus, such a splendid show of all Italy and of all orders of men? when did you ever see movers, and tellers, and keepers of the votes all of such high rank? Therefore, through the active, and admirable, and godlike kindness of Publius Lentulus, we were not allowed to return to our country, as some most eminent citizens have been, but we were brought back in triumph, borne by white horses in a gilded car.

Can I ever appear grateful enough to Cnæus Pompeius, who said, not only among you who all were of the same opinion, but also before the whole Roman people, that the safety of the republic had been preserved by me, and was inseparably connected with mine? who recommended my cause to the wise, and taught the ignorant, and at the same time checked the wicked by his authority, and encouraged the good; who not only exhorted the Roman people to espouse my cause, but even entreated them to do so, as if he were speaking for a brother or a parent; who, at a time when he was forced to keep within his house from fear of contests and bloodshed, begged even of the preceding tribunes to propose and carry a law respecting my safety; who in a colony lately erected, where he himself was discharging the duties of a magistrate in it, where there was no bribed interrupter, declared that the privilegium[1] passed against me was violent and cruel, confirming that declaration by the authority of most

[1] "A *Privilegium* signified an enactment that had for its object a single person, which is indicated by the form of the word *privæ res*, being the same as *singulæ res*. It might be beneficial to the party to whom it referred, or not; but it is generally used by Cicero in the unfavourable sense."—Smith, Dict. Ant p. 500, v. *Lex*. "In the time of the republic it was not allowed to pass or to propose such a law."—Riddle, v. *Privilegium*. But I do not know his authority for such a statement.

honourable men, and by public letters, and, being the chief man there, gave his opinion that it was becoming to implore the protection of all Italy for my safety; who, when he himself had always been a most firm friend to me, laboured also to make all his own friends friends also to me.

XII. And by what services can I requite the kindness of Titus Annius to me? all whose actions, the whole of whose conduct and thoughts, the whole of whose tribuneship, in short, was nothing else except a consistent, continual, gallant, unwearied advocacy of my safety.

Why need I speak of Publius Sextius? who showed his good-will and faithful attachment to me, not only by his grief of mind, but even by the wounds which he received on his person.

But to you, O conscript fathers, and to each individual of you, I have both declared, and I will continue to declare my gratitude. I declared it at the beginning to your whole body, as well as I could; to declare it with sufficient eloquence is what I am totally unable to do. And although I have received especial favours from many persons, about which it is impossible for me to keep silence, still it is impossible at the present time, and with the apprehensions which I feel, to endeavour to enumerate the kindnesses which I have received from individuals. For it is difficult to avoid passing over some, and yet it would be impious to forget any one. I, O conscript fathers, ought to reverence every one of you as I do the immortal gods. But as, even in the case of the immortal gods themselves, we are wont not always to pay worship and to offer prayers to the same deities, but sometimes we pray to one and sometimes to another; so in the case of the men who have behaved to me with such godlike service, my whole life shall be devoted to celebrating their kindness towards me, and showing my reverent sense of it. But on this day I have thought that it became me to return thanks especially to the different magistrates by name, and also to one private individual, who for the sake of my safety had visited all the municipal towns and colonies, had as a suppliant addressed his entreaties to the Roman people, and had declared that opinion which you followed when you restored me to my dignities. You always distinguished me when I was prosperous; when I was in distress you defended me to the extent of your power, by the change of your garments, and your general mourning.

There have been times within our own recollection when senators did not dare to change their robes even in their own personal dangers; but in my danger the whole senate changed its garments as far as it was allowed to do without interruption from the edicts of those men who wished to deprive me in my peril not only of all protection from them, but of even the benefit of your prayers in my behalf.

And when I was in such circumstances as these, when I saw that I as a private individual had to contend with the same army which as consul I had defeated, using not arms but your authority, I deliberated much with myself.

XIII. The consul had said that he would make the Roman knights pay for the scenes on the Capitoline Hill. Some were summoned by name, others were prosecuted, some were banished. All access to the temples was prevented, not merely by their being garrisoned or occupied with a strong force, but by their being demolished. The other consul, not content with only abandoning me and the republic, unless he could also betray us to the enemies of the republic, had bound those enemies to him by promising them the rewards which they coveted. There was another man at the gates with a command[1] given to him for many years, and with a large army. I do not say that he was an enemy of mine, but I do know that he said nothing when he was stated to be my enemy. As there were thought to be two parties in the republic, the one was supposed, out of its enmity to me, to demand that I should be given up to it; the other, to defend me, but timidly out of fear of bloodshed. But those who seemed to require me to be given up to them increased the fear of a contest by their conduct, as they never diminished the suspicions and anxieties of men by denying what they were suspected of. Wherefore, when I saw the senate deprived of leaders, and myself attacked by some of the magistrates, betrayed by some, and abandoned by others; when I saw that slaves were being enlisted by name under some pretence of forming guilds;[2] that all the troops of Catiline were recalled to their original hopes of massacre and conflagration under

[1] He means Julius Cæsar, who had the command in Gaul as proconsul for five years.

[2] "Clodius not only restored the old *collegia* or guilds, but formed some new ones of the very dregs of the city, and of the slaves; and this is alluded to in several of the subsequent orations."—Manut.

almost the same leaders as before; that the Roman knights were under the same fear of proscription as before; that the municipal towns were in dread of being pillaged, and every one in fear of his life; I might—I might, I say, O conscript fathers, still have been able to defend myself by force of arms, and many wise and brave men advised me to do so; nor was I wanting in the same courage which I had shown before, and which was not unknown to you. But I saw that if I defeated my present enemy, I had still too many others behind who must also be defeated; that if I were beaten myself, many virtuous men would fall for my sake, and with me, and even after me; and that the avengers of the blood of the tribunes were present, but that all satisfaction for my death must be exacted by the slow progress of the law, and reserved for posterity.

XIV. I did not choose, after I had as consul maintained the general safety of the state without having recourse to arms, to take arms as a private individual in my own cause; I preferred that virtuous men should grieve for my fortune rather than despair of their own; and if I were slain by myself, that I thought would be a shameful end for me; but if I were slain with many others, that I thought would be fatal to the republic. If I had supposed that eternal misery was before me, I would rather have endured death than everlasting agony. But I felt sure that I should not be absent from this city any longer than the constitution itself was, and, while that was banished, I thought it no longer desirable for myself that I should remain in it; and in accordance with my expectation, as soon as ever the constitution was restored, it brought me back in triumph as its companion. The laws were all banished as well as I, the courts of justice were banished as well as I; the prerogatives of the magistrates, the authority of the senate, the liberty of the citizens, even the fruitfulness of the land, all piety and all religion, whether it was with respect to men or gods, were all banished from the state when I was banished. And if they had been lost to you for ever, I should mourn over your fortunes rather than regret the loss of my home amongst you; but if they were ever restored, I was quite sure that I should be enabled to return with them.

And of these feelings of mine, he who was the protector of my life is also my most indisputable witness, namely Cnæus

Plancius, who, disregarding all the distinctions and emoluments which might have been derived from a province, devoted his whole quæstorship to supporting and preserving me. If he had been my quæstor when I was commander-in-chief, he would have stood in the relation of a son to me; now he surely shall be looked upon by me as a parent, since he has been my quæstor, not while in authority, but in grief.

Wherefore, O conscript fathers, since I have been restored to the republic at the same time with the constitution of the republic, in whatever I do for the defence of it, I will not only not in the slightest degree abridge my former liberty, but I will even increase it.

XV. In truth, if I defended the republic at a time when it was under some obligations to me, what ought I to do now when I owe everything to it? For what is there that can crush or even weaken my spirit, when you see that calamity itself is in my case not a witness of any error, but of most extraordinary services rendered to the republic? For these disasters were brought on me by my defence of the state; they were undergone by me of my own free will, in order that the republic which had been defended by me should not be brought into the very extremity of peril. It was not in my case, as in that of Publius Popillius, a most noble man, my young sons, or a multitude of my relations that entreated the Roman people in my behalf; it was not in my case, as in the case of Quintus Metellus, a most admirable and most illustrious man, a youthful son of proved virtue who strove for me; it was not Lucius and Caius Metellus, men of consular rank, nor their sons; nor Quintus Metellus Nepos, who was at that very moment a candidate for the consulship, nor the Luculli, or Servilii, or Scipios, sons of the Metelli, who with tears and in mourning garments addressed their supplications to the Roman people; but one single brother, who behaved to me with the dutiful affection of a son, who fortified me like a parent with his counsels, and loved me like a brother (as indeed he was), by his mourning robe and his tears and daily prayers kept alive the regret of me which existed, and the recollection of my name and services; and while he had made up his mind, that unless by your votes he could recover me here, he would encounter the same fortune himself, and choose the same abode both in life and death, still he never was alarmed either at the greatness of the business, or at his own

solitary and unassisted condition, nor at the violence and warlike measures of my adversaries.

There was another upholder and assiduous defender of my fortunes, Caius Piso, my son-in-law, a man of the greatest virtue and piety, who disregarded the threats of my enemies, the hostility of my connexion, and his own near relation, the consul; who, as quæstor, passed over Pontus and Bithynia for the sake of ensuring my safety. The senate never decreed anything respecting Publius Popillius; no mention was ever made in this assembly of Quintus Metellus. They were restored by motions made by the tribunes, after their enemies had been slain, and, above all, they were not restored by the interposition of any authority on the part of the senate, though one of them had done what he did in obedience to the senate, the other had fled from violence and bloodshed. For Caius Marius, the only man of consular dignity in the memory of man who was ever driven from the city in times of civil discord before me, was not only not restored by the senate, but by his return almost destroyed the senate. There was no unanimity of magistrates in their cases,—no summoning of the Roman people to come to the defence of the republic,—no commotion throughout Italy,—no decrees of municipalities and colonies in their favour.

Wherefore, since your authority has summoned me,—since the Roman people has recalled me,—since the republic has begged me to return,—since almost all Italy has brought me back in triumph on its shoulders, I will take care, O conscript fathers, now that those things have been restored to me, the restoration of which did not depend on myself, not to appear wanting in those qualities with which I can provide myself; I will take care, now that I have recovered those things which I had lost, never to lose my virtue and loyal attachment to you.

THE SPEECH OF M. T. CICERO AFTER HIS RETURN.

ADDRESSED TO THE PEOPLE.

THE ARGUMENT.

The day after Cicero had addressed the preceding speech to the assembly, he returned thanks to the people also from the rostra for the zeal which they had displayed in his behalf, in the following speech; in which he dwells on very nearly the same topics as those which had been the ground-work of his oration to the senate.

I. THAT which I requested in my prayers of the all-good and all-powerful Jupiter, and the rest of the immortal gods, O Romans, at the time when I devoted myself and my fortunes in defence of your safety, and tranquillity, and concord, —namely, that if I had at any time preferred my own interests to your safety, I might find that punishment, which I was then encountering of my own accord, everlasting; but that if I had done those things which I had done out of an honest desire to preserve the state, and if I had undertaken that miserable journey on which I was then setting out for the sake of ensuring your safety, in order that the hatred which wicked and audacious men had long since conceived and entertained against the republic and against all good men, might break upon me alone, rather than on every virtuous man, and on the entire republic;—if, I say, these were my feelings towards you and towards your children, that in that case, a recollection of me, a pity and regret for me, should, at some time or other, come upon you, and the conscript fathers, and all Italy, I now rejoice above all things that that request is heard.—that I am bound to perform all that I then vowed, by the judgment of the immortal gods,—by the testimony of the senate,—by the unanimous consent of all Italy,—by the confession of my enemies,—by your godlike and never-to-be-forgotten kindness, O citizens of Rome. Although there is nothing more to be wished for by

man than prosperous, equal, continual good-fortune in life, flowing on in a prosperous course, without any misadventure; still, if all my life had been tranquil and peaceful, I should have been deprived of the incredible and almost heavenly delight and happiness which I now enjoy through your kindness. What sweeter thing has been given to the race of man, or to each individual, by nature, than his own children? To me especially, mine, on account of my affectionate nature, and on account of their own excellent qualities, are dearer to me than my life. And yet I did not feel that pleasure when they were born, that I feel now when they are restored to me. Nothing was ever more acceptable to any one, than my brother is to me. I was not so aware of this when I enjoyed his society, as I became when I was deprived of it, and after you again restored me to him and him to me. His own private estate is a pleasure to every one. The relics of my fortune, which I have recovered, give me now greater delight than they used to give when they were unimpaired. Friendship, familiar intercourse, acquaintance with my neighbours, the dependence of one's clients on one, even games and days of festival, are things the delights of which I have learnt to appreciate better by being deprived of them than I did while I was enjoying them. And honour, dignity, my rank and order, and, above all, your kindness, although they at all times appeared to me most splendid possessions, yet, now that they are recovered, after having been lost, they appear more bright than if they had never been hidden from my sight. And as for my country, O ye immortal gods, it is scarcely possible to express how dear, how delightful it is to me. How great is the beauty of Italy! how renowned are its cities! how varied are the enchantments of its scenery! What lands, what crops are here! How noble is the splendour of this city, and the civilization of its citizens, and the dignity of the republic, and your majesty, O people of Rome! Even of old, no one took greater delight in all those things than I did. But as good health is more welcome to those who are just recovered from a severe illness than to those who have never been sick, so all those things, now that they have been once missed, delight me more than they did when enjoyed without interruption.

II. Why, then, am I making all those statements? To what purpose are they? I wish to make you understand

that no man ever existed of such eloquence, or of such a god-like and incredible genius in oratory, as to be able (I will not say to exaggerate or embellish by his language, but even) to count up and describe the importance and number of the kindnesses which I, and my brother, and my children, have received from you. I (as was necessarily the case) was born of my parents but a little child; it is of you that I am born a man of consular dignity. They gave me a brother, without knowing how he would turn out; you have restored him to me after he has been tried and proved to be a man of incredible piety. I received the republic from them, when it was almost lost; I have recovered it by your means, after every one had acknowledged that it had been saved by the labours of one man. The immortal gods gave me children; you restored them to me. Besides these things, I have received many things which I wished for from the immortal gods; but if it had not been for your good-will, I should have lost all those divine gifts. Last of all, those honours which I obtained separately and step by step, I now receive again from you all together. So that all that we owed of old to our parents, all that we owed to the immortal gods, and all that we owed to you,—all that put together we now owe at this time to the entire Roman people.

For as, in the case of your very kindness itself, its magnitude is so great that I cannot do adequate justice to it in my speech; so also in your zeal such great good-will and inclination towards me was displayed, that you seem not only to have taken my misfortune off from me, but even to have increased my dignity.

III. For it was not my youthful sons and many other relations and kinsmen who offered up their prayers for my return, as they did for that of Publius Popillius, a most noble man. It was not, as it was in the case of Quintus Metellus, that most illustrious man, a son of an age fully proved by this time; or Lucius Diadematus, a man of consular rank and of the greatest authority; or Caius Metellus, a man of censorian rank; or their children; or Quintus Metellus Nepos, who at that time was standing for the consulship; or the sons of his sisters, the Luculli, the Servilii, and the Scipios;—for at that time there were many Metelli, or sons of the Metelli, who addressed supplications to you and to your fathers for the return of Quintus Metellus. And if my own preeminent

dignity and most glorious achievements were not of sufficient influence, still the piety of my son, the prayers of my relations, the mourning garb of all the young men, the tears of all the old, had power to move the Roman people to pity.

For the case of Caius Marius, who, after those two most illustrious men of consular rank, is in the recollection of you and of your ancestors the third man of the same rank who, though a man of the most excessive renown, met with th same most unworthy fortune, was very dissimilar to mine. For he did not return because of the prayers that were offered for his return; but he recalled himself amid the discords of the citizens with an army and by force of arms. But it was the godlike and unheard-of authority and virtue of Caius Piso, my son-in-law, and of my most unhappy and admirable brother, and their daily tears and mournful appearance, which obtained my safety from you, though I was destitute of all other relations, fortified by no extensive connexions, and by no fear of war or of disturbance. I had but one brother to move your eyes by his mournful appearance, to renew your recollection of and your regret for me by his tears, and he had determined, O Romans, if you did not restore me to him to share my fortunes in exile. So great was his love towards me, that he thought it would be impious for him to be separated from me, not only in our abode in this life, but also in our tombs. In my behalf, while I was still present, the senate and twenty thousand men besides changed their apparel; for my sake, after I had departed, you saw only the mourning garb and misery of one man. He was the one individual who in the forum conducted himself towards me with the dutiful affection of a son; who, by his active kindness, might have been taken for my parent; who in love was, as he always has been, a real brother. For the mourning and grief of my unhappy wife, and the unceasing sorrow of my admirable daughter, and the regret and childish tears of my little son, were at times hidden from view by their necessary journeys, and to a great extent were confined in the obscurity of their dwelling.

IV. Wherefore your kindness towards us is so much the greater, in that you restored us not to a multitude of relations, but to ourselves.

But, as I had no relations, since I could not make them for

myself, to stand forward and avert my misfortune by their entreaties, on the other hand, (and that was no more than my virtue was entitled to procure for me,) I had so many men to urge and promote my restoration, that in the number of them and in the credit derivable from their numbers I far exceeded all those who had previously had a similar fate. Never was there any mention made in the senate of Publius Popillius, a most illustrious and gallant citizen; nor of Quintus Metellus, a most noble, wise, and consistent man; nor even of Caius Marius, the guardian of your state and of your empire. Those, my predecessors in this fortune, were recalled by motions proceeding from the tribunes, and by no authority of the senate. But Marius was not only not restored by the senate, but through the ruin of the senate; nor was it the recollection of his mighty deeds that availed to further the return of Caius Marius, but his own arms and his warlike preparations. But in my case the senate always requested that its authority might prevail; and it brought about my effectual recal the very first moment that it was practicable, by the numbers in which it assembled, and by its legitimate authority. There were no commotions of municipal cities or colonies on their return. But as for me, all Italy three times recalled me by its decrees back to my country. They were restored after their enemies had been slain, and after a great slaughter of the citizens had taken place; I was brought back when those men by whom I had been driven out had obtained provinces, having as one of my enemies a most excellent and humane man, who, as one of the consuls, himself seconded the motion for my recal; and after my chief enemy, who had lent his voice to the common enemies of the country in order to injure me, was alive only as far as breathing went, but in reality was thrust down below even the dead.

V. Lucius Opimius, that most gallant consul, never addressed either the senate or the people concerning Publius Popillius. Not only did Caius Marius, who was his enemy, never say a word to them about Quintus Metellus, but even the man who succeeded Marius, Marcus Antonius, a most eloquent man, and his colleague Aulus Albinus, both abstained from all mention of him. But the consuls of last year were continually urged to bring forward a motion in my case; but they, unwilling to appear to be doing so out of interested motives, (because the one was my kinsman, and I

had defended the other on a trial for his life,) and fettered by the agreement which they had made about the provinces, endured for the whole of that year the complaints of the senate, the grief of all good men, and the groans of Italy. But on the first of January, after the orphaned republic had implored the good faith of the consul as her legitimate guardian, Publius Lentulus, the consul, the parent and god of our safety, and life, and fortune, and memory, and name, as soon as he had discharged the solemn duties of religion, thought that there was no human business which ought to occupy him before mine. And the affair would have been brought to its completion that very day, if that tribune[1] of the people on whom, when I was consul and he quæstor, I had heaped the greatest possible kindnesses, though the whole senatorial body, and Caius Oppius, his father-in-law, a most virtuous man, threw themselves in tears at his feet, had not required a night to consider of it; and that consideration was devoted, not to giving back the bribe which he had received, as some fancied, but, as was afterwards discovered, to getting a larger one. After that, no other business was transacted in the senate, and as my recal was hindered by various manœuvres, still, as their inclination was plainly shown, the cause of the senate was brought before you in the course of the month of January. There was this difference between me and my enemies. I, after I had seen men openly enrolled and registered in the centuries at the tribunal of Aurelius; when I understood that the ancient troops of Catiline had been recalled to hopes of massacre; when I saw that men of that party, of which I myself was accounted one of the chiefs, because some of them envied me, and some feared for themselves, were either betrayers or at least deserters of the cause of my safety; when two consuls, bought by an agreement respecting their provinces, had given themselves up to be leaders to the enemies of the republic, when they saw that their indigence, and their avarice, and their lusts could not be satisfied unless they gave me up bound hand and foot to the enemies of my country; when by edicts and positive commands they forbade the senate and the Roman knights to weep for me, and to change their garments, and address supplications to you; when the bargains made respecting all the provinces, when every sort of covenant made with every sort

[1] His name was Serranus

of person, and the reconciliation of all quarrels, and the treaties between all sorts of jarring interests, were being ratified in my blood; when all virtuous men were willing to die either for me or with me;—I was unwilling to take arms and fight for my own safety, (as it was quite in my power to do,) since I thought that, whether I conquered or was defeated, it would be a grievous thing for the republic.

But my enemies, when my case was discussed in the month of January, having murdered many citizens, thought it worth while to prevent my return, even at the expense of causing rivers of blood to flow.

VI. Therefore, when I was absent, the republic was in such a state, that you thought that I and it were equally necessary to be restored. But I thought that there was no republic at all in a city in which the senate had no influence,—in which there was impunity for every crime,—where there were no courts of justice, but violence and arms bore sway in the forum,—where private men were forced to rely on the protection of the walls of their houses, and not on that of the laws,—where tribunes of the people were wounded while you were looking on,—where men attacked the houses of magistrates with arms and firebrands, while the fasces of the consul were broken, and the temples of the immortal gods attacked by the incendiary. Therefore, after the republic was banished, I thought that there was no room for me in this city; and if the republic were restored, I had no doubt that it would bring me back in its company. Could I doubt, when I was perfectly certain that Publius Lentulus would be consul the next year, who in the most dangerous crisis of the republic had been curule ædile when I was consul, and had been, as such, the partner of all my counsels and the sharer of all my dangers, that he would use the medicine which was within reach of a consul to restore me to safety who was suffering under wounds inflicted by a consul? Under his guidance, and while his colleague, a most merciful and excellent man, at first abstained from opposing him, and afterwards cordially cooperated with him, nearly all the rest of the magistrates were advocates of my safety; and among them were those men of indomitable courage, of the most eminent virtue, authority, vigour, and resources, Titus Annius and Publius Sextus, who showed the greatest good-will and the most energetic zeal

in my behalf; and when the same Publius Lentulus came forward as the prime mover of the bill, and his colleague agreed in the measure proposed, a most numerous senate, with only one dissentient voice, no one daring to intercede with his veto, did honour to my dignity in the most flattering language which it could find, and recommended my safety to you and to all the municipalities and colonies. And so the consuls, the prætors, the tribunes of the people, the senate, and all Italy continually begged my safety from you, though I was destitute of relations, and not fortified by any extensive connexions. Lastly, every one who was distinguished by any great kindnesses and honours from you, when they were brought before you by Italy, not only expected you to preserve me, but were the asserters, and witnesses, and panegyrists of all my exploits.

VII. The chief of these men who came forward to exhort and to entreat you in my behalf was Cnæus Pompeius, the greatest man of all who live, or who ever have lived, or who ever shall live, for virtue, and wisdom, and true glory; who, as a single man, has conferred on me, a single private individual, all the same benefits which he has conferred on the entire republic,—namely, safety, ease, and dignity. And what he said was, as I have understood, divided under three heads. In the first place, he told you that the republic had been saved by my counsels; and he connected my cause with the general safety; and he encouraged you to defend the authority of the senate, the constitution of the state, and the fortunes of a deserving citizen: and, in summing up, he laid it down that you were entreated by the senate, entreated by the Roman knights, entreated by all Italy: and, lastly, he himself did not only entreat you for my safety, but prayed to you in a most suppliant manner. I owe this man, O Romans, such a debt as it is hardly right for one man to owe to another. You, following the counsels of this man, and the opinion of Publius Lentulus, and the authority of the senate, have replaced me in that position in which I had been through your kindness, and that by the votes of the same centuries by which you originally placed me there. At the same time you heard from the same place men of the greatest eminence—most accomplished and honourable citizens, the chief men of the city, all the men of consular rank, all the men of

prætorian rank, say the same thing,—that it was clear by the testimony of everybody, that the republic had been preserved by me alone. Therefore, when Publius Servilius, a man of the greatest dignity, and a most accomplished citizen, had said that it was through my labours that the republic had been handed over to the magistrates in a sound condition, all the rest declared their assent to that statement. But you heard at that time not only the authoritative declaration, but the sworn evidence of a most illustrious man, Lucius Gellius, who, because he was aware that his fleet had been tampered with, and that he himself had been in great danger, said in your assembly that if I had not been consul when I was, the republic would have been utterly destroyed.

VIII. I now, O Romans, having been restored to myself, to my friends, and to the republic, owing to the evidence of so many men, by this authority of the senate—by such great unanimity of all Italy—by such great zeal on the part of all good men—by the particular agency of Publius Lentulus, with the cooperation of all the other magistrates—while Cnæus Pompeius was begging for my recal, and while all men favoured it, and even the immortal gods showed their approbation of it by the fertility and abundance and cheapness of the crops,—promise you, O Romans, all that I can do. In the first place, I promise that I will always feel that reverential attachment to the Roman people which the most religious men are accustomed to feel for the immortal gods, and that your deity shall for the whole of my life be considered by me equally important and holy with that of the immortal gods. In the second place, since it is the republic herself that has brought me back into the city, I promise that I will on no occasion fail the republic. But if any one thinks that either my inclinations are changed, or my courage weakened, or my spirit broken, he is greatly mistaken. All that the violence, and injustice, and the frenzy of wicked men could take from me, it has taken away, stripped me of, and destroyed; that which cannot be taken away from a brave man remains and shall remain. I saw that most brave man, a fellow-citizen of my own municipal town, Caius Marius, since, as if by some fatal necessity, we both had not only to contend with those who wished to destroy all these things, but with fortune also—still I saw him, when he was in extreme

old age, with a spirit not only not broken on account of the greatness of his misfortunes, but even strengthened and refreshed by it. And I heard him say that he had been miserable when he was deprived of his country which he had delivered from siege; when he heard that his property was taken possession of and plundered by his enemies; when he saw his young son a sharer of the same calamity; when, up to his neck in the marshes, he only preserved his body and his life by the aid of the Minturnensians, who thronged to the place and pitied him; when, having crossed over to Africa in a little boat, he had arrived as a beggar and a suppliant among those people to whom he himself had given kingdoms; but that now that he had recovered his dignity he would take care, as all those things which he had lost had been restored to him, still to preserve that fortitude of mind which he never had lost. But there is this difference between myself and him, that he used those means in which he was most powerful, namely his arms, in order to revenge himself on his enemies. I, too, will use the instrument to which I am accustomed; since it is in war and sedition that there is room for his qualities, but in peace and tranquillity that there is scope for mine. And although he, in his angry mind, laboured for nothing but avenging himself on his enemies, I will only think of my enemies as much as the republic herself allows me.

IX. Lastly, O Romans, since they are altogether four classes of men who injured me,—one of them, those who were most hostile to me out of hatred to the republic, because I had preserved it against their will; another, those who most wickedly betrayed me under pretence of friendship; a third, those who envied my credit and dignity, because they, from their laziness, could not obtain the same honours; the fourth was composed of those men who, while they ought to have been guardians of the republic, sold (as far as was in their power) my safety, the constitution of the state, and the dignity of its empire; I will revenge myself on each class in proportion as I have been challenged by each—on wicked citizens, by conducting the republic successfully; on my perfidious friends, by trusting them in nothing, and taking every sort of precaution against them; on the envious, by obeying virtue and glory; on the buyers of provinces, by recalling

them home, and by exacting from them an account of their conduct in those provinces.

Although I feel greater anxiety as to how I am to show my gratitude to you who have deserved excellently well of me, than how I am to chastise the injustice and cruelty of my enemies. In truth, the means of revenging an injury are easier than those of requiting a kindness; because there is less trouble in being superior to the wicked than in being equal to the good; and also because it is not so necessary to requite bad men as good men for what you are indebted to them. Hatred may either be appeased by entreaties, or may be laid aside out of consideration for the emergencies of the republic and the general advantage, or it may be restrained by the difficulty of avenging oneself, or it may be worn out by the antiquity of the injury which gave rise to it; but a man ought not to require to be entreated to show attention to virtuous men,[1] * * * * * *

Nor is the excuse of difficulty to be admitted; nor is it just to limit the recollection of a kindness to a certain time or to a fixed day. Lastly, he who is somewhat indifferent about seeking revenge is soon openly praised; but he is most exceedingly blamed who is in the least slow in requiting such benefits as you have showered on me; and he must inevitably be called, not only ungrateful, which itself is serious enough, but impious also. And the principle of requiting a kindness is different from that of repaying money; because he who keeps the money does not pay it, he who has repaid it has not got it; but in the case of gratitude, he who repays it still keeps it, and he who keeps it pays it.

X. Wherefore, I will cherish the memory of your kindness with undying affection, not only as long as I live and breathe, but even after I am dead the memorials of your kindness to me shall still endure. And in showing my gratitude, this I do promise you, (and this I will always perform,) that diligence shall never be wanting to me in deliberating on the affairs of the republic, nor courage in repelling dangers from the republic, nor loyalty and honesty in plainly declaring my opinions, nor freedom in opposing men's inclinations when it is for the

[1] The remainder of this sentence is given up by Manutius and Hottoman as hopelessly corrupt and unintelligible.

interests of the republic to do so, nor industry in enduring labour, nor the grateful zeal of my heart in promoting everything which may be advantageous to you. And this care, O Romans, shall be fixed in my mind for ever, in order that I may appear, not only to you, who hold in my heart the power and divine character of the immortal gods, but also to your posterity and to all nations, to be entirely worthy of that state which, by the unanimous suffrages of its citizens, decided that it could not maintain its own dignity, unless it recovered me.

THE SPEECH OF M. T. CICERO AGAINST PUBLIUS CLODIUS AND CAIUS CURIO.

There are but a very few fragments of this speech remaining, and nothing is known of the occasion which gave rise to it. It is printed by Orellius, according to the corrections of Beier, from the Ambrosian manuscript. It was evidently addressed to the senate.

I. I HAD determined, O conscript fathers, as long as Publius Clodius was under prosecution, to say nothing respecting him either to you, or in any other place. * * *

And he had proclaimed this in furious harangues

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And as soon as he uttered these threats against me and against the republic * * *

* * * that I would add nothing to another person's danger * * *

But if it were decided that it appeared that a man had not come where that fellow certainly had come

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when he came off from the trial like a naked man from a shipwreck * * * [the agitation of his mind, and a certain cloud shed over him from his wickedness, and the burning torches of the Furies distracted him

* * * * * *

II. And consider now whether you could easily be appointed, when he was not appointed in whose favour you had made the concession that we should promise Syria to him out of the regular order * * *

So that he seemed to be holding out to his creditors the hope of a province * * *

They add a vast amount of debt * * *

He asserts positively that he will be at Rome at the consular comitia * * *

He came to the treasury so long before, that he did not find even one single clerk there.

III. * * * By which that fellow, who was thoroughly acquainted with every description of sacrifice, thought that he should be easily able to propitiate the gods.

* * * * * *

When he said that he wished to cross over and become one of the common people; * * * but he was sadly anxious to cross the strait; and he did not despise this chattering Sicily.

* * * So few came that you might suppose that he had not summoned men to an assembly, but to perfect security.

* * * * * *

IV. First of all that harsh and old-fashioned man inveighed against those persons who, in the month of April, were spending their time at Baiæ, and using the warm baths. What have we to do with this morose and severe man? The manners of our day cannot endure so austere and rigorous a magistrate, who, as far as he can help it, will not allow men older than himself to stay at their own estates and attend to their health with impunity, even at a time when nothing is doing at Rome.

* * * * * *

What, says he, has a man of Arpinum, a country rustic, to do with Baiæ? Where he was so blind that it was very plain that he had seen something which he had no right to see; for he never once considered that the very patron of his licentiousness was not only at Baiæ, but was trying those very waters which had been so much to the taste of a man of Arpinum. But just observe the terrible ill temper and licence of an adversary and an enemy. He said that I was building where I have no property; that I had been staying there

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How can one avoid * * * seeing what an evident enemy that man is to one, when he accuses one of what he may either honourably confess, or convincingly deny?

V. For it is not so strange that he thinks us rustic, who are

unable to provide ourselves with a tunic with sleeves, and a mitre, and purple bands. But you are a most witty man; you are really elegant; you are the only well-bred man, who look well in woman's clothes, and with the gait of a singing woman; who know how to make your countenance look like that of a woman; to soften down your voice, and to make your body smooth. O extraordinary prodigy! O you monster! are you not ashamed at the sight of this temple, and of this city, nor of your life, nor of the light of day? Do you, who were clad in woman's attire, dare to assume a manly voice,—you, whose infamous lust and adultery, united with impiety, was not delayed even by the time required to suborn witnesses to procure your acquittal? Did you, when your feet were being bound with bandages, when an Egyptian turban and veil were being fitted on your head, when you were with difficulty trying to get down the sleeved tunic over your arms, when you were being girdled carefully with a sash,—did you never in all that time recollect that you were the grandson of Appius Claudius? Did you not, even if lust had utterly deprived you of all common sense, * * * * * *

But I suppose, when a looking-glass was brought to you, you perceived that you were a good way removed from a pretty woman.

As if I were speaking of your personal beauty, you wretch.

VI. But, says he, when acquitted * * * After a very new fashion indeed; at least you are the first person that was ever acquitted and yet had to pay damages.

As if I were not content that twenty-five judges[1] believed me, * * * who required rich sureties from you * * * * * *

The divorce of the Pontifex Maximus * * *

VII. It was your own integrity that acquitted you, believe me; your modesty delivered you. The purity of your previous life preserved you. * * * That only four votes were wanting to ruin you * * *

For Lucius Cotta indeed * * *

So that afterwards, according to the Aurelian law, he could not be a judge. * * * * * *

[1] Cicero gives an account of this speech to Atticus, (Epist. ad Att. l. 16,) and it appears that this is an allusion to the trial of Clodius for profaning the mysteries of the Bona Dea, on which occasion he was only acquitted by the majority of thirty-one judges to twenty-five.

THE SPEECH OF M. T. CICERO IN DEFENCE OF MARCUS ÆMILIUS SCAURUS.[1]

THE ARGUMENT.

Marcus Scaurus was the step-son of Sylla, in the time of whose triumph he had behaved with the greatest moderation. He had been ædile, in which office he had exhibited the games with the greatest magnificence, so as greatly to embarrass his private fortunes. He then became prætor, and afterwards, having received Sardinia as his province, he lost his character for moderation, being said to have treated the natives with rapacity and excessive arrogance. After his return to Rome, he obtained some celebrity by defending some persons under prosecution; and among others, Caius Cato.

At the end of June, A.U.C. 699, he returned to Rome to stand for the consulship; on which he was accused by Publius Valerius Triarius, (a young man of a high reputation for industry and eloquence,) of acts of oppression and extortion among the Sardinians. And the trial came on before Marcus Cato, who was a great friend of Triarius, only three days after Caius Cato had been acquitted by the exertions of Scaurus. Lucius Marius and Marcus and Quintus Pacuvius seconded Triarius in the prosecution; these two last having had a commission given to them to go to Corsica and Sardinia to inquire into the state of the case there, which commission they had neglected, excusing themselves on the ground that the consular comitia were at hand, and that they were afraid that while they were away, Scaurus would buy the consulship, and so get the means of oppressing other provinces.

Scaurus relied on the support of Pompeius, with whom he was connected by marriage; and he was defended by Cicero and five other advocates, among whom was Quintus Hortensius. While the prosecution was going on, Faustus Sylla, the son of the great Sylla, and half-brother of Scaurus, who was also quæstor at the time, came out among the people severely wounded, crying out that he had been attempted to be murdered by Scaurus' competitors, and he went about with three hundred armed guards, prepared to defend himself, if need were, by force. Scaurus also made a speech on his own behalf, and produced a great effect on the judges by the recollection of his own ædileship, and the recollection of his father's high character. He was acquitted; but he did not succeed in obtaining the consulship.

I. 1. a. * * * * It was desirable above all things for Marcus Scaurus, O judges, to retain (as he has always been

[1] This oration is in a very corrupt and fragmentary state. It is here translated as corrected and filled up by Beier in the edition of Orellius. Beier's "supplements," as Orellius calls them, are inserted between brackets [ ]

most especially anxious and attentive to do) the dignity of his race, and family, and name, without incurring the hatred of any one, and without either giving offence to or receiving annoyance from * * *

[But, since his adverse destiny has brought about this state of things, he does not think that he ought to grumble at meeting with the same fortune as his father, who was more than once compelled by his enemies to plead his cause as a defendant.]

1. b. [We know that the most eminent men of our state was accused by Marcus Brutus. Orations are extant, from which it can be seen that many things were said against Scaurus himself. Falsely. No one doubts that; but still they were said and urged against him as accusations by his enemy.]

* * * * * he also was tried before the people, when Cnæus Domitius, a tribune of the people, instituted the prosecution * * *

2. * * * * He was prosecuted by Quintus Servilius Cæpio, under the Servilian law, at the time when the tribunals of judges were furnished exclusively by the equestrian body; and after Publius Rutilius was condemned, no one could appear so innocent as to have no reason to fear that tribunal.

* * * * * *

3. * * * * again also that guardian of the republic was accused of treason by the same man, under the Varian law. And not long before he was attacked by Quintus Varius, a tribune of the people.

[And now, O judges, his enviers and enemies seek to bring disgrace on the son of this man who was in his time attacked by the false accusations of many men, by an ignominious prosecution on the ground of extortion. And I have thought it due to the memory of his most illustrious father to undertake his cause.]

4. a. * * * * for I not only admired that man as every one else did, but I also loved him above all things. For when I was burning with a desire for glory, he first encouraged me to hope that virtue without any assistance from fortune could, by means of labour and perseverance, arrive at the object of its desires. * * *

4. b. * * * * and since the prosecution has been loaded with a vast heap of charges, but without any great

diversity or variety of kind; [if] I were to reply to these generally [rather than by arguments on each separate charge, I should appear to have fallen short of what I owe to the cause, and to my own duty. Nevertheless, O judges, we will first unfold the whole cause to you, and consider it when we have laid it open before your eyes. And by this means you will most easily arrive at the understanding of the things about which it is necessary for us to speak, and of the arguments which you are required to follow.]

4. c. * * * * a man of the name of Bostar, a Norensian, fleeing from Sardinia. * * * [Triarius alleges as an article of accusation, that he was recalled from his flight by the insidious blandishments of Scaurus, and received at his table inhospitality, and then murdered by poison by his host and * * *] * * * that he was buried before Scaurus's supper was taken away. * * *

4. d. [And how slight are the grounds for any suspicion of poison having been administered, O judges, will appear immediately, if you will only consider the many causes which frequently produce sudden death.] * * *

4. e. [Scaurus was a man so happily situated by fortune, that he could not only retain his own possessions with the greatest ease, but that he was more likely to be able to acquire new] ones, than to be forced to sell what he had. Come, then, while I defend Scaurus, O Triarius, do you defend the mother [of Bostar, whom I accuse of being implicated in this crime.] * * *

[I have also refuted that assertion of yours] that you were afraid that * * * * [unless, as Bostar had died intestate, he had managed the matter in such a way as if the inheritance belonged to himself, and as if this did not seem to him a sufficient reason for putting Bostar to death by poison.]

4. f. [But Scaurus] * * * * could not by any possibility have entered on the possession of that property. * * *

5. * * * * If, in truth, O judges, I were speaking in defence of Lucius Tubulus, who is reported to have been the most wicked and most audacious man that ever lived, still I should not be afraid that if he were accused of having given poison to any guest or companion of his while he was supping with him, though he was not his heir, and had no quarrel with him * * * [any one would think that credible.]

6. [I come now to the charge of incontinence, and intemperate lust, with which the accuser has endeavoured to brand Scaurus and his character,] when Aris would not give up [the very wife, says he, whom he himself loved * * * * * to his inflamed lust and unbridled desire.] * * *

7. He was compelled to make his escape secretly out of Sardinia. * * *

[Forsooth, he left his wife behind him and consulted his own safety by flight, just as beavers, they say, flying from the hunters] * * * * ransom themselves with that part of their body on account of which they are chiefly sought for! * * *

8. [But even though Scaurus had at all times been the most dissolute and licentious of all men, still that is incredible, O judges, which Triarius added, that the wife of Aris was reduced to such distress by the licentiousness of the prætor as to seek a remedy for her embarrassment by hanging herself. For the very first desire which is implanted in man by nature, and one which we have in common with the very beasts, is that which prompts and induces a man to preserve his life, and which instigates him to shun death and all those things which seem likely to produce death.]

II. 1. a. * * * * And this, I say, O judges, is the state of the case. Nor is this a new assertion of mine; but it has been elicited by the investigations of others * * * *

1. b. [But still it can be proved by examples. Lucretia having been ravished by force by the king's son, having invoked the citizens to revenge her, slew herself. And this indignation of hers was the cause of liberty to the state. And even the bravest men have not sought death of their own accord, except in the most extreme necessity, for the purpose of avoiding some disgrace. As Publius Crassus Mucianus, when waging war against Aristonicus, in Asia, being intercepted between Elæa and Smyrna, by the Thracians, of whom Aristonicus had a great number in his different garrisons, and fearing to fall into his power, escaped disgrace by provoking death intentionally. For he is said to have run the stick which he had been using to manage his horse, into the eye of one of the barbarians, who, being infuriated by the pain, stabbed Crassus with his dagger, and so, while avenging himself, delivered the Roman general from the disgrace of captivity. And by this means Crassus showed to Fortune

how little the man whom she was loading with such bitter insult deserved it; since with equal prudence and courage he burst the chains which she was throwing over his liberty, and restored himself to his own dignity, though she had almost given him to Aristonicus.] * * * * This, indeed, we know from hearsay; but this we ourselves can recollect, and have almost seen, namely, how Publius Crassus, of the same family and name, slew himself that he might not fall into the hands of the enemy. * * *

But Marcus Aquillius, who had behaved like a thoroughly brave man in war, and who had attained the same honours as the elder Crassus, could not imitate his action * * * * [but] he disgraced [the recollection of his you]th and of his early exploits by the infamy of his old age. What need I say besides? Could either those most illustrious men the Julii, or could Marcus Antonius, a man of the very highest ability, imitate the conduct of the other Crassus in those times? Need I cite any more instances? Who is there found among all the records of Greece, (which are richer in fine stories than in great actions,) if you only forget Ajax and the plays of the tragedians, who of his own accord, as the poet says, being

> A conqueror all unused to infamy,
> Would not survive defeat,

except Themistocles the Athenian, who did put himself to death? But these Greeks invent heaps of stories; and among them they make out that Cleombrotus, of Ambracia, threw himself down from a high wall, not because he had suffered any misfortune, but (as I see it written among the Greeks) after having read a very eloquently and elegantly written book, of that greatest of philosophers, Plato, about death; the one, I suppose, in which Socrates, on that very day on which he was to die, argues at great length that this is death which we fancy to be life, when the soul is held in, shut up in the body as in a prison; and that that is life when the same soul, having been released from the bonds of the body, flies back to that place from which it originated. Had that Sardinian woman of yours, then, known anything about, or had she read Pythagoras or Plato? Though even these men praise death with such limitations that they forbid our

flying from life, and say that such conduct is contrary to the conditions and laws of nature. And in truth you will not be able to find any other reason which can justify a voluntary death. And this, too, the prosecutor saw; for he let out an insinuation somewhere, that that woman preferred being deprived of life to being robbed of her chastity. But immediately he went off from that point, and said no more about chastity, being afraid, I suppose, lest he should be giving us some opportunity for joking and laughing. For it is quite notorious that she was abominably ugly and excessively old. And so, however lustful that Sardinian may have been, what suspicions of licentiousness or love can there be on the part of my client?

And that you may not suppose, O Triarius, that I am inventing the allegations which I am now making, and that I have not derived my information on the subject from the instructions of the defendant, I will tell you what were the opinions in Sardinia about that woman's death, (for there were two opinions,) so that you may the more easily

* * * * * *

[and that these men may see the innocence of Scaurus, and the audacity of your witnesses, and the scandalous nature of the actions which were then done. Aris, the husband of that Sardinian woman * * * * * *] had for a long time loved [the mother of Bostar * * *] * * * a licentious and wicked woman, and had lived in shameless and notorious adultery with her. He was afraid of his wife, who was an old woman, rich and ill-tempered; still, though he did not like to keep her as his wife, because of her ugliness, he did not like to divorce her, because of her riches. And so, by previous agreement, he concerted a plan with the mother of Bostar, that they should both of them come to Rome; and he promised that when there he would find out some contrivance for making her his wife.

There were, as I have said, two opinions,—one, not inconsistent with the circumstances or with the nature of the case, that the wife of Aris was very indignant at his adultery when she heard that he had fled to Rome with that love of his, pretending to have fled for fear of her, or in order, as there had been a criminal connexion between them before, to be now formally joined in wedlock; and that she was so excited with

feminine indignation, that she preferred dying to bearing it. The other was no less probable, and, as I believe, was even more generally believed in Sardinia, namely, that Aris, that witness and host of yours, O Triarius, when departing for Rome, had entrusted the commission to his freedman, not indeed to offer open violence to that old woman, for that would not have been right to his mistress, but to press her throat with his two fingers, and then to fasten a little cord round it, so that she might be supposed to have died by hanging. And this suspicion prevailed all the more, because, when the Norensians were celebrating their festivals in honour of the dead, and * * * * * * had all, according to the custom of their tribe, left the city, then she was said by the freedman to have hanged herself; and it was clearly desirable for a man who strangled his mistress to seek for the solitary time when the people left the city; but his mistress, who wished to die, had no such necessity for doing so. And the suspicion was confirmed, because, immediately after the old woman was dead, the freedman started for Rome, as if he had executed his commission; and Aris, as soon as his freedman brought him news of the death of his wife, instantly, at Rome, married that mother of Bostar.

See now, O judges, to what a foul and polluted and infamous * * * family you are called on, O judges, to surrender this family of Scaurus. Just consider who the witnesses are by whom you are required to be influenced in your decision about a great man, about a noble family, about an illustrious name! Do you think that it becomes you to forget the crimes of the mothers against their children, and of the husbands against their wives? You see, you behold infamous lust mingled with cruelty. You have before you the authors of two most enormous crimes, by which our cause is endeavoured to be tainted by men who are either ignorant of the truth, or else who are prompted only by envy. You have before you men disgraced by every sort of guilt and atrocity.

Is there, then, the slightest suspicion attaching to us after all these charges of the prosecutor? Have they not been wholly cleared up? Have they not been refuted? Have they not been scattered to the winds? And how has that been done? Because you gave me, O Triarius, a charge which I could efface, which I could argue about, which I could

dilate upon; because it was a charge of that sort which did not entirely depend on the witness, but which the judge could by himself form his own opinion on. Nor, O judges, ought we to do anything else in the case of an unknown witness, except by argument, and conjecture, and by suspicion, inquire, as well as we can, into the state and nature of the circumstances to which he deposes. In truth, not only an African witness, (or indeed a Sardinian one, if that is what they prefer being called,) but even more civilized and scrupulous men than they, are liable to be prompted, or deterred, or guided, or diverted from their purpose; and such a man is the master of his own inclination, and may, if he pleases, lie with impunity. But the argument which is suited to the case, (and nothing else can properly be called argument,) is the voice of circumstances, the traces of nature, the mark of truth; and of whatever sort it be, it must remain immutable, for it is not invented by the orator, but assumed. Wherefore, if I were worsted by that sort of accusation, I should yield and submit; I should be defeated in every respect,—I should be defeated in the cause, I should be defeated by truth. Are you going to bring up against me troops and armies of Sardinians? and are you going to endeavour to frighten me, not by accusations, but by the roaring of Africans? I shall not, indeed, be able to argue, but I shall be able [to flee for refuge to] the good faith and clemency of these [judges, to their regard for their oaths, to the equi]ty of the Roman people, which has considered the family of Scaurus as one of the chief families in the city; and I shall be able to implore the divine protection of the immortal gods, who have always been favourers of his race and name.

"He demanded money, he exacted it, he seized it by violence, he extorted it." If the accuser proves all that by the accounts, since the way in which the accounts are made up show the regular series and order in which he transacted his affairs, I will attend carefully, and I will consider how I am to proceed in conducting the defence. If you rely on witnesses, (I will not insist upon their being good and respectable men, as long as they are men of whom it is known who they are,) then I will consider how I am to struggle with each of them separately. If there is but one complexion, one voice, and one notion among all the witnesses; if, as they say, they

not only do not attempt to corroborate their statements by any arguments, but if they do not even produce any description of documents either public or private, (which, however, can easily be forged,) then, O judges, which way am I to turn, or what am I to do? Am I to argue with every one of them? * * * Had you nothing to give? He will say he had. Who is to know that? Who is to judge that there was no reason * * *? He will make out that there was. How can we refute him, and show that it was in his power not to give if he did not choose? He will say that it was extorted by force. What eloquence is able by force of argument to confute the impudence of a man whom one does not know? I will not, therefore, plead against that conspiracy of Sardinians, and with perjury ingeniously contrived, and procured, and suborned; nor will I even examine at all into some of the elaborately wrought out arguments; but with all my power I will meet and struggle against their direct attack. I do not want to drag forward each individual out of their line of battle, nor to fight and do battle with each separate champion. I must rout their whole array at one shock, and I will.

For there is one especial most important charge concerning corn, and applying to the whole of Sardinia, about which Triarius questioned all the Sardinians; and that was corroborated by the agreement and unanimity of evidence of all the witnesses. And before I touch upon that charge, I beg of you, O judges, to allow me to lay down a few principles to serve, as it were, for the foundations of our whole defence. And if they are once laid down, and established according to my intentions and expectations, I shall then fear no part of the prosecution. For I will speak first of the sort of accusation; after that I will speak of the Sardinians; then I will say a little about Scaurus himself; and when I have said enough on these subjects, then at last I will come to this horrible and formidable charge about the corn.

What sort of accusation, then, is this, O Triarius? First of all, that you did not go to examine into it. What was the meaning of the fierce and positive confidence that you had as to trusting this man? It seems to me that when we were children we heard that Lucius Ælius, a freedman, a well-educated and witty man, when he was avenging injuries sustained by his patron, instituted a prosecution against Quintus

Multo, a very mean man. And when he was asked what province he required to conduct his investigation in, or how many days he would want to collect his witnesses in, he asked till eight o'clock, during which time he might prosecute his investigation in the cattle-market. Did you think that you were to act in the same way in the case of Marcus Æmilius Scaurus? "Yes," says he, "for the whole cause was fully reported to me at Rome." Well? Did not the Sicilians lay before me every particular of the cause of Sicily while we were both at Rome? And they were men prudent by nature, cunning by experience, and learned by education. And still I thought it necessary to go into the province itself, for the purpose of coming to a right understanding and thorough knowledge of the cause of the province. Was I not bound to examine into the complaints and injuries of the cultivators of the soil, in the very lands and fields themselves? I travelled, I say, O Triarius, in a most bitter winter over the valleys and hills of the Agrigentines. That noble and most fertile plain of the Leontini itself, I may almost say, instructed me in the cause. I visited the cottages of the farmers; men talked with me at the plough; and therefore that cause was so thoroughly sifted and laid open by me, that the judges seemed not so much to hear the facts which I related, as to see them and lay hold of them. For it seemed neither reasonable nor honest for me, when I had undertaken the cause of a most faithful and ancient province, to learn the particulars of it, as I might have done in the case of an individual client, in my chamber.

When lately the people of Reate, who were devoted to my interest, wished me to plead the public cause of their state, concerning the streams of the Velinus and the subterranean canals, before the present consuls, I do not think that I should either satisfy the claims of the dignity of a most eminent prefecture, or do all that was required by good faith on my part, if I did not get instruction as to the cause not only from the people themselves, but from the place also and from the lake itself. Nor would you have acted in any different manner, O Triarius, if those Sardinians of yours had wished you to do so, I mean those who in reality were above all things unwilling that you should enter Sardinia, lest you should find that everything was in a totally different condi-

tion from that in which it had been represented to you; that there were no complaints on the part of the people in Sardinia, nor any hatred of the populace towards Scaurus. [And consider, O Triarius, how vast a difference there is between your accusation and mine; I never delayed one moment, until, just as Jupiter (if we believe the fables of the poets) covered over Euceladus when he was stricken down and half burnt, by putting the whole island on him, or as some say Typhon, by whose panting they say that Ætna is kept constantly on fire,—until, I say, I had in the same manner overwhelmed Verres by producing all Sicily as a witness against him.] You adjourned the case against the defendant after one witness had been produced. And what a witness! O ye immortal gods! It was not enough that he was only one; it was not enough that he was a man utterly unknown; it was not enough that he was a man on whom no one could rely. Did you not ruin also your former trial by producing Valerius as a witness, who, having had the rights of a citizen conferred on him by the favour of your father, requited his kindness not by honourable services, but by open perjury? But if you were haply swayed by the omen of your name, still we, according to the precedent of our ancestors, because we think that a fortunate omen, interpret it not to the injury of others, but to their safety. But all that rapidity and haste, the fact of your having put an end to the investigation and to the whole of the previous trial, has made that plain and notorious—which, however, was never a secret—that this trial was contrived, not for the sake of justice, but because of the consular comitia.

And while speaking on this point, I will on no occasion find fault with Appius Claudius, a most gallant consul and a most accomplished man, and who, as I hope, is connected with me by a trustworthy and lasting reconciliation. For this part belonged either to that man whom his own indignation and suspicion compelled to act in that manner, or to him who requested that part for himself, because either he did not perceive whom he was attacking, or because he thought that the path to a reconciliation would be easy. I will only say this, which may be sufficient for my cause, and which cannot appear otherwise than far removed from harshness or severity towards him. For what disgrace is there in

the fact of Appius Claudius being an enemy to Marcus Scaurus? What, I say? Was not his grandfather an enemy to Publius Africanus? What, I say? Is not that very man himself an enemy to me? Or am not I to him? And those enmities have perhaps at times caused vexation to each of us, but certainly have never brought disgrace upon either of us. The one who was quitting office envied his successor, and wished him to meet with as many disasters as possible, in order that his own memory might be the more conspicuous. A state of things not only not foreign to our habits, but one that has become very usual, and exceedingly frequent. Nor indeed would such an every-day occurrence have of itself had any influence at all upon Appius Claudius, a man endowed with the greatest humanity and wisdom, if he had not thought that Scaurus was going to be a competitor of Caius Claudius his brother.

Who, whether he was a patrician, or a plebeian, (for he had not yet settled that for a certainty,) thought that the contest would lie chiefly with him: and Appius thought it would be so much the more severe a contest, because he recollected that, when standing for the pontificate, for the priesthood of Mars, and for other offices, he had stood as a patrician. Wherefore, while he was consul he did not wish his brother to meet with a repulse, and yet, if he stood as a patrician, he saw that he would certainly not be equal to Scaurus, unless he could get rid of him either by some terror, or by some disgrace.

Should not I think that a brother may be excused for such an idea, when the most distinguished honours of his brother are at stake, especially when I am aware, almost beyond all other men, how great is the influence of brotherly love? Oh, but his brother is now not a candidate. What then? If he, having been detained by all Asia, which came to him as his suppliant,—if he, yielding to the entreaties of the men of business, and of the farmers of the revenues, and of all men both allies and citizens, preferred the advantage and safety of the province to the acquisition of honour for himself; is that a reason for your thinking that a disposition once thoroughly diseased can be so easily cured?

Although, in all those affairs, especially among barbarian nations, opinion is often of more influence than the facts

themselves. The Sardinians were persuaded that they could do nothing which would be more acceptable to Appius than if they disparaged the reputation of Scaurus. They are swayed besides by the hope of many advantages and many rewards; they think that a consul can do everything, especially when he makes promises of his own accord. About which I will not at present say any more; although what I have said I have said in no other manner than I should have said them if I had been his brother; not such an one as he is who is his brother, and who has said a great deal, but such an one as I am accustomed to be towards my own brother. You ought, therefore, O judges, to resist every part of an accusation of this sort, in which nothing is done according to precedent, nothing with moderation, nothing with consideration, nothing with integrity; but, on the contrary, you see that everything has been undertaken wickedly, turbulently, precipitately, rapidly,—everything by means of a conspiracy, and of absolute power, and of illegal influence, and of hopes and of threats.

I come now to the witnesses; and I will not only show that there is no confidence to be placed in, no authority to be attributed to them, but I will prove that there is not even any appearance of or resemblance to evidence in them. In truth, in the first place, the minute agreement between them all destroys their credibility, which was proved by the reading of the undertaking entered into by the Sardinians, and by the conspiracy which they formed. Secondly, their covetousness, which was excited by the hope and promise of rewards, does so too. Lastly, their national origin does so, for the worthlessness of their nation is such that they think that liberty is only to be distinguished from slavery by the boundless licence for telling lies which it gives. Nor do [I say] that these judges ought never to be influenced by the complaints of the Sardinians. I am not so inhuman, nor so hostile to the Sardinians, especially when my brother has only lately left their island, having been sent thither by Cnæus Pompeius to superintend the corn-markets and supplies of the island; in which office he, as became his integrity and humanity, consulted their interests himself, and was in turn very popular and very much beloved among them. Let then this refuge be open to indignation, let it be open to just complaints, but

let the path be closed against conspiracy, let it be closed against treachery: and this not more among the Sardinians than among the Gauls, among the Africans, and among the Spaniards. Titus Albucius was condemned; Caius Megaboccus was condemned on account of complaints proceeding from Sardinia, though some of the Sardinians even praised him. And in that case the very variety of their sentiments gained them the more credit. For those men were convicted by fair witnesses, and by documents which no one had tampered with. Now there is but one language and one feeling; one not extorted by indignation, but feigned; not excited by the injuries inflicted by this man, but by the promises and bribes of others. But the Sardinians have not been always disbelieved. And perhaps they will again be believed sometime or other, if they come like honest men, and without having been bribed, and of their own accord, and not because of the instigation of any one else, and under no obligation to any one, and free. And when all these circumstances are united, still they may exult and marvel if they are believed. But when these circumstances are all wanting, will they still persist in forgetting who they are? will they not take care to shun the reputation of their race?

All the monuments of the ancients and all histories have handed down to us the tradition that the nation of the Phœnicians is the most treacherous of all nations. The Pœni, who are descended from them, have proved by many rebellions of the Carthaginians, and very many broken and violated treaties, that they have in no respect degenerated from them. The Sardinians, who are sprung from the Pœni, with an admixture of African blood, were not led into Sardinia as colonists and established there, but are rather a tribe who were draughted off, and put there to get rid of them.

Wherefore, as there was never anything honest in the nation when united, how must we suppose that its roguery has been sharpened by so many mixtures of different races? And here Cnæus Domitius Sincerus, a most accomplished man, my ancient and intimate friend, will pardon me * * * * all who had the freedom of the city conferred on them by the same Cnæus Pompeius; all of whom we now cite as favourable witnesses; and other virtuous men from Sardinia will pardon me; for I believe there are some such men there.

Nor indeed, when I speak of the vices of the nation, do I except no one. But I am forced to speak generally of the entire race; in which, perhaps, some individuals by their own civilized habits and natural humanity have got the better of the vices of their family and nation. That the greater part of the nation is destitute of faith, destitute of any community and connexion with our name, the facts themselves plainly show. For what province is there besides Sardinia which has not one city in it on friendly terms with the Roman people, not one free city?

Africa itself is the parent of Sardinia, which has waged many most bitter wars against our ancestors, and not only in its kingdoms, which were loyal to their native monarchs, but even in our very province it kept itself from all alliance with us at the time of the Punic wars, as the case of Utica proves. The further Spain, ennobled by the death of the Scipios, and by the funeral pile of the Saguntine loyalty, has the city of Gades joined to us by reciprocal good offices, by common dangers, and by treaty. I ask now whether any city of Sardinia can be mentioned which is joined to us by treaty? Not one. With what face, then, can a Sardinian witness dare to come before the Roman people] * * * powerless in resources, treacherous by descent? * * * * [Have you, too, come hither to repulse Marcus Scaurus from the consulship, and are you attempting to deprive him of the kindness of the Roman people? By what authority are you acting in this manner?]

[The prosecutor has said that you are afraid lest Scaurus might purchase the consulship with that money which he has taken from the allies; and, as his father did before him, enter on his province before any decision could be come to respecting him, and again plunder other provinces before he gave any account of his former administration; and Triarius alleged this as the very reason why he had undertaken the conduct of this prosecution in so hasty and so disorderly a manner. What extraordinary thing is this? What prodigy is this?] * * * * Did the sheepskins of the Sardinians move that man whom the royal purple could not influence? * * * *

[For there is no one so completely a stranger in this city, no one whose ears are so much on their travels, and so wholly ignorant of the ordinary conversation in the republic, as not

to know that Marcus Scaurus, when his step-father Sylla was victorious, and liberal enough to his comrades in victory, was so moderate that he would not allow any presents to be made to him, nor did he purchase anything at any auction. This seems a strange thing to others; but it was impossible for him to act otherwise. For he recollected that he was the son of that man, who by the resolution of the senate, of which he was the chief, and almost by his own nod, had governed, I may almost say, the entire world. Wherefore, O you venal Sardinians, I command you * * *] * * * * when you hear this name, which is well known among all the nations upon earth, to entertain also, with respect to that noble family, the same sentiments which all the rest of the earth entertains.

[At present, Marcus Scaurus, in mourning attire, worn out with tears and misery, is your suppliant, O judges, implores the aid of your good faith, entreats your pity and clemency and fixes his eyes and hopes on your power and your protection. Do not, I entreat you, by the immortal gods, O judges, permit your fellow-citizen and suppliant to be deprived by unknown witnesses and barbarians, not only of the consulship by which he trusted to receive an accession of honour, but also of the other distinctions which he had acquired before, and of all his dignity and fortune. Scaurus, O judges, also begs and entreats you to save him from this, if he has never injured any one unjustly, nor offended any one's ears or inclination, if (to use the mildest expression) he has never given any one any reason to hate him. Once only has his filial affection imposed on him the duty of so doing] * * * *

* * * * * for as, out of many men who had done so, Dolabella was the only one of his father's enemies who remained, who had joined Quintus Cæpio, his relation, in signing articles of accusation against Scaurus his father; he thought it behoved him for the sake of [his filial affection to continue that enmity which he had not originated himself, but had bequeathed to him as an inheritance; emulating Marcus and Lucius Lucullus, who being men of like industry and like piety with himself, when very young men, had adopted and followed out the quarrels of their fathers to their own great glory.]

[But how great has been the injustice of Triarius accusing Scaurus of having so magnificent a house! Oh for that

ancient and severe censor, according to whom even a man who had attained the highest honours of the state, and who was one of the chief men in it, was not allowed to have a convenient or splendid house] * * * * especially when its nearness to the street, and the populous character of its situation, must remove from him all suspicion of laziness or ambition.

* * * * * *

[But in what an arrogant way, O Triarius, did your oration go on, when you said that such enormous masses of Lucullus's marbles and pillars, which we now see placed in Scaurus's hall, were carried through the city, past the plaster ornaments on the tops of the temples of the gods, to a private house,—that the contractor for keeping the drains in repair had a claim for the damage done by dragging them up the Palatine Hill in wagons. I suppose those pillars which are thus held up to odium were carried there solely for the purpose of gratifying the pride of individuals, which the Roman people detests, and not for the sake of being a public ornament to the city, which it approves of. Are you the only man in Rome ignorant that Scaurus used those pillars when he was ædile for the ornamenting of the theatre, in order that, by the magnificence of his exhibition, and by his great liberality devoted in that manner to the honour of the immortal gods, he might increase the religious reverence with which the games were observed by the splendour of his preparation?] * * *

* * * Moreover, I, who have pillars of Alban marble, brought them up in panniers! * * *

[What? what vast and what prodigal expense did you yourself, O Triarius, incur in procuring pillars!]

* * * For this I do marvel at, and of this I do complain,—that any man should be so anxious to do injury to another by his words, as to bore holes in the ship in which he himself is sailing. * * *

* * * Were you in want of a house? You had one. Had you too much money? You were in want of money. But you went mad after pillars. You were frantic to get hold of what belonged to other people. You valued a pulled down, windowless, destroyed house, at a greater price than yourself and all your fortunes. * * *

[What then? Suppose Scaurus had appealed to you as

an arbitrator, to decide "whether you had not gone to much greater expense,—whether you had not committed much greater extravagance, in proportion to your income, for pillars than he had," would it have been necessary to go through the formalities of a trial to decide whether he had been guilty of prodigality, who, being possessed of a most ample estate, and of great family wealth and reputation, had set off his dignity with a fine house, or he who, when he was over head and ears in debt before, had sought to obtain dignity by building a house?] * * *

As it would not be possible for you to escape this argument, will you still argue and demand that Marcus Æmilius, with all his own dignity,—with the splendid memory of his father,—with the renown of his grandfather, be sacrificed to a most sordid, fickle and insignificant nation, and to a lot of (I had almost said) barbarian witnesses? * * *

* * * Wherever I turn, not only my thoughts, but even my eyes, every place supplies me with arguments to advance in favour of Marcus Scaurus. That senate-house bears witness to you of the fearless and dignified way in which his father held the post of the chief man of the city. Lucius Metellus himself, his grandfather, appears, O judges, to have placed those most holy gods in that temple in your sight, that they might gain from you the safety of his grandson by their entreaties, as they have, before now, often aided by their divine assistance many other men in distress who implored their help. That Capitol, adorned with three temples,—the approaches to the temples of the all-good and all-powerful Jupiter, and of Juno the queen, and of Minerva, adorned by most magnificent presents of this man's father and of himself, defend Marcus Scaurus [before you now by the recollection of this munificence and liberality to the public, from every suspicion of avarice or covetousness. That temple of Vesta, which is close at hand, warns you to keep it in your minds.] That great Lucius Metellus, the Pontifex Maximus, who, when that temple was on fire, threw himself into the middle of the flames, and saved from the fire that image of Minerva, which, as if it were a pledge of our safety and of the empire, is guarded by the protection of Vesta;—would that that great man could be among us, though but for a short time; he, forsooth, would save from

the flames this man, his descendant, as he before saved from that other conflagration that hea[venly pledge of our safety. I am moved by the thought that the gods should be so little propitious to a priest, that, even though they were saved by him, they do not preserve his race which was recommended by him to their protec]tion. But as for you, O Marcus Scaurus, I see you, I do not merely think of you; nor, indeed, is it without great distress and grief of mind that I do call you to mind when I behold the mournful appearance of your son.

And I wish that, as during the whole of this cause you have been constantly present before my eyes, you would, in like manner, now present yourself to the minds of these our judges, and plant yourself deeply in all their thoughts. If your appearance, I call [the gods to witness, could come to life again, (for we have never seen any one equal to you in wisdom, and dignity, and firmness, and all other virtues,) it would have such weight with every one, that whoever beheld it,] even if by chance he did not recognise it, would still pronounce it to be one of the chief men in the state.

How, then, can I now address you? As a man? But you are no longer among us. As a deceased person? But you live and flourish; but you are present to the minds of all this court,—you are visible to their eyes; your godlike soul had nothing mortal about it, nor was anything belonging to you which could die, except your body. Whatever way, therefore, [it is proper for you to be addressed, be present to us, I entreat you, and terrify, by your mere countenance,—by the bare sight of yourself, the emptiness and impudence of those most worthless and mendacious witnesses. Be present to us, and bring to your fellow-citizens the light of your counsel, to the authority of which they never repented deferring, and so prevent them from dishonouring your race with ignominy and disaster, and from crushing by their sentence your own son, who is no degenerate heir of his father's name.]

END OF VOL. II.

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