

THE
ORATIONS
OF
C I C E R O,

Translated into ENGLISH.

CONTAINING,

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|---|---|
| I. ORATION for <i>Rofcius</i> of <i>Ameria</i> , accused of murdering his FATHER. | IV. For <i>L. Murena</i> , Consul Elect, upon an Impeachment for PUBLIC CORRUPTION. |
| II. For <i>C. Rabirius</i> , accused of TREASON against the PEOPLE. | V. For <i>P. Quintius</i> , upon a Case of BANKRUPTCY. |
| III. For KING <i>Dejotarus</i> , accused of a PLOT against <i>Cæfar</i> . | VI. Against <i>L. Calpurnius Piso</i> , upon his Vices and Mismanagements both in Public and Private. |

By WILLIAM GUTHRIE, Esq;

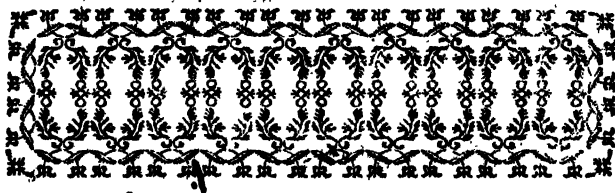
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P R E F A C E.



SHOULD not have swell'd
this Volume with a PREFACE,
had I not been indispensibly
obliged to it, from a Motive of
Gratitude to the Public, and of
Justice to my Author.

THE Presumption of a Writer unknown
in the learned World, to attempt a Work
which Men of Learning had almost unani-
mously look'd upon as impracticable, could
have been justified by nothing but the *Suc-*
cess it has met with from the *Public*: A
Success, which, as I had not the *Vanity* to
expect, so I must own, with some Concern,
that I wish I had bestowed more *Labour* to

deserve. When I first undertook this Work, I fix'd my Eye upon this Principle, that the great Difficulty of translating the ORATIONS of *Cicero*, lay in rising to the *Pomp* of his *Expression*, the *Roundness* of his *Periods*, and above all the *Passion* of his *Sentiments*. I imagined that to succeed in these, was to conquer the main Difficulty of translating *Cicero*: I therefore fixed upon some of the most beautiful Passages of the ORATIONS I was to translate, and by too great Application to do *Justice* to them, I have been accused of giving too little Attention to some other *Duties* of a faithful Translator.

THIS is a Charge I should have been ashamed to have mention'd, had not the generous Encouragement I have met with from the Public, been a Proof they were convinced, that it was always in the Power of the Translator of the Volumes already published to discharge the *mechanical Part* of his Undertaking. In this Volume I have applied with equal Attention to *all the Labours* of Translation. I became the better qualified for this, by translating, in the intermediate Time, our Author's Dialogues *De Oratore*, in which I can say with some Satisfaction, I cannot accuse myself, as a Translator, of one Oversight or Mistake in the Sense. Had I begun with
that

P R E F A C E.

that Work instead of the ORATIONS, the Volumes already published would have been more finished, and must have come abroad under the same Advantages with the Volume I now give the Public.

THE ingenuour Confession I have now made, will, I hope, clear me from the Imputation of Vanity, when I declare, that tho' I have heard of Objections to the two first Volumes, I never have met with one that was so well founded in itself, or came recommended with the Authority of any Name, that deserved either *Notice* or *Answer*. Men of such Learning as are capable of making Objections, know the Difficulties of a Work of this Kind, and that the real Defects that this laboured under, could not proceed from *Ignorance* or *Incapacity*, but from *Inattention*, and a *mistaken Disregard* to minuter Circumstances, both which, as they knew a little Experience would *correct*, so their good Nature led them to *overlook*. I should have but ill discharged my Debt of Gratitude for such *Indulgence*, had not I endeavoured to the utmost to make Amends in the *succeeding* Part of the Work, for those Omissions which may have happened in the *preceding*. In the following ORATIONS, therefore, I have applied myself equally to the *critical*, as to

the *translating* Part. I have por'd for the *lesser*, as well as *aspir'd* to the *higher* Beauties of my Author. I have endeavour'd to trace him thro' every hidden Allusion of Expression, to vindicate his Sense from the *Dust*, to snatch it from the *Trifling*, and to clear it from the *Dawbing* of Commentators. I have endeavour'd to profit from the *Labour's* of learned Men, but to avoid their *Prejudices*; and sensible how seldom that Learning which is recommended merely by the Merit of *Academical Qualifications*, is applicable to the Purposes of Civil Life in a free Country, I have, in all the Notes that relate to our Author's political Character, endeavour'd to throw Light upon the *History of his Life*, and not to compile an *Apolo- gy for his Conduct*.

THE better to succeed in this, I have all along considered my Author in his Character, as a *Statesman*, a *Gentleman*, and a *Scholar*. The first is, at best but *doubtful*, the second is *eminent*, and the third is *amiable*. In Government, *Irresolution* may have the same bad Effects as *Treachery*. I am sorry to say it, but it appears that our Author, tho' an excellent *Senator*, was but an indifferent *Patriot*; and tho' always an Advocate for the *Government*, he seems often to have lost Sight of the *Constitution of Rome*. When we read the
History

History of his Times, we are but too apt to condemn the Excesses of Opposition to the Senate and leading Men, without reflecting on the fundamental Violations which the Liberty of the People, and the Security of their Property had suffered from both. We ought therefore to consider the Circumstances of those Conjunctions, when *Opposition* becomes *necessary*, and *Rebellion loses its Name*. Our Forefathers knew Conjunctions of that Kind in this Country, but the Fortune of the People of *Britain* has been the very Reverse of that of the *Romans*. The Struggles of the People here have always met with *Success*, and have always found *Advocates*; In *Rome*, tho' they were often *successful*, they were at last ~~finished~~ by *absolute irretrievable Slavery*, till it became *dangerous*, nay *criminal*, under the best of their succeeding Princes, in any Writer to dissipate those Colours, which *Adulation* and *Interest* have thrown upon their History.

As our Author, from his first entering upon public Life, was a Party in all the Transactions of his own Times, it is *unjust* to form a decisive Notion of public Measures, Persons or Characters, from his Writings; especially from any Thing said in the following ORATIONS. And this is a Precaution so far from

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weakening,

weakening, that it strengthens the Foundation of *Historical Credibility*; it only sends the Reader back to Facts, which enables him to reason, *a priori*, from the Justness of Measures, and to form his Judgment of Characters from the Cause they espoused. If I find, for Instance, that the People of *Rome*, from the Confession of our Author, from the concurring Testimonies of all Writers, and from the Nature of their Constitution, had not only a *natural*, but a *positive* Right to the Benefit of *Agrarian Laws*, I am warranted by *Historical Credibility* to look upon this as an indisputable Fact. Therefore, when I see them struggling for the *Enjoyment of these Privileges*, I am bound in *common Justice*, to think them *in the right*, and those who oppose them *in the wrong*: It being impossible for us, at this Distance, to judge of the *Expediency of Conjunctions*, especially from the Representations of one immediately interested to oppose them. I might give other numberless Instances from our Author's own Writings, and from the History of his Times, to justify the Liberties I have taken, in several Observations I have made upon the following Orations. But I shall conclude what I am to say on that Subject, by observing, that when I see a justifiable Measure pursued, and all the Reason that I know for opposing that Measure, must be gathered from the Representations

representations of the other Party, with whom there is *no Difference as to Facts*, common Sense obliges me to be very cautious and distrustful in believing the Representations of that Party, and look upon them as Colourings design'd to *brighten the Beauty* of his own *Features*, and to *give a stronger Relief* to the *Deformity* of his Antagonist.

HAVING said thus much with Regard to that Part of our Author's Character, 'which is most liable to Censure, I come now to that which has deservedly been the Object of *Love and Esteem* in all Ages. His Faults call for our *Pity*, his Virtues for our *Admiration*. There is a certain Degree both of *Temptation* and *Distress*, that puts a Man in a *Situation* to which the *Fortitude of Human Nature* is but seldom equal: It was this Situation that always betrayed our Author into his *political Miscarriages*; but in the other Lights of Life, how *amiable*, how *endearing*, and I had almost said how *venerable* is his Conduct! It is with Pleasure therefore, that we consider him in the two other Characters I have mentioned, I mean those of a *Gentleman* and a *Scholar*. The *tendrest* Husband, the most *dutiful* Son, the most *affectionate* Parent, the *finest* Gentleman, the *sincere* Friend, the most *agreeable* Companion, in his Conduct may find a Model for their own. His Nature

was

was endued with the *softest Compassion*, his Understanding with the *quickest Discernment*, his Manner with the *noblest Address*; and, if we consider him as an Author, we cannot help thinking that *Cicero* is but another Word for *Learning itself*. But above all, the ORATIONS he has left behind him are so exquisitely beautiful, that from them, more than from any other Work, we may be able to judge of the *Helps* which *Learning* borrows from *Wit*, the *Advantages* which *liberal Education* gives to *extensive Genius*, the *Beauties* which *luxuriant Fancy* lends to *solid Judgment*, and the *Graces* which *tender Passions* communicate to *public Virtue*. It is from this Pattern, that we can best study by what Degrees *Literature* rises into *Erudition*, *Erudition* improves into *Knowledge*, and *Knowledge* reduces *Observation* into *Practice*, by applying all her *Stores* to the Improvement of Society, and the Advantage of the Public.

SUCH are the Benefits which the Public may receive from reading our Author's Works, especially his ORATIONS; but the Nature of a PREFACE will not dispense with my Silence as to the particular ORATIONS translated in this Volume. In these, a Reader of any Reflection, will find excellent Matter, besides the Language and the Learning they contain. In that
for

for *Roscius of Ameria*, he will see the dismal State of a Government in which the Sword gives Law, suspends the natural Functions of the Constitution, and cuts out the Road to boundless Barbarity and Proscriptions. He will learn to *feel for human Nature*, when oppressed by the *Insolence of Power*, stripp'd by the Hand of Rapaciousness, and, what is worst of all, labouring under the *unmerited Imputation of unnatural Guilt*. From these Reflections he will learn in his own proper Sphere of Life, to defend, and to strengthen the Freedom of that Constitution under which he lives, and to guard against the first Appearance of those Measures in his own Country, which entail'd such lasting Miseries upon *Rome*.

IN the ORATION for *Murena*, he will perceive the *Jealousy* which the greatest Men in *Rome* entertained of *Corruption in public Offices*. He will be pleas'd to see that no Character however *great*, no Merit however *distinguished*, could screen even the suspected from a fair Trial by the Laws of his Country. In that for *Rabirius*, he will observe the Effects of that natural Tendency, which a violated Constitution has to revert to *its first Principles*. He will there find an Attempt of the People to call to Account a Person distinguished for public Services, for having, tho' at thirty Years Distance, obey'd

obeyed the Senate and the Magistracy, in a Decree which the People thought *fundamentally affected their Privileges.*

IN the ORATION for *Dejotarus*, he will admire the *generous Friendship* of our Author in *defending*, and the *noble Spirit* of *Cæsar* in *pardoning*, that Prince. He will learn the fatal Effects of private Dissentions in the greatest Families, and that there is no Slave so mean, who may not, some time or other, find the Way to resent an injurious Treatment, be the Hand from which it proceeds, ever so high.

IN the ORATION for *Quintius*, he will remark how many Fences the Laws of Rome had plac'd round *the Enjoyment of private Property.* At the same Time he will perceive, that no Precaution can sufficiently guard the Innocent and the Unsuspecting, against Ambition and Avarice in a Party, or Corruption and Partiality in a Judge; and he will find that all these receiv'd their Sanction and Support from the *fundamental Invasions*, that had been made upon *public Liberty.* In the ORATION against *Piso*, the Reader will see the Necessity which those in high Stations are under of tempering the *Affairs of Government* with *Purity of Manners*, and the Wisdom of not giving their Enemies a Handle of rendering their public Conduct

duct despicable and odious, by the Recital of their *personal Vices*.

IN the Notes upon the ORATION for *Quintius*, I have been the more explicite, as no Piece that I know of in the *Latin* Language either *deserves* or *requires* more *Illustration*: It turns upon a very important Point in the Civil Law; it has suffered much from the Injuries of Time, but more from the Glosses of Commentators. In all the other Notes, I have endeavoured to settle the Meaning of my Author, according to his own Authority. This is a Method I am determined to follow in the subsequent Part of this great and difficult Work, which I will endeavour to finish with all the Dispatch that Accuracy will admit of.

W I L L . G U T H R I E .

ARGU-

A R G U M E N T
O F T H E
O R A T I O N
F O R
R O S C I U S of *Ameria*.

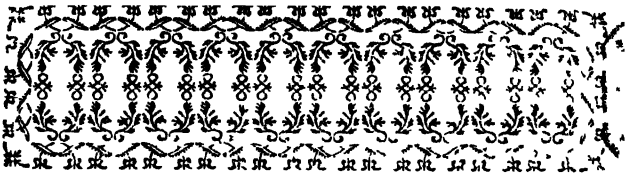
This Oration was delivered when our Author was but 27 Years of Age, and is a Proof that whatever Improvements he afterwards made, with regard to his Voice and Manner, by his Studies in Greece, he received but little as to his Eloquence. The Occasion of this Oration was as follows: The Revolution of the Roman Government, under Sylla, produced a general Massacre of the opposite Party, by the Name of a Proscription. The unbounded Licentiousness of the Times, in several Instances, extended this Cruelty indiscriminately to all Parties, under the Pretext of Rebellion to the Government: And this Charge was made good in Proportion as the personal Interest of the Prosecutors was prevailing. Amongst other Instances of this kind, the Case of Sextus Roscius of Ameria was remarkable. His Father had long been engaged in a Family-Quarrel, with two of his Townsmen, and of the same Family, the one Titus Capito Roscius, the other Titus Magnus Roscius. As the old Gentleman Sextus Roscius made a principal Figure in his own Corporation of Ameria, so he was very much regarded and carest'd by some of the greatest Noblemen in Rome. This led him frequently to that City, and his Absence

A R G U M E N T.

sence from Ameria was the less inconvenient to his Family-Affairs, because his Son Sextus Roscius, having a great Turn for Country Affairs, was very careful and assiduous in improving the Family Estate.

The old Man, however, was murdered at Rome, and his Estate bought by Chrysofonus, an insalent Favourite of Sylla's, for next to nothing. He again disposed of it in favour of the two Roscii, the declared Enemies of the old Man in his Lifetime. This created a strong Suspicion that they were his Murderers; and they fearing that the Deed of Sale might not be found good in Law, contrived first to have the Deceased enroll'd amongst the Number of the proscrib'd; and to prevent any Interruption either in their Claim or Possession, they got one Erutius, a Hackney-Prosecutor, to accuse his Son Sextus Roscius of having murdered his Father.

The great Power of the Prosecutors, who were supported by Chrysofonus, deterred the greatest Orators of Rome, at that Time, from undertaking the Defence of the Accused: Our Author however, boldly engaged in it, and has so managed his Pleading, that it appears rather an artful Accusation of the other two Roscii, than a Defence of the Accused. This Cause was tried by Fannius, who was Prætor, and Judge of criminal Causes; the other Judges were of the Senatorian Order, who had then the only Power of judging. It happened under the Consulate of L. Sylla, and Q. Metellus, and in the Year of Rome 673.



M. T. C I C E R O'S
 O R A T I O N
 F. O R

R O S C I U S of *America*,
 Accused of killing his FATHER.



I AM sensible, my Lord, you are surprized, that, in a Cause, countenanced by the Presence of so many Advocates*, distinguished by their Eloquence and Quality, so vastly my Superiors in Experience, Capacity and Rank, I should appear as Council for the

VOL II. B Accused.

The PREAMBLE to this ORATION is very artful; Cicero speaks like a young Man, who is resolved to risk every Thing in order to make a figure at the Bar, at the same Time, he gives us an excellent Picture of the Jealousy that reigns amongst political Parties, who apply every Thing to their own Cause, and will suffer no Man to be neutral, who is considerable enough to do them either Service or Hurt.

* *Advocatus.*] There was a Difference betwixt an Advocate and a Counsel; Advocates, (ADVOCABANTUR) were

2 CICERO'S ORATION

Accused. For tho' every Man, whom you see here on this Occasion, is sensible that a Charge, complicated by *unprecedented* Guilt, ought to be repelled; yet they are all deterred by the *Danger of the Times* from undertaking that Office. Thus their *Presence here* is owing to the Duties of their Profession,[^] but their *Silence*, to their *Fear of Danger*.

How then! Am I the boldest of the profession? By no Means: Am I more officious than others? No: I hope I shall never be so greedy even of that Praise as to wish to pilfer it from another. Why then do I signalize myself by undertaking the Cause of *Sextus Roscius*? Because, had any one of those great and eminent Persons, who are now present, touch'd, as they must have done, upon the Situation of public Affairs;† the most innocent Expressions would have

were the Friends of a Party, and called into Court, having a Bench allotted for themselves, on which they sat all the Time of the Trial, but never spoke; they only read an Appearance, to shew the Interest and Credit of the Party they defended. The *Patrons* were the Council, and *Quæstors* were such, by mentioning his name in Relation to the Character of an *Advocate* who kept his situation. Mr. *Kemist* is grossly mistaken here.

[^] *Duties of their Profession*] 'Tho' I have translated the Word *Offence* here in a confined Sense, see the Preface may be pleased to know, that among the Republick of *Rome*, it was the Duty of every Man of Integrity, whether a professed Lawyer or not, to defend his Friend either as an *Advocate* or a *Counsel*. For he could not hope to rise in the State but by an assiduous Practice at the Bar.

† *As they must have done upon the Situation of the public Affairs*

have been aggravated and improved into a dangerous Tendency. But whatever I can say, be it ever so full or so free, can never have the like Consequences, or the like Effects upon the Public. The Quality and Fortunes of these Noblemen will suffer no Word of theirs to rest in Obscurity, no more than their Experience for Reputation and Wisdom will admit, that any unguarded Expressions should pass as the Effect of inconsiderate Heat. But, should any Thing I throw out be too unguarded, it will rest in Silence thro' my Obscurity in the State; or be pardoned in regard to the Inexperience of my Years: Though at the same Time, I must take notice, that this Government has, of late, lost not only the *Quality of Pardoning*, but the *Habits of Justice*.*

THERE is another Reason, which is, that perhaps the Applications which have been made to others to speak upon this Occasion, have been urged in such a Manner as to leave it in their

B 2

Option

Affairs.] There is a very strong Insinuation here, and a very just one. Sylla had advanced a very worthless Fellow to be one of the first Men in the Government. This Fellow, by taking Advantage of a Revolution which Sylla had effected, murdered the Father of our Author's Client, and seized his Estate. There was a Necessity that this should be spoke to, as CHRYSOGONUS justified himself under SYLLA'S Authority.

* *Not only the Quality of Pardoning, but the Habits of Justice.*] Cicero expresses this Sentiment in the following Words,

4 CICERO'S ORATION

Option to comply or to decline, without their violating any Engagement; whereas I was forced into this Character by Men, whose Friendship

Words, *Non modo ignoscendi ratio, verum enim cognoscendi consuetudo jam de civitate sublata est.* This Passage seems not to have been *rightly*, or at least *fully*, understood by the accurate *Faciolati*, who refers it to *Sylla's* Proscriptions, because, *says he, Men were then punished without being heard in their own Defence.* But I am apt to think, that *Cicero* had other Affairs in his Eye. *Sylla* had deprived the *Roman* Knights of the Power to judge, and had likewise abridged the *Tribunitial* Authority of impeaching any Person, were his Station ever so high in the Government, before the People. (See the Oration for *Cæcilius*, where he complains of these two Alterations in the Constitution.) Therefore, I must be of Opinion, that the *Consuetudo cognoscendi* was *sublata* in this Sense, notwithstanding all the Commentators have restrained it to the former: This is a Reflection extremely becoming *Cicero*, who was himself the Son of a *Roman* Knight; and while the Power of judging was vested in the *Equestrian* Order, and that of impeaching in the *Tribunitial*, the public Liberty of *Rome* had a strong Barrier.

While I am upon this Subject, it can be no impertinent Digression to observe, that *good Sense and strong natural Parts*, with an *honest Intention*, generally fall almost upon the same Expedients for the Service of Mankind in all Ages and Countries however distant. *Gracchus* observed the great Hardships which the *Roman* Knights, who were the Men of Property in *Rome*, laboured under, by not having the Privilege of being tried by their Peers, therefore had the Courage and Virtue to invest the Power of judging in the *Equestrian* Order. By this Means, the Commons of *Rome* were tried by a Jury of their own Peers, while the Senate had the Management of all the public Affairs of Government. This Division betwixt the legislative and executive Authority, brought the Constitution to so equal a Poise, as might have rendered it *immortal*, had not the Senate chosen rather to ruin their Country, than

ship had a Right to command me ; Men, for whom a Principle of Gratitude will never suffer me either to forget their Favour, to under-
 B 3 value

to submit to this legal and reasonable Restraint of their own Power.

It may be worth the while here to observe, that the Form of Government of *Rome* having been originally *monarchical*, it was a very great Oversight, upon the Alteration of that Form into that of a Republic, not to adapt every *subordinate Branch* of Power to the *same Constitution*. The vesting the Senate with the Power of judging the Commons, was plainly a *regal Institution*: And an *Alteration* of it upon the Commencement of their Liberty would have saved all the Struggles betwixt the People and the Senate, which afterwards ensued. But upon the Footing that the *Roman* Judgments stood until the Days of *C. Sempronius Gracchus*, their Constitution was plainly a Piece of Patch-work. As I intend to treat of this Subject more fully in another Place, I shall conclude this, perhaps too long Remark with observing, that our Author tells us, that while the Power of judging was in the *Roman* Knights, where it continued for about fifty Years, their Conduct was irreproachably disinterested, *sine ullâ, ne tenuissimâ quidem, suspitione acceptæ pecuniæ*. As I intend in the Course of these Notes to supply the Defects, or correct the Mistakes of some Authors of our own Country, who being very commonly in young Gentlemens Hands, are apt to miscad more universally, and therefore their Mistakes are more dangerous. I must observe what Mr. Kennet says on this Head, in his Chap. 36, Book III. of *Roman* Antiquity, That *Florus* makes *C. Sempronius Gracchus* to have appointed six hundred Senators, and three hundred Equites for the Management of Judgments; but, says he, this seems to belong to the *Servilian Law*, if not totally a Mistake. Mr. Kennet seems to have been totally mistaken himself in this Passage; for I cannot find any such Passage in *Florus*. *Florus* indeed, in the Place refer'd to by Mr. Kennet, tells us something of this with regard to *M. Livius Drusus*, who enacted, *Ut æquâ parte judicia penes senatum & equestrem ordinem essent*.

6 CICERO'S ORATION

value their Authority, or to disobey their

SUCH are the Reasons why I appear as Counsel in this Cause. I appear, my Lords, here, not because my *Talents* give me a Title to the *greatest Pre-eminence*, but because my *Obscurity* renders me *least obnoxious to Danger*. I appear, not as sufficient of myself to defend the Cause of *Roscius*, but that *Roscius* may not be absolutely destitute of Assistance. It may be asked, from whence proceeds this Terror, this mighty Dread which prevents such Numbers of our greatest Men * from undertaking, as usual, the Defence of the Life and the Fortunes of a Fellow-Subject? No Wonder that you are ignorant of this, since the real Motives for bringing the Affair to a Trial has been hitherto industriously concealed by the Prosecutors.

WHAT then, it may be asked, are those Motives? The young *Lucius Cornelius Chryso-gonus*,† the high and mighty Director of Rome in our Time, has bought, as he says, the personal Estate of my Client's Father, which was worth 50,000*l.* of the brave and eminent *Lucius Sylla*,
whom

* *Such Numbers of our greatest Men*] He means those Men of great Families whom he mentions afterwards, and who appeared as Advocates for *Roscius*.

† *Lucius Cornelius Chryso-gonus*.] The old Scholiast gives us a very humorous and a very sensible Hint here, which it

whom I name with the greatest Respect upon this Occasion, for 16l. And now, my Lords, this Gentleman * demands of this Court, that as he has, against all Law and Equity, seized upon this large, noble Estate, and as the Life of my Client may give him some *small* Trouble and Hindrance in the Possession of it, you would rid his Mind of all Uneasiness and Apprehension upon that Account. He despairs of being able to keep the Possession of so fair, so large an Estate, while my innocent Client is alive and uncondemned; but were he once condemned, he is in Hopes of dissipating in *Luxury* what he has acquired by *Guilt*.

THE Prayer therefore of his modest Petition is, that you would Pluck out this Thorn which is incessantly pricking and goading his Bosom, and so become Accessories in his detestable Rapine. Should this, my Lords, appear to this

B 4

Court

it may be worth the Pains to explain. Every Roman had properly speaking three Names, viz. The *Nomen*, *Prænomen*, and *Cognomen*. When a Slave was made free, he gratefully took the *Nomen* and *Prænomen* of his Master before his own Name. This was the Case of this *Chrysgonus*, who had been a Slave to *Sylla*. Our Author, in this Passage speaking of *Sylla*, takes no Notice of the Name *Cornelius* belonging to him, which was his most honourable Name, because it was the Name of his Family, but claps it along with the Epithet *Potentissimus* before that of *Chrysgonus*, to render his Vanity the more ridiculous.

* *My Lords, this Gentleman.*] This, and the following Passage, carries on an exquisite and beautiful *Irony*.

8 C I C E R O ' S O R A T I O N

Court, a just and a modest Petition, give me Leave, on the other Hand, to prefer ~~a just~~, and, as I hope, a far more *equitable* Request.

IN the first Place, I make my Suit to *Chrysofonus*, that he will be satisfied with the Money and Effects of my Client, and spare his Life. In the next Place, my Lords, I humbly move this Court, that you will be pleased to check the Insolence of Guilt, to alleviate the Miseries of Innocence, and in the Cause of my Client to repel that Danger which is aimed at the Liberties of our Country.*

BUT if either a Foundation for the Charge, a Presumption of the Fact, or even the smallest Circumstance shall be found out which can serve as the least Colour for this Indictment; in short, if you shall find the least Motive for this Prosecution besides this Estate; I agree, that *Sextus Roscius* should fall a Sacrifice to the Rage of his Enemies. But if, to supply the Avarice of his insatiable Prosecutor; if, that the Blood of *Roscius* should flow, as an Over-measure to the guilty Possession of this fair and opulent Fortune; if these are the sole Foundations of this Prosecution, is it not an Aggravation of the many Indignities you have suffered, that you should

* *Aimed at the Liberties of our Country.*] Because no Man could be safe from the like Practices of Power, if that Prosecution met with Success.

Should be the most proper Tools for giving a Satisfaction by your Oaths and Decisions to those Acquisitions, which they have been accustomed to seize by Guilt and Violence? *You*, whom after your Merits had raised you from the Rank of *Citizens* to that of *Senators*, the Purity of your Manners have rendered worthy to be delegated by that illustrious Body on this Bench! for Murderers and Gladiators to apply to *You*, not only that they may be screened from that Punishment which they ought to dread for their Crimes, but that they may depart from this Court gay and exulting in the Plunder of the innocent *Roscius*!

THESE are Matters of so important, so dark a Nature, that I understand, I can neither describe them with that *Propriety*,* complain of them with that *Weight*, nor exclaim against them with that *Freedom* which they require. For my *Capacity* can neither attain to *Propriety*; my *Years* will not admit of *Weight*, nor the *Times* of *Freedom*. I am under a further Disadvantage, which is the deep Consternation I now feel, arising from my own natural Timidity, the awful Appearance of this Court,

the

* *Propriety—Weight—Freedom.*] In the Original *commode, graviter, libere*. I think I have hit upon the true Meaning of *Cicero*, though the learned *Facciolati* in explaining the Word *commode* defines it to be *vehementer & copiose*. There is, however, somewhat of *Exaggeration* implied in the Expression, as appears by what follows immediately after.

10 C I C E R O's O R A T I O N

the Power of the Prosecutors, and the Dan-
gers of my Client. Therefore, my Lords, I
make it my most humble and earnest Request,
that you will receive what I have to offer with
Attention and Indulgence.

IT was the high Opinion I had of your In-
tegrity and Wisdom, that induced me to un-
dertake a Burthen for which I now feel myself
unequal; a Burthen, my Lords, which, if you
will lighten in the smallest Degree, I will do
my best to bear with Pleasure and Alacrity.
But if, contrary to my Hopes,* I am abandoned
by you, yet still I shall act with Spirit; and, to
the best of my Abilities, go thro' with what I
have undertaken. For I would chuse to be
crush'd under the Weight of my Charge, ra-
ther than, after it was entrusted with me,
throw it from me like a Traitor, or drop it like
a Coward. I likewise, *Marcus Fannius*, earnest-
ly conjure you, that you would extend those
Virtues which formerly rendered you dear to
the People of *Rome*, when you presided † on
this

* *Contrary to my Hopes.*] The Expression in the Original
is, *id quod non spero*: 'Tho' the Meaning plainly is, that he
does not fear it. Virgil uses *spero* in the same Sense; *Hunc*
ego si potui tantum sperare dolorem, 4 *Æneid.* v. 419.

† *When you presided.*] This Passage is very liable to be
misunderstood in the Original: *Cicero* says, *Cum huic idem*
questioni iudex præesset. Even the learned *Hottoman* con-
tends the two Offices of the *Judex Questionis*, and the
Quæstor, tho' the Constitutions of both are very different
from

this very Question, to us and the People of ~~Name~~ on this Occasion.

You see, by the Multitudes assembled, with what anxious Expectation this Cause has alarmed the People; and how keen, how desirous the Public is, that Impartiality and Equity should ~~be~~ restored to our Courts of Justice. This is the first Cause of Bloodshed that has for a long Time been tried in this Court,* though many woeful, terrible Massacres have happened in the intermediate Time. Your Country expects of you as Prætor, that, as every Day Crimes and Murders are avowedly committed, you will proceed against them with the same impartial Severity.

GIVE me here Leave upon this Occasion to adopt those Exclamations which are common in the Mouths of Accusers during other Trials.

We

from one another. The *Judex Quæstionis* was the chief Commissioner in a Court appointed by the *Prætor* for determining an Action. For the *Prætor* seems to have done no more than our Grand Jury; he found the Bill, by allowing that there was a *probabilis causa litigandi*, but left the Proof of it to his Court of Delegates, of which the *Judex Quæstionis* was at the Head. Whereas the *Quæstiores* were Prætors themselves, so called a *quærendo de crimine*. And *M. Pannius* sat in the latter Capacity upon the Occasion. We may observe here, that the *Quæstiores* were Judges of criminal Causes only, tho' *Pannius* had before a *Judex Quæstionis*.

* That has for a long Time been tried in this Court] The *Judicio de Suetis*, that is, all Trials upon Matters of Bloodshed were discontinued during the Time of *Sylla's* Proscription.

12 C I C E R O'S O R A T I O N

We intreat you, *Marcus Fannius*, and you, my Lords, to punish Guilt with the keenest Severity, to oppose the greatest Courage to the most consummate Audacity; and to remember, unless you discover your real Sentiments by your Decision in this Cause, that the Avarice, the Guilt, the Insolence of Mankind will break out into such Extravagance, that Men will be butcher'd, not by Stealth and in the Dark, but in this very Forum, before your Tribunal, *Fannius*, at your Feet, my Lords, and upon the very Benches of this Court. For what is there contended for in this Trial, but an Impunity of such Practices? They are the Accusers who have seized the Estate. He is accused, who has nothing left him but the utmost Distress: They are the Accusers who have gained most by the Murder of *Sextus Roscius*. He is accused, on whom his Death has brought not only Grief, but also Poverty and Want: They are the Accusers who fain would have murdered my Client. He is the accused, who, even while he appears at your Bar, is obliged to have a Guard * to prevent his being butcher'd before your Eyes. In short, the Voice of the Public calls aloud for Justice upon the Accusers, while the Accused is the only surviving Instance of their bloody Practices. And, my Lords, that ye may be sensible

* *Have a Guard.*] This can only be meant of the Friends of *Roscius* attending at his Trial.

sensible my Language is so far from aggravating, that it falls short of their Crimes; give me Leave to lay the Matter before you as it happened: By this you will the more easily be able to judge of the Innocence of my Client, the Audacity of his Prosecutors, and the Misery of your Country.

Sextus Roscius, the Father of my Client, a Denison of *Ameria*,* in Blood, Rank, and Estate, was, by far; the first Man, not only in his own Corporation, but in all the Neighbourhood; at the same Time, he lived in the greatest Esteem, and the most amicable Intercourse with Men of the greatest Quality. For there subsisted not only an Intercourse of Visits, but the strictest and most intimate Familiarity betwixt him and the *Metelli*, *Servilii*, and the *Scipiones*; Families, whom I name upon this Occasion with all the Respect that is due to their great Quality and Distinction; and this

* *A Denison of Ameria.*] In the *Latin*, *Municipes*, which is thus defined by *Gellius*, *lib. xvi. c. 13.* *Sunt cives Romani ex Municipiis, suo jure & legibus suis utentes; muneris tantum cum Pop. Rom. honorarii participes a quo munere capeffendo appellati videntur nullis aliis necessitatibus, neque ul. a Pop. Rom. lege astricti:* That is,

“The *Municipes* are Citizens of *Rome* who live in
 “Communities, and are governed by their own Forms and
 “Laws, but sharing only the titular Honours of the *Roman*
 “People, from whence they have seemed to derive
 “their Appellations; but they are connected by no other
 “Relation, nor by any Law in Force among the *Romans*.”
 Whereas the Colonies were obliged to conform themselves
 to the *Roman* Laws and Constitutions.

14 C I C E R O's O R A T I O N

this was the only Legacy he has left to his Son out of all his Estate. For those Domestic Robbers having violently taken Possession of his paternal Inheritance, left him only his Reputation and Life to be defended by the Acquaintance and Friends of his Father; who, as he all his Life-time distinguished himself on the Side of the Nobility, in these latter Times of Trouble,* when the Honour and Existence of Nobility itself were at Stake, signalized himself in his Neighbourhood, in supporting that Party with all his Interest, Zeal and Influence. For he judged it was but reasonable, that he should fight to support the Honour of those, from whom he derived those Honours which distinguished him among his own Neighbours.

WHEN Victory had declared herself, and we were reposing from the Toils of War, while Proscriptions were going on, and the Obnoxious to Suspicion were singled out from every Quarter; he was at *Rome*, and appeared in all public Companies and Conversation; as rather rejoicing in the Victory of the Nobility, than dreading that it would be in the least fatal to himself.

SOME old Differences subsisted betwixt him and the two *Roscii* of *Ameria*, one of whom I
now

* *These latter Times of Trouble* } While *Marius* and *Cinna* got the better, they murdered the Nobility, but *Sulla* pretended to protect them.

now see sitting upon the Bench of the Impachers, while the other, I hear, possesses three Estates of my Client. Happy had it been for *his* Father, had he been able to guard against their Malice as effectually as he really feared it! My Lords, his Fears were but too well founded, for *Capito* and *Magnus*, the Names of the two *Roscii*, the latter of whom is only here, are such Men, that the one is thought to be an old first-rate Gladiator, and to have won a great many Prizes; and tho' the other had but just entered himself as Apprentice under *Capito*, when this Fray happened, he became so great a Proficient, that in Wickedness and Audacity he out-did even his Master.

FOR while my Client was at *America*, and that same *Titus* at *Rome*; while the former was minding nothing but his Country Affairs, and by his Father's Orders applied himself only to the Improvement of his private Estate in the Country, and the latter was every Day at *Rome*, the old Man was killed near the Baths of the *Palatium*, as he returned from Supper.

I HOPE that this Circumstance will give the Court a pretty broad Intimation of the Persons against whom the Presumption of this Guilt lies the strongest. But if the Nature of the Case itself should not swell what is now *Suspicion*, into plain *Conviction*, I leave the Court to pronounce my Client guilty of the Charge.

16 C I C E R O'S O R A T I O N

UPON the Murder of the Deceased, one *Manlius Glaucia*, a Man of little Consideration, the Freed-Man, the Creature, and the Dependant of that same *Titus Roscius*, was the first who brought the News to *Ameria*, and told it at the House, not of the Son of the Deceased, but of his Enemy *Titus Capito*; and though the Murder was committed an Hour after Sun-set, yet he told it at *Ameria* next Morning by Break of Day. By this Means, he must have driven in his Chaise *fifty-six* Miles in *ten* Hours in the Dark; that he might not only be the first to tell the welcome News to the Enemy of the Deceased, but that he might shew him his Blood fresh, and reeking upon the Weapon, he had just drawn out of his Body.

FOUR Days after, this News reached *Chryfogonus*, who was then encamped under *Lucius Sylla* at *Volaterra*: They represent to him the Largeness of the Succession, and the Fineness of the Estate; for he had thirteen Farms,* almost all of them contiguous to the *Tiber*, without forgetting the needy, destitute Condition of my Client. They tell him, that if it was so easy to dispatch a Man of such Eminence and Popularity as

Sextus

* *Thirteen Farms almost all of them contiguous to the Tiber.*] This appears to have been a very important Consideration among the *Romans*, who thought an Estate upon the *Tiber*, both for Advantage and Pleasure, preferable to any other Situation. In the same Manner as we prefer an Estate lying on the Bank of the *Thames* to any other.

'*Sextus Roscius*, it would be much easier to remove his plain unsuspecting Son, who was not so much as known at *Rome*; they proffered to lend him their Assistance for this Purpose. Not to take up your Time, my Lords, they entered into a Confederacy.

AT this Juncture, the Notion of a *Proscription* obtained so little, that even they who were under some Dread of it before, were now returning, as imagining themselves out of all Manner of Danger; it was then that *Chryso-gonus* bought at Auction the Estate of this Man who was so entirely devoted to the Interest of the Nobility.

THREE of his best Estates were made over to *Capito* as his Property, and he enjoys them to this Day, while that same *Titus Roscius*, in the Name of *Chryso-gonus*, as he says, seized the rest. Thus a Fortune which was reckoned worth near 50,000*l.* was bought for about 16*l.* But all these Transactions, my Lords, I am convinced, were done without the Knowledge of *Lucius Sylla*.

NOR is it indeed any Wonder,* that he should over-look some Things; since, at one and

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* *Nor is it indeed any Wonder.*] We have here a delicate and an artful Encomium upon *Sylla*, who, no doubt, was a Man of great *Abilities*. *Cicero* very prudently introduces it here, to shew the Court that he made a Distinction betwixt the Acts of *Sylla*, and those of his Followers.

the same Time, he is obliged to have in his Eye both what is past, and what is upon the Point of Execution: And since, in him is vested the sole Authority and Power of making Peace or War; as he is the Point to which the Eyes of all Mankind are directed, and the Person by whom they are governed; as he is encumbered with Affairs so important and various in their Nature, that he has scarce Time for breathing. This Inattention, therefore, was still the more excusable in him, as so many are ready to watch and to catch at every Motion of his; so that no sooner can he call his Eyes to any particular Object,* than they seize the Opportunity of attempting somewhat of this Kind. Add to all this, that HAPPY as he is, yet no Man like him can attain to that Pitch of Happiness, as amidst such a Train of Servants, not to have *one*, either Slave or Freed-man, who is a Villain.

IN the mean Time, this excellent Fellow, *Titus Roscius*, this Agent of *Cibryogonus*, came to *Ameria*, seized upon the Estate of my Client, while he was yet afflicted with filial Tenderness, and while some of the stated Funeral Duties he owed to the Memory of his Father, were unper-

* No sooner can he call his Eyes to any particular Object] The Original has it *simul atque ille depexerit*; which signifies, as soon as he begins not to be so attentive to the general Concern, but to let his Mind wander to some particular Object.

unperformed; he drove him headlong and naked, my Lords, from the House of his Father, the Seat of his Ancestors, and the Altars of his Family. He put himself in Possession of a large Fortune belonging to another; and, as usually happens in such Cases, from the greatest Penury, he launched out into the most boundless Extravagance: He carried off a great many Effects openly to his own House, but secreted many more; he lavished a great deal upon his Confederates, and sold the rest at a formal Auction.

THIS was so very shocking to the Inhabitants of *America*, that there was nothing to be seen all over the City but Tears and Lamentation. For many melancholy Ideas presented all at once; the cruel Death of *Sextus Roscius* in the Height of Reputation and Credit in the World; the unmerited Poverty of his Son, who was so effectually stript of his large Estate by that lawless Robber, as not to have in Reversion, even a Road to the Tomb of his Father;* the Sale of

C 2

his

* *Even a Road to the Tomb of his Father.*] The learned *Hottoman* is here of Opinion, that *Cicero* speaks this purely for *Aggravation*. To justify this, he brings in the Authority of *Pomponius*, who says, *Sub Tit. de Sep. Viol.*

The Law is, that the Proprietors of Lands, in which there is a Family Burying-place, have a Right, even after they are sold, to a Passage to their Burying-place. For it is provided by the Laws of buying and selling Estates, that such Proprietor shall have the Use of a Path, free Access, and sufficient Space round the Burying-place for performing Funeral Ceremonies."

I cannot

his Goods; their villainous Possession; their Theft, Rapines, and Profusion. There was not a Man among them who would not have wished to have seen them all in a Flame, rather than *Titus Roscius* swaggering and domineering in the Spoils of the excellent and virtuous *Sextus*.

AN Act of their Assembly, therefore, immediately passed, that a Deputation of the ten first Members of their State should be dispatched to *Lucius Sylla*, to inform him of the true Character of *Sextus Roscius*; to complain of the Wickedness and Injustice of these Confederates, and to beg his Interposition in Behalf of the Honour of the

I cannot agree in Opinion with this learned Civilian; 1st, Because *Cicero* repeats the very same Circumstance, in the Peroration, *Nec sibi quicquam paternum ne monumenti quidem causa reservavit.*

2^{dly}, Because it appears that such a Reservation of Right, as *Pomponius* mentions, must be expressed in the Deed of Sale. *Vid. Glossam. ad Verb. ADEUNDORUM. Quod est verum, si in venditione excipitur sepulchrum, vel si ibi est publicum iter, alioqui transit cum pradio.*—*Quidam tamen dicunt tacite semper exceptum, quod nihil est.* “ This is true, provided the Reservation is expressed in the Deed of Sale, or if there is a public Road there (*for that was another Expression*) otherwise the Burying-place is conveyed with the Estate.—Some People say, that there is always a tacit Reservation; but there is nothing in that.” This is likewise confirmed by many other Glosses, even upon the Passages brought by *Hottoman* to confirm his Opinion.

3^{dly}, Because *Roscius* was not the Person who sold this Estate to *Chrysegonus*, who had it from *Sylla* as a Forfeiture to the State; so that there could be no Exception of this kind; nor could *Roscius* pretend to the common Rights that might arise from Bargain and Sale.

the Deceased, and the Fortunes of his surviving innocent Son.

GIVE me Leave to read the Words of the Decree which are well worthy of your Attention.

[Here the Decree was read.]

THE Deputies came to the Camp; and here, my Lords, there was a plain Proof of what I have already observed, that all these Crimes and Villainies were perpetrated without the Knowledge of *Sylla*. For *Chryfogonus* not only applied to them in Person, and *privately sent** some Men of the greatest Quality to beg that they would not go near *Sylla*; and in that Case they promised *Chryfogonus* should do whatever they had a mind; for he dreaded this so very much, that he would have chosen to die rather than that *Sylla* should have known any Thing of the Matter.

As plain Men † are apt to judge of others by themselves, they believed his repeated Promises, that he would craze the Name of *Sextus Roscius* out of the Deeds, and resign the Estate to the sole Possession of the Son, especially when

C 3

Titus

* Orig. *Allegat iis.*] *Lambinus* thinks this should be read *allegat ab iis qui peterent*. But he is wrong; for *allegare* is to send in a private Capacity, *legare* in a public one.

† *Plain Men.*] The Original has it *Homines antiqui*, “Old-fashioned People.”

Titus Roscius Capito, who was one of the Deputation, offered his joint Promise for the Performance: In short, they returned to *Ameria* without having made any Application. Here these Fellows began to postpone the Affair, and put it off from one Day to another. Soon after they would do nothing but trifle with them; at last, as may be easily imagined, they began to think themselves unsafe in the Possession of another's Property, while he was alive; and therefore, entered into a Conspiracy against the Life of this my Client here.

As soon as he perceived this, by the Advice of his Friends and Relations, he fled to *Rome*, and put himself under the Protection of *Cecilia* the Daughter of *Nepos*,* a Lady whom I name with the greatest Respect; she had been, my Lords, his Father's Patroness, and is now a Proof of what is generally believed, *That there was once such a Thing in the World as HONOUR and GRATITUDE*. This Lady sheltered the destitute *Roscius*, when he was driven from his Home, stript of his Fortune, and concealing himself from the Daggers and Menaces of *Ruffians*; she succour'd her distressed Guest after he had been given over by all the World; and it is owing to her

* *Cecilia, the Daughter of Nepos.*] This must be a mistake; for she appears from what follows to have been the Daughter of *Mitellus Balbinus*, and the Sister of *Nepos*.

her Courage, Honour, and Application, that he is now alive under an *Impeachment*, and not killed among the *Prescribed*.

FOR after these Ruffians understood that the Life of *Sextus Roscius* was guarded with the utmost Care, and that they could have no Opportunity of executing their bloody Purposes; they resolved upon a Design, full of Guilt and Presumption; which was, to impeach my Client of Parricide: For this Purpose they must procure some hardened Impeacher, who could speak somewhat in a Case upon which it was impossible to fasten the smallest Presumption; and as they could not find him *actually* guilty, they resolved to make him *politically* so. Their Language was, *As there had been so long an Intermision of Trials, that therefore the first Man who was brought to the Bar ought to be condemned*, imagining at the same Time, that the Interest of *Chryfogonus* would terrify any Person from speaking for *Roscius*, or mentioning a Word of the Sale of his Estate, or their wicked Confederacy: That the very Imputation of so black a Crime as Parricide, would be sufficient to dispatch him without any Trouble; especially as no-body would speak in his Defence. This extravagant ridiculous Notion has prevailed with them to bring him to this Bar, that as he could not be assassinated by them, he might be murdered by you.

24 C I C E R O'S O R A T I O N

WHERE, my Lords, shall I begin to complain? Upon what Topic shall I begin to reason? What Assistance shall I crave? Or what Power shall I apply to for it? Shall I on this Occasion throw myself upon the Justice of the immortal Gods, of my Country, or of this Court, to whom she has now delegated the supreme Authority? Behold a Father inhumanly murdered! his House invaded, his Goods seized, possessed, and plundered by his Foes; the Life of his Son attacked, by repeated Assaults both from Treachery and Violence! What seems there to be wanting to fill up the Measure of this Iniquity! Yet have they been ingenious enough to aggravate and improve even *that*, by forging a most improbable Falshood, and bribing Witnesses and Accusers against my Client with his own Money. Thus they leave him the wretched Alternative, whether he will chuse to be assassinated by *Rofcius*, or lose his Life in the most infamous Manner by being sowed up in a Sack [the Punishment of Parricides*.] They imagined that the Accused would be at a Loss for Counsel: He is: But, my Lords, if Freedom of Speech and Zeal for my Client can make amends, as I hope they will in this Cause, for that Loss; he is at none; for I have undertaken it. Undertaken it perhaps

* The Words in the Clutchets seem to have crept out of the Margin of some old Manuscript into the Text.

haps from a Rashness too incident to Youth; but now that I have undertaken it, by Heavens! should I be encompassed with every Shape of Death and Danger, yet will I do my Duty in supporting and succouring my Client. I am resolved, I am determined, not only to speak whatever I think can serve him, but to speak it with Zeal, with Boldness, and with Freedom: For no Motive *can* be so powerful as to make my Fears get the better of my Honour.

For is there so infamous a Coward as to be silent and unconcerned at seeing these Injuries? Ye have murdered my Father, tho' he was not proscribed; after you murdered him, you enrolled him in that unhappy Number;* by Force have driven me from my House, and taken Possession of my Estate. Can these Injuries receive any Aggravation? Are you not come in Arms, even into this Court, either to murder or to condemn the unfortunate *Roscius*?

C. Fimbria, who lately lived in *Rome*, was of all Mankind the most audacious; and in the Eyes of every Man, who was not himself a Madman, the maddest. *Scævola*, a Man
of

* *Enrolled him in that unhappy Number.* I have a strong Notion, that the Strefs of the Pleading against *Roscius* upon this Occasion, lay upon his Father's being proscribed. *Cicero*, who perhaps was sensible he was so, and knew the Strength of this Argument, touches it but very slightly, and in such a Manner as to make it seem to the Court, that his Client's Father was not proscribed till after his Death.

of the greatest Sanctity and Perfection in *Rome*, and one in whose Praise it is not now proper to run out, nor, if it were, could I say more of him, than now lives upon the grateful Memories of the *Roman* People; he, I say, was wounded at the burying of *Marius*, by means of this Madman, who finding that he was likely to recover, impeached him. When he was asked upon what Grounds he could impeach a Person so blameless in his Life, that it was impossible to do Justice to the Dignity of his Character; the Wretch is said to have made Answer, like a Madman as he was, *Because Scævola had not received in his Body the full Length of the Dagger.* Never did *Rome* see any Thing more afflicting than this, excepting the Death of the same great Man, which brought all her Sons to Ruin and Misery: For it was for endeavouring to *save them* by an Accommodation that *he* was destroyed.*

HAS not this Case somewhat in it exactly parallel

* *That he was destroyed*] *Florus* gives us an Account of his Death in the following Words, *Quid funerum in foro, in circo, in patentibus templis? Nam Quintus Mucius Scævola, pontifex, vestales amplexus aras, tantum non eodem igne sepelitur.* “How many Deaths happened in the *Forum*, “in the *Circus*, in the open *Temples*? For *Q. Mucius Scævola*, the High Priest, bracing the *Vestal Altars*, very “narrowly escaped being buried in the *Flames.*” The Reader is to observe, that *Scævola* endeavoured to mediate betwixt the Parties of *Sylla* and *Marius*, but was murdered by the latter.

parallel to the Answer and the Guilt of *Fimbria*? Ye accuse *Sextus Roscius*! For what? Because he has escaped out of your Hands; because he would not suffer himself to be assassinated. Did the one Instance, as happening to a *Scævola*, beget an universal Detestation; and shall this Instance, because inflicted by a *Chryfogonus*, pass without Censure? Immortal Gods! What is there in this Cause that requires to be defended? Is there a Circumstance in the whole, that demands either the Art of a Lawyer, or the Eloquence of an Orator? I shall, my Lords, lay open the whole Matter, and after laying it open, I shall examine it; and the Court will by that Means have an easy and clear Comprehension of the Circumstances upon which the Stress of the whole lies; of the Points to which I am to speak; and of the Manner in which you ought to decide.

So far as I am able * to form any Judgment, there are three Circumstances which upon this Occasion bear very hard upon my Client: The Charge itself, the Audacity, and the Power of the Prosecutors. The first falls to the Management of *Erutius*, the second to the Share of the *Roscii*, and the last of Course, devolves upon *Chryfogonus*, whose Power is very

* *So far as I am able.*] Cicero enters now upon that Part of his Pleading which is called *Partitio*, in which he divides the Charge under its proper Heads.

ry great. I apprehend it is my Duty to speak severally to those three Points; but not in the same Manner * to them all; because I am obliged, by my Profession, to undertake the first; but your Country has left the other two to you. It is my Duty to wipe off the Asper- sion of Guilt; but it remains with you to give a timely check to such Audacity, to destroy, to confound such destructive, such insupport- able *Insolence of Power*.

Sextus Roscius is accused of murdering his Father; a Crime so black and detestable, that, by Heavens! it seems to be a Complication of all Guilt. For if, as the Learned have well observed, *Filial Piety may be wounded even by a Look*, can any Punishment be devised severe enough for the Crime of one, who offered to kill a Parent, for whom he is obliged, by all Laws divine and human, if there be Occasion, to sacrifice his own Life? What Arguments, † *Erutius*, do you imagine you must urge, as you are the Accuser, to make out a Charge that is so monstrous, so black, and so unpa- ralleled, upon a Crime, which so seldom hap- pens, that whenever News is brought that it has

* *But not in the same Manner.*] The Original here has an Expression, *Quid igitur est*, which the Commentators, perhaps with Justice, think is misplaced.

† *What Arguments.*] This Part of *Cicero's* Pleading is built upon the Probability of the Charge, and is so extreme- ly beautiful that it must strike every Reader.

has been committed, it is always reckoned an ominous Prodigy? Don't you think yourself, *Erutius*, obliged to prove the matchless Audacity of the Accused, the Fierceness of his Manners, the Barbarity of his Nature, his Life one continued Course of Wickedness and Lewdness, and, in short, a Man in every Part of his Character devoted to Murder, and distinguished by the most consummate Guilt? Yet not one of these Crimes have you even urged against *Roscius*, in all your aggravated Charge.

Sextus Roscius has murdered his Father: Look at the Man. Is he a young Debauchee, trained up in the Arts of Lewdness by wicked Men? No; he is upwards of forty Years of Age. Is he a Ruffian of Experience, hardened in Guilt, and inur'd to Murder? No; you have heard no such Character given him even by the ingenious Malice of his Prosecutor. Then Luxury perhaps, or Debt, or disorderly Passions, might prompt the Wretch to this Crime? As to Luxury, *Erutius* has sufficiently cleared him of that, when he told you, that he was scarcely ever known to be present, even at an Entertainment. Debts he never had any. And what Passions can we suppose to be in a Man, who, to use the Words of his Prosecutor's Charge, has spent his whole Life in the Country, and in the Improvement
of

of his Grounds? A Manner of living the most remote of all others from Ambition, and the most strictly connected with the Practice of every Duty!

THEN what could be the Motive which impelled *Sextus Roscius* to this frantic Action? 'Tis said, that he was under the Displeasure of his Father. Under the Displeasure of his Father! For what Reason? Sure, if there is a Reason, it must needs be a just, a weighty, and an obvious one. For as it is contrary to all the Principles of Belief, that a Son would attempt the Life of a Father, without repeated and strong Provocations; so, on the other Hand, it is extremely improbable, that a Father would hate his Son to such a Degree, without many weighty and indispenfible Reasons.

LET us therefore now refume our Subject, and enquire what Vices an only Son could be guilty of, to give fuch Matter of Displeasure to his Father. In this Cafe it is plain, that the Son was guilty of no Vice. Must we impute it then to Frenzy in the Father, that he cou'd, without the leaft Cause, hate the Son of his own Body? But he was a Man of the foundest Senfe*
of

* *The soundest Sense.*] The Word in the Original is *constantissimus*, which must be meant as I have translated it. Cicero, in his third *Tusculan Disputation*, opposes *Constans* to *Amens*, because, “ *Qui constans est, cum necesse est esse quic-*

of any in his Time. We may therefore safely conclude, if neither the Father was frantic, nor the Son profligate, the Father could have no Cause of Hatred, nor the Son any Motive for Murder.

I DON'T know, says the Gentleman on the other Side, what Reasons for Hatred did subsist; but I am convinced *there was a Hatred*; because the old Man, while he had two Sons alive, kept the one, who is now dead, always about his Person, and confined this one to his Farms in the Country. The Inconvenience which *Erutius* was under in trumping up this malicious trifling Charge, happens to be my own Case in the best of Causes. He was at a Loss for Matter on which he might build this fictitious Charge; and I am at a Loss how to invalidate and confute Circumstances, which are of themselves so slight and so improbable.

BUT how, *Erutius*! Did *Sextus Roscius* give the Improvement and Management of so many fair, so many profitable Estates to his Son by way of Punishment and Banishment? Does this look like Reasoning? Do not Gentlemen, especially of his Rank, who have Estates in our Country Corporations, when they

“ *tum; qui convictus, perturbatione omni vacuum; ergo etiam*
 “ *Amentia.*”

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they have Sons, always chuse that their Sons should apply themselves to a Country Life, and employ the greatest Part of their Pains and Time in looking after the Improvements of their Estates?

WAS this Son banished to the Country, bred up in the Life of a Clown, and deprived of all the Elegancies of Living? What! if it should appear, that my Client, during his Father's Life, was not only appointed to oversee the Improvement of his Estates, but was in Possession of certain Lands appropriated to him; yet must such a Life, because it is pains-taking and rural, be branded with the Appellations of *Banishment* and *Disgrace*? You may now perceive, *Erutius*, how widely different your Reasoning is from the true Matter of Fact. You find Fault with the *general* Practice of Parents, as being *unusual*; that which was the *Effect* of *Love*, you attribute to a *Motive* of *Displeasure*; and the *Kindness* expressed by an *indulgent* Father, you construe into a *Punishment* inflicted upon a *bated* Son. Not that you are insensible of these Absurdities; but your Reasoning is so destitute of all Foundation in Justice, that you are forced, not only to plead against Us, but against the Nature of Things, against the common Practice of the World, and against the general Sense of Mankind.

BUT

BUT still, say you, as he had two Sons, why did he keep the one about his own Person, and suffer the other to remain in the Country? Give me Leave, *Erutius*, to talk to you without Offence; for, I do not mean what I am about to say as a *Reproach*, but an *Advice*. If Fortune was so unkind, by never letting you come to the Knowledge of your *real* Father,* as to deprive you of all Experience of paternal Affection, surely Nature has left you with some Share of Humanity; besides, you have some Fondness for Books, so that you are not quite illiterate. I will therefore, give you an Instance from the Stage. Do you then imagine, in the Play of *Cæcilius*,† that the old Gentleman has less Affection for *Eutichus* the Son, whom he keeps in the Country, than he has for *Chærestrius*, (I think that is his Name) whom he keeps always about his own Person. Do you imagine, that he kept the one always in Town, as a Mark of his Regard, and the other in the Country, as a

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Proof

* *To the Knowledge of your real Father.*] This is as witty a stroke, as any we find, in either ancient or modern Comedy. Most Commentators seem to think, that this *Erutius* was a Bastard; but there is no Occasion for this Supposition, because *Cicero* does not throw out this Hint by Way of Affirmation.

† *Cæcilius.*] This seems to have been a favourite Author among the *Romans*, and the *Ben. Johnson* of his Age. *Cicero* has several Times introduced Passages from his Plays into his Pleadings. He lived about the Year of *Rome* 575.

Proof of his Displeasure? But why will you run into these Trifles, say you?

I AM indeed, under no Necessity, since, to go no further, I might easily name you many, both of my Neighbours and Countrymen, who are very fond of having their best beloved Sons devoted to a Country Life;* but it is disagreeable to give particular Instances of Persons whom we all know; for one is not sure whether the Persons may not take it amiss, should their Names be used upon this Occasion; and you are acquainted with no Character better than that of *Eutichus*, and surely it is nothing to the Purpose, whether I bring a young Man from the Stage, or from the Fields of *Veni*.† For, I am of Opinion, these Characters are drawn by the Poets, that we may see our own Manners personated, and the Practice of common Life represented. But let me recal your Thoughts and Attention to REAL LIFE. Reflect upon the Way of Life, which is most recommended by Fathers of Families, not only in *Umbria* and that Neighbourhood, but in these old Corporations. If you do this, believe me, your being destitute of Matter for an Indictment has forced you to lay

* *Devoted to a Country Life.*] The Original has it *Affidius Agricola* in the same Manner as *Plautus* says, *Affidius Urtanus*. *Trinum*, A 1 Sc. 2. v. 165.

† *Fields of Veni.*] The Estate in Question lies not far from *Rome*, and is now in the Possession of the Family of *Lunese*.

lay against *Roscius*, as a strong Presumption of his Guilt, that which the World will look upon as the clearest Proof of his Innocence.

BUT it is not Children only who enter into this Way of Life, by the Commands of their Parents; for I know many, and if I am not mistaken, every one of you does the same, who are themselves passionately fond of what belongs to the Improvement of Grounds, and who esteem a Country Life, which you, *Erutius*, are pleased to mention as criminal and disgraceful, to be the most engaging and most honourable of all others.

I WILL instance my Client; how much Understanding and Knowledge has he in Country Affairs? Inasmuch that I am informed by his Neighbours, who are all of them Men of the best of Characters, that you are not a greater Proficient in the Craft and Quirks of Accusation than he is in his own Business. But as *Chryfogonus* has been pleased to strip him of all his Farms and Grounds, I fancy he will not be blamed, if by this Time he has both forgot the Arts, and laid aside the Love of a Country Life. Tho' this, my Lords, be cruel and inhuman, yet will he chearfully bear it, if by your Means he can enjoy Life upon any Terms, and with his Life, his Reputation: But there is one Circumstance he thinks quite unsupportable, which

is, that as the Number and Goodness of his Estates have led him into all his present Misery, and as his having carefully improved them is now the heaviest Charge * urged against him, it is not enough that his Misery receives an Addition by his having improved them for others and not himself, unless it be still aggravated by his being charged with having improved them at all.

WHAT a ridiculous Figure, *Erutius*, must you have made as an Accuser, had you lived in those Times when Men were brought from the Plough to be Consuls? Surely, as you imagine it to be criminal to inspect the Improvement of Grounds, you would have impeached as the most profligate and disgraceful of all Mankind, the great *Atilius*, whom our Deputies found sowing the Seeds with his own Hands. But trust me, our Ancestors had far different Notions of Him, and the other great Men of his Character. For by these Arts, they were enabled, from the most slender Foundation, to transmit to Posterity a fair and flourishing Empire. They employed their utmost Cares in cultivating their own Estates, without coveting those

* *Heaviest Charge.*] In the Original the Word is *Fraus*. Our Author uses the same Word to the same Purpose in several other Parts of his Writings. See the Index to the Translation of *De Oratore*, where this Word is more fully explained.

those of their Neighbours. By which Means they enlarged the Government, the Empire, and the Glory of *Rome*, with Lands, with Cities, and with Nations.

IN what I have said, I am far from comparing my Client with those great Men; I mentioned those Circumstances only to suggest, that as the greatest and most glorious of our Ancestors, who all their Lives ought to have been sitting at the Helm of Government, have employed some Part of their Cares and Time upon Agriculture, the Person whose Profession is that of a Farmer, ought to meet with some Indulgence, for having spent his whole Life in the Country; especially when it is considered, that to his Father nothing could be more agreeable, to himself more pleasing, or in its own Nature more commendable.

THE strongest Proof then you had to produce, of the Father's Hatred against the Son, was, his suffering him to live in the Country. Have you any other Proof? *Yes*, say you, *the Father intended to have disinherited him.* Now as you advance somewhat that is to the Purpose, I am all Attention: For I think, you agree, that the other Arguments are trifling and childish. He did not go with his Father to Entertainments: How should he, when he

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very feldom came to the Town? Scarcely any body ever invited him to their Houfes. Is there any Wonder of that, in a Man who never lived in Town, and was not in the Way of making Entertainments in his Turn?

BUT you are fenfible that this too is trifling. Let us therefore examine that which I juft now mentioned, and which I muft own to be one of the ftrongeft and moft fubftantial Proofs of Hatred. The Father intended to difinherit the Son. I don't infift upon the Reafon, but I afk, how came you to the Knowledge of his Intention? Tho' at the fame Time I could oblige you to fpecify, and go through all the feveral Reafons. For a regular Profecution upon fo flagrant a Fact, requires that all the Vices and Crimes of the Son fhould be laid open, which could provoke the Father fo much, as to extinguifh in his Breaft even Nature itfelf; as to make him pluck up as a Weed an Affection fo deeply rooted in the Soul; and in fhort, to forget that he was a Father: Circumftances, which, I conceive, never could have happened but from the greateft Demerits on the Part of the Son.

BUT I will allow that you fhall pafs over thefe Facts, which, by your Silence, you admit never did exift. Then you furely ought to be very full and explicit in your Proof of the Father's
Inten-

Intentions to disinherit him. Let us see then what you offer why we should believe it? Nothing that is real. Then forge somewhat that is plausible; that you may save Appearances; that you may not seem to do what you really do, grossly insult upon the Misfortunes of *Roscius*, and affront the Dignity of these very worthy Judges upon the Bench. *He intended to disinherit his Son*;—For what Reason?—*I don't know*. Did he carry his Intention into Execution? *No*. What prevented him? *He intended it*. He intended it! To whom did he express that Intention? *To nobody*. Such an Accusation, such an Objection as this, my Lords, which not only is impossible, but not so much as attempted, to be proved; what is it else but prostituting this Court, the Laws, and your Dignity to the Purposes of Passion and Avarice?

WE all of us know, *Erutius*, that there was no Enmity subsisting betwixt you and my Client, *Sextus Roscius*. All Mankind is sensible why you appear here as the Prosecutor in this Cause: They know, that Money is your Bait. But mark the Consequence; ought this Bait to have been so powerful, as to make you disregard the Sense of this Court, and, let at nought the Penalties prescribed by the *Memmian Law*?*

D 4

THAT

* *Memmian Law*.] I have some Doubt with Regard to the Propriety of this Name, whether it ought not to be

THAT Plenty of Prosecutors should live in a State is necessary for over-awing the Attempts of the Audacious. But it does not follow from this, that we should *be played upon* by Prosecutors. A Man may be innocent, and yet liable to Suspicion. Tho' this is a Hardship upon such a Man, yet still I have some Grains of Indulgence for the Person who shall accuse him. For when there is the least Foundation for a Charge, even upon presumptive Proof, the Person who urges it, does not appear to be committing a *gross Insult* upon the Understandings of Mankind, and a deliberate Injury to the Reputation of his Neighbour.

THEREFORE, we readily admit that there ought to be a Number of Prosecutors, because an innocent Man, if he is accused, may be acquitted; and the Guilty, without Accusation, cannot be condemned. But it is more proper, that Innocence should be acquitted upon Trial, than that Guilt should escape without Impeachment. Geese have their Food, and Dogs are maintained in the Capitol,* upon the public Charge,

Remmian Law, which enacted, that Persons convicted of Calumny should be stigmatized.

* *Geese have their Food, and Dogs are maintained in the Capitol.*] The Commentators have here taken a great deal of Pains to render themselves ridiculous by their Learning. They tell us, that they don't find any Mention of Dogs being maintained in the Capitol; tho' they do of Geese

Charge, that they may give the Alarm in case of Theives. Yet, tho' it is impossible for them to know who is a Thief, or who is not, they still give the Alarm, whoever enters the Capitol by Night; because that is a suspicious Circumstance; and Instinct itself directs them to err upon the Side of Caution. But, if these Dogs should bark in the Day-time at People who come to the Worship of the Gods, I think they

Geese, and acquaint us, upon the Authority of *Plutarch*, *Pliny*, and *Columella*, That a Dog was annually hanged upon a Gibbet in the Capitol, as a Memorial, that the Dogs had once slept, while the Geese gave the Alarm that the Capitol was betrayed. One might be a little merry on this Subject; but I have two or three very good Reasons for being of a different Opinion from them. The first is, because I humbly conceive, *Cicero* knew more of the Matter than they did, and he has expressly affirmed it as Fact. In the second Place, it is plain, That Dogs were maintained in the Capitol before it was taken by the *Gauls*, and we have no Proof that they were *disposed* ever afterwards. The hanging one up might only be by Way of Admonition, what they were to expect, if they betrayed their Trust as their Predecessors had done; and was no improper Hint to other Species of Animals, who were intrusted as well as *those poor Dogs* with public Offices. Lastly, the Words of the old Scholiast, which seem to have been overlooked by our Commentators, are so sensible, and so much to our Purpose, that I shall beg Leave to transcribe them, *In Capitolio Canes & Anseres cibaria solebant accipere. Propterea quod Anseres nuntii sunt hostium; Canes ultoras; quod enim ille clamoribus nuntiant, illi morsibus vindicant.*

“ In the Capitol, Dogs and Geese use to have their
 “ Cribs; the Geese giving the Alarm of Enemies, and
 “ the Dogs punishing them; the former discover them by
 “ their *cackling*, the latter attack them with their *Teeth*.

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they ought to have their Bones broken,* be-
cause they then snarl without any Grounds.

THIS Case holds exactly with regard to Im-
peachments. Some of you, Gentlemen Accu-
sers, are of the Nature of the Goose; you make
a Noise, but you are otherwise very inoffensive
Animals; others of you are Curs that can both
bark and bite.† There you live; there are your
Cribs; but you ought to direct all your Force
chiefly against those who deserve it. This is
the readiest Way to make you extremely popu-
lar. Nay, if you should at any Time bark up-
on a strong Presumption, I can forgive you.
But if you should over-act your Parts, so as to
impeach a Man of murdering his Father, and
yet not be able to tell *for what*, or in *what*
Manner; in short, if you should bark without
any Suspicion; 'tis true nobody will break your
Bones; but, if I am not mistaken, this Bench
will print upon your Foreheads,‡ that Letter
for

* *Ought to have their Bones broken.*] We have another
ridiculous Remark of the Commentators on this Place. The
Reading in the Original is *Iis crura suffringantur*, which
they would have changed into *ii crui suffigantur*, because
say they, a *Dog was annually crucify'd in the Capitol*. Where-
as it is plain, even from holy Writ, that whoever was cru-
cified had his Legs broken; so that the *cruri-fragium*, or
the breaking of the Legs among the *Romans* was *proverbial*,
to signify an *ignominious Punishment*, and the Expression, as
I have translated it, agrees exactly with what soon follows,
Crura quidem nemo vobis suffringit.

† Pointing to the Benches.

‡ *Print upon your Foreheads.*] It may perhaps be unne-
cessary

for whose Sake you hate all Letters; and that too so legibly, as to put it for ever out of your Power to *accuse* any Thing but your own bad Fortunes.

My good impeaching Friend, what Subject have you given me to plead upon? Nay, let me ask you, what Grounds have you given the Court for supposing that there is in this Case even the slightest Presumption of Guilt? *The Accused was afraid that he should be disinherited.* I understand you; but not a Word of the Reason why he should be thus afraid. *But his Father intended it.* Then prove that Intention. Proof there is none; neither of his consulting with, nor of his acquainting any body that he had such an Intention, nor of any one Circumstance that could beget the least Grounds of Suspicion in you. When you manage your Accusation, *Erutius*, in this Manner, don't you plainly

cessary to observe to the ingenious Reader, that a quicker Turn of Wit runs through this ORATION, than is to be found in those which our Author pronounced when he came to greater Maturity, both of Years and Honours. The Reason is obvious, *the Fire of his Youth was yet undissipated*; he had not as yet any *Character of Dignity* to restrain him; and I do not doubt but some of my Readers will question much, whether this is not the best Oration of his whole Works for this very Reason.

The Letter he hints at here was a *K* to express *Kalumniator*, which was the old Way of Writing *Calumniator*, and which was burnt with an Iron into the Foreheads of those who were convicted of Calumny. This Brand incapacitated any Person from ever acting as a Prosecutor.

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plainly tell the World ; *I know what I have got, but I don't know what to say. I kept my Eye upon that single Principle which I had from Chryfogonus, that nobody would appear for the Accused ; and that nobody at this Time would be so hardy as to touch upon the Sale of the Estate, and their Confederacy.* This was the Mistake that brought you into this Inconveniency ; for, by Heavens ! you would not have opened your Mouth, had you imagined that any body was to answer you.

IT may be worth while, my Lords, if you have observed it, to reflect a little upon his Negligence in managing this Charge. I can't but think, that, when he had surveyed the Persons who sit upon these Forms, he enquired whether *such* or *such a one* was to appear for the Accused ; but that he never once thought of Me, because I had never before appeared in a public Trial : After he learned that none of those were to be concerned, who were both accustomed, and able to appear upon such Occasions, he grew so very thoughtless in the Matter, and he sat down, and then walked about, and sometimes called for his Servant to order Supper, I suppose, as the Fancy struck him : And behaved in such a Manner, as if instead of being in this Court, and at your Bar, he had been in a downright Defart.

AT length he finished his Pleading : He sat
 down,

down, and I rose: He then seem'd quite easy, because nobody else got up; I then began to speak. I observed, my Lords, that he diverted himself with joking, and upon indifferent Matters, till I mentioned *Chryfogonus*, but no sooner had I touch'd upon him, than the Gentleman started up, as if he had been in a Maze; I perceived where he was gall'd. I nam'd him again, and a third Time; I could then perceive his Creatures buzzing about here and there, up and down, I suppose to inform *Chryfogonus*, that there was a Man in *Rome* who durst presume to oppose his sovereign Will and Pleasure: That the Prosecution was likely to take another Turn than what he expected; that the Sale of the Estate was laid open; that he was most villainously pinched upon his Confederary; that no Regard was paid to his Power and Interest; that the Judges seemed to discover deep Attention, and the People strong Resentment.

SINCE therefore, *Erutius*, you are mistaken, and since the Case is altered; since you are sensible, that the Cause of *Sextus Roscius* is pleaded, if not with *Eloquence*, yet with *Freedom*; since whom you thought *would be given up*, you perceive *is defended*; since instead of *delivering over*, this Court seems resolved to *judge*, let us at least for once have some Touches of your old Skill and Craft in pleading; Confess frankly, that you
came

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came hither full of the Hopes, that you was to appear, not at a *Trial* but at a *Robbery*.—A Charge of Parricide is brought here, and the Prosecutor can shew no Motive that could induce the Son to kill the Father.

THAT which is the first and principal Consideration in all the petty Larcenies, in all the slight Misdemeanors which are every Day committed and tried; *Erutius* thinks of no Importance in an Affair of Parricide: A Crime, my Lords, in which, though many concurring Circumstances were brought to establish a Presumption of Guilt, yet to believe it is no easy Matter: It does not depend upon idle Guess-work; it is not to be tried upon questionable Evidence; nor is the Court to be determined by the Art of the Prosecutor. It is necessary, that a long Train of previous wicked Practices, the abandoned Morals and the matchless Audaciousness of the Accused should be proved. Nay, *Audaciousness* is not sufficient, it must rise to the utmost *Fury* and *Frenzy*. When all these are proved, yet the Commission of the Crime must be established by the most palpable and uncontestable Proofs; the Place, the Manner, the Agents, the Time.—And, unless the Evidence, as to all these is full and plain, no Credit, I will venture to say it, can be given to so black, so detestable, and so unnatural a Charge.

GREAT is the Force of Affection, and powerful

erful are the Ties of Blood; Nature herself loudly disclaims every Suspicion of this Kind. That one, who appears and looks like a Man, should be so much more savage than a Brute, as for ever to shut out from the Face of Day those by whom he enjoys the Beauty of Light, is a monstrous Prodigy; especially when we consider that Birth, Bringing up, and Affection, endear even Beasts to one another

SOME Years ago, we have heard that one *Titus Clælius* of *Tarracina*, a Man of some Consideration, when he had gone to Bed after Supper in the same Bed-chamber with two young Gentlemen his Sons, was found with his Throat cut in the Morning: There was neither Slave nor Freed-man near, who could be suspected of the Fact; the two young Gentlemen who lay near him, said, that they did not so much as know that the Thing was done: However they were impeached of their Father's Murder. What then?—Appearances, it must be confessed, were against them;—What, both of them ignorant of the Matter!—Could it be supposed, that any Body would have ventured upon such an Action, at a Time while his two Sons were in the same Bed-chamber, who must have been alarmed, and could have easily prevented the Murder?

BESIDES, there was nobody on whom the least Presumption of Guilt could be fastened.

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Yet, when it appeared to the Court, that the young Gentlemen were found asleep, and with the Door open, they were acquitted of the Impeachment, and even of the smallest Suspicion of Guilt. For nobody did imagine it possible, that one could fly in the Face of all Laws human and divine, by perpetrating so execrable an Action, and immediately taste the Sweets of Repose; and the Reason is plain, because they who are guilty of such detestable Actions, are not only unable to repose without Concern, but to breathe without Terror.

THE Poets tell us,* that those Men, who, to avenge the Death of their Fathers, killed their Mothers, were so haunted by the *Furies*, that they could find no Rest; yet in this, we are told, they only obeyed the Dictates and Oracles of the immortal Gods; therefore in such Persons, even *Piety* becomes *criminal*. In short, my Lords, the Meaning of the Fiction is; the Blood of a Parent fills our Veins with somewhat so strong,
some

* *The Poets tell us.*] What follows here is so extremely beautiful, and so just, that it must strike every Reader, tho' I were not to inform them, that no Passage amongst the Ancients has been more celebrated, either by Heathen or Christian Authors. I believe our Author would have foregone all the Glories he has received from the Justness of the Sentiment, rather than have given a Handle to our modern Free-thinkers to have pressed him into their Service, from what he says in this Passage. The Story of *Orestes* and *Almæon* is very well known, and to be found in all the Books of Mythology.

• somewhat so indelible, somewhat so awful, that if you receive the least Stain of it, it is not only impossible to wash it out, but it communicates Fury and Frenzy to the Brain.

FOR we are not to imagine, that they who were guilty of any of those wicked unnatural Actions we meet with so often among the Poets, were actually driven about, and haunted by the burning Torches of the Furies. No; presumptuous Guilt is the Fury that torments; an evil Conscience, the Frenzy that rages; and stinging Reflection the Terror that distracts: These, these are the incessant Bosom-Friends that haunt the Guilty; and Day and Night avenge the Deaths of Parents upon their unnatural Children.

So enormous is the Nature of this Offence; that unless the *Parricide* be almost undeniable; unless the Accused has been in his *Youth*, an Object of utter *Detestation*; in his *Life*, a *Complication* of unparalleled *Guilt*, and in his *Oeconomy*, an Example of *extravagant Lewdness*; unless he has acted beyond all Bounds in his *Audaciousness*, and up to Madness in his *Temerity*: I say, unless all these Circumstances concur; the Commission of the Fact is too big for Belief. Add to this, that Proofs must be brought of his Hatred of his Father, his Aversion to all paternal Admonition; the Wickedness of his Company; the Privity of his Stages, the Fit-

ness of the Time, and the Conveniency of the Place for committing the Action. Nay, my Lords, before the Court can give Credit to so desperate, so detestable an Action, I had almost said, that you ought to see the Blood of the Father reeking upon the Hands of the Son. For this Reason, the Severity of the Punishment is proportioned to the Difficulty of the Proof.

HENCE, as from many other Circumstances, we may conclude, that our Ancestors excelled other States in Wisdom and civil Polity, as much as they did in War: We have a pregnant Proof of this in their devising a peculiar Punishment for this Crime; and thereby you may reflect how much in Wisdom they excelled even the wisest among other States.

ATHENS, while she was an independent State, was allowed to excel in the Arts of civil Government; and *Solon*, the wisest of her Citizens, was the Compiler of those Laws by which she is governed to this Day. When this great Man was asked, why he enacted no Punishment for a Man who should kill his Father? He answered, that he thought it impossible any Man should be guilty of such an Action. His Policy is commended; because, say they, if he had made Provision against a Crime, which had not then been committed, it would not have looked like preventing, but suggesting it. How much wiser
were

were our Ancestors? Sensible, that nothing was so facted as forever, to be Proof against Violation, they devised a peculiar Punishment for Parricides, sufficient, by its Severity, to deter from the Commission of this Crime those, who were insensible to the Checks of powerful Nature. They ordered the Criminal to be sowed up alive in a Sack, and to be thrown into the River.

WHAT matchless Wisdom! Does it not seem, my Lords, that they conveyed, they snatched that Man out of the System of Nature, whom they thus suddenly deprived of Air, Light, Water and Earth? Thereby intimating, that the Man who murdered Him, to whom he ow'd his Existence, ought to be deprived of those Elements from which all other Things have theirs. They would not suffer his Body to be thrown to Beasts, lest their Ferocity should be increas'd by the Contact of so much Guilt; they would not suffer them to be thrown naked into the River, lest they should carry Pollution into the very Sea, which they thought could wash away Pollution * from every Thing besides. In short, the meanest, the most despicable Thing in the World, was thought too good for

E 2 them

* Wash away Pollution] This was the Opinion of the Antients. We have the following Verse of Euripides from *Calus Rhodoginus*.

Θαλασσα κλυζει παντα των ανθρωπων κακα.
The Sea purges away all the Defilements (Evils) of Mankind.

them to share in. For what can be so common * as Air to the Living; Earth to the Dead; the Sea to the Floating; or the Shore to the Out-cast? While they live, they breathe not the Air of Heaven; when they die, Earth cannot receive their Bones; when they float, they never can be purified; at last, they are cast out; but they find no Rest, even on the Rocks. Do you, *Eratius*, imagine, that you shall be able to prove, before such a Bench as this, the Commission of so black a Crime; a Crime, for which so signal a Punishment is provided; and that too, without producing one Motive for committing it? Were this a Trial, even before Brokers of Estates, † and *Cbrysogonus* himself President of the Court, yet you should have appeared at the Bar better instructed and better furnished.

To

* *For what can be so common.*] This charming Rhapsody, which enchanted the *Romans* so much, was condemned by *Cicero* himself, when he came to judge more coolly; I will take the Liberty to put down his own Words, *Quid enim tam commune, &c. ut quæ sequuntur. Sunt enim omnia sicut adolescentis, non tam re & maturitate, quam spe & expectatione laudati.*

However, notwithstanding the Severity, and perhaps, the Justice of this Censure, I dare say, my ingenious Reader will wish, that he had been guilty of more Offences of this Kind. One can judge of the Greatness of a Genius by its Faults, as well as by its Beauties; and sometimes both give us equal Pleasure.

† *Brokers of Estates.*] These Fellows appeared to have infested the Common-wealth of *Rome*, in those Times of Distraction, as much as Stock-jobbers, &c. did the *Change-Alley* in our unhappy *South-Sea Year*.

ACT IV. SCENE I.

To what can we attribute your Negligence? To your Ignorance of the Cause, or your Disregard of the Court? The Cause is a Charge of Parricide; a Crime, that cannot be attempted without many strong Motives. The Judges are Men of the most consummate Wisdom; Men, who are sensible that no one commits the smallest Crime without some Motive.

SUPPOSING then, that you can produce no Motive; it is true, that this gives up the Matter quite in my Favour; but for once I will forego my Right; and so thoroughly satisfied am I of the Innocence of *Rafcius*, that I will make Concessions in this Cause, which I would make in no other. I will not ask you, what Motive induced *Sextus Rafcius* to murder his Father? I will only ask *how* he did it? I will, *Erutus*, urge this Question, and deal with you in such a Manner, that you shall be left at Liberty either to answer or to interrupt; or, if you please, to question me. How did he kill him? With his own Hand? Or did he leave it to others? If you say, he did it himself; he was not at *Rome*. If by others; let me ask you, whether they were Slaves, or free? What Kind of Men were they? Were they Cut-throats of *Ameria*, or of *Rome*? If of *Ameria*, who are they? Why are they not named? If of *Rome*, by what Means came *Rafcius* to know them? He, who had not been at

Rome for many Years, and never was above three Days in it at one Time. Where did he meet them? Whom did he treat with? In what Manner did he bring them over to his Purpose? Did he hire them? To whom did he pay that Hire? Thro' whose Hands did it pass? Whence came it, and how much was it? These are the Circumstances that direct the Pursuit of Justice upon the Head of the Offender. Give me Leave, at the same Time, to put you in Mind, in what Colours you have drawn this Man's Life. You have painted him a Clown, and a Savage; as having no Conversation or Intercourse with the human Species; and as one, who had never settled in any Town.

I SHALL not here insist upon a Circumstance, I could urge as a strong Proof of his Innocence; which is, that Offences of this black Dye are seldom hatch'd under this clownish Habit, these sparing Meals, and this plain, uncouth Manner of living. Every Life is not productive of every Vice, no more than every Soil is of every Grain and every Tree. The City creates Luxury; Rapaciousness* is the necessary Consequence of Luxury; Audaciousness breaks out from Rapaciousness; and thence springs all Manner of Guilt and

Mis-

* *Rapaciousness*.] Tho' our Author here uses the Word *Avaritia*, which signifies to be *tenacious*, as well as *rapacious*, yet it is plain from his Reasoning, that he meant it here in the restricted Sense, as I have translated it.

Misdeeds; but this Country I say, which you call savage, is the Directors of Frugality, Industry, and Justice.

I SHALL, however, pass over all these Considerations; give me Leave only to ask you, how, and by what Instructions, a Man, who, as you yourself say, never lived amongst Men, could perpetrate a Crime of so deep a Dye, and so dark a Nature, especially in his Absence? There are many Allegations, my Lords, which are false, yet are attended with some Appearances of Truth; but if, in *this* Case, there should be found so much as an Appearance, I will admit the Charge. *Sextus Roscius* is killed at *Rome*, while his Son is living upon his Estate at *Ameria*. I suppose, he, who was not acquainted with a Soul at *Rome*, wrote to some Assassin there. He sent for one: But *when*? He dispatched a Messenger: But *whom*? Or *to whom*? He prevailed upon some one or other by Hire, Favour, Hopes, or Promises; but not one of these Circumstances is even pretended; and yet, this is an Impeachment of Parricide. But they are now driven to suppose that he might do it by his Slaves.

IMMORTAL Gods! how hard, how deplorable a Case is ours! *Sextus Roscius* is deprived of that Defence, which generally clears the Innocent upon a Trial like this; for he is not ad-

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mitted to offer his Slaves to the Question. Ye, who are his Impeachers, have all his Slaves in your Power: Nor is the unhappy *Roscius* suffered to have, out of all his numerous Train, one Boy to serve him at his Meals. I appeal, *Publius Scipio*, to you, and to you, *Metellus*, whether while ye acted as Advocates and Agents in this Affair, *Sextus Roscius* did not often demand of his Prosecutors, that two of his Father's Slaves* might be put to the Question. Don't you remember, *T. Roscius*, that you denied him? How? Where are those Slaves? Why, my Lords, they are in the Retinue of *Chryfogonus*; they are caressed and rewarded by him. I still demand, and my Client most earnestly intreats, that they may be examined. What are you doing? Why do you refuse it?

ENTERTAIN a Doubt now, my Lords, if you can, about the Person who murdered old *Sextus*

* *His Father's Slaves.*] I will only throw out a Hint here by Way of Illustration. The Roman Law, as Cicero has laid down in many of his ORATIONS very strongly, did not allow of any Slave being put to the Question against his Master, without the Master's Consent. Therefore, it is very probable, that *Erutius* objected to this Examination of the Slaves; "Because that he, the Prisoner, was not their Master, nor indeed, was his Father, at the Time of his Death: For a Man who is proscribed has no Property, and old *Roscius* was proscribed. *Chryfogonus*, having got a Gift of his Estate, therefore, became Master of his Slaves, and the Prisoner had nothing to do with them; therefore, they could not be examined at his Instance." However, this Argument, as managed by our Author, could not fail of having its intended Effect upon the Judges.

Sextus Roscius. Can you suspect the Man, who by that Murder was driven into Poverty and Trouble, and who is denied the Privilege even of enquiring into his Father's Death? Or will you suspect those, who decline the Question, who possess the Spoil, and who live by Blood, and by Blood? Every Circumstance, my Lords, of this Case is wretched and shameful; but it is impossible to express any that is more iniquitous, and more unjust than this: The Son is not admitted to examine his Father's Slaves about his Father's Death; nor suffered to be Master of his own Slaves, so long as to put a Question to them upon this interesting Subject. But I shall speak to this Point, by and by; for it entirely relates to the *Roscii*, whose Audaciousness I promised to speak to, after I had discharged away * the Allegations brought by *Erutius*.

BUT now, *Erutius*, I come to your Part. You must of Necessity agree with me, if he be guilty of this Crime, that he either did it with his own Hands, which you deny; or by Means of some Freed-men or Slaves. Do you admit them to have been Freed-men? But you can neither shew how he could assemble them, nor where they met; by what Motives, by what Agents,

* *Discharged away.*] The Original is *Diluisse*, a Metaphor, which seems to have been taken from the Art of Dying, and is very common with our Author. When Dyers alter the Colour of any Piece of Cloth or Silk, they call it *discharging that Colour*.

Agents, by what Inducements, by what Hopes, nor for what Hire. On the other Hand, I take upon me to prove, that *Sextus Roscius* was not only innocent of all this, but that it was absolutely impossible for him to be guilty; as he had not for many Years been at *Rome*, and as he never left his Farming-Business, but upon some very pressing Occasion. The Mention of the Slaves you seem to have reserved as a Plank to carry you into Harbour after the Shipwreck of all your other Allegations; without minding, that you strike upon such a Rock, as that you shall see this Charge not only recoil from *Roscius*, but you shall perceive all the Presumptions of it rebound upon yourselves.

WHAT then is left, or whether can the Prosecutor, in such a Distress of Proofs, fly for Shelter? The Licentiousness, says he, of the Times was such, that Murder was frequent, and commonly attended with Impunity. This is a very good Reason why you was able to perpetrate this Crime with very little Trouble, because there was such Plenty of Murderers. Indeed, *Erutius*, I can't help thinking, that you now want to compass two Ends for one Reward. *First*, To blacken us in this Court; and *Secondly*, To impeach your Pay-masters. How did you say? *Murders were frequent*. Frequent! Who were the Ruffians? And who employ'd them? Don't you consider, that you are brought hither
by

by *Brakers*? And what then? Why, don't we all know, that in those Days, the same Gentlemen who knocked down Estates,* generally knock'd down Men?

In short, the very Persons who patrol'd Night and Day in Arms thro' the Streets, who were perpetually in *Rome*; whose Lives were a continued Scene of Rapine and Blood; these very Men object to *Sextus Roscius* the Cruelties and Injustice of those Times, and think to Charge, as Crimes upon him, that very Frequency of Murders of which they themselves were the Abettors and the Principals: Upon a Man, who was not only absent from *Rome*, but entirely ignorant what was doing there; because, as you yourself confess, he was always in the Country.

I AM afraid, my Lords, that I shall appear to be either troublesome, or to distrust your Understandings, should I insist any longer upon Matters that are so very self-evident. I humbly conceive, that the whole Charge of *Erutus* is refuted: Unless the Court should be of Opinion, that I should Purge my Client from the Charge of purloining the public Money,

* *Knock down Estates*.] There is an humorous Pun in the Original, which I have preserved as well as I could in our own Language. *Nescimus, per ista tempora, eosdem ferre secloris fuisse eblorum et bonorum.* I believe the Reader will pardon this Liberty, when he reflects, that our selling Goods by Auction is by the Auctioneers knocking them down, when nobody will bid more, which answers exactly to the Pun that *Cicero* introduces here.

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ney, and some other trump-up Stories, which before this Time I never heard of; and appeared to me to be taken from some other Speech, and designed against some other accused Person. As to these, as you have nothing but bare Assertions to establish them, so bare Assertions are sufficient for destroying them. If he has a Mind to rest any Thing upon Witnesses, he will find me more ready there, as well, as upon the Merits of the Question itself, than he did imagine.

THE Part I now enter upon, proceeds not from any Inclinations I feel within myself, but from the Duty I owe to my Client; because did I chuse to impeach, I would impeach those whose Impeachments could advance me; which I am resolved not to do, as long as I have Liberty either to prosecute or to defend. For to me that Man appears the most amiable, who rises by his own Virtue, and not he, who climbs to Pre-eminence by help of the Misfortunes and Miseries of another. Let us, therefore, give over our Enquiries into Matters of no Moment. Let us enquire where the Guilt lies, and where it can be fix'd. You may by this Time understand, *Erutius*, how many Presumptions must concur to establish one Fact. I shall not speak fully to them all, but touch upon each. Nor would I do even that, were it not indispensable.

As

As a Proof of that, I will not push my Charge farther than my Client's Interests and my own Duty requires.

You could find no Motive in *Sextus Roscius*, but I can in *Titus Roscius*. It is with you, *Titus Roscius*, that I have now to do, as you sit upon that Bench, and openly profess yourself an Adversary. I shall take Care of *Capito* afterwards, in Case, as I hear he is ready to do, he shall appear as an Evidence. He shall then perceive more Trophies of his own Feats, such as he is not aware that I have so much as heard of. The great *Lucius Cassius*,* whom the People of *Rome* looked upon as a most equitable and a most discerning Judge, used in all Trials to enquire, *To whose Advantage was it done*. For such is the Constitution of human Nature, that no Man aspires to commit a wicked Action, but from some Hope, or to gain some Profit.

They who were to take their Trials were afraid of, they trembled at the Thoughts of having him for their Judge; because, tho he was the Friend of Truth, yet he did not seem so much to incline to Mercy, as to be bias'd towards Severity. For my own Part
tho

* *Lucius Cassius*.] This Gentleman seems to have been the Author of the celebrated Questions of the Civil Law *Qua bono? Quia bono? Quia bono?* That is, *To whose Advantage could such and such a Thing serve?* See the Oration for *Delio*.

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tho' a brave Man, who knows how to check the Guilty, and to compassionate the Innocent, the President of this Court, yet I would not venture, even before *Cassius*, or Judges like him, who are the Tortors Accused, to plead the Cause of *Sextus*

son they should perceive upon this Prosecutors fell into the Poorest Sum; while the Accused Beggar; they would not enquire, *Who was to be a Gainer by it* but they would fix the Crime and its Pre- rather upon the Plunderers than

yourself was indigent; that you was rapacious; perhaps, that you was audacious; perhaps, that you bore the most inveterate Hatred against the Deceased; could they be at a Loss to account for the Motive that induced you to commit this black Action? Is there a Circumstance in all

it was such, that it cannot be hid; and the more plain it will be written in your Forehead, since it could enter into Partnership with a more

Stranger upon the Fortune of your Relation and Fellow-Citizen. Your Audaciousness, not to mention other Proofs, is plain to all Mankind, by your being the only one of all the Conspiracy, among all the numerous Gang of Assassins who sit along with the Impachers, and not only shew, but thrust that Face of yours into the View of this Court. You will be obliged to own, that you entertained an Enmity, and had great Family-Quarrels, with *Sextus Roscius*. Therefore, my Lords, you are now to consider, whether it is more probable, that the Deceas'd was murder-ed by the Man who inherits his Estate, or by him who inherits nothing but Beggary by the same Death. By the Man who was raised from Penury to Plenty, or by him, who was brought from Happiness to Misery. By him, whom the Lust of Lucre has inflamed with the most inveterate Hatred against his own Relations; or by him, whose Life was such, that he never knew what Gain was, but from the Product of his own Labours.* By him, who of all Dealers in the Trade of Blood,† was the most audacious, or by him, who was

so

* *What Gain was, but from the Product of his own Labours.* Orig. *Quæstus*.—*Fructus*.—*Quæstus* is applied to Merchandise or Traffic of any Kind. *Fructus* to Agriculture.

† *Dealers in the Trade of Blood.* Orig. *Omnium sectorum*. The same Pun upon the Word *Sector*, which is either derived from *seco*, or was the old Way of writing *sequor*, is still continued. I have translated it accordingly.

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so little accustomed to the Forum, and Trials, that he dreads not only the Benches of a Court, but the very Town. In short, my Lords, what I think most to this Point is, you are to consider whether it is most likely, that an Enemy, or a Son would be guilty of this Murder.

HAD you, *Erutius*, got so many; and such important Circumstances to urge against my Client, how long would you plead! How would you vapour! The *Light*, by Heavens! would fail you sooner than your *Lungs*. For upon each of these Subjects; the Matter is of such a Nature, that you can consume whole Days in setting it forth; and I could do the same. For tho' I assume nothing to myself; yet I will not derogate so much from my own Qualifications, as to own; that you can speak more copiously than I can. "But the Number of Council is such, that I perhaps may be lost in the Crowd; a Battle of *Cannæ** has qualified

* *A Battle of Cannæ.*] This Passage requires Explanation.

Cicero, it must be acknowledged; indulged a youthful Fancy too much in this Oration. *Prælium Cannanense*, the Battle which was decisive in Favour of *Sylla*, and wherein a vast Number of Roman Knights were slain, happening to have somewhat in it that sounded pretty much like *Prælium Cithnense*, makes our Author use the latter Word instead of the first, which might have been dangerous to have done at that Juncture. The true Reason why he introduces the Mention of it here is this.

The Battle against *Cinna*, or the *Prælium Cithnense* was fatal

qualified you sufficiently for an Accuser. We have seen the Scythians, not the Thracian Lake, a Source of Slaves.

Who did not suffer there from Phrygian Steel.

There is no Occasion for me to enumerate all Particulars, the Curtii, the Marci, in short the Memmii, † whom Age itself excused from

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fatal to so many Roman Citizens, that there did not remain Men of Credit sufficient for carrying on Impeachments. (See the Oration against Cæcilius, Vol. I.) Therefore every Scoundrel had a Chance of being admitted as an Accuser.

The Battle of Cannæ was so fatal to the Romans in like Manner, that they had not Citizens sufficient for defending their Country. Therefore Slaves were enlisted as Roman Citizens; as we see in *Leg. l. i. c. 57.* Therefore says our Author; you are indeed a proper Accuser now, but that happened only by the *Paganus Dignitas*: In the same Manner as the Roman Slaves were admitted to be Citizens after the Battle of Cannæ.

[*Scythian.*] The Battle of Cannæ was fought near the Lake of Cannæ, which our Author here mentions, because it seems to agree to the Scythian Lake, where Sylla massacred a vast Number of Romans, and set their Heads up to public View. This Lake is called by *Suet.* *Lacus præfatus in Gallia habetur.*

† *Who did not suffer there from Phrygian Steel* | This seems to be a Verse taken from an old Tragic Poet, to shew that the Phrygians were accounted a mean, base Kind of People, and that they killed a great many Roman Senators.

[*Memmii.*] The genuine Reading is *Mæmæd*, but I have verbatim transcribed the base of this Word upon the Authority of *Plinius* *l. viii.* and that of our Author in his *Antiquities*, c. *lxx.* where he mentions the Family of the *Memmii* were famous Accusers: His Words are, *Jemilian C. G. Memmii fuerunt Oratores medicorum, accusatores acerbissimi. Memmii quoque in Galliam Legatos multos occiderunt: pro rebus non sine dolo.*

Battle of. At last the aged *Priam*, & the venerable *Antistius*, who was excused from fighting, not by his Years only, but by the Laws. At the same Time, there are six hundred, so mean that nobody names them, who serve as Accusers upon the *Statutes of Stabbing and Poisoning*. For my Part, I wish they may all of them have Bread; for it can do no Harm to have a great Number of Dogs, where a great many People are to be watch'd, and a great deal is to be guarded.

BUT, as it generally happens in the Heat and Hurry of War, a great deal is done without the Know-

* *When Age itself excus'd from Battle.*] The Time when a Roman was no longer oblig'd to serve in War, was the forty-sixth Year of his Age. *Plutarch* is of Opinion, that this is spoken of *Fenestian* Battles, as if these People had been too old to battle it at the Forum.

† *At last the aged Priam.*] I am not at all ashamed to own, that for some Lines before this, where our Author begins his Reflections upon Accusers, I am a good deal at a Loss, not only to find out his *Wis*, but his *Meaning*; and I dare say, that if the letter'd Fools of those old Gentlemen, the Commentators, would have suffer'd more, they would have made the same Acknowledgment. However, it may be proper to inform the Reader, in what manner groping out the Sense of this Passage, that what is said here about *Antistius*, is spoken of *Fenestian* Battles, it probably this *Antistius* had been branded, as we have mention'd above, as was under some other legal Constitution, that disabled him from being as an Accuser. But if it is spoken of *Military* Battles, we are to suppose, that pass'd some bodily Disease or Defect, because the Laws of *Rome* excus'd such from serving as Soldiers. *Plutarch de Bell. Rom. L. Dial. 4.*

tius, in his Favour, the Arguments I have mentioned in mine, he would enlarge upon them a long Time; and, my Lords, so could I. But I design, as I have already told the Court, to touch upon every Circumstance but slightly, and with a gentle Hand; that the World may see, that it is not my Choice to *impeach*, but my Duty to *defend*.

WE have seen therefore a great Number of Motives that might prevail with this Man: Let us now examine whether he had any Opportu-

i. c. *by Voices*, or *by Tablets*, the latter Method being liable to the greatest Abuses and Perversions. As the *Roman* at that Time began to be excessively debauched, Bankruptcies were very frequent, and the Desperate of all Denominations were ready to join the Victor in order to repair the Ruins of their own Fortunes: For this Purpose they were always ready to suggest, that such or such a Person was disaffected to his Party, and therefore ought to lose his Life and Fortune; this they called *being proscribed*. Many horrible Examples of this Kind happened; but tho' *Sylla* was always very forward to encourage Proscriptions, yet still there lay an Action upon his own Law against those who destroyed any *Roman* by a false Accusation. They who got into Possession of Estates therefore by Proscription, had no other Safety than by using all Methods of stifling Impeachments of all kinds. It was owing to this, that the principal Slaughter of the proscribed *Romans* in those Days, fell upon those who had most distinguished themselves in quality of Accusers: This gives Rise to all the dark Satire of our Author in this Place. But there is a Passage in his Oration against *Cælius*, which was pronounced ten Years after this, that plainly points out the State of Impeachments at this Time, and throws great Light upon all this Passage, though I own not sufficient to clear it quite up.

nity for committing this Villany. Where was *Sextus Roscius* murdered? At ROME. How! *Titus Roscius* where was you then? At ROME. But what is that to the Purpose? so were a great many more. But give me Leave to observe, my Lords, that the Question now, is not, *who of all*

F 3 that

Qui iudicia manere apud ordinem senatorium volunt, querantur accusatores se idoneos nos non habere. Qui accusare possunt, iudiciorum severitatem desiderant. Populus Rom. interea tametsi multis incommodis, difficultatibusque affectus est, tamen nihil æque in Repub. atque illam veterem iudiciorum vim gravitatemque requirit. Iudiciorum desiderio, Tribunitia potestas effugata est: iudiciorum levitate ordo quoque alius ad res iudicandas postulatur. Iudicum culpa atque dedecore etiam censorium nomen, quod asperius antea populo videri solebat, id nunc poscitur. Id jam populare atque plausibile factum est. In hac libidine hominum nocentissimorum, in populi Rom. quotidiana querimonia, iudiciorum insania, totius ordinis offensione, cum hoc unum his tot incommodis remedium esse arbitraret, ut homines idonei atque integri causam Reipub. Legumque susciperent: Fateor me salutis omnium causa ad eam partem accessisse Repub. sublevandæ, quæ maxime laboraret. See Vol. I. p: 89.

From this Passage we may perceive, that all Impeachments at that Time were no better than collusive ones, by the Provarigation of the Prosecutors: And no Doubt, a great Number of them were intended as a Security for those who were in Possession of the Estates of the Proscribed; which they thought themselves no other Way sure of, but by a formal Decision of Justice. It was owing to this Practice of Collusion, that the *Prævaricatores*, about this Time probably, began to be distinguished by that Name. In short, the Abuse became so flagrant, that *Aurilius Costa*, in the Year in which *Cicero* pronounced the last mentioned Oration, preferred the Law restoring the Equestrian Order to the Right of judging in Conjunction with the Senatorian. This happened about the Year of Rome 685, but according to our Scholiast, in the Year 683, though *Dr. Kennet*, with unparadonable Inaccuracy, places it in the Year 653.

that Number murdered him? But whether it is most rational to conclude, that a Man who was murdered at *Rome*, was murdered by one who, about that Time, was there every Day, or by one who had not been so much as near *Rome* for many Years.

I SHALL now proceed to the other Opportunities. Said *Erutius*, *Rome at that Time swarm'd with Assassins, and Murder past unpunished.* How! then who composed those Swarms of Assassins? To be sure either they who fought to get Estates by Murder; or they who were hired by them for those Purposes. If the first, then you yourself come into that Number, since you are now enrich'd by our Estate. If the latter, whom some People call by the softer Name of *Executioners*; let me ask you, by whom they are hir'd, and on whom do they depend? Believe me, you will find, upon Enquiry, 'a certain Accomplice of yours in that Number: And by weighing all your Objections with our Defence, the Question betwixt *Sextus Roscius* and you, may be easily stated.

BUT *what then*, say you, *supposing I was every Day at Rome?* All my Answer to that is; I was not. *I own that I am a Broker, and so were a great many more.* But you yourself admit that I was a Farmer and a Clown. *Does it follow, that because, perhaps, I sometimes kept*
 Com-

Company with Murderers, that I am a Murderer myself? But then, Sir, I, who never was so much as acquainted with any of that Gang, can never be guilty of such a Crime. A great Number of other Circumstances might be brought to prove, that you had the most inviting Opportunities for undertaking this Murder; but I will overlook them, not only because I am unwilling to accuse you; but because if I were to enter into a Detail of those Murders which were committed at the same Time, and with the same Views as that of *Sextus Roscius*, it might affect others besides you.

LET US now, *Titus Roscius*, enquire, with the same gentle Hand, into what you did *after* the Death of *Sextus Roscius*. These, my Lords, are Actions so glaring and so flagrant, that, by Heavens, I touch upon them with Unwillingness. For, *Roscius*, whatever your Merits or Demerits may be, I am afraid least I should seem to save my Client at your Expence. While I am under this Apprehension, and am inclin'd so far as is consistent with the Duties of my Profession, to spare you, I change my Mind. Your Impudence thrusts itself full upon me. Have not you, while your other Accomplices have deserted you and absconded, that it might appear as if this Prosecution had been set on

foot, not with a View to secure *their* Plunder, but to punish *his* Guilt, solicited and struggled for the Character in which you now appear, that you might have a Hand in the Trial, and sit among the Prosecutors? An Ambition in you which can serve no other End; but to expose your Presumption and Impudence to the View of all Mankind.

Who brought the first Accounts of the Death of *Sextus Roscius to America?* Your Dependent and Friend, *Mallius Glaucia*, whom I have already mentioned. What was the Meaning of this, that he, of all Mankind, was the Messenger of this News; for you, of all others, had the least Right to take any Concern in such an Event, if you had entered into no Design against the Life and Fortune of the Deceased, and form'd no Agreement, either as to perpetrating or rewarding the Murder. Did *Mallius* do it of his own Accord? Pray what Concern had he in it? Was it by Accident, when he came to *America*, not on this Account, that he was the first who told there what he had heard at *Rome*? What brought him to *America*? I can't tell, say you, I am no Conjurer. Then, without being a Conjurer, I will bring the Matter to a short Issue. What was the Meaning of his carrying the first Accounts to *Titus Roscius Capito*, while the Deceased had a Family, a Wife, and Children at *America*; while

while so many of his Relations liv'd there in the most endearing Familiarity? What, I say, was the Meaning, that this Creature of yours, this Messenger of your Wickedness, should carry this News to *T. Roscius Capito*, rather than to any Body else?

THE Deceased was killed as he was returning from Supper, and the News was at *Ameria* before Day. What does this incredible Dispatch, this Haste, this Hurry intimate? I don't ask you who murdered him. You have nothing to fear *Glaucia*; I am not examining; I am not searching you for the concealed Po-niard. That is nothing to me at present; because, as I have already discovered by whose Contrivance the Murder was committed, it matters not who gave the Blow. One Fact I have established, and that throws a Light upon

Il your Wickedness. Where or from whom did *Glaucia* hear this? How came he to know it so soon? Supposing he had heard of it the Moment it was committed, what obliged him to perform so great a Journey in one Night? What Necessity was so pressing as to force him, if his coming to *Ameria* was mere Matter of Choice, to leave *Rome* at so late an Hour, and to travel all Night? In a Matter so very clear as this, are we to hunt for Arguments, are we to be puzzled how to form Conjectures?

Is not all you have heard, my Lords, painted before your Eyes? Don't you see the unhappy *Rosciius*, ignorant of his Fate, returning from Supper? The Assassins planted? The sudden Onset? And *Glau'cia*, a principal Actor in the Murder? Is not *Titus Roscius* present to your Eyes? Does he not with his own Hands help his *Automedon* * into his Chariot, that he may be the first to carry the News of his cruel Guilt, and his unnatural Conquest? Does he not beg him to take no Rest that Night? To take a little Pains for his Honour, and to carry the News as early as possible to *Capito*?

WHY did he want that *Capito* should be the first to know it? I don't know; but I know that *Capito* shar'd in this Estate. I see that out of thirteen Farms, he possesses three of the best. I understand likewise, that this is not the first Time *Capito* has been suspected on this Account: That he has won many infamous Wreaths, but that this is the first Garland he ever carried into *Rome*: † That there is no Method of Murder which he has not practised: Many has he dispatch'd

* *Automedon*] He was the celebrated Charioteer of *Achilles*, mentioned by *Homer*.

† That he has won many infamous Wreaths, but that is the first Garland he ever carried into *Rome*] In the Original it is, *Multas esse infames palmas, hanc primam esse tamen lemniscatam, quæ Romæ deferatur*.

The Difference betwixt *Palma*, and a *Palma lemniscata*

patch'd by the Sword, and many by Poison. I can likewise produce you an Instance, where, contrary to a good old Custom, he threw a Man over the Bridge into the *Tiber*, who was not sixty Years of Age.* If he appears, or rather when he appears, for I understand he is to do it, he shall hear all this himself.

LET

cata is this; The first was a plain Wreath, and bestowed upon second-rate Gladiators; But when the *Palma* was *lemniscata* it was curiously done up with Ribbands and Tassels, in the same Manner we see it upon the Coins of Emperors, Kings, &c. We have a delicate Compliment made by *Ausonius* to *Paulinus* to this Purpose,

*Et quæ jamdudum tibi palma poetica pollet,
Lernisco ornata est, quæ mea palma caret*

“ The Muse thy Garland has adorn'd with Cost,
“ A simple Wreath is all that I can boast.

So that *Cicero* in other Words says, that this was his greatest Exploit in Murder.

* *He threw a Man over the Bridge into the Tiber, who was not sixty Years of Age.*] This Passage would be unintelligible to a Reader who did not know, that at *Rome* the usual Method of giving Votes was by each Tribe passing over a narrow Bridge, perhaps made of Boards, into the *Ovilia* or the *Septa*, which were railed round, to distinguish the Voters from the Multitude. When a Man was denied the Privilege of voting, he was said to be *Directus de ponte, & depontatus*. Now, there was this peculiar Circumstance in the *Roman* Policy, that no Man above sixty Years of Age, as we are told by *Varro*, could vote in an Election. *Ovid* accounts for the Original of this Institution very early.

“ *Pars putet ut ferrent juvenes suffragia soli,
“ Pontibus infirmos præcipitasse senes.*

The Reader will easily pick out a Key, from what I have said, to *Cicero's* Meaning.

LET him advance ; let him then produce that Roll which I can prove *Erutius* wrote for him ; with which, they say, he threatened *Sextus Roscius*, by telling him that he would bring it all in Evidence. What a notable Witness, my Lords, is this ! What solemn Dignity have we here ! How blameless in his Life ! Can you refuse implicitly to make it the Rule by which you are to judge upon Oath ? Give me leave to say, that we could not so plainly discern their Guilt, were they themselves not blinded by Passion, Avarice, and Presumption.

ONE dispatch'd a nimble Messenger hot from the Murder, to his Companion and Director at *Ameria* : So resolv'd was he, if all Mankind should desire to seem ignorant who committed the Fact, to come and expose his own Guilt, naked to their Eyes. The other, in the Name of Heaven, is to be an Evidence against *Sextus Roscius* ; as if you were now to consider whether he ought to be believed in what he has to say, or punished for what he has done. But our Constitution has provided, that the greatest Men can never be an Evidence in the smallest Matter that concerns themselves.

AFRICANUS, tho' his very Name is a Declaration that he conquer'd a third Part of
the

the World, could not be admitted as an Evidence * in his own Cause. I dare not make so free with so great a Man, as to say, that if he had been a Witness, he would not have been believed. Observe how every Thing is altered and degenerated. Now in a Trial concerning an Estate, and a Murder, a Broker and an Assassin is to be admitted as an Evidence; I mean, the Buyer and Possessor of the Estate now in Dispute; and the Procurer of the Murder now in Question.

WELL, most excellent Sir, † have you any Thing to offer? Mind me, take care, that you do your best; you too have a great deal at Stake. You have done many *wicked*, many *bold*, many *criminal* Actions: And, believe me, you have now done a *very foolish* Thing, of your own Accord, no Doubt, and not by the Advice of *Erutius*. You had no Business to sit on that Bench: For no Man produces a dumb Prosecutor, nor an Evidence who rises from the Bench of Accusers. Besides, your Malice should have been a little more conceal'd, a little more guarded. Does any one now desire to hear any Thing from you? now that you have acted

in

* *An Evidence in his own Cause.*] Nullus idoneus testis in sua re intelligitur. *Pompon. l. 10. de testibus.*

† *Most excellent Sir.*] He applies here to *T. Magnus*, who was among the Prosecutors.

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in such a Manner, as if you had industriously sought to do Prejudice to your own Cause. But let us examine, my Lords, what immediately followed.

FOUR Days after the Death of *Sextus Roscius*, the News was carried to *Chryfogonus* then at *Volaterræ*, in the Camp of *Lucius Sylla*. Let me again ask, who sent him this News? To be sure, the very Person who sent it to *Ameria*. *Chryfogonus*, who knew nothing, either of the Man or the Matter, takes Care that they should immediately sell his Estate. You may ask, how he came to covet the Estate of a Man to whom he was an absolute Stranger, and whom he never saw? My Lords, the natural Answer to such a Question is; *To be sure, some Townsman or Neighbour must have told him: They generally are the Informers; they are generally the Traitors.* Here is nothing to give you any Grounds of Suspicion: For I will not plead in that Manner. It is *probable*, that the *Roscii* laid that Matter before *Chryfogonus*; for they lived in Friendship with him before that Time: For, tho' the Family of the *Roscii* had a great many old Patrons and Friends, yet they left off paying their Duties to them, and had put themselves under the Patronage and Protection of *Chryfogonus*. I could with great Truth bring
all

all these Allegations to support my Pleading; but in this Case, there is no Occasion for Conjecture. I am positive they themselves do not deny it was by their Instigation, that *Cbryfogonus* appropriated this to his own Use. If, my Lords, you should see a Man who has been a Sharer in the Profits arising from an Information, can you have any Doubt with Regard to the Person of the Informer? Who then is in Possession of this Estate? With whom did *Cbryfogonus* share it? The two *Roscii*. Any body else? No, my Lords. Have we any Room then to doubt, that the Persons who shared in the Prey were the same who pointed out the Prey to *Cbryfogonus*?

LET us now examine the Fact of the *Roscii* upon the Judgment formed of it by *Cbryfogonus* himself. If the *Roscii* had done nothing of Consequence in that Rencontre, why were they so liberally rewarded by *Cbryfogonus*? Had they done nothing besides making a bare Information; had they a Title to any Thing but Thanks? Or, if he had a Mind to do any Thing that was handsome, to some Mark of Gratitude? But why was so great a Reward as three Estates, worth so much Money, immediately bestowed upon *Capito*? Why should that *Roscius* possess the Residue in common with *Cbryfogonus*? Is it not plain, my Lords, that *Cbryfogonus*

gonus, being fully apprized of the Matter, bestowed those Spoils upon *Rofcius*:

CAPITO was among the ten who were deputed to go to *Sylla's* Camp: Now learn the whole History of his Conversation, Nature and Morals, from his Behaviour on this Deputation: And, my Lords, unless you shall be convinced that there is no Duty so sacred as to be inviolated by his Guilt, no Law so binding as to be unfringed by his Perfidy, you may pronounce him the best of Men.

HE takes Care to hinder these Matters from coming to *Sylla's* Ears: He discovers to *Chryfogonus* the Designs and Intentions of the other Deputies: He advises him to prevent the Thing from becoming a public Transaction: He tells him, if the Estate should not be put to Sale, that he must lose a great deal of Money, and he himself endanger his own Life: He spirits up *Chryfogonus*: He imposes upon the other Deputies: He again, puts *Chryfogonus* in Mind to be upon his Guard: And slyly gives the other Deputies false Encouragement: He enters into Concert with him against the others: He betrays all their Designs to him: He makes a Bargain with him for his Share of the Prey: And always taking Advantage of some Incident,* took
Care

Taking Advantage of some Incident.] The Commentators

Care to shut up all Access to *Sylla*. In short, by his wheedling Advice and Interposition, the Deputies never had an Audience of *Sylla*. Imposed upon by his Insincerity, or rather by his Treachery, all they brought back with them was an *idle Hope* instead of a *substantial Performance*; this will be confirmed to you by the Testimony of the Deputies themselves, provided the Prosecutor shall chuse to summon them here as Evidences.*

WHEN a Man in the private Concerns of Life, from any selfish View of Profit or Interest, managed an Affair entrusted with him, I won't say *treacherously*, but even *carelessly*; our Forefathers judg'd that such a Man behaved with the highest Infamy. Therefore the Penalties incurred by the unfaithful Execution of a Commission, were as infamous as those of a downright Theft. This, I suppose, arose from a Consideration, that in those Matters where we could not be personally present ourselves; the Management of them must devolve upon a sup-
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tors are very much divided in the Reading of the Original here. Some reading *fretum*, some *aura*, some *remora*, some *mora*: But I have translated it in the same Sense put upon it by the learned *Facciolati*, who remarks that *Asinius Polio* was called a Man *Omnium horarum*; that is, fitted for all Manner of *Business*.

* *The Prosecutor shall chuse to summon them here as Evidences.*] The Defendant could not summon any Evidences to Facts, but the Prosecutors could.

plemental Trust delegated to our Friends ; The Man therefore who violates this, breaks into the general Rights of the Community, and, as far as in him lies, confounds all the Ties of Society. For it is impossible, that we should manage every Thing in Person ; each Man is peculiarly adapted for a certain Province of Business. Therefore Friendships were formed, that the general System of public Good might be supported by mutual Acts of Benevolence.

WHY should you accept of a Commission, if you design either to neglect it, or turn it to your own Advantage ? Why do you offer your Service to me, and yet under that Mask of Friendship obstruct and hurt my Interest ? Be gone out of my Way ; I will do my Business by another. You think yourself equal to the Burden of a Duty which you undertake, and which no Man of common Honesty will think heavy.

THIS is therefore Infamy itself, because it violates the two most sacred Things in the World, *Friendship* and *Honesty* : For no Man gives a Commission to another, unless he thinks him his Friend ; nor trusts any Man whom he does not believe to be honest. He must, therefore, be a most consummate Villain who shall at once dissolve the Ties of Friendship, and deceive the Man, who but for his trusting him would not have been injured.

WAS it then necessary, that a Person who in the slightest Matters neglected his Trust, was branded with the most infamous Penalty: And in an Affair of this Consequence, shall a Man show his Face among honest Men, nay show it among the Living, who being entrusted with the Reputation of the Dead, and the Fortunes of the Living, has betrayed the first to Infamy, and THE LATTER TO MISERY?*

In the most trifling personal Concerns, even the Neglect of a Commission is looked upon as criminal, and accounted to be infamous in the Eye of the Law; because if a Commission is punctually executed, the Oversight, if any shall happen, does not lie in the Person who *receives*, but in him who *gives* that Commission. In an Affair of this kind, where the Transaction and the Trust were public, what Punishment can be devised equal to the Crime of that Man, who not only injures another in his private Property, but defiles and stains by his Treachery the very Oath of a public Commission; I say what Penalty

G 2

* *And the latter to Misery*] This Expression is not in the Original, it being imperfect in this Place; but I am persuaded there is no Reader of any Taste, who does not see that it must have been filled up with an Expression of this or a like Signification; for Cicero's Manner absolutely requires that somewhat should correspond to *ignominia mortuum affecerit*.

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nalty severe enough can be inflicted upon such a Man?

HAD *Sextus Roscius*, as a private Person, entrusted this Affair to his Management, that he might transact and make it up with *Chryfogonus*, and, as he should see Occasion, make use of a discretionary Power in his Name; is it not plain, that if he had converted the smallest Matter of the Commission to his own private Advantage, he must have been condemned upon an Arbitration to make Restitution, and forfeit all Pretences to common Honesty? Now *Sextus Roscius* did not in a private Capacity entrust this Affair to his Management; No, the Charge comes with much heavier Aggravations; for *Sextus Roscius* himself, his Reputation, his Life, and all his Estate were *publickly* entrusted by the Assembly into the Hands of this *Roscius*. The Appropriation which *Titus Roscius* made to himself was no paltry insignificant Affair; for he stript him entirely of all his Estate; he bargain'd for three Farms for himself; and made as light of the Authority of the Assembly, and all his Townsmen, as he did of his own Honesty.

LET us now, my Lords, take a more narrow Inspection into this Affair, that you may be thoroughly sensible there is no kind of Guilt to be conceived, into which he has not plunged.

It

It is infamous, even in the most trifling Affairs, to impose upon a Partner, even as infamous as in the Case I have already mentioned: And with good Reason; for a Man who takes a Partner into a Business, imagines that he has got an Assistant. To whose Succour then can he fly, after having been injured by the very Succour to which he trusted? And those Slips that are guarded against with the greatest Difficulty, ought to be most severely punished. We can be upon our Guard to Strangers;* our Bosom-Friends cannot but see a great deal more into our Conduct; but who can guard against a Partner? For the very distrusting him does Injury to our mutual Engagements. Our Forefathers, therefore, were in the right not to look upon one as an honest Man who had imposed on a Partner.

BUT this *Roscius* has not imposed on One Partner in a Money Matter; a Thing that is indeed hard, but not intolerable: But he led on, deceived, betrayed to their Enemies, and most villainously, most perfidiously imposed upon Nine Persons of the fairest Characters, join'd with himself in the same Charge, Deputation,

G 3

Duty

* *We can be upon our Guard to Strangers.*] This Passage has likewise exercised the Wits of Commentators, but it is only for Amusement, because it is impossible to translate it, so as that it shall not be good Sense. For if we translate it according to some, *we can be fortified against Strangers,* it will come to the same Purpose.

Duty and Commission. They who could have no Mistrust of his Guilt, had no Reason to entertain any Jealousy of their Brother Commissioner. They had not perceived his Craft, and believ'd the Delusion of his Lips: For this Reason these very honest Men are now thought to have had too little Caution and Circumspection, merely because he had too much Craft and Cunning. He who was at first a Traytor, and then a Renegade; who first divulged the Designs of his Partners to their Enemies, and then enter'd into Partnership with the very Enemies; now that he is distinguished with three Farms, that is, with three Rewards of his Iniquity, he threatens and bullies us. In your Enquiry into such a Life, my Lords, amidst such a Complication of Guilt, you will find the very Offence which you are now trying: For your Manner of Proceeding in such an Enquiry ought to be, that if you find a great many rapacious, presumptuous, villainous, and treacherous Actions, you are to conclude that this Species of Guilt is *conceal'd* among the others. But indeed this is by no Means *conceal'd*; for it is so plain and self-evident, that we have no Reason to presume it from the other Crimes which he has committed, but he may be convicted of all his other Crimes from this one, were there the least Room for doubting them.

THEN

THEN how, my Lords, are we to conclude, that this Prize-fighter has absolutely laid aside his Profession, or that the Apprentice has learned a little of his Art from his Master? In Race-courts they are Equals; they are Rivals in Villainy; alike in Impudence, and Twins in Audacity: For as you have been brought acquainted with the Honesty of the Master, I will now introduce you to the Candour of the Scholar. I have already taken Notice, that they were very often required to give up two Slaves to be examined. This, *Titus Roscius*, you constantly refused. Let me now ask you, whether they who required this were of so little Consequence as not to be regarded in their Request; was the Person for whom it was required no proper Object of Concern; did the Demand seem unjust in its own Nature? They who required it were Men of the greatest Honour and Integrity in *Rome*, and whom I have already named. Men whose Lives and Characters are such with every *Roman*, that their bare Word is sufficient to obtain what is reasonable. The Person for whom this was required, was one of the most unfortunate and unhappy of all Mankind; one who would have willingly yielded himself to the Rack, provided it could have promoted the Enquiry into his Father's Murder. And the Thing required was of such a Nature,

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ture, as that it was the same Thing for you to refuse it, as to confess yourself guilty of the Fact.

THIS being the Case, give me Leave to ask you, for what Reason you refused this? Those Slaves were present when *Sextus Roscius* was murdered. As to my Part, I neither accuse nor acquit the Slaves of the Murder. But the Circumstances of your refusing to suffer them to be put to the question, begets an ugly Presumption against you: Nay, your careffing and rewarding them as you do, amounts to a direct Proof that they know somewhat, which, if they were to speak out, would be your Ruin. It is unjust, say you, to make Slaves Evidences by Torture against their Masters. Is this demanded? *Sextus Roscius* is the Party, and upon his Trial, you don't say that you are their Masters. They are waiting upon *Chryfogonus*; 'tis probable that they are: *Chryfogonus* is quite charm'd with their Learning and Politeness, so that he has chosen them, tho' they are but labouring Slaves, taken from the Stock of a plain Country Gentleman at *Ameria*, to tutor his pretty Train of Younglings, whom he has picked out of all the choicest Stocks of Slaves, in their Improvements in Pleasure and the liberal Arts. Believe me, my Lords, it is by no Means probable, it never can be, that *Chryfogonus* should fall in

Love

Love with their Learning or Politeness, nor that he should have Proofs of *their* Oeconomy and Honesty. There is a secret Motive, which the more industriously it is conceal'd and stifled by them, the more glaring and evident it is in the Eyes of the World.

How then does the Matter stand? Is *Cbryfogonus* unwilling that those Slaves should be examined, that he might the better conceal his own Guilt? By no Means, my Lords; I am far from thinking that the several Presumptions fit all of them equally well. For my own Part, I have no such Suspicion of *Cbryfogonus*: And I have declared so before this Time. You may remember, that, at my setting out, I divided my Pleading in this Manner; *First*, into the *Charge*, the Management of which falls to *E-rutius*. *Secondly*, The *Audacity*, which falls to the Share of the *Roscii*. Whatever you find in it that relates to Mischief, Guilt, and Blood, is appropriated to the *Roscii*; we say, that the overgrown Interest and Power of *Cbryfogonus* is both insupportable and prejudicial to us; and that we expected, as you have Authority to do it, that you would not only crush but punish it.

My Way of thinking is, that the Man who is in earnest, that they who certainly were present at the Murder should be examined, is in earnest.

earnest about finding out the Truth ; and that he who is against this, tho' he dares not own so in *Words*, in Effect confesses the Misdeed. I informed the Court before, that I would not enlarge upon their Crimes farther, my Lords, than the Cause required, or Necessity obliged me. For, I could bring many Allegations, and support each of them with Variety of Proof. But I never can dwell either long or minutely upon Circumstances, which I am forced against my Will to mention. Whatever was indispensable to my Pleading, that, my Lords, I have but slightly touched upon ; and as to the presumptive Proof which I have brought, as I should be obliged to go into a long Train of Arguments were I to enter upon its Merits, I will submit it to the Wisdom and Sagacity of this Court.

I COME NOW to the GOLDEN Name * of *Cbryfogonus* ; a Name under which the whole Confederacy is established ; but such a Name, my Lords, as puzzles me to find out how I can suppress, or how I can mention it : By suppressing it, I should leave out the best Part of my Pleading ; by mentioning it, I am afraid that not only he, tho' I don't much mind that, but

* *Golden Name*.] This is a Pun upon the Word *Cbryfogonus*, which is compounded of χρυσος, Gold, and γονος, Seed.

but many others will judge themselves aggrieved. Yet the Case is such, that it does not at all seem necessary for me to enlarge much upon a common Charge against all Brokers. For, indeed, this Cause is new and singular in its own Nature.

Cbryfogonus was the Purchaser of the Estate of *Sextus Roscius*. Let us now, in the first Place, enquire for what Reason this Estate came to Sale, and in what Manner it could be sold. I will not, my Lords, treat this Enquiry as if it were an infamous Thing that the Estate of an innocent Person should be sold at all. For were I at Liberty to talk, and you to hear all I could say on this Subject, *Sextus Roscius* was too inconsiderable a Member of this Government to become the chief Instance of such Oppression. I will therefore, confine my Examination of this Point to this single Consideration; By what Law relating to Proscriptions, call it *Cornelian*, or call it *Valerian*,* (for I neither know nor care which) I say by what Law had they any Power to sell the Estate of *Sextus Roscius*?

THEY

* *Cornelian* or *Valerian*.] *Valerius Flaccus* was created *Interrex* upon the Death of the two Consuls *Marius* and *Carbo*. In this Quality he created *Sylla* Dictator, and passed a Law at the same Time, that all his Acts should be valid. *Cicero*, in this Place, has a very contemptuous Insinuation, both with Regard to his Authority, and that of *Sylla*, whose Laws were called *Cornelian*.

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THEY tell us the Letter of the Law is, THAT THE ESTATES OF THE PROSCRIB'D SHALL BE SOLD: But *Sextus Roscius* was not proscribed. TOGETHER WITH THE ESTATES OF ALL THOSE WHO ARE KILL'D IN THE GARRISONS OF AN ENEMY. While Garrisons were kept up, he was in those of *Sylla*; and after the Public had gain'd a Breathing from Arms, he was murdered at *Rome*, in a Time of deep Tranquility, as he was returning from Supper. If this was *legal*, I shall admit the Sale of his Estate was *legal* too. But if it should appear that this was done contrary to all Laws, the new as well as the old, give me Leave to ask by what Law, Title, or in what Manner, could this Estate be put up to Sale?

You want to know, *Erutius*, against whom I point this: Not against him whom you wish and think of; for from the very Beginning of my Pleading, my Speech, and his own matchless Virtues, which he every Hour discovers, have clear'd *Sylla* from all such Imputation. I aver, that all their Management was thro' *Crysgonus*; the Lies that were told; the pretending that *Roscius* was an undutiful Subject of the State; the Forgery of his being killed in the Garrison of the Enemy; and the intercepting all the Information which *Sylla* ought to have had

had upon this Head from the Deputies of *Ameria*. In short, my Lords, I have a strong Presumption for believing, that this Estate in Fact never was sold: This is a Point which if the Court will give me Leave, I shall by and by open more fully.

I apprehend that the Law names the Day on which all Proscriptions and Sales are determinable; and that is, the first Day of *June*; several Months before the Death of this Person and the Sale of his Estate. Give me Leave, therefore, to say, that either this Estate never was enter'd into any of the *Treasury-Books*;* and if so, this Fellow has dup'd us by a more ridiculous Trick than we are aware of; or, if it appears upon any such Book, it must have been forg'd by some Means or other. For, it is plain, that by Law, the Estate could not be sold. I am sensible, my Lords, that I am entering too prematurely upon this Disquisition, and therefore, am under Correction, because I am minding a Scratch, while I should be endeavouring to save the Life of my Client: For his Anxiety proceeds not from Money; nor has he Regard to any Consideration of Interest; acquit him but of this infamous Charge, this groundless Impeachment, and he thinks he can easily

* *Treasury-Books.*] The Commissioners of the Treasury kept Books for entering all Money arising from the Sale of proscrib'd Estates.

easily bear all the Pressures of Poverty. But, my Lords, I beg you would hear what I am now to say, with that indulgent Attention, as if I myself, as well as *Senius Roscius*, were a Party concerned. For, my Lords, when I consider the Hardships and Oppressions of this Case, when I consider that they may in general be the Lot of unsuspecting Innocence; I feel for myself; and what I speak proceeds from the strongest Conviction, and the deepest Anguish. As to what concerns the Misfortunes and Situation of my Client, the Defence he has to offer for himself, and the Condition that would content him; all that, my Lords, I will reserve to the latter Part of my Pleading.

As I speak for myself, therefore, supposing *Roscius* to be left out of the Question, I should be glad, if *Chryfogonus* would tell me, in the first Place, why the Estate of a worthy Citizen was sold? And as the Law is only meant of those who are killed in the Enemy's Service, or proscribed, how came the Estate of a Man who was neither, to be sold? Then, why was this Sale made so long after the Time prescribed by Law? Then, why was it sold for such a Trifle? Now, tho' after the common Practice of knavish and profligate Freed-men, the Blame of all this should be laid upon the Patron; that won't account for it: For every Body is sensible,

ble, that in such a Multitude of Concerns, a great many People did a great many Things, partly without the Approbation, and partly without the Knowledge of *Sylla*.

You chuse then, that in such Matters some Slips should be made thro' Inattention? No, my Lords, this is not *Choice* but *Necessity*. For, if *Jupiter*,* THE BEST AND THE GREATEST, whose Will and Pleasure controuls the Heavens, the Earth, and the Seas, by sweeping Winds, unruly Storms, intense Heat, or intolerable Cold, often hurts Mankind, demolishes Cities, or destroys the Harvest, we are not to conclude, that these are any of the Effects of a mischievous Disposition in the Deity, but of the unruly, unwieldy System of natural Causes; while at the same Time we are sensible, that all the Comforts we possess, the Light we enjoy, and the Air we breathe, are the Gifts and Blessings of his Providence. Are we then to wonder, that *Lucius Sylla*, on whom alone was devolved the Management of the State, the Government of the World, and the Majesty of this Empire, recovered by his Arms, and established by his Laws, should be sometimes surprized through Inattention to particular Objects? Are we to wonder that human Wisdom cannot compass what is

* For if *Jupiter*.] This is a very odd Kind of Divinity of our Author, however, it might serve his Purpose.

is too difficult for Divine Power? But, that I may omit what has already happened, is it not plain, from what is *now* doing, that *Chryfogonus*, who entered this Impeachment, is the sole Contriver and conductor of the whole. In this Trial which is nominally carried on by *Erutius*.

* * * * *

[*Here is a Chasm in the Original.**]

OTHERS of them who live in the Fields of *Salentum* and *Brutium*, where they don't hear three Times a Year what is doing in the World, and imagine that they lead a very convenient agreeable Life.

BUT the other marches down to you from his Seat upon the *Palatium*; he has there a pleasant Country Seat near the City to retire to, in order to relieve his Mind from the Fatigues of Business; besides many other Estates, each of them sumptuous and adjoining. His House filled with Vases from *Corinth* and *Delos*; among which is that famous portable Stove, for which he lately gave so great a Price, that Strangers who heard the Auction as they past, imagined that an Estate was selling. How many other imbossed Pieces of Plate, Quilts, Pictures,

* *The Chasm.*] It appears by this Chasm, that we lose that Part of *Cicero's Reasoning* which arises from the Manner of Life of those Men who imposed upon *Sylla*, and which our Author probably described in this Place.

Pictures, Statues, and marble Ornaments may you imagine he possesses besides? To be sure as many as he could cram into one House from the Plunder and Devastation of many noble Families.

NEED I to mention his Retinue and the elegant Variety of Trades in his Equipage? Not to name those of vulgar Callings, such as Cooks, Bakers, Chairmen, he has so many Operators for amusing the Eyes and Ears in his Pay, that the whole Neighbourhood resounds with his Concerts of Voices, Fiddles, and Flutes, by Day; and his Revels by Night. What great Expences, what Profusion, my Lords, must it require daily to support such a Life as this? But as to his Entertainments, no doubt they are innocent, especially as they are made in such a House as his is; if we can call it a House, and not rather a Shop for Villany, and an Inn for all Manner of Wick- edness.

IN what Manner he swims along the *Fo- rum* with his well-drest perfumed Locks, and sweeping Train of *Romans*, yourselves, my Lords, are Witnesses: Nay, yourselves, my Lords, are Witnesses how he looks down upon all Mankind, how he holds them in Contempt; that he thinks nobody a Man besides him- self, and imagines himself alone posselt of Happiness and Power.

BUT, my Lords, were I to mention what he is effecting, and what he is attempting, I am afraid that by those who know no better, it should be thought that I meant to throw a Reflection upon the Cause of the Nobility, and to detract from their Victory. Yet, my Lords, I have a Title to censure that Party, if I think any Thing in it amiss; because I am sure nobody will imagine that I am disaffected to the Interest of the Nobility. For all who know *me*, know, that according to my mean, slender Abilities, after an Accommodation, the Thing that I most earnestly wish'd for, was rendered impracticable, my chief Endeavours were that Victory might declare herself in the Manner she has done: For no Man was insensible, that the Dispute lay about Pre-eminence betwixt the *Mean* and the *Great*; and in such a Case, what *Roman* could be so profligate as not to join that Party, whose Safety was connected with that of the public Dignity at home, and the public Authority abroad. I am overjoyed, my Lords, I am ravished to see that these have been preserved, and that every *Roman* is restored to the Possession of those Honours, and that Degree to which he is entitled; and I am gratefully sensible that all this was effected by the Will of the Gods, the Affections of the *Roman* People, and the Wisdom,

dom, the Command, and Fortune of *Lucius Sylla*.

As to the Penalties inflicted upon those who made so strong an Opposition, I am not at Liberty to condemn them; As to the Regard shewn to those brave Men who distinguished themselves in that Struggle; this, if I mistake not, was the very Intention of the Struggle; and I own, that this was the true Object of my Concern in this Affair. But, if the End of all our Endeavours, if the Fruit of all our Disputes is, that the most infamous of Mankind should be enriched with the Estates of others; and make an indiscriminate Attack upon the Fortunes of every Man that is in the Way of their Ambition; if we are to be ty'd up not only from *acting* but from *speaking* against such Practices; then the *Roman* People, instead of being *recovered* and *redeemed*, has been *sunk* and *oppressed* by this War.

BUT the Case is quite otherwise; let us away, my Lords, with those Suggestions; no, the Interest of the Nobility will be so far from receiving Harm, that it will receive Honour from your Opposition to such Men. For they who blame the Actions I have touch'd upon, are sorry that *Chryfogonus* has so much Power; they who love to justify them deny that he has it.

BUT there is no-body now so much of a Fool, or a Knave, as to say, IF I DURST TO HAVE SPOKEN I WOULD HAVE SAID.—Out with it, what are you afraid of? I WOULD HAVE DONE.—Do it, who is to hinder you? I WOULD HAVE DECREED.—Decree; and if you are in the right, you will have the public Voice to thank you. MY JUDGMENT WOULD HAVE BEEN.—Speak it, the whole World will be your Friend if it is just and regular. While the public Exigencies rendered it necessary, one Man exercised an absolute Authority; but after he had created Magistrates, and enacted Laws, every Man was restored to his own Sphere of Action, and Share of Power. If the present Possessors who have been thus restor'd have a Mind to preserve it, they may have it as long as they live; but, if they shall either commit or approve of such Murders, such Rapine, and such Profusion of Expences, I will indeed, for the Omen's Sake, forbear to say any Thing against them that is severe; but one Thing I will say, that unless our great Men are possess'd of the Virtues of Temperance, Meekness, Courage, and Mercy, they must of Necessity resign their Badges of Distinction to those who are. Therefore, let it never be heard of, that a Man speaks *indecently*, when he speaks with Truth and Freedom. Let them no more make the Interests

of

of *Chryfogonus* a common Cause with their own; let them no more imagine, that any Check which he may receive, is a Diminution of their Honours. But let them reflect how wretchedly scandalous it is, if they, who could not bear with the Lustre of the Equestrian Order, should bear with the domineering Insolence of the vilest Slave.

THIS was an Insolence, my Lords, which formerly seemed to be exercised on other Objects; but you may perceive what Road it is now marking out, and to what Purposes it proceeds. No less than to your Integrity, Oaths, and Judicatures; to almost every Thing that remains in this State unpolluted and holy. Does *Chryfogonus* then imagine, that he has any Influence here, or that his Power extends even over this Bench? Heart-breaking Thought! By Heavens, my Indignation does not arise from any Fear that it does; but from reflecting that he durst have the Presumption, the Impudence to hope, he could bias This Court to the Destruction of the Innocent; 'tis that which gives me Pain.

DID our arous'd Nobles restore their Country to Liberty by Arms and Bloodshed, that Freedmen and the meanest Slaves of the Great, should have it in their Power to oppress and harrass you and us out of our Estates and Property! If this was the Case, I own I was in

the wrong for chusing as I did; I own myself mad, for having been of their Party; but, my Lords, I was of it without carrying Arms to the Field. Yet if Victory ought to add Lustre to our Nobility, and communicate Happiness to our Country and the People of *Rome*, then ought these Sentiments of mine to give Pleasure to every excellent, to every noble *Roman*. But if there is a Man who thinks himself, or his Party injured, by my exposing *Chrysofonus*, he knows not the Principles of his own Party, nay, he scarcely knows himself. For the Party would appear still more noble, should it declare War against every bad Man. Every degenerate Abettor of *Chrysofonus*, who imagines his Interests linked with his own, injures himself; since by that very Conduct he detaches himself from the Glories of his Party.

But as I observed before, all that I have yet said is in my own Person, and has been wrung from me by the Wrongs done to my Country, my own Grief, and the vile Practices of these bad Men. But my Client feels not this Indignation; he impeaches nobody; he complains not of his ruined Fortune. A Stranger to the World, accustomed only to Fields and Flocks, he imagines that all you have acted under the Shelter of *Sylla's* Name to be customary, legal, and agreeable to the Law of Nations. Absolve him

him from the Crime; clear him from the Charge of unnatural Guilt, he will joyfully bid you farewell. Free him, but of this Imputation of Infamy, and he says, that he will cheerfully part with all the Comforts of Life: He requests, he begs of you, *Chryfogonus*, that if out of all the opulent Fortune left him by his Father, he has saved nothing for himself; if in no Respect he ever did you wrong; if honestly, and faithfully he made over in Tale and Weight his All to you; if he gave you even the Cloaths from his Back, and the Ring from his Finger*; if he stript himself of all his Effects without the least Reserve, that you would give him Leave to enjoy the Remainder of his Life with the Assistance of his Friends in Innocence and Poverty.

You possess my Estate, while I subsist upon the Charity of others. I am contented; both because I have an unrepining Mind, and Necessity obliges me. My Doors are open to you; to me they are shut: I submit. You are served by my numerous Retinue; while I have not a single Slave to attend me: I suffer it, and think it my Duty. What would you

H 4 more?

* *Ring from his Finger.*] We are not to imagine, that he actually gave him the Ring from his Finger; for this is a Way of speaking, to express that he was only stript very bare. See *Juven.* 8. 11.

Talibus a Dominis post cuncta novissimus exit Annulus.

more? why do you persecute; why do you attack me? In what Instance have I cross'd your Will? In what Respect do I obstruct your Interest? How do I stand in your Way? If you wanted to murder a Man for Plunder, the Plunder is yours; what would you more? If from Resentment, what Resentment could you harbour against the Man whose Estate you possess before you knew his Person? Do you fear him? But why fear any Thing from him whom you see unable to repel so cruel an Injury from himself? But if you want the Destruction of the Son, because you possess the Estate of the Father, is it not plain, you are afraid of a Thing which you of all Mankind need not to fear, that the Estates of the Proscrib'd should be restored to their Children.

You are mistaken, *Chryfogonus*, if you imagine that your Possession of this Bargain will be better secured to you by the Death of *Roscius*, than by the Actions of *Sylla*. But if you have no Reason for persecuting the unhappy *Roscius* with such a Load of Misery; if to you he has resigned all but his Life, without reserving so much of what belong'd to his Father, as may serve as a Monument of him; Immortal Gods, why all this Cruelty? Why this savage, this unrelenting Disposition? Was ever Robber so inhuman; was ever Pyrate so barbarous, as when he could have his Booty entire and bloodless, to carry it away by Murder? You

You know that this Man has nothing; can dare nothing; can do nothing; nor did ever contrive to thwart your Interest: Yet you persecute the Man whom you cannot fear, whom you ought not to hate, and whom you see has nothing now left for you to strip him of. Unless you take it ill to see the Person whom you drove naked from, as it were, the Shipwreck of his Fortune, now sitting cloath'd at his Trial. Surely you know that for Food and Rayment he is beholden to that excellent Lady *Cæcilia*, the Daughter of *Balearicus*, and Sister of *Nepos*. Tho' she had an eminent Father, noble Uncles, and an accomplished Brother, and, tho' she is a Woman, yet her Merits are such, that her Virtue reflects as much Lustre upon *them*, as their Dignity communicates Honour to *her*.

Does it gall you to see that he is resolutely defended? Believe me, should all those Guests whom his Father made his Friends by his Hospitality and good Offices, appear here, and undertake his Defence with Freedom and Spirit, he would have a numerous Band of Defenders. But if they should be push'd on to Revenge, in Proportion to the Greatness of the Injury, and the Dangers of his Country in his Person, you would not, by Heavens, be at Liberty to appear in this Place. The Defence that is *now* made for him is such, that it can give his Enemies

no Uneasiness, nor any Cause to imagine that they are overpower'd.

As to what passes within Doors, that falls to the Management of *Cecilia*; you may perceive, my Lords, that *Messala* has undertaken to conduct all the Business of the *Forum* and the Court; and if Age and Strength had served him, he himself would have pleaded the Cause of *Roscius*. But because his Youth and his Modesty, which is the Beauty of Youth, prevents his speaking, he has entrusted with me this Cause, who he knew, for his Sake, desir'd it as a Duty. It is by his Activity, Address, Authority, and Application, that the Life of *Roscius* has been rescued from the Hands of these Brokers, and resigned to the Justice of this Court. And give me Leave to say, my Lords, it was for Nobility like this, that the greatest Part of our Country took Arms. This Scene was acted to restore to the State those Nobles who can do as you see *Messala* does now; defend the Life of the Innocent; redress Injuries; and chuse to shew their Power, not by the destroying, but delivering their Neighbour. Should all in that high Station behave in this Manner, their Country would suffer less from them, and they less from Envy.

BUT, my Lords, if we cannot prevail upon *Cbrysgonus* to be contented with our Estate, but he must have our Life too; if after taking from

us all that was our own, he cannot be dissuaded from endeavouring to shut us out from the Light which is common to all Mankind; if it is not sufficient for him, that his Avarice is glutted with our Estate, unless his Cruelty be satiated with our Blood, the miserable *Roscius*, my Lords, has but one Hope, one Shelter left; which is the same with that of his Country; he throws himself upon your experienc'd Charity and Mercy; If that still exists we may yet be saved; but if, what is next to impossible, the Cruelty that predominates in this Age and Country, has hardened and inflamed your Minds, we have done. My Lords, better is it to lead a Life with the Brutes, than converse with such Inhumanity.

HAVE you been reserved, have you been chosen for this Purpose, to condemn those whom Brokers and Assassins could not murder? Able Generals, when they give Battle, use to place Troops in the Defiles thro' which the Enemy is most likely to fly; that they who escape from the Battle may fall into the Ambush. These worthy Brokers seem, in like Manner, to imagine, that such Men as you sit here to intercept those who escape out of their Hands. The Gods forbid it, my Lords, that this Court, which our Ancestors intended for the Seat of public Deliberation; should become a Sanctuary for Brokers.

SURE,

SURE, my Lords, you are not yet to learn, that the whole Matter now in dispute is, how to take the Children of the Proscrib'd out of the way by any Means; and that a Précedent for this is sought from your Authority, and in the Person of *Roscius*. Is it hard to say who is guilty of this Crime? When you *now* see on the one Side, a Broker, an Enemy, and a Murderer, all in the Person of our Accuser? And on the other Side, a Son who is stript of his All, dear to his Friends; and on whom it is impossible, not only to fix any Guilt, but even the Suspicion of it? Can you perceive any Thing here that can affect *Roscius*, excepting the Sale of his Father's Estate?

BUT if you have undertaken that; if you offer your Assistance to the same Work; if you sit on that Bench, that the Children of those whose Estates have been sold, may be brought before you; by the Immortal Gods, you had need to take Care, that you don't set on Foot a new and more inhuman Proscription. The Senate refused to undertake * the Former, in which those fell who took up Arms, lest the public Authority should seem to countenance a Proceeding more severe than any known to our Ancestors. But unless you discountenance and discourage,

* *The Senate refused to undertake.*] *Sylla* was obliged to apply to the People, whom he over-awed by a Standing Army, to have his Proceedings with regard to the Proscriptions approved of.

courage, by the Event of this Trial, this Proscription which affects their Children even in their Cradles; look to it, by Heavens, you know not to what a Pass of Misery you may bring your Country.

MEN of your Sense, Authority and Power, ought to be the chief Physicians for those Evils that chiefly distress the State. There is not a Man amongst you, who is not sensible, that the *Romans* who were once merciful to their Enemies, are at this Time extending their Cruelty to their Countrymen. Away, my Lords, with this Bane of your Country; suffer it no longer to haunt this Government; not only as it is in its own Nature pernicious, by giving Occasion to the cruel Murders of so many *Romans*, but as it has, by the Habits of Barbarity, rooted from the mildest Natures the Sentiments of Compassion. For when, every Hour, we are seeing or hearing of some cruel Action, even the gentlest Dispositions, by the repeated Objects of Barbarity, are apt to lose all Sense of Humanity.

The Commentators think there is something deficient in the End of this ORATION.

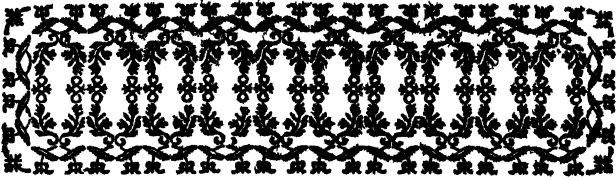
The End of the ORATION for Roscius.




A R G U M E N T
OF THE
O R A T I O N
FOR
C. R A B I R I U S.

TITUS ATTICUS LABIENUS, Tribune of the People, impeached C. Rabirius of the Murder of Saturninus, who thirty six Years before had entered into the Capitol, and was declared an Enemy to the Roman State by the Senate. Being condemned by the Duumviri, he appealed to the People in the Centuriated Comices, before whom this Oration was pronounced. As the Question very sensibly affected the Rights of the Senate and Nobility, the latter did, all they could to keep the Trial off, but to no Purpose. And so strong was the Spirit of the People upon this Occasion, that Rabirius must have been condemned, had not Metellus Celer, the Prætor, prevented it, by taking away the military Ensign from the Janiculum, by which the Assembly was dissolved in Course, before they gave Sentence.

M. T.



M. T. C I C E R O ' S
O R A T I O N
F O R
C. R A B I R I U S,
Before the P E O P L E.

 T is, my Countrymen, unusual for me in the Beginning of my Pleading to account for the Motives that prevail with me to undertake the Defence of my Client, because I think I never can want justifiable Reasons * for interesting myself

* *Justifiable Reasons.*] This is a very artful Preamble of a Speech before a popular Assembly of *Romans*, which collectively was superior to the Senate themselves; and the more so, as it came from the mouth of a Consul. No People were ever naturally more susceptible of Flattery than the *Romans*, or more jealous of their own Dignity. It may be worth Pains for the Reader to compare the

self in the Distress of all my Fellow Citizens : But in this Defence of * the Life, the Character and the Fortune of *Caius Rabirius*; I think it proper to lay before you the Motives of my Conduct; because the Reasons, which in my Eyes appeared to justify *me* the most in defending, ought in my Opinion to be *your* strongest Inducement for acquitting him.

FOR a long Course of Friendship, the Dignity † of his Person, the Duties of Humanity, and the constant Tenour of my Practice at the Bar, has prevailed with me to defend *Rabirius*; but then, the Preservation of the State, my Duty as a Consul; in short; the Consulate itself, which, together with the Safety of my Country, has been entrusted in my Hands in Conjunction with you, calls upon me to defend him to the utmost of my Abilities. or *Caius Rabirius* is brought to this Trial not on account of any Misdemeanor, not on account of any Jealousy of his Conduct

the different Preambles which *Cicero* uses; which will give him an Opportunity of observing with what Address he suits himself to Characters and Occasions.

* *The Life.*] As this was a Prosecution for the Crime of High Treason against the Majesty of the People, if *Rabirius* had been condemned, he must have been put to Death in a very ignominious Manner. For all public Traytors who were convicted before the People were first scourged with Rods, then dragged through the Streets by a Hook, and then crucified like a common Slave.

† *The Dignity*] We are told by *Dion*, that *Rabirius* was a Senator.

duct, or Blemish in his Morals; nor, in short, of any old, just and weighty Resentment of his Fellow Citizens: But that the noblest Remedy * for the Preservation of our Majesty and Empire, handed down to us from Age to Age by our Ancestors, should be abolished out of the Constitution: That henceforth the Authority of the Senate, the Power of the Consuls, and the Unanimity of the Worthy, should be of no Effect against what must bring Ruin and Destruction upon this State: For this Purpose it is, that a single Person is attacked in a weak and helpless old Age.†

THEREFORE if the Duty of a worthy Consul calls upon him, when he sees all the Fences

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I

weakened

* *Noblest Remedy.*] He means the *Senatus Consultum* which used to be issued out in Cases of imminent Danger, *Ut viderent Consules nequid Rep. detrimenti caperet*, That the Consuls should take Care the Republic should suffer no Damage. This was issued out under the Consulate of *C. Marius* and *L. Valerius* at the Time *Saturninus* was killed.

† *Weak and helpless old Age.*] We are not to imagine, that *C. Rabirius*, who was a Man of Quality and Interest, was so very destitute of Friends as he is here represented; but it was a Mark of Respect which the *Romans* always expected of those who were accused, that they should be represented as the greatest Objects of Compassion. For this Purpose the latter submitted to the most abject Behaviour. *Rabirius* was indeed an old Man; for the Treason, of which he was accused, was committed thirty-six Years before, and if he was at the Time of that Fact of a Senatorial Age, which was thirty, he must have been at least sixty-six when this Oration was delivered.

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weakened or plucked up, that the State can depend upon to bring Relief to his Country, to support the Safety and Fortune of the Community, to implore the public Justice; and to look upon his own Safety as but second to that of the State; it is at the same Time the indispensable Duty of brave and virtuous Citizens, such as you have approv'd yourselves in all the Exigencies of your Country, to cut off every Communication of Sedition, to strengthen the Safety of the Government, to be convinced that the highest executive Power* is entrusted with the Consuls, and the highest Deliberative is vested in the Senate; and to judge that the Man who makes this Maxim the Rule of his Conduct, has a Title to Rewards, and Honours, rather than Pains and Penalties. The Task therefore, for defending *Rabirius* falls chiefly to my Share; but my Zeal for his Preservation ought to be in common with you.

YOUR Sentiments upon this Occasion, my Countrymen, ought to be, that in the Memory of

* *Highest executive Power.*] This is a small Sketch of the *Roman* Constitution, so far as relates to the Power of the Senate and the Consuls: But we are to remember, that *Democracy*, or the Power of the People was the ruling Principle in the *Roman* Republic. What *Cicero* says here, relates only to the sudden unforeseen Exigencies of State, wherein the Senate had a Power to deliberate upon what was to be done, and to entrust the Execution of it to the Consuls.

of Man no Cause more important in itself, more dangerous in its Consequences, more to be guarded against by you all, was ever undertaken by a Tribune of the Commons, defended by a Consul, or brought before the People: For in this Cause, my Countrymen, nothing else is in Dispute, but that there never henceforth shall be any public Measure concerted by the Government, any Unanimity of Patriots, against the Madnes and Presumption of the Profligate, nor any Succour or Shelter to which our Country can retire when her Interests are upon the Verge of Ruin.

As Matters are in this Situation, let me first do what I am indispensibly obliged to do in this important Dispute for the Safety, Honour and Fortunes of *Romans* in general; let me implore the Pardon and Grace * of *Alwise and Almighty* JOVE, and the other Immortal Beings, by whose Power and Assistance, much more than by human Foresight and Wisdom, this State is directed; and I implore them, that they will suffer this to be a Day of Deliverance to my Client, and Preservation to my Country. In the next Place, I conjure you, my Countrymen, whose Power approaches

I 2

next

* *The Pardon and Grace.*] 'Orig. *Pacem ac veniam peto. Pacem*, that he may be reconciled; *veniam*, that he may be propitious.

next to that of Immortal Gods, since at the same Time the Life of *Caius Rabirius*, the most wretched and most innocent of Mankind, and the Safety of the State depends upon your Conduct and Voices, that you will extend your usual Clemency to the Relief of the Accused, and exert your wonted Wisdom in the Preservation of your Country.

AND now, that you, *Titus Labienus*,* have hampered my Zeal by the Straitness of the Time, and have confined the due and measur'd Space, commonly allotted for a Defence, within the narrow Bounds of half an Hour, we shall obey your Terms, which as you are an Accuser, are *unjust*, and as you are an Enemy, *unmerciful*, in this Limitation of half an Hour, you have left me only the Character of a *Pleader*†, but taken from me that of a *Consul*. For as the Time is scarce sufficient for making

* *Titus Labienus*.] This was the same *Labienus* who served under *Cæsar* in *Gaul*. He was this Year Tribune of the People, and this Prosecution was carried on by him. "It should appear, says *Manutius*, from this Passage, that "in Accusations of Treason, the Accuser had a Right to "prescribe the Length of Time allowed to the Accused "for making his Defence." If this is true, the Accused were under a great Hardship.

† *The Character of a Pleader*] The Meaning of this Passage is, That the half an Hour was sufficient for *Cicero*, as Counsel for *Rabirius* to clear him of the Charge, but that it was not sufficient for him as a Consul, to shew the dangerous Consequences of such an Attack upon his own Authority, and that of the Senate.

making the *Defence*, it must be too scanty for entering my *Complaint*.

THE Time, I say, is sufficient for making the *Defence*, unless you imagine, that I am to take up a great deal of Time in answering you with regard to the hollowed Places and Groves, which you pretend were violated by him, A Charge on which you did not speak a single Word, but that it had been urged by *Caius Macer** against *Rabirius*. And here I am amazed, that you should remember the spiteful Charge of *Macer*, who was his Enemy, and forget the equitable Decision of the Judges, who were Men of Honour, and upon their Oaths.†

MUST I explain in a long Harangue the
I 3 Charge

* *Caius Macer*.] It should appear from this Passage, that *Rabirius* had been before accused by this *Macer* for violating certain sacred Places, and that *Labienu*s had brought some Part of *Macer*'s Pleading upon that Head, into his Charge upon this Accusation. The Commentators are of Opinion, that this is the same *Macer*, who being condemned by *Cicero* when Prætor, put himself to Death to avoid his Sentence. See *Cic. ad Atticum*, Ep. 7. L. 1. *Nos hic incredibili ac singulari populi voluntate de C. Macro transigimus cui cum æqui fuissenus, tamen multo majorem fructum ex populi existimatione, illo damnato, cepimus, quam ex ipsius, si absolutus esset, gratiâ cepissemus.*

† *Upon their Oaths*.] The Judges who were impannell'd by the Prætor, were obliged in like Manner as our Jury, on every Cause, to swear that they would give a fair Verdict; but the Prætor himself never took any Oath, having been sworn at his Entrance upon his Office, to observe the Laws in general. It appears, that the Judges acquitted *Rabirius* upon *Macer*'s Impeachment.

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Charge of Embezzlement,* and burning the Register, a Crime of which *C. Curtius*, a Kinsman of my Client, was most honourably acquitted by an illustrious Decision, as his Virtue deserved; but as to *Rabirius* himself, he was so far from being brought to Trial, that he never fell, even in Discourse, under the slightest Suspicion on account of this Charge. Must I be at a good deal of Pains to clear him with regard to his Sister's Son? You say *Rabirius* killed him, that the Pretext of attending the Funeral † of a Relation might put off the Trial. For what is more probable, than that his Sister's Husband was dearer to him than his Sister's Son? Infomuch that the one was cruelly deprived of Life, while two Days were begg'd for the other, in order to put off his Trial. Am I to enlarge upon those Slaves, who were another Man's Property, and detained in Defiance of the *Fabian* ‡ Law; or the *Roman* Citizens, who

* *Embezzlement.*] This seems to have been another Topic of Accusation against *Rabirius*, and the following are Charges which seem to have been invented by the Violence of the Times, and the Spite of the Prosecutors.

† *The Funeral of a Relation.*] The Romans had a very great Regard to the Funeral Rites, infomuch, that by the Prætor's Edict, no Man who was performing any Part of Funeral-Duties to a Friend or Relation, could be obliged to appear before any Court of Justice.

‡ *The Fabian Law*] *Ne quis servum a'ienum, invito vel infc. domino, celaret, vinculum haberet, emeret sciens dolo malo. L. Pen & ult. D. ad Leg. Fab. de Plig. ar;* that

who were scourg'd or put to Death contrary to the *Portian* * Law; when *Caius Rabirius* is so zealously recommended by all *Apulia*,† and so highly praised by the Neighbourhood of *Campania*. Since not only Companies, but whole Countries flock together in Order to ward off his Danger; and those too drawn from Places that went beyond the Denomination of being in

I 4

the

is, “ that no Person against the Will, or without the Knowledge of the Master, shall conceal the Slave of another Man, or put him in Fetters, or buy him wittingly.”

* *The Portian Law.*] This Law was enacted by *M. Portius Cato*; and the Explanation of it, will throw a good deal of Light on many Parts of our Author's Writings; and the *Roman* Constitution in general. Before this Law was made, the Manner of putting *Romans* to Death, was by stripping the Party quite naked, and thrusting his Head betwixt the two Prongs of an Instrument, called a *Furca*, and then beating him to Death with Rods. This Custom was abolished by the *Portian Law*, which enacted, that no Magistrate should whip a *Roman* Citizen with Rods, or put him to Death. This was, in Appearance, expressing great Respect for the Dignity of a *Roman* Citizen, but the Penalties inflicted by that Law in Case of Conviction, were often so intolerable, that they chose Death to avoid them. These Penalties were as follow, *Honorum multatio*, or *Omnium publicatio*, i. e. Confiscation of Estate, and *Aqua & Igni interdictio*, i. e. A Prohibition of Water and Fire; which was understood to amount to Death.

† *Apulia* and *Campania.*] Those Countries were famous for Farms, and the *Roman* Nobility and Gentry had great Stocks of Slaves and Cattle which wintered there: The Number of Shepherds in *Apulia* was so great, that it even sometimes tempted Ambition to create public Disturbances. *Rabirius* probably was of *Campania*, and had an Estate near *Naples*. *Domum Rabirianam quam tu dimensam et exædificatam animo habebas Fontejus emit.*

the Neighbourhood, or on the Limits of his Estate. For why should I prepare a long Discourse to what is contained in the Act of his Amercement,* as if he had prostituted both his own Chastity, and that of others? But I am even apt to imagine, that *Labienus* has confin'd me to half an Hour, that I may not say much upon the Subject of Chastity. It is evident, therefore, with regard to those Points which require all the Exactness of a Pleader, that you thought this Half-hour was too long; but as to that Part of the Impeachment that relates to the Death of *Saturninus*, and which requires and calls aloud, not for the Eloquence of an Orator, but the Interposition of a Consul, you design'd that half an Hour should be too short and too confin'd.

FOR as to the Forms of proceeding against Treason, which you generally accuse me with having abolished; that Charge lies against me, and not against *Rabirius*. I wish to Heaven, my Countrymen, that I had been † the first and the

* *Act of his Amercement*] No private Person, but a Magistrate, or such as a Tribune, could sue for an Amercement. The Method was this; the Magistrate summoned the Party to appear before the People at a certain Day; he then accused him three Times, he afterwards, *rogabat multam*; that is, petitioned the People to confiscate a certain Part of his Effects, or his Estate.

† *The first and the only Roman.*] *Cicero* says this, because both *Portius Cato* and *Gracchus* had done the same before him.

the only *Roman* who had abolished it. I wish, that what he lays against me as a Charge, I could claim as a Glory peculiarly and solely my own. For what can I wish, what could I chuse more desirable, than to have it told, that in my Consulate, I banished an Executioner from the *Forum*, and removed a Gibbet out of the Field of *Mars*? But, my Countrymen, the Merit of that Action belongs, in the first Instance, to our Ancestors, who after they had expelled their Kings, would suffer no Marks of Regal Cruelty to remain in a free State; and in the next, to the Efforts of many brave *Romans*, who were willing that your Liberty should not be infested by the Severity of Punishments, but secured by the Gentleness of Laws.

THEREFORE, *Labienu*s, on whose Side, betwixt you and me, does Patriotism lie? On yours, who wanted in a *Roman Assembly*, that the Executioner should put *Roman Citizens* in Chains; Who in the *Campus Martius*, upon a hollowed Spot,* in the Time of the general Elections, commanded a Gibbet to be erected for the Executions of *Roman Citizens*? Or, on my Side, who will not suffer an Assembly to be

* Upon a hollowed Spot.] None of the *Comitia* could be held without first consecrating the Place by *Auspices*, and other Rites; so that a Gibbet, Hangman, &c. would have polluted it.

be defiled by the polluting Presence of an Executioner? Who gave Orders, that the *Roman Forum* should be expiated from the Marks of that monstrous Wickedness? Who contend for the Purity of our Assemblies, for the Sanctity of the Place of Election, that the Bodies of *Roman* Citizens should be inviolated, and their Liberties uninfringed?

BUT what does this Patriot Tribune of the People, this Guardian, this Assertor of the Rights and Privileges of the People? The *Portian* Law has removed the Rods from the Bodies of all *Romans*, but he in pure Pity restores the Use of Scourges.* The *Portian* Law has taken the Liberty of *Romans* out of the Hands of the Lictors, but this Patriot *Labienu*s has delivered it over to the Executioner. *Caius Gracchus* pass'd a Law, that no *Roman* should be capitally tried, but by your Commands: This Patriot forc'd a *Roman* Citizen not to be tried, but to be capitally condemned before the *Du-umviri*,

* *Removed the Rods from the Bodies of the Roman People; but he in pure Pity restores the Use of Scourges.*] The Reader will observe, that the Original here is *Virgæ* for Rods, and *Flagella* for Scourges. The *Virgæ* were made of the Beech-Tree, and made Use of by the Lictors, who waited upon the Magistrates; whereas the *Flagella* defin'd by *Servius*, *summæ arborum partes*, were made use of by the Executioners upon Slaves. The Lictors were *Roman* Citizens, and lived in *Rome*; where as the Presence of the *Carnifex* was thought to be polluting, so he was not allowed to live in the City.

umviri, and that too without his being heard in his Defence. And shall you mention before me the *Portian Law*, the Name of *Gaius Gracchus*, the Liberty of those *Romans*, or the Example of any worthy Patriot? You who have attempted to violate the Liberties of your Country, not only by unprecedented Punishments, but by an unheard-of Barbarity of Expression; you who have endeavoured to attack their Gentleness, and to alter their Discipline! Go LIC-TOR, AND BIND HIS HANDS;* these are the Words that please your gentle, your Patriot Ear; Words unknown to the generous Liberty of this State, even to *Romulus*, and to *Numa Pompilius*, and are no other than the barbarous Form of adjudging to the Gibbet used by *Tarquin*, that haughtiest and most cruel of Kings; Yet these are Words which you, gentle *Labienus*, repeat with Rapture. COVER HIS EYES,†

HANG

* *Go Liclor, bind his Hands.*] This was the Form of Words pronounced by the Judge, when a Person was condemned to Death. See *Livy*, l. 1. Where the *Decemvir* pronounces Sentence upon *Horatius*.

† *Cover his Eyes.*] See *Livy*, l. 1. *Lex horrendi criminis erat. Duumviri perduellionem judicent: Si a Duumviris provocarit, provocatione certato: Si vincant, caput ohnubito, arbori infelici recte suspendito: Verberato vel intra pomerium vel extra pomerium.* In *English*, the Law of this horrible Sentence was as follows: “Let the *Duumviri* judge of the
“Treason, if they shall judge, let the Matter be debated.
“If the Party shall be cast, then let his Head be bound up,
“let him be hung up to the fatal Tree, after having been
“whipt either within or without the Walls.”

HANG HIM UPON THE ACCURSED TREE: These Words, my Countrymen, that are not only lost in the Mist of *Antiquity*, but diffipated by the Rays of *Liberty*.

HAD this Proceeding been agreeable to the Constitution, had it been in the least consistent either with Law or Equity, would *Caius Gracchus* have abolished it? Can we suppose, that the Death of your Uncle was more heavy to you, than that of the Brother of *Caius Gracchus* was to him? Was you more afflicted with the Death of an Uncle, you never saw, than he with that of a Brother, with whom he lived in the dearest Affection? Would you have revenged the Death of a Man, such as your Uncle was, more keenly than *C. Gracchus* would have that of his Brother, had he been actuated by your Principles? Or was the Memory of that Uncle of yours, whoever he was, as dear to the *Romans* as the Memory of *Tib. Gracchus*? Do you out-do *Caius Gracchus* in Affection, in Courage, in Wisdom, in Interest, in Authority, or in Eloquence? Qualities, which tho' he had possessed in a small Degree, yet compar'd with yours, they would have been eminent. But as in Reality *Caius Gracchus* was the first Man of his Age in all those Qualities, at what a Distance of Space, must you imagine, you follow him? But *Gracchus* would have died

ten

ten thousand bitter Deaths, rather than have suffered an Executioner to have been present at any Assembly of his: For an Executioner is a Person whom our Censorian Laws have banished not only from our *Forum*, but from the Light, from the Air, from the Walls, of this City; yet this Man will dare to give himself out as a Patriot, and represents me as an Enemy to your Interests; while at the same Time he is raking together all the cruel Precedents he can find for Whippings and Scourgings, not within your Memory, or that of your Fathers, but from the Rubbish of your Annals, and the Registers of your Kings; and I, on the other Hand, have always employed all my Power, all my Interest, my Words and Actions, in opposing and preventing such barbarous Proceedings. Sure, *O Romans!* you would never chuse a Lot which Slaves themselves could not bear, without the Hope of Liberty annexed to it.

WRETCHED is the Infamy of public Trials; wretched the Amercement of Property; and wretched is Exile; yet still thro' all those Gradations of Misery, some Marks of Liberty are discernable: Nay, when Death is the Punishment, we still die in Possession of Liberty. But never may my Countrymen feel; nay, may they never think of, hear, or see an Executioner,

tioner, the muffling up of the Eyes, nor the Infamy of a Gibbet. For these are Things that ought not to be proposed, feared, or even mentioned among *Roman* Citizens, or Freemen, much less to be suffered by them. Shall the Generosity of the Master, by one manumitting Blow,* free our Slaves from the Dread of all Punishments; and shall neither our Actions, our Years, nor our Dignity, deliver us from the Whip, from the Wheel, nor from the Dread of the Gibbet itself?

THEREFORE, *Titus Labienus*, I confess, nay, I avow it, that by my Advice, by my Resolution, and my Authority, you was defeated in that cruel malicious Prosecution, in which you did not shew the Tribune, but the Tyrant. A Prosecution in which, though you neglected all the Precedents of our Forefathers, all the Laws, all the Authority of the Senate, all the Ceremonies and Rites prescribed by the publick Constitution of Auspices, yet the short Time to which I am confined, will not suffer me to insist upon those Circumstances: These shall be Considerations when we are more at leisure; at present, I will speak to the Charge
as

* *One manumitting Blow.*] One Method of freeing Slaves among the *Romans*, was by the Prætor or the Licitor laying a *Virga* of a Rod upon the Head of the Slave, and saying, *Hunc hominem liberum esse, aio*; and then the Master says, *Abito quo volas, nihil te moror.*

as to *Saturninus*, and the Death of your illustrious Uncle.

You charge *Rabirius* with having killed *L. Saturninus*; and *C. Rabirius*, in that full and most eloquent Defence which *Q. Hortensius* made for him,* has already by many Evidences shewn, that this Charge is false; But were I now at Liberty to begin his Defence, I would take upon me the whole Load of that Charge; I would confess, I would acknowledge the Fact. I wish to the Gods, that in this Pleading I were left at large to avow, that *L. Saturninus*, the Enemy of the People of *Rome*, was killed by the Hand of *C. Rabirius*.

[*A Noise.*]

That Noise † has no Effect upon me, but to give me more Spirits; since it proves there are some

* *Which Q. Hortensius made for him.*] *Hortensius* had pleaded for *Rabirius* before the *Duumviri*.

† *That Noise.*] From this Circumstance we may perceive, that the Point upon which this Trial came, was a very decisive one, and a very interesting one to the *Roman* People. They began to suspect, that the boasted Power, which *Cicero* here extols so much, of the Senate's entrusting the Consuls with the Care of the State, was little better than usurped, and might be abused so as to destroy their Liberty. They had felt the Consequences of it very severely several Times, and were resolved upon this Occasion to put it to Trial. *Cicero's* declaring here, that *Saturninus* was the Enemy of the *Roman* People, was therefore a little premature, and the *Romans* of the inferior Classes, were so shock'd at it, that they could not help expressing their Resentment very audibly. *Cicero,*

some misled Citizens, but not many. Believe me, that the *Roman* People who are here, and silently attending, would never have raised me to the Consulate; had they imagined that I was one to be moved by your Roaring. How the Noise sinks!—Peace; Peace,—your bel-
lowing only shews what Fools, and how few ye are.

COULD I do it, I say, consistently with Truth; nay, were I now at Liberty to do it, I would with Pleasure admit, that *C. Rabirius* killed *L. Saturninus*; and I would glory in the Greatness of the Action; but as I am debarred of that, yet I will confess a Circumstance, which though it does not contribute so much to his Glory, yet equally answers the Purpose of your Impeachment; I do acknowledge, that *C. Rabirius* took up Arms to kill *L. Saturninus*. How, *Labienu*s! Do you expect that I am to make any more weighty Confessions, or do you imagine that any greater Charge than this can be brought against him? Sure you don't imagine there is any Difference betwixt the Man who kills another with his own Hand, and him, who, by taking Arms, occasions the Death of another. If it was un-
lawful

however, artfully eludes the Disquisition of what appears to have been the main Question in this Trial, viz. whether the Senate or Consuls had a Power of declaring any Person an Enemy to the *Roman* People, and loses it in a Cloud of personal Invectives and Praises.

lawful to kill *Saturninus*, it was wicked to take up Arms against him. If you admit the Lawfulness of taking up Arms against him, you must admit at the same Time the Lawfulness of killing him.

[A small Chasm here.]

A Decree of the Senate was made, requiring the Consuls *C. Marius* and *L. Kalerius*, to call in such of the Tribunes of the People, and Prætors, as they should think proper, and to take Care that the Empire and Majesty of the Roman People might be preserved. They call in to their Assistance, all the Tribunes of the People, excepting *Saturninus*, and all the Prætors, excepting *Glaucia*. They command all who wished well to their Country to take Arms and to follow them. All obey. The Consul *Caius Marius* distributes Arms to the People of Rome out of the public Magazines and Arsenals. And here, without minding any Thing besides, give me leave, *Labiæus*, to put a short Question to you. When *Saturninus*, together with *Glaucia*, *C. Sausæius*, and that *Gracchus*, who was drawn from a Goal * where he lay in

VOL. II K Irons,

* *Gracchus tunc was drawn from a Goal.*] This was a Fellow who pretended to be the great *Gracchus*, and was suborned by *Saturninus* for that Purpose. See the Words of *Valerius Maximus*, Lib. 9. c. 7. *Equitum qui se T. Gracchi filium simulabant, transvolantibus pedibus lecti cum*

Iron, with your Uncle *Q. Labeonius*, (since you will have it so) by Arms possessed the Capitol, when the Consuls, *G. Marius* and *L. Valerius Flaccus*, and then the whole Senate, that very Senate which you used to extol, (you who throw an invidious Imputation upon the present Senate, that you may more easily detract from their Authority) when the Equestrian Order, Immortal Gods, what a Body of Roman Knights, could our Forefathers and that Age produce! An Order that then supported the greater Share of this Government, and the whole Dignity of the Courts of Justice, when every Roman of every Order, who thought that their own Preservation depended on that of their Country; when all these had taken up Arms, what do you imagine *Caius Rabirius* ought to have done?

I say,

L. Saturninus petebat a C. Mario sextum consulatum gerente in publicam custodiam ductum, populi claustris carceris convulsis, raptam humeris suis, per summam animorum alacritatem portavit. "The People having broken open the Bars of the Prison; snatch'd up *C. Aquinius* upon their Shoulders, and carried him off with the greatest Extasy of Joy. It was he who pretended to be the Son of *Tiberius Gracchus*, and stood for the Tribuneship against all Law with *C. Saturninus*; but was committed to a public Prison in the sixth Consulship of *C. Marius*."

Nay, so dear was the Name of *Tiberius Gracchus* to the People of Rome, that they actually raised this Impostor to the Tribuneship. He was driven along with *Saturninus* into the Capitol, but as we learn from *Appian*, was not killed there.

I say, *Labiatus*, I will leave it to yourself to answer this Question. When, by a Decree of the Senate the Consuls had called to Arms; when *Marcus Amilius*, the first Man of that Body, stood in Arms upon the Place of Assembly; and as he could scarcely walk, thought that tho' his Lameness was no Disadvantage as to his pursuing, yet that it would at least hinder his flying; in short, when *Q. Scaevola* spent with Age, diseased, lame, all his Limbs useless and crippled, leaning on a Spear, discovered at once the Firmness of his Soul, and the Weakness of his Body; when *L. Mucellus*, *Sec. Galba*, *G. Serranus*, *P. Rutilius*, *G. Fimbria*, *Q. Catulus*, and all the Consulars of that Time, had taken Arms for the Public Safety; when all the Prætors, all our Nobility, the whole Flower of our Youth, *C. and L. Domitius*, *L. Crassus*, *Q. Mucius*, *C. Claudius*, *M. Drusus*; when all the *Octavii*, the *Metelli*, the *Julii*, the *Cassii*, the *Catonæ*, the *Pompeii*; when *L. Philippus*, and *L. Scipio*; when *M. Lepidus*, and *D. Brutus*; when *Servilius* himself, the General, in whose Army you, *Labiatus*, served; when this *Q. Catulus*, who was then but a very Youth; when this *C. Curio*, all flock'd together; in short, when all our Men of Eminence were along with the Consuls, pray what did it become *C. Rabirius* to do? Whether was he to chase

to shut himself up, and skulk in private, and conceal his Cowardice in Darkness, and behind Walls, or march into the Capitol, and associate himself with your Uncle and others, whom the Infamy of their Lives drove to seek Shelter in Death; or to join with *Marius*, *Staurus*, *Catulus*, *Metellus*, *Scævola*; in short, with all our Patriots, not only in the Means of Preservation, but in the Danger of the Attempt.

LET me ask of you, *Labienus*, how you would have behaved, upon such an Occasion, and in such a Juncture? While a Motive of Cowardice was driving you into Flight and Skulking, and the profligate Fury of *Lucius Saturninus* inviting you into the Capitol, the Consuls calling to Arms for the Preservation and Liberties of their Country; then, whose Authority, whose Voice, whose Party, whose Command would you have chosen to follow? My Uncle, he says, was with *Saturninus*: With whom was your Father? How do you say? Your Friends, the Roman Knights, the whole Prefecture, your Country, your Neighbourhood, the whole Territory of *Ancona*, which did they follow, the Fury of the Tribune, or the Authority of the Consul?

ONE Thing I will take the Liberty to assert; That no Man ever confessed of himself what
you

you now own publicly with Regard to your
 Uncle. No Man was ever found so profligate;
 so reprobate; so abandon'd; to not only all Ho-
 nesty, but all Pretensions to Honesty; as to
 confess that he was in the Capitol along with
Saturninus. But your Uncle was, admitting
 he was, and that too without being forced in-
 to it by any desperate Situation of his private
 Affairs, or any domestic Misfortunes; yet the
 Friendship for *L. Saturninus* might have be-
 trayed him to prefer that to the Good of his
 Country. Was this a Reason to *C. Rabirius*
 for proving a Rebel to the State, for his not
 appearing in those armed Bands of Patriots, and
 for his not obeying the Voice and Command
 of the Consuls? Yet we see that by the Na-
 ture of Things he must have followed one of
 those three Courses, either been along with
Saturninus, or with the Patriots, or he must
 have kept out of the Way. The latter had
 been like the vilest Death: To have gone a-
 long with *Saturninus*, Wickedness and Mad-
 ness; Virtue, Honesty and Modesty oblig'd him
 to be along with the Consuls. Will you then
 charge it as a Crime that *C. Rabirius* was of a
 Party, which it would have been the Height
 of Madness to have oppos'd; and of Infamy to
 have abandon'd.

BUT *C. Decianus*,* whom you often mention, was condemned for presuming in an Assembly to complain of the Death of *Saturninus*, while, with the highest Satisfaction to every worthy *Roman*, he was accusing *P. Purius*, a Man branded with every Mark of Infamy. And *Sextus Titius* was condemned for having a Picture of *L. Saturninus* in his House. Upon that Trial the *Roman* Knights determined, that the Citizen was disaffected to his Country, and unworthy of living within the Walls of *Rome*, who should either commemorate the Death of a seditious and rebellious *Roman*, by having his Image, or move his thoughtless Countrymen to Pity, or express his own Readiness to imitate the Example of his Rebellion. I am therefore at a Loss, *Labienus*, to know from whence you had that Image † you now possess: For upon the Condemnation of *Sextus Titius*, no Man was found bold enough to keep one of them. But if you had ever heard of his Condemnation; or if you had been old enough to remember it; surely you never would have brought before the *Rostra*, and into the Assembly, that Image which

* *C. Decianus*.] We have this Story in *Valerius*, l. 8. and likewise that of *Titius*.

† That Image.] It should appear that the Prosecutors of *Rabirius* had brought the Image of *Saturninus*, who was at this Time a Favourite with the People, into the *Forum*, and placed it upon the *Rostre*, to spirit them up against *Rabirius*.

which brought Ruin and Exile upon *Sextus Titus* for having it in his House; nor would you ever have approached with your Cargo to that Rock, on which you had seen the Family of *Sextus Titus* ruin'd, and the Fortunes of *C. Decianus* wreck'd. But all these Overights were owing to your Ignorance: For you have undertaken a Cause that is older than you can remember; a Cause that was dead before you was born; a Cause which, tho' you yourself now arraign it, had you been old enough, you would have embraced.

ARE you not sensible, in the first Place, of the Number and Quality of those dead Persons and Patriots, whom you are now impeaching of the most consummate Wickedness? In the next Place, how many of the Living do you now put into the immediate Danger of their Lives by this very Charge. For if *C. Rabirius* has incurred a capital Penalty, by taking up Arms against *L. Saturninus*; his unexperienc'd Years at that Time will plead for some Mitigation of his Punishment. But what Defence can we urge in Favour of *Q. Catulus*, the Father of this *Catulus*, a Man distinguished by consummate Wisdom, uncommon Courage, and matchless Humanity: or the grave, sensible, the prudent *Marcius Scaevola*, the two *Mucii*, *L. Crassus*, and *M. Antonius*, who then lay encamped without the City, Men of

far the soundest Heads, and greatest Capacities of any in this State; together with others of equal Dignity, the Guardians and Governors of their Country, but now all of them in their Graves. What Apology can we make for those very worthy Men and excellent Citizens the *Roman* Knights, who then join'd with the Senate in Defence of their Country? Or for the Commissioners of the Treasury, and the *Romans* of all other Orders who then took Arms for the Liberty of *Rome*?

BUT why do I speak of those who took up Arms by Command of the Consuls? What will become of the Reputation of the Consuls themselves? Shall we condemn *L. Flaccus* of this monstrous Wickedness and Parricide now that he is dead; a Man, who, when alive, was ever indefatigable in his Duty as a Patriot; in his Offices as a Magistrate; in his Priesthood, and the sacred Ceremonies over which he presided? Shall we join even the Name of *C. Marius* to this posthumous Infamy? I say, shall we after his Death condemn of unnatural Guilt and Wickedness *C. Marius*, whom we may truly call the Father of his Country, and the Parent of your Liberty and this Republic?

FOR if *T. Rabienus* has thought it proper to fix a Gibbet in the *Campus Martius*, for *C. Rabirius*, because he took up Arms, what Punishment does not the Man deserve who call'd him

to Arms? And if, as you have very often affirmed, any Promises of Indemnity were made to *Saturninus*, they were made, not by *Rabirius*, but by *Marius*, and if they were broken, that Breach is to be imputed to him. What Promise could pass? Who could make any Promise but by Resolution of the Senate? Are you so much a Stranger to this City? Are you so very ignorant of our Government and Constitution as to be ignorant of that? Surely you seem to have been but a Sojourner in some foreign State, and not to bear a Magistracy in your own.

How, he may say, can these Allegations affect *Caius Marius* who is now dead and insensible? It is thus you reason? And do you imagine, that *C. Marius* would have lived amidst so great Toils and such Danger, had his Hopes and Sentiments, with Regard to himself and his Glory, reached no farther than the Bounds of this Life? Are we to suppose, that when he routed those innumerable Bodies of Enemies in *Italy*, and had freed his Country besieged by Foreigners, he imagined that all his Actions were to die with him? No, my Countrymen; nor is there a Man amongst us all, who labours with Courage and Glory in the Dangers of his Country, who is not invited by the Hope and Advantage of Posterity. For this, amongst many others, the Souls of worthy

thy Patriots to me appear to be Divine and Eternal; especially as the Regard of all the best and wisest amongst Mankind is so fixed upon Futurity, that the latest Posterity seems to be the sole Object of their View.

FOR this Reason, I call to witness the Spirits of *C. Marius*, and those other Heroes, the wisest and the bravest of our Countrymen, who seem to have moved out of this mortal Life to immortal Worship and Holiness, that I think myself as much obliged to fight for their Fame, their Glory, and their Memory, as for the Gods and Temples of my Country; and were I to take Arms to vindicate their Renown, I would act as strenuously for them, as they acted for the Preservation of the State: For, my Countrymen, the Bounds for *Life*, prescribed by Nature, are but *narrow*, but those she has prescribed for *Glory* are *immense*.

THEREFORE, when we praise our *Ancestors*, the Reflection on our Mortality becomes the less melancholy. But, *Labienu*s, if you have no Regard to those whom we cannot see, is no Regard due to those who are present to our Eyes? I will venture to say, there was not a Youth in *Rome*, on the Day which you impeach, who did not then take Arms, who did not then follow the Consuls: Yet all these, whom you may make some Computation of
by

by their Ages, are, in the Person of C. Rabirius, capitally impeached by you for what they did that Day. But you say, that Saturninus was killed by Rabirius. I wish he had: I should not then be begging off a Punishment, but claiming a Reward. For if Scæva, the Slave of Q. Croto, was rewarded with Freedom for killing Saturninus; what Reward equal to this Service could be adjudged to a Roman Knight? And if C. Marius, for ordering the Pipes that supplied the Temples and Seats of JovE, the best and greatest, to be cut off * * * * *

[A Chasm to the End.]

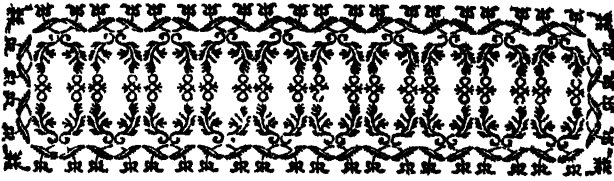





A R G U M E N T
O F T H E
O R A T I O N
F O R
King *D E J O T A R U S*.

D E J O T A R U S was Tetrarch of almost all Gallogræcia: Upon the Close of the Civil Wars he was accused by his Grandson Castor, of a Design to murder Cæsar, who was much piqu'd at him for joining Pompey against himself. Cicero spoke this Oration in his Defence before Cæsar, in Cæsar's own House, in which he inveigks against the Worthlessness both of the Prosecutor and the Witnesses whom he had suborned; and with so much Success that Dejotarus was not punished by Cæsar.

This Oration was delivered in the Year of Rome 708, and of Cicero's Age 62.



M. T. C I C E R O ' S
O R A T I O N
F O R
K I N G D E J O T A R U S ,
Before C Æ S A R .

 H O' in all Causes of Consequence,
Sir, I use, in the Beginning of my
Pleading, to set out with more *
Concern than either my Practice at the
Bar, or my Years seem to require; yet up-
on this Occasion, I am so strongly, so va-
riously

* *More Concern.*] There is a Passage very parallel to this in our Author's Oration for *Cluentius*, which is the best Commentary that can be given upon this Place, *Semper equidem magno cum metu incipio dicere. Quoties unque dico,*

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riously affected, that my Duty does not inspire me with greater Zeal to vindicate *Dejotarus*, than the Concern I am under damps my Abilities for doing it.

IN the first Place, I plead for the Life and Fortunes of a King.* This is a Trial, which tho'

dico, toties mihi videor in judicium venire, non judicii solum, sed etiam virtutis atque officii mei: Ne aut id profiteri videar quod non possum implere, quod est impudentiæ: Aut id non efficere, quod possum, quod est aut perfidiæ aut negligentiae.

* *The Life and Fortunes of a King.*] This was a very uncommon Case; and as Cicero says himself, *unprecedented*: But the Reader will here observe to what a fine Climax Cicero rises in Compliment to *Cæsar*. *Dejotarus* was a sovereign Prince within his own Country, with only a political Dependence upon *Cæsar*: Yet, says our Author, tho' he is a sovereign Prince, it is just he should plead for his Life, when any Thing is in Question that might have affected *Cæsar*. The Expression here in the Original is remarkable, *Pro capite fortunisque Regis*. There seems to be some sort of Doubt, whether if *Dejotarus* had been found guilty, *Cæsar* would have ordered to have put him to Death. As to the Penalty inflicted in a capital Cause, when the Punishment was not Death, we have a curious Passage in *Paulus de Capite Minutis*. *Capitis diminutionis tria genera sunt, maxima, media, minima; tria enim sunt quæ habemus, libertatem, civitatem, & familiam; igitur cum omnia hæc amittimus, hoc est libertatem civitatem & familiam, maximam esse capitis diminutionem. Cum vero amittimus civitatem, libertatem retinemus; Mediam esse capitis diminutionem: Cum & libertas & civitas retinetur, familia tantum mutatur, minimam tantum capitis diminutionem constat.*

“ *The Diminutio capitis*, (or Diminution of the Head,)
 “ are of three Kinds, the greatest, the middle, and the
 “ least; for we are in Possession of three Things, Li-
 “ berty.

tho' justifiable; especially when you are personally in Danger, yet it must be own'd to be at least unusual, nay, unprecedented, for a King to be tried for his Life: A King too, whom, in Conjunction with all the Senate, I used to celebrate for his inviolable Attachment to this State;* but now I am obliged to vindicate from the Charge of a most detestable Nature. Add to this, that I am shock'd by the Inhumanity of one Accuser, and the Worthlessness of the other.† *Castor*, that cruel, or rather wicked

“ berty, our Enfranchisement, and Family. When we
 “ lose all these, we suffer the greatest *Diminutio capitis*;
 “ but when we lose our Enfranchisement, and retain our
 “ Liberty, we then suffer the middle *Diminutio capitis*;
 “ when we preserve both our Liberty and Enfranchisement,
 “ and only change our Family or Place of Residence, this
 “ is the smallest *Diminutio capitis*.

* *I used to celebrate for his inviolable Attachment to this State.] See De Harusp. Resp. Atque hunc tamen Dejotarum saepe a Senatu regali nomine dignum existimatum, clarissimorum Imperatorum testimoniis ornatum, tu etiam regem appellari cum Brogitaro jubes.*

† *The Worthlessness of the other.]* Character went a great way in criminal Prosecutions amongst the *Romans*. We have from *Ulpian* the particular Circumstances which disqualified a Person from giving his Evidence.

Is qui judicio publico damnatus est, jus accusandi non habet, nisi liberorum vel patronorum suorum mortem vel rem suam exequatur. Sed & calumnia notatis jus accusandi ademptum est. Item his qui cum bestiis depugnandi causa in Arena intromissi sunt, quive artem ludicram vel lenocinium faciunt.

“ A Person who has been condemned upon a public
 “ Trial is not entitled to act as an Accuser, except
 “ in prosecuting the Death of his own Children, or his
 “ Patrons,

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ed and unnatural Grandson, has brought his Grandfather into Danger of his Life, has attack'd, with the Wildness of Youth, the Man whose old Age he was bound to protect and defend; made Inhumanity and Wickedness his first Introduction into Life,* and by corrupt Practices prevail'd with the Slave of his Grandfather to accuse his Master, having for this Purpose taken him from the Service of the Deputies.†

BUT when I see this Fugitive Miscreant accusing his Lord, his absent Lord, a Prince the most

“ Patrons, or his own Property. They who were branded
 “ for Calumny, see p. 42. were likewise deprived of the
 “ Right of accusing; as were those who were brought out
 “ the Stage to fight with wild Beasts, or who exercised
 “ any ludicrous or bawdy Profession.”

* *First Introduction into Life.*] The Original here is, *Commendationemque ineuntis ætatis ab impietate & scelere duxerit.* There is a fine Piece of Railery here. Young Gentlemen among the Romans found the surest Way of rising into Reputation with the Public, and to Preferment in the State, was by accusing eminent Offenders; and Cicero says, that this young Fellow is so fond to rise, that he accuses even his Grandfather. There is a beautiful Soliloquy of *Theseus* in *Seneca*, somewhat resembling that Passage, speaking of *Hippolitus* whom he suspected of defiling his Bed;

—*Silvarum incolæ*
Ille efferatus, Castus, intactus, rudis
Mibi te reservas? A meo primum Toro
Scelere tanto placuit ordine virum.

† *The Service of the Deputies.*] The Original here has a very contemptuous Insinuation, a *Legatorum pedibus*, insinuating that he was no better than their Footman.

Judge and Party, who will not be more favourable to himself than the Accused. But the matchless Greatness of your Soul, *Caius Cæsar*, makes me more easy upon that Head; and I am not so much afraid of what your Judgment will be of *Dejotarus*, as I am sensible of the Judgment you wish the World to form of yourself.

I AM likewise affected* by the Strangeness of this very Place, by pleading a Cause of more Importance than ever was canvass'd, within the Walls of a Dwelling-House, deprived of that Assembly, and those Numbers from which Eloquence derives her Spirit. It is your Eyes, your Look, your Countenance alone that I court; it is to you alone I make my Address; and to you alone my whole Discourse is directed: Circumstances which may weigh exceedingly in my Endeavours to obtain Justice; tho' they have but an inconsiderable Effect upon the Emotions of the Mind, and contribute but little towards the Energy and Force of Eloquence.

FOR were I, Sir, to plead this Cause in the
Forum,

* *I am likewise affected.*] This is a Circumstance which I dare say *Cicero* threw in, not from any Artifice of Eloquence, but from what he felt within himself. There is no Speaker in the World who makes a Figure by his Eloquence in public Assemblies, who does not derive a great deal of that Spirit to which his Success is owing, from the Consciousness of the great Numbers who hear him; but how finely does *Cicero* turn even this Circumstance to a Compliment upon *Cæsar*!

Forum, in your Hearing, and at your Tribunal, with what Spirit would the assembled Crowds of *Romans* inspire me? For where is the *Roman* who would not be on the Side of a King, whose whole Life he remembers to have been spent in the Field for the Service of *Rome*. I would there throw my Eyes upon the Court, I would look all around the *Forum*, and then invoke Heaven itself as an Evidence. Thus, after I had commemorated the Favours of the immortal Gods, of the People of *Rome*, and of the Senate, to King *Dejotarus*, it would have been impossible that I should have failed of sufficient Subject for my Pleading.

BUT as all these Advantages are contracted by these Walls, and as the principal Inconveniency which weakens the Force of my Pleading upon this Occasion, arises from the Narrowness of this Place, it is your Part, Sir, you who have undertaken the Defence of many,* to apply the Damp, which now lies upon my Spirits, to your own Case; that thereby your Equity, as well as your Attention, may kindly lessen the Confusion I am under. But before I

L 2

speak

* *Undertaken the Defence of many.*] We are told by *Suetonius*, in his Life of *Julius Cæsar*, that he was looked upon as one of the best Pleaders in *Rome*. The Reason of his applying to this, is best accounted for in *Cicero's* own Words.

Causas, Cæsar, egi multas, & quidem tecum, dum te in foro tenuit ratio honorum tuorum, pro Ligario.

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Speak to the Accusation itself, let me touch a little upon the Views of the Accusers; who, tho' they find themselves inconsiderable, both as to their Capacity, their Practice and Experience in Business, yet appear upon this Occasion not without some Hopes and Preparation.

WELL did they know that you was incensed at King *Dejotarus*,* and they reflected, that your Resentment had subjected him to Disadvantages and Losses; they knew that you were angry with him, and favourable to themselves;† and since you were to be at once Judge and Party,

* *Well did they know that you was incensed at Dejotarus.* Cicero, in his *Philippics*, speaks in very strong Terms of *Cæsar's* Hatred of *Dejotarus*, which had proceeded so far as to mulct him of a Part of his Dominions, that had been granted him by the Senate; but *Cicero* manages this Particular with great Tenderness and Address for Fear of disobliging *Cæsar*. However, we find him reflecting very severely upon *Cæsar* on this very Account, in other Parts of his Works.

Cæsarem eodem tempore & hostem & hospitem vidit, quid hoc tristius? is cum ei Troginorum Tetrarchiam eripisset, & assæt suo Pergameno nescio cui dedisset, eidemque detraxisset Armeniam a Senatu datam; cumque ab eo magnificentissimo hospitio exceptus esset, spoliatum reliquit & hospitem & regem.

De Div.

† *Favourable to themselves.*] I cannot take upon me to say, that I have translated this Passage right. In the Original, it is *Tum sibi amicum cognoverat*. The *sibi* may relate here, either to the Prosecutors, or to *Cæsar* himself. *Cicero's* Way of Reasoning seems to determine it to the latter; but I think such a Sense falls short of that Delicacy which is conspicuous throughout the whole Ora-

Party, they thought it natural that a forg'd Imputation should make a quick and an easy Impression upon a Mind already exasperated with Prepossession. Therefore, Sir, let your Honour, Integrity and Clemency free us, in the first Place, from this Fear, otherwise we shall apprehend that Resentment has still some Hold upon your Mind. Let me conjure you by that Right Hand,* which you stretched out to King *Dejotarus* in token of mutual Hospitality ;

L 3

that

* *Let me conjure you by that Right Hand.*] I don't know what the Reader's Opinion may be, but in mine, this is one of the noblest and happiest Turns that ever was given to any Circumstance. The Right Hand amongst all Nations, even among those lately discovered, seems to have been the Symbol of Security in Promises. Hospitality was justly looked upon as one of the most religious Rites among the *Romans*, who were none of the least superstitious People, whatever *Cæsar* might be. But this Passage will appear in a much stronger Light to the Reader, when he is informed, that the *Romans* looked upon a Promise, or a Right confirmed by stretching out the Right Hand, as a solemn Sacrament: For this we have the positive Institution of that excellent Politician and Lawgiver *Numa*. Take it in the Words of *Livy*.

Fides solemnè instituit ad id sacrariam Flamines bigis curru arcuato vèbi iussit, manuque ad digitos usque involuta revolvivimam facere, significantes fidem tutandum, sedemque ejus etiam in dextris Sacratam esse.

Now tho' *Cæsar* laugh'd at the outward Form of their Religion as much as any Man ; yet no wise Man would contradict the common received Usages to fly in the Face of an established Custom, even putting Matters of Religion upon that Footing. The Insinuation therefore which *Cicero* throws in here upon these, is not only a very stinging Reflection upon *Cæsar* for his past Treatment of *Dejotarus*, but likewise a very strong Argument why he should carry his Resentment no farther.

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that Right Hand, not more successful in the Terrors of War, than faithful in the Engagements of Honour: You was pleased to enter his Roof; and to renew your ancient Terms of Hospitality with him; his Household Gods welcom'd you as a Guest; and the genial Altars of *Dejotarus* beheld you a reconciled Friend.

SUCH, Great Sir, is your Readiness to pardon, that you seldom require a second Petition to extend it. Never was you reconcil'd to an Enemy who perceiv'd any Seeds of Rancour remaining in your Bosom; yet who is unacquainted with your Grounds of Reproach against *Dejotarus*? Never did you accuse him as an Enemy, but as a Friend who had not well discharged his Duty; by having a stronger Bias to *Pompey's* Friendship than to yours. Yet you said you would have pardon'd this very King, provided while he was sending his Troops, nay, his Son over to *Pompey*, he would plead old Age as an Excuse for not going over himself. Thus while you acquitted him of the most weighty and material Charge,* you only left an Imputation upon the Delicacy of his Friendship.

FOR

* *Thus while you acquitted him of the most weighty and material Charge.]* Original, *cum maximis cum rebus liberares.* This is a very odd way of Reasoning in our Author, if he means that *Cæsar* acquitted him of the most heavy

FOR this Reason you did not punish him; nay you delivered him from all Apprehension. You acknowledged him a *Guest*; you left him a *King*. For he did not persevere from any Dislike of *you*, but fell into a general Error. This Prince, whose Authority is such, as the Senate had acknowledged it by repeated Decrees in the most honourable Terms: he who from his

L 4

Youth

heavy Charge that could be urged against him for siding with *Pompey*, as all Commentators seem to agree. *Cicero* gives us the very strongest Reason in this Place, that can be urged against this Opinion. *Cæsar* told *Dejotarus*, You are a very old Man, *Pompey* is not to expect that you are to take the Field; therefore, I beg you will not go in Person, tho', if you please you may send your Troops; nay, your Son at their Head. *Dejotarus* refused this generous Offer, and was so inveterate an Enemy to *Cæsar*, that he would not urge even old Age as an Excuse for his not taking the Field, tho' he might have done it without the least Imputation upon his Courage. This, in Effect, is *Cicero's* own Account of the Matter, and appears to have been represented so by *Cæsar* himself, to vindicate the Violence of his Resentment against *Dejotarus*. Therefore the Word *rebus* here, can with no Consistency of Meaning be applied to the Allegations against *Dejotarus* in this Trial, but to the Particulars of his Conduct during the War. In this Light, *Cicero's* Reasoning is very consistent; but you, yourself, says he, by being so kind as to exempt him from the most difficult Part of his Behaviour, and most material Part of it, by indulging him in the Liberty of sending even his Troops and Son into the Field, provided he would not expose his own Person, left *Dejotarus* blameable only for appearing in Person against so kind and so generous a Friend, by preferring his Friendship for *Pompey* to that for *Cæsar*. The Commentators have been reduced to consult a great many Writings, in order to reconcile this Passage, as they have understood it, to common Sense.

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Youth had ever borne that awful, that venerable Distinction, while at a Distance and a Stranger, stumbled upon the very same Mistake with us, who were born, and had spent our Lives in the Bosom of this Republic.

UPON hearing that by Consent of the Senate a War was begun, that the Defence of the State was put into the Hands of the new Commanders, by the Consuls, Prætors and Tribunes of the People, he was surprized; and as he bore the most inviolable Attachment to the People of *Rome*, he began to fear for their Safety, which he perceived was connected with his own. Yet he thought it most prudent for himself to remain quiet amidst the general Consternation. But he was quite confounded with the News that the Consuls had quitted *Italy*: That all the Consulars, for so he was informed; the whole Senate, and all *Italy* had taken the Field. Such were the Rumours that prevailed all over the *East*, without being destroyed by true Accounts. He heard nothing of the Terms which you had offered; nothing of your Zeal for Peace and Tranquility; or of the Conspiracy formed by a Set of Men against your Dignity; and yet under all these trying Circumstances, he remained undetermined till he received Letters and an Embassy from *Pompey*.

PARDON, pardon, Great Sir, if *Dejotarus* did yield to the Authority of that Man whose Party we all embrac'd; the Man upon whom the Gods and Men had lavish'd many Distinctions,* but you yourself, the most and the greatest; for though your Actions have shaded the Glories of all other Generals with Oblivion, yet we have not lost the Memory of *Pompey*. How great his Renown, how extensive his Power, how universal his military Glory; how he was honoured by the People, by the Senate of *Rome*, and by yourself, is known to all the World. His Glories as much surpass'd those before him, as yours surpass those of all Mankind. Therefore we counted with Astonishment the Wars, the Victories, the Triumphs of *Pompey*, but we find it impossible to count yours.

KING *Dejotarus* then came, in this calamitous fatal Dispute, to the Man whom he had before assisted in lawful Wars with foreign Enemies, the Man with whom he was connected,
not

* *The Man upon whom Gods and Men had lavish'd many Distinctions.*] It has been ingeniously observed of *Homer*, that all the great Qualities and Courage, with which he endues the Heroes of his *Iliad*, serve only to give the greater Lustre and Relief to the Character of *Achilles*. *Cicero* seems to have understood this Conduct extremely well. And tho' the Praises he here bestows upon *Pompey* carry along with them an Air of noble Freedom, yet they are managed with so much Address, that they must have given great Pleasure to *Cæsar*.

not only by the Ties of Hospitality, but of the strictest Friendship; and he came either by *Invitation* as a *Friend*, by *Command* as an *Ally*, or by *Summons* as one who had learned to obey the *Senate*;* in short, he came to him as he was, flying, not while he was advancing; that is, to share not in his *Victory*, but, in his *Calamity*. Therefore, after the Battle of *Pharsalia*, he abandon'd *Pompey*;† he was unwilling to enter into a Pursuit of endless Hopes: He imagin'd he had gone far enough in discharging

* *By Summons, as one who had learned to obey the Senate.*] The Original, *Ut is qui senatui parere didicisset*. I shall not trouble the Reader with the idle Conjectures of Commentators on this Passage, I will only observe that *Cicero* might have formed a strong Argument from it in Favour of *Dejotarus*, had it not been too tender a Point to be insisted upon.

† *Therefore, after the Battle of Pharsalia, he abandoned Pompey.*] The Reader will think this a very odd Excuse for *Dejotarus*. He stuck by *Cæsar's* Enemy till that Enemy was ruin'd. But there are two or three Things here to be consider'd. In the first Place, it was neither proper, nor would have been prudent for *Cicero* to have said all he could in Favour of *Dejotarus*. But in the next Place, there is here a very broad Intimation that *Cæsar* was very much obliged to *Dejotarus* for leaving *Pompey's* Party after the Battle of *Pharsalia*; because, after that Battle it made a great many Stands, and put *Cæsar* in greater Danger than ever he had been in before. Therefore, no-body knows what the Consequences would have been, had *Dejotarus* joined him: Lastly, Our Author here intimates, that it was merely from a Nicety and Point of Honour, that *Dejotarus* had join'd *Pompey*, who was his old General and Friend; and that as soon as he had satisfied this, which he thought an indispensable Punctilio, he fairly dropp'd him.

charging the Obligations of Friendship, if he was under any, or in following a Mistake, if he was deluded through Ignorance; he retired Home, and was as serviceable as he could be to you, while you was carrying on the *Alexandrian War*.

HE maintain'd within his own Roof, and at his own Expence, the Army of the illustrious *Cn. Domitius*.* He sent Money to *Ephesus*, for that most faithful and best approv'd of all your Friends.† Again, and upon a third Occasion of Victory, he sold his Estate to advance you Money for the Service of the War: He expos'd his Person in the Field; he serv'd under you in the Battle with *Pharnaces*, ‡ and look'd upon your Enemy as his own. All which,

* *Cn. Domitius*.] He was made Lieutenant over *Asia* and the neighbouring Provinces by *Cæsar* after the Battle of *Pharsalia*.

† *That most faithful and best approved of all Friends*.] All the Commentators have made a ridiculous Pother about this Passage. Some say, that the Person here hinted at is *Q. Furius Calenus*, others *Sextus Cæsar*; but I see no Reason, especially as *Ephesus* lay in *Asia*, why it should not be meant of *Cn. Domitius*, and the natural Construction of *Cicero's* Words point him out.

‡ *In the Battle with Pharnaces*] The Author of the History of the *Alexandrian War*, gives us a very different Representation of this Matter.

Rex Dejotarus ad Domitium Calvinum, cui Cæsar Asiæ finitimasque provincias administrandas transfuderat, venit oratum, ne Armeniam minorem, regnum suum, nec Cappadociam regnum Ariobarzani possideri vexarique pateretur a Pharnace: Quo malo nisi libereretur, imperata sibi facere, pecuniamque promissam Cæsari non posse persolvere.

which, Sir, you took in so good Part, that you dignified him with the illustrious Name and Title of King.

THIS Man then, who was not only pardon'd, but distinguished by you with the highest Honours, is charged with an Intention to kill you in his own House. An Intention, of which, unless you imagine that he is utterly deprived of Reason, you cannot suspect him. Not to mention the detestable Guilt of killing his Guest within the View of his own Household Gods;* the incredible Barbarity of extinguishing the brightest Luminary, that any Age or Nation ever produced; that amazing Audacity of not dreading the Conqueror of the World; the Inhumanity and Ingratitude of his proving a Tyrant to the Man, by whom he himself was distinguished with the Name and Title of KING; I say, not to mention these Considerations, what Madness must it have been to have provoked all Princes, many of them his Neighbours, all free People, all our Allies, all the Provinces; in short, to have turned the Swords of the whole World against himself alone? In what

* *His own Household Gods.*] Horace has much such another Thought.

*Illum & parentis crediderim sui
Fregisse cervicem, & penetralia
Sparfisse nocturno cruore
Hospitis.*

what Manner must he have been distracted with his Kingdom, his Family, his Wife, and his dearest Son, not upon the perpetrating only, but upon the very designing such a Piece of Wickedness.

IT may perhaps be suggested, that his Want of Foresight and Prudence blinded him to all those Considerations. Is there any Man more foreseeing, more cautious, more prudent than he is? But upon this Charge, I am of Opinion, that it is not the Capacity or Understanding of *Dejotarus* that is to be urged in his Defence; but the Honour and Sanctity of his Life. You, Sir, are acquainted with the Probity, with the Morals, and with the Integrity of the Man. Nay give me Leave to ask, whether there is a Person who has ever heard of the *Roman* Name, yet is a Stranger to the Integrity, the Gravity, the Honour, and the Virtue of *Dejotarus*? If you admit this Charge therefore, you are to suppose that one of the best of Men, and one, who is far from being a Fool, has design'd a Thing, which no Man can be supposed guilty of through Inadvertency, because of the immediate Destruction attending it; and no Man through Wickedness, who was not at the same Instant a Madman.

BUT how void is this Charge not only of all
Pro-

Probability, but of the smallest Presumption to support it? When, says the Prosecutor, you was come to the Castle of *Luceius*, and had taken up your Lodging with your Royal Landlord, there was a certain Place in which were disposed the Presents that were designed to be made you by the King. Hither he intended to introduce you, after you came out of the Bath,* before you went to Supper; for in that very Place the Murderers were posted with Arms to dispatch you. Behold the Crime; behold the Cause why a Fugitive accuses his Prince, and a Slave his Master. For my own Part, Sir, by Heavens, I imagined, as soon as this Matter was laid before me, that *Phidippus*,† the Physician and Slave of the King, who was sent along with the Deputies, had been tamper'd with by that young Man. I was struck with this Suspicion. He will no doubt suborn a Physician.

Out of the Bath.] The Antients used to bathe before they went to Supper; it was particularly refreshing to *Cæsar* upon this Occasion just when he was come off a Journey.

† Our Author is now proceeding to shew, that the Charge was destitute of Probability; for if *Dejotarus*, says he, had employ'd this *Phidippus*, it would have been to have poison'd *Cæsar*, as *Phidippus* is a Physician; and indeed I thought that *Castor* had a Mind to have made a poisoning Business of it, when I heard that *Phidippus* was to be an Evidence: Besides, *Cæsar* might have been more safely taken off twenty Ways by Poison, than once by Assassination.

fician for an Evidence, in order to cook up some poisoning Plot, which though very distant from Truth, yet was pretty much the Fashion in Charges of this Nature.

WHAT does this Physician say? Not a Syllable with Regard to Poison. But it might have been privately given either in Drink or Victuals. Besides, there was the greater Chance of Impunity, since, after it was done, it might have been denied. Had he murdered you openly, he would have pointed, not only the Hatred, but the Swords of the whole World against himself: Had he taken you off by Poison, it never could have been hid from the Providence of the hospitable Jove, but it might have been concealed from the Knowledge of Mankind. The Design therefore that might have been concerted with the greatest Secrecy, and executed with the greatest Safety, he refused to entrust to you, or a crafty, and as he thought a faithful Physician his Slave; shall he then be supposed to conceal from you nothing relating to the Arms, the Assassination, or the Treachery? But how finely does this Story hang together? Your usual good Fortune, says he, saved you; for you refused to look into the Apartments at that Time.

WHAT happened next? Did *Dejotarus*, upon missing his Aim, instantly disband his Myrmi-

Myrmidons?* Was there no other Place proper for an Ambush? But you had said that after Supper was over, you would return to the same Place; and so you did. Was it so very difficult to keep those armed Men for an Hour or two longer at their Posts. After your Heart was laid open to the Indulgence of Company and social Pleasure at the Board, you came thither as you promised; and here you find *Dejotarus* to be the same to you, as King *Attalus*† was to *P. Africanus*; to whom the former, as we learn from History, sent very valuable Presents out of *Asia*, as far as *Numantia*; and *Africanus* received them in the public View of his whole Army. After *Dejotarus* in a generous and royal Manner had done this, you retired to your Bed-chamber.

I conjure you, Sir, to recollect the Memory of that Juncture; place that Day before your
Eyes;

* *Instantly disband his Myrmidons.*] There is a great deal of Humour here in the Original, though it is far from striking. *Continuo dimisit exercitum. Dimittere exercitum* appears to have been a burlesque Expression, to signify paying off, or discharging any Set of Tools or Servants, that a Man designed should serve a present Turn. Thus *Thraso* in *Ter. Eun. A. 4. S. 7. Jam dimitto exercitum.* Our Author no doubt had this Passage in his Eye; and it might have a very good Effect in exposing the ridiculous Contrivance of this Charge. When the Expression is considered in this Light, I hope I shall be pardoned the Liberty I have taken in translating it.

† *Attalus*] We are told this Story of *Antiochus* by *Livy*, and other Writers.

Eyes; remember the Looks of the Company, all gazing upon and admiring you. Was there then any Symptom of Confusion? Any Disorder? Did not every Thing proceed with that Calmness, that Quiet which belongs to the Oeconomy of the most regular and best of Men? What Reason then can be suggested, why he was so keen to murder you before Supper, and yet declin'd it when it was over?

HE put it off, says the Accuser, till next Day, and then he propos'd to put his Design in Execution, when you came into the Fortrefs of *Luceius*. I can't see any Reason for thus shifting the Scene. But this is made an Article of Impeachment. Says he, after Supper, when you said that you had a Mind to take a Vomit;* they began to conduct you to the Bath; for there the Ambush was placed. But here your usual good Fortune sav'd you, for you chose to go into your Bed-chamber. May Heavens confound thee, thou Renegade Traytor, for now you prove yourself not only a Rascal and a Villain, but a Fool and an Ideot. Were those he had plac'd in Ambush so many brazen Statues, which could not be conveyed from the Bath into the Bed-chamber? You have here the whole of this Plot; this is

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all

* *To take a Vomit.*] It was very customary among the Antients to vomit after Supper; *Cæsar* particularly used to do this, and by that Evacuation they generally eat more than ordinary.

all he says; and tells you, *All this I knew of.* And what then? Was *Dejotarus* so infatuated as to dismiss the Man whom he had led into such a Scene of Iniquity; to send him even to *Rome*, where he knew his Grandson, the greatest Enemy he has, and *Caius Cæsar*, against whom the Treason was intended, lived; especially as he was the only Man who could at a Distance avenge himself * of his Treasons? He likewise threw my Brothers, says he, into Fetters, because they knew of the Plot; yet at the same Time, while he was confining those who were at home, he was dispatching you in full Freedom to *Rome*, though you knew the very same Things which you pretend they knew.

THE remaining Part of the Impeachment is of a double Nature. The one is, that the King was always upon the Watch while he was at Variance with you; the other, that he levied a great Army against you. I will, as upon the other Points, but just touch upon this Army. *Dejotarus* never raised an Army powerful enough to make War with the People of *Rome*;

* *Who could at a Distance avenge himself.*] The Commentators have crowded the Margins of our Author with their Altercations upon this Passage, and their different Readings, some referring it to *Phidippus*, and some to *Cæsar*. The Sense appears equally good either Way. I have translated it according to the Meaning of the famous Line, *An nescis longas regibus esse manus.*

Rome; but it was sufficient for protecting his Territories from Inroads and Depredations, and for assisting *our* Generals. Formerly, indeed, he was able to keep up a large Body of Forces; but now he can scarcely find Means to maintain a very few. But he sent somebody to *Cælius*; though at the same Time he threw those whom he sent into Fetters, because they refused to go. I shall not here enquire into the Improbability of the King's having neither any Body to send; nor of their disobeying him whom he did send; nor of his throwing into Fetters, and not rather putting to Death those who disobeyed his Orders in an Affair of such Consequence. But as he was sending to *Cælius*, whether did this Step proceed from his Ignorance of his Party being baffled, or from his Opinion, that *Cælius* was a great Man. A Fellow, whom a Man, who is so well acquainted with the Characters of our Countrymen, as *Dejotarus* is, would despise equally, either because he did know him, or because he did not know him. He added another Charge, which was his not sending the Flower of his Cavalry. I believe, Sir, those he sent were old Troops; nothing indeed to your Cavalry; but the best that he could send to the Field. He alledges that one of them was adjudg'd to be a Slave:* I

M 2

fancy

* *A Slave.*] The Romans were very jealous of admitting

fancy not: I heard of no such Thing. But supposing it had been so, I can't see how that ought to affect the King, as it was no Fault of his.

BUT he was no Friend to you. How! No doubt he hoped that your Retreat from *Alexandria* would be extremely difficult on Account of the Nature of the Country and the River: Yet at that very Time he was furnishing you with Money; he was supporting your Army, and was in no Respect backward in assisting the Person whom you made Governor of *Asia*. Upon your Victory he not only received you as a Guest, but shared in your Danger, and was present in the Battle. The *African* War followed next: Many Reports were spread to your Prejudice; and such as alarmed that hair-brain'd *Cælius*. In what Manner did *Dejotarus* then behave with Regard to you? Why, he chose that his Effects should be put up to Sale, and himself and Son stript, rather than not furnish you with Money. But, says he, at that very Time, he was sending to *Nicæas* and *Ephesus*, to pick up all the idle Stories about you, and have them quickly brought to him; and when he was told that *Domitius* was shipwreck'd,
and

ting any into their Armies, especially their Cavalry, who had not Liberty nor Property to defend. Therefore, whenever they were obliged, as they sometimes were to enlist Slaves, they manumitted them.

and that you was shut up in a Fort, he applied to *Domitius* our *Latin* Sentence in *Greek*.

Let our Friends perish, provided our Enemies perish along with them.

THIS he never was capable of saying, even tho' he had been your most bitter Enemy; for he is Gentleness itself;* and this is a barbarous Saying. But how could a Man, who was a Friend to *Domitius*, be an Enemy to you? Give me Leave to ask farther, why should he be an Enemy to you, who having by the Laws of War a Right to put him to Death, had but lately invested himself and his Son with Royalty?

WHAT comes next! What Lengths does the Villain run! *Dejotarus*, says he, was so elevated with this News, that he got drunk and danced naked † at the Entertainment. What

M 3

Gibbet

* *For he is Gentleness itself.*] As to the Facts laid down in this Oration, we can say very little; but by what we understand from our Author himself, in other Parts of his Writings, this Charge had not been so destitute of Probability and Proof as he would here represent it. With Regard to the Characters, this one of *Dejotarus*, I am apt to believe, is very much misrepresented; for by all other Accounts he appears to have been a Monster of Blood and Cruelty; for he put to Death all his own Children, and afterwards *Castor's* own Father, which may very well account for *Castor's* appearing in this Prosecution.

† *Danced naked.*] This was one of the greatest Reproaches that could be upon any Man's Character amongst the Ancients.

Gibbet can punish this Scoundrel as he deserves? Did ever any Man see *Dejotarus* either dancing or Drunk? He possesses all the Virtues of a King, as I believe you, Sir, are sensible: But above all, a wonderful, an unparallel'd Frugality; a Character by which I know it is uncommon to recommend Kings. It is not saying a great deal of a King, when we say that he is *frugal*. Frugality is the Virtue of a private Man; Fortitude, Justice, Severity, Weight, Magnanimity, Generosity, Beneficence, and Liberality, are the Virtues of a King. Every Body may put what Construction they please upon it; but I look upon *Frugality*, by which I mean Modesty and Temperance, to be amongst the greatest of Virtues. And it is a Virtue that in his earliest Life was proved and allowed to be his by all *Asia*, by our Magistrates and Deputies, and by all the *Roman* Knights who had any Dealings there.

It was, indeed, by a long Series of Services to this State, that he rose to the Royal Dignity: But all the Time he could spare from the Wars of *Rome* was spent in conforming the Customs, the Friendships, the Interests and the Views of his Country to ours; so that he was looked upon not only as a noble Tetrarch, but as an excellent Father and Master, and a most industrious

strious Improver of Land and Country Gentlemen.* Shall a Person then who in his Youth, before he arose to so much Glory, acted up in every Respect to the Strictness of Severity and Gravity, be supposed to dance, now that he has attained to this Character and these Years?

You ought, *Castor*, to imitate the Manners and Regularity of your Grandfather, rather than injure the Reputation of that excellent and illustrious Person by the Tongue of a Fugitive. Supposing you had had a Dancer for your Grandfather, instead of a Person of such exemplary Modesty and Decency; yet such an Imputation was very inconsistent with his Years. Even the Exercises of which he was so completely Master in his Youth, not Dancing, but a Dexterity in handling Arms, and Address in

M 4

managing

* *A most Industrious Improver of Land and Country Gentlemen*] This Passage may perhaps be sneer'd at by some of our *fine* Gentlemen, who cannot conceive how this Qualification can enter into the Character of a King. But the *Anticlimax* is easily removed by the following Passage from *Pliny*, l. 18. c. 3. which I shall not translate, because I intend it only for the Use of those who find fault, and to translate it might throw some Imputation upon their Learning.

De cultura Agri præcipere principale fuit etiam apud exteros. Si quidem & reges fecere, Hiero, Phllometor, Attalus, Archelaus, & Ducet Xenophon, & Pœnus etiam Mago, cui quidem tantum honorum senatus noster habuit Carthagine capta, ut cum regulis Africæ bibliothecas donaret unius ejus duo triginta volumina censeret in Latinam linguam transferendu, cum jam M. Cato Præcepta condidisset.

managing a Horse, have all left him now that he is so far advanced in Years; so that after he had got, by the Help of several People, on Horseback, we were surprized that he could keep his Seat. As to this young Gentleman who served *under me* in *Cilicia*, and *with me* in *Greece*, when he used to gallop about our Army with the Band of chosen Cavalry, which his Father * had sent to *Pompey's* Assistance, what a Crowd did he use to gather round him; what Swaggering, what Ostentation, how eminently zealous, how remarkably keen was he for that Party!

BUT upon losing our Army at the Battle of *Pharsalia*, when I, who was ever an Advocate for Peace, advised that we should not lay down, but throw away our Arms, I could not bring him to be of my Opinion; both because he had a Passion for the War itself and because he thought that he ought to please his Father. Happy is that Family which has not only an Impunity but a Privilege for accusing; Unhappy is *Dejotarus* who is accused by the Person who serv'd with him in the same Army, and has not only you for his Judge, but his own Family for his Prosecutors. You cannot,
Castor,

* *His Father.*] This is not quite generous in our Author; he seems to have gone out of his Way here, that he might throw in a very invidious Insinuation upon the young Gentleman's Father, who was attached to *Pompey*.

Castor, taste your own Prosperity with Pleasure, unless you behold the Misery of your Relations.

SUPPOSING there had been Differences, 'twas wrong there should; for King *Dejotarus* drew your Family, when it was low and obscure, from Darkness into Light. Was it ever mention'd *who your Father was*, before it was talk'd of, *whose Son-in-law he was*? But tho' you ungratefully and unnaturally have disowned the Obligations of Alliance, yet might you in your Enmity have borne yourselves like Men, and not have prosecuted him upon a forg'd Accusation; not have thirsted for his Blood; nor have tried him for his Life. But I will allow you to have indulged even this Pitch of Rancour and Malice; but must you therefore violate every Law of Safety, of Society, and even of Nature? To tamper with a Slave; to corrupt him with Hopes and Promises; to carry him from home; to put Arms into his Hand against his Master; or in other Words, to declare an infamous War, not against a single Friend, but against every Man who keeps a Number of Slaves. For should such mean Practices meet with Impunity, nay, with Approbation from so great a Tribunal as this, no Walls, no Laws, no Rights can insure our Safety: Because when our own domestic Property shall presume with Impunity to strike out, and fight against ourselves,
the

the Slave acts as the Master, and the Master may sink into the Slave.

DEGENERATE and mean! *Cn. Domitius*, whom in our Youth we beheld Consul, Censor, and High Priest, having as Tribune of the Commons, impeached *Marcus Scaurus*, the first Man in the Senate before the People, when a Slave of *Scaurus* came privately to his House offering to inform against his Master, he ordered the Fellow to be seized and carried to *Scaurus*. See the Difference; tho' it is wrong to compare *Castor* with *Domitius*, yet the one sent home the Slave to his own Foe, and you have debauched one from your Grandfather; he would not give Ear to the uninfluenced Testimony of a Slave, but *you* have bribed one; he refused a Slave as a corroborative Evidence against his Master, but you have employed one as a principal Accuser against his.

BUT was he only once corrupted by you? Did he not, after you had brought him into Court, after you had tamper'd with him, fly back to the Deputies? Did he not come to this same *Cn. Domitius*? Did he not in the Hearing of that illustrious *Servius Sulpicius*, who was then accidentally at Supper with *Domitius*, and this excellent Youth *T. Torquatus*, confess that you had corrupted him, and put him upon this Perjury by your Promises?

WHAT

WHAT a Scene of impudent, barbarous, boundless Inhumanity is here? Are you come to *Rome*, to corrupt, to pollute the Laws and Lives of her Citizens with your domestic Brutality? But how wisely is the Charge put together? *Blæfamius*,* whose Worth you, Sir, are not unacquainted with, and in whose Name he defamed you, used to write to the King, that you was become the Object of public Hatred; that you was looked upon as a Tyrant; that the People were highly disgusted at your Statue being erected amongst those of the Kings; that they had left off clapping you. Don't you perceive, Sir, that all this is but a Collection of all the low Tattle of our discontented Citizens? Did *Blæfamius* write that *Cæsar* was a Tyrant? Had he seen so many trunkless Heads of *Romans*? Had he seen them harras'd, whipt, and put to Death by *Cæsar's* Orders? Had he seen so many Houses demolished and razed to the Ground, and the *Forum* filled with armed Bands? All these we always had beheld to be the Consequences of civil Victory; but as you, Sir, was the Victor we beheld them not.

You I say, O *Cæsar*, are the only Conqueror

* *Blæfamius*.] He appears to have been the Resident of *Dejotarus* at *Rome*. Our Author's Reasoning here is very inconclusive, as appears from what followed soon after, when *Cæsar* was actually killed.

ror upon whose Victory no Man ever fell but with Arms in his Hand, and whom we, born in the Vigour of *Roman* Liberty, which we still enjoy, are so far from experiencing to be a Tyrant, that we have felt you the most humane of Conquerors. Can such a Hero as this seem a Tyrant to *Blaesamius*, who is the Subject of a King? Why should any one complain of a single Statue, especially where he sees so many? Is it likely that we should be offended at his Statue, while we are pleased with his Trophies? For if the Place where it stands is obnoxious to Jealousy, there is no Place where a Statue appears with greater Lustre than in the *Rostrum*. But what shall I say with Regard to the Applauses? These never were courted by you, and sometimes, such was the Astonishment of Mankind,* that they were lost in Wonder, and perhaps omitted them, because they imagined that nothing which was common could be a Compliment to you.

I BELIEVE I have forgot nothing, but I have reserv'd somewhat for the Close of my Plead-

* *Such was the Astonishment of Mankind.*] If *Cæsar* was pleased with this Reflection, it is a very strong Proof, that there is no Courage so firm, no Mind so great, nor Judgment so excellent, as to be Proof against the most fullsome Flattery, if artfully applied. Our Author seems to be apprehensive of going too far; for in the next Paragraph we find him recovering himself by a noble Address in very free Language.

Pleading; which is to persuade you to be fully reconciled to *Dejotarus*. For I am not now afraid that you retain your Resentment against him; I am only afraid that you may suspect that he entertains some Resentment against you. But believe me, Sir, it is far otherwise. He reflects upon what he possesses from your Bounty, and not upon what he has lost by your Displeasure. He does not imagine that he was amerc'd by you. But when he reflects upon the many Gratuities * which you must bestow upon many People, he without a Grudge, as he was of the whole Party, resigns what you have taken from him.

THE great *Antiochus*, King of *Asia*, after he was conquered by *Scipio*, was ordered to make *Taurus* the Limit of his Kingdom, and to quit all that *Asia* which is now a Province of ours; and if he used to say, *That it was kindly done in the Romans to ease him of too extended a Charge of Empire, that he might enjoy a more narrow Dominion.* *Dejotarus* has much more Reason

* *Many Gratuities*] We learn from *Dio*, that *Cæsar*, after he came into Power, had so many People, that he was forced to split Employments and Offices; for Example, he made 14 Prætors and 40 Quæstors, and the Senate to consist of 900; with a vast Number of other additional Officers in other Posts. He had likewise another Way of obliging his Friends, and that was by quartering them upon the Possessors of wealthy Provinces, &c. as in this Case of *Dejotarus*.

174 CICERO'S ORATION

Reason to comfort himself: For the one was punished for his Madness, the other for his Mistake. You, Sir, bestowed every Thing upon *Dejotarus*, when you allowed him the Title of Royalty: While he retains and preserves this Title, he never thinks that any Favour of the *Roman* People, that any Declaration of the Senate with Regard to himself has ever been lessened. He retains the same Magnanimity, the same Firmness of Soul; nor will he ever sink under his Enemies, nor under Fortune herself.

His past Merits, he is conscious, are great; and his Courage and Virtue are Treasures of which no Power can deprive him. For what Fortune, what Accident, what Injury shall ever be able to erase the Decrees of all our Generals relating to *Dejotarus*? He has been distinguished by all, who, after he was old enough to bear Arms, have been at the Head of our Wars in *Asia*, *Cappadocia*, *Pontus*, *Cilicia* and *Syria*. As to the many honourable Declarations of the Senate in his Favour, which have been consigned to the public Registers and Monuments of the *Roman* People; what Years shall ever obliterate, or what Oblivion shall ever abolish them? What shall I say of his Courage, what of his Magnanimity, his Gravity, his Firmness; Qualities, which all the Wise and the Learned
allow

allow * to be the *greatest*, and some the *only* Blessings of Life; and which enable Virtue not only to enjoy Comfort, but Happiness. While, by making these Reflections the constant Subjects of his Meditation, far from bearing any Resentment against you, (which would prove him both ungrateful and frantic) he acknowledges all the Tranquillity and Repose of his peaceful old Age to be the Gift of your Clemency.

As these were formerly his Sentiments, so I make no doubt that he received still greater Spirit and more Assurance of Protection from your Letter which you sent to him by the Hands of this same *Blæsamius*, at *Tarraco*, and a Copy of which I read; for you there command him *to hope the best, and be of good Courage*; Expressions which I know you never use to no Purpose. For I remember you wrote to me † in the same Terms; and I found it was not without a Meaning that in your Letters you ordered me *to hope the best*.

I OWN that I am the more solicitous with regard to *Dejotarus* as the Concerns of the
Public

* *The Learned allow.*] The *Peripatetic* Philosophers maintained, Virtue to be the *greatest* Good; the *Stoics*, that it was the *only* Good.

† *You wrote to me.*] *Cæsar* was so extremely kind to *Cicero* upon his Success against *Pompey*, that it must not be

176 C I C E R O's O R A T I O N

Public have conciliated a Friendship betwixt us; our mutual Inclinations have joined us by the Ties of reciprocal Hospitality,* Intercourse begot a Familiarity, which was improved into the sincerest Intimacy, by the important Services he did to me and my Army.† But while I am anxious about him, I am in Pain for many Persons of the highest Dignity, who, after you had once pardoned them, never entertained the least Doubt with Regard to the Sincerity of your Reconciliation, nor would they suffer an eternal Anxiety to hang upon their Spirits, since it never can happen that any Man whom you have but once pardoned should have any Cause of future Fear.

I ought

be dissembled, that our Author would have made a more conspicuous Figure in History, had he either never admitted, or been more grateful for his Kindness. But whatever Cicero was in Philosophy, it is certain he was no Stoic in Politics.

* *Reciprocal Hospitality.*] There is a very fine Gradation of Duties here. *First*, The common Interests of the State begot an *Amicitia*, a general Word to signify the political Relation betwixt two People of the same Party and Interest, but without any particular Connexion. See his *Orat. de Prov. Consularibus*. Their similar Inclinations begot a *Hospitium*, which is a stronger Tie, as it includes the other; the Intercourse occasioned by this *Hospitium*, begot a *Familiaritas*; but the great personal real Services done him by *Dejotarus*, combined all those Relations into a *Necessitudo*, which comprehends them all, and Gratitude besides.

† *My Army.*] This was the Army our Author was at the Head of, after he obtained the Province of *Cilicia*.

I ought not, Sir, as is common in Cases of so great Danger; to endeavour, by my Language, to move your Compassion; that would be needless, since it is always ready without Solicitation to offer itself to the Relief of the Suppliant and the Miserable. Place before you two Kings, † and behold in *Idea* what you cannot see in *Reality*; then, believe me, you will grant to Pity what you have denied to Resentment. Many are the Monuments of your Mercy, but the chief are the Safeties of those whom you have preserved: If this with Regard to private Men is glorious, how is the Glory enhanced when extended to Kings? The Title of Royalty * has always been deem'd

VOL. II.

N

venerable

† *Two Kings.*] That is, *Dejotarus* and his Son.

* *The Title of Royalty.*] I own that I have a very different Opinion of our Author's Candor, from what I have said of his Abilities and Art as an Orator. I am not afraid of any Reflexions on this Account; my Opinion is but too well warranted from numberless Passages of his Writings. It is the greatest Meanness (but it is a Meanness that Men of Learning have fallen into more generally than any Set of Men in the World) to make great Abilities in an Art throw a Veil over, and atone for, nay, recommend all other Defects either personal or political. The Reason is plain; they have pored so long upon the Beauties of his Art, that they are dazzled, they are intoxicated with them, and *all is Beauty*. The Flattery contained in this Passage was, at the Time this ORATION was pronounced, highly dangerous; since 'tis well known that *Cæsar* was then affecting the *Royalty of Rome*. But besides this Consideration, it must be owned, that *Cicero* has thrown it in such a Manner, as must have been

highly

venerable in this State; but when belonging to our Allies and Friends, it is sacred.

THIS was a Title which these Princes were afraid they should lose upon your Success; but I hope they will be able to transmit it preserv'd and confirm'd by you, even to their latest Posterity. The King's Deputies * *Hieras*, *Blæsamius* and *Antigonus*, here pledge their own Per-

highly delightful to *Cæsar*; as will appear to the Reader who will consider the following Passage from *Suetonius* in his Life of *Cæsar*.

Quæstor Juliam Amitam, uxoremque Corneliam laudavit è more pro Rostris. Sed in Amitæ quidem laudatione, de ejus & patris sui utraque origine sic refert; amitæ matris Juliæ maternum genus a regibus ortum, paternum cum Diis immortalibus conjunctum est. Nam ab Anco Marco sunt Marcii reges; quo nomine fuit Mater: a Venere Julii, cujus gentis familia est nostra. Est ergo in genere & SANCTITAS REGUM, qui plurimum inter homines pollent, & ceremonia Deorum quorum in potestate sunt Reges.

“ While he was *Quæstor*, according to Custom, he celebrated *Julia* his Aunt, and his Wife *Cornelia* from the *Rostra*. 'Tis remarkable, that in praising his Aunt, he thus speaks of her's and her Father's Family. My Aunt *Julia* was descended by the Mother's Side from Kings, and by the Father's from the Immortal Gods: For the *Marcii* are of Royal Extraction from King *Anco Marcus*; and her Mother was of their Name. The *Julii* came from *Venus*; and that is our Family. Therefore there is in our Pedigree both the Sanctity of Kings, which have the greatest Power amongst Mortals, and is entitled to the Regard that is due to the Gods, who controul even Kings themselves.”

* *The King's Deputies.*] This was a very high Strain of Loyalty towards to worthless a Fellow as *Dejstorus* appears to have been; for these three Persons offered to stand the Rack to prove their Prince's Innocence.

Persons for the Safety of their respective Kings: These are Men whom both you and I have long known, together with *Dorylaus*, who was lately joint Embassador with *Hieras* to you: Men of the most inviolable Affection to their Kings, and I hope approved by you.

PUT the Question to *Blesamius*, whether he ever wrote any Thing to the King against your Dignity. *Hieras* alone indeed undertakes to refute the whole Accusation; he offers to stand Trial upon this Charge for his King;* he appeals to that all-retaining Memory you possess; he says, that he never was absent from your Side all the Time you were in the Tetrarchy of *Dejotarus*; he says, that he met with you at your first Entrance into his Territories, and never left you till your Departure; that he was with you when you came out of the Bath; when you looked over those Presents after Supper; after you had reposed yourself in the Bed-chamber, and that he paid the same assiduous Attendance upon your Person all the next Day.

HE is therefore willing, if any of the Allegations have really been design'd, that you should lay it to his Charge. So that, *Cæsar*, I

N 2

hope,

* *To stand Trial upon this Charge for his King.*] *Orig. Se reum supponit*, Metaph. taken from those Gladiators who fought instead of others; hence *Gladiatores suppositi*.

hope, you will consider, that your Sentence this Day will entail upon Kings the most terrible Woes with Infamy, or unattainted Honour with Safety : The first of those *their* Barbarity* leads them to wish for; the latter your Clemency directs you to preserve.

* *Their Barbarity.*] Meaning *Castor*, and the other Adversaries of *Dejotarus*

The End of the ORATION for Dejotarus.





A R G U M E N T
O F T H E
O R A T I O N
F O R
L. M U R E N A.

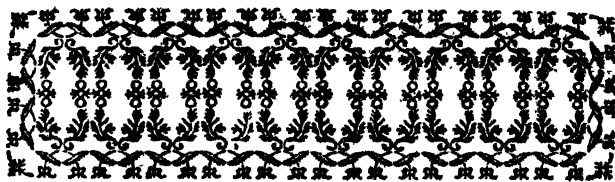
HIS Oration is inimitable, by the great Dilicacy with which our Author treats the personal Characters of two very great, and very popular Persons, who happened to appear against his Client in the Impeachment which gave Rise to this Pleading; Sulpicius and Cato. Those two Gentlemen, with Cn. Posthumius, a Youth, impeached Licinius Murena of corrupt Practices upon three Heads; First, As to his Character, which they pretended was very debauched in Asia, where he had served with great Reputation as Lieutenant under Lucullus against Mithridates. Secondly, As to his Quality; he being but a Knight and a Soldier, Sulpicius, a Patrician and a Lawyer, and had been first returned, both when he stood for the Quæstorship and Prætorship; yet Murena carried the Consulship from him, when he stood for it. Lastly, He was impeached upon the Calphurnian Law, and for a Breach of a Senatus Consultum, as having encouraged People to meet him when he came to Town as a Candidate, and to attend him; and as he had

allotted Seats to the several Tribes at the Shows of Gladiators; and had invited the People promiscuously to Entertainments. The whole of this Prosecution, as managed by our Author, appears to have been founded upon a Pique of Sulpicius, who was ruffled by his Disappointment in his Pretensions to the Consulship. On the one Side, appeared Men famous for the Sanctity of their Manners; on the other, Men distinguished by their Abilities at the Bar: For besides Cicero, Crassus and Hortensius appeared for the Accused, and had pleaded for him before Cicero spoke the following Oration. We are told, that our Author was so very solicitous to out-do Hortensius in his Pleading, that he could not sleep a Wink the whole Night before the Trial, and that the Anxiety upon his Spirits had such an Effect upon his Person, as to make him appear less than himself upon this Occasion.

The Reader is to observe, that Murena, at the Time of speaking this Oration, was Consul Elect, and that it happened just at the Crisis of Catiline's Conspiracy, and before he was defeated. Murena was acquitted with great Honour, and was Consul next Year. It would likewise appear that Cicero by his great Address found the Way to soften the Resentment of his Prosecutors; for Cato, who was no Joke, said, upon hearing the Manner in which our Author treated Sulpicius's Profession, and his own Principles, What a merry Consul we have got!

It was spoken in the latter End of the Year of Rome 690, while Antonius and Cicero were Consuls, and in the 44th Year of our Author's Age.

M. T.



M. T. C I C E R O ' s
O R A T I O N
F O R
L. M U R E N A.

Lords, according to Practice, and
M the Usage of our Forefathers, on
that Day when I regularly declared
L. Murena Consul at the *Centuriated Comitia*,* I prayed the Immortal Gods to render
N 4 that

* *Centuriated Comitia.*] The *Comitia Centuriata* were instituted by *Servius Tullius*, and was the finest Expedient ever devised by the Wit of Man, to preserve the Balance of Power in the Government to Men of Property. It consisted of six Classes, which were subdivided into 193 Centuries. The first Class contained *ninety-eight* of these Centuries, and was composed of Men of Property in the whole State; the second Class was composed of *twenty-two* Centuries of smaller Property; the third still inferior to those of the same Number of Centuries; the fourth of
twenty

that Event happy and prosperous for me * for my Consulate, for the *People*, and for the *Commons* of *Rome*; † I now repeat the same Prayers to the same Immortal Gods, that *Murena* may enter

twenty Centuries; the fifth of *thirty*; and the sixth, which was made of all the poorer Sort who had no Property, of *one Century*. The Majority of Centuries determined every Question. Now the first Class containing a Majority of Centuries upon the whole, if they agreed, their Determination was *decisive*: But the Weight of the first Classes has still a greater Advantage; for the Centuries being proportioned to the Property which they possessed, one Century might contain but a very few Men, perhaps eight or ten, the Majority of whom decided the Vote of the Century.

Thus these five or six had the same Weight as another Century, which might consist of as many *Scores* or *Hundreds*, tho' in the same Class; and so in Proportion of all the rest. From this short View it is plain, that if the Centuries of all the first Class agreed, all Opposition from the others, tho' it had been unanimous, was in vain; and it seldom or never could happen, that any of the last three named Classes could have a Vote.

* I prayed the immortal Gods to render that Event happy and prosperous for me.] See Livy B. 39. *Ad hæc officia dimissis magistratibus, Coss. in Rostra ascenderunt, & concione advocata, cum solempne carmen precationis; quod sari prius quam populum alloquantur magistratus solent, peregisset Coss. ita cepit.*

“ For these Purposes the Consuls having dismissed the
 “ Magistrates, mounted the *Rostra*, and summoning an
 “ Assembly, after one of the Consuls had gone through
 “ that solemn Form of Prayer, which Magistrates use be-
 “ fore they address themselves to the People, he thus
 “ b-g-- ”

† For the *People* and *Commons* of *Rome*.] In the Original it is, *Populo Plebique Romanæ*. The Reader will please to observe, that the People of *Rome* comprehended all Ranks, both Senators and Commons. The *Plebs* was fix'd to the Commons alone.

enter with Honour and Safety upon his Consulate ; that your Sentiments and Decision may at the same Time be agreeable to the Wishes and Votes of the *Roman* People, and that this may be an Event which shall bring Peace, Tranquillity, Ease, and Concord to you and the Public. And if that solemn Invocation at the *Comitia*, consecrated by Consular Auspices, has in it a Power and Reverence equal to the Dignity of the State : I likewise pray'd to the Gods, that the same might be a happy, joyful, and prosperous Event to those Persons, who, while I presided, were chosen into the Consulate.

HAVING said thus much, my Lords, since all the Power of the Immortal Gods is either transferred to, or at least communicated with you, the same Consul who before recommended *Murena* to the Powers above, now recommends him to your Protection : That thus, as he was declared Consul by the same Voice that now defends him, the Favour of the *Roman* People may be preserved with your Welfare and that of the Public.

AND because, in the Exercise of my Profession, my Zeal for defending the Accused ; nay, my undertaking his Defence is blamed by the Prosecutors ; give me leave to make some Apology for myself, before I enter upon any for my Client : Not that I am more zealous to vindicate

vindicate my Profession (at least upon this Occasion I am not) than my Client, but after having established with you a good Opinion of my own Conduct, that I may with the greater Authority be able to repel the Attacks of his Foes upon the Honour, the Fame and Fortunes of *Murena*.

AND first, I shall take the Liberty to offer somewhat as to my appearing on this Occasion, in answer to *Marcus Cato*, who squares the Conduct of his Life according to the unerring Rule of Reason, and weighs, with the most scrupulous Exactness,* the smallest Circumstance of every Duty. *Cato* maintains, that I was in the wrong to have any Thing to do with the Defence of *Murena*; as I am Consul, the Enactor of the Bribery and Corruption Act, and after behaving with such disinterested Firmness in my Consulate. The Censure of so great a Man is a very strong Motive with me, why I should not only account for my Conduct to you, my Lords, to whom I am most bound to do it, but to *Cato* himself, who is a Man of the greatest Wisdom and Integrity. But, *Cato*, give me leave to ask you, to whom does the
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* *And weighs with the most scrupulous Exactness.*] The Reader here has a lively and fine Picture of the Person and Principles of *Cato*; whom our Author rallies with so much Humour, that that great Man could not help saying, upon hearing this Oration, *What a merry Consul we have got!* See *Plutarch*.

Defence of a Consul fall so properly as to a Consul? With what *Roman* in the State can I, or ought I to have more strict Connections, than with that Man to whose Support, the State, maintained by the Greatness of my Toils and Dangers, was by me alone entrusted? For, if in Cases of a Disposition upon a Warrantice,* the Person who enters into a Bond is obliged to perform the Tenor of the Obligation; it is surely more proper upon the Trial of a Consul elect, that the Person who declared him so, should be the chief Instrument of maintaining the Favour of the *Roman* People; and repelling the Danger of *Murena*.

BUT, as is common in some States, if the Public should appoint a Counsel to plead in this Cause, that Province would fall upon one who had borne a public Office equal to that with which the Accused is invested, that he might thereby employ in the Cause he espoused, as much

* For if in Cases of a Disposition upon Warrantice.] To understand this Passage aright, it is necessary to set down the whole of the Original, *Quod si in iis rebus repetendis, quæ mancipi sunt, is periculum iudicii præstare debet qui si nexu obligavit.* The Form of these Sales was as follows, the Person who was to dispose of a Property to another, was obliged to give Bond, that in Case this Property should be evicted in Law from the Buyer, by one who had a prior Title, then the Buyer could have Recourse for his Indemnification upon the Seller. This is properly called, *Dare rem mancipi*. The *Nexus* is no other than the Bond, by which the Goods of the Seller were liable for the Performance.

much *Authority* as *Ability*. And if they who have already made the Harbour after a Voyage, use to be very earnest in cautioning those who are setting Sail, with regard to Tempests, Pirates, and Shores; because we are by a natural Benevolence inclined to be concerned for those who are entering upon the Dangers which we have just escaped; how deeply affected must I, who having weathered a violent Tempest, have now almost made Land, be for a Man whom I foresee is to encounter the most violent Commotions of the State? If therefore the Duty of a worthy Consul leads him not only to look into *what is doing*, but to guard against what will come to pass, I will in another Part of my Discourse prove how much the common Interest requires that there should be two Consuls in the Government on the 1st of *January*.

IN this Situation of Affairs, it appears, that the Voice of my Country, to undertake the Preservation of the Public, ought to have been a stronger Motive for me, than the Duties of my Profession, to plead for the Fortunes of my Friend. As to my passing the *Bribery and Corruption Act*, it was surely with a View not to abrogate what I had some Time before enacted, with regard to myself, in order to repel the Dangers of my Countrymen. For should I admit, and yet defend the Charge of
Cor-

Corruption, I should act audaciously, even tho' that Law had been made by another; But as I rest my Plea upon *Murena* having done nothing, in this Case, against the Meaning of that Law, why should *my* passing that Law bar *my* Defence?

CATO says, that it is inconsistent with that rigid Virtue, whose *Words*, nay, almost *Command*, drove *Catiline* out of the City, while he was meditating the Destruction of his Country within her Walls, at this Time to plead for *L. Murena*. But I own that I have always had greater Pleasure in acting in the Parts of Gentleness and Mercy, to which I am form'd by Nature. As to the Character of a rigid Severity, that never was of my seeking; but after it was imposed upon me by my Country, I sustained it with a Dignity becoming the Majesty of this Empire, in her most imminent Danger. But at a Time when my Country called for Firmness and Resolution,* if I got the better of Nature, and acted up to that Severity, which was the Effect not of *Choice* but *Necessity*; now that all Circumstances invite me to the Sentiments of *Humanity* and *Pity*, how passionately fond ought I to be in
having

* *But at a Time when my Country called for Firmness and Resolution.*] Our Author here means his Behaviour as a Consul at the Time when *Catiline's* Conspiracy broke out.

having this Opportunity of gratifying the Dictates of my Nature and Practice. But perhaps in another Part of my Defence, I may have Occasion to touch both upon my Duty as a Defender, and your Conduct as an Accuser.

BUT, my Lords, the Complaints of the wife and the polite *Ser. Sulpicius* gave me as much Uneasiness as the Charge of *Cato*. *Sulpicius* says, that he is strongly and deeply affected at my having forgot all the Ties of Friendship, and undertaken against *him* the Defence of *L. Murena*. My Lords, it is my earnest Desire that I should satisfy this honourable Gentleman, and that you should be the Umpires. For as the Charge of a Breach in Friendship, if well founded, is of the most heinous Nature, even when the Charge is groundless, it ought not to be despised. *Sulpicius*, I acknowledge, that in your Solicitations I owed you all good Offices, and every Mark of Duty, for these were due to our mutual Friendship, and I hope I have performed them. While you was a Candidate for the Consulship, nothing was wanting in me for your Service, that could be required, either of my Friendship, my Interest, or my Influence, as Consul.—But those Days are over—Measures are altered.—It is my Opinion, and firm Persuasion, that you could demand nothing of me, which I ought not to have performed against

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Murena's Preferment, but that I owe you nothing against his *Life*. While you sued for the *Consulship* I was always ready at your Call, but I don't at all think, that for that Reason I am obliged to assist you now that you sue for the *Life of Murena*. Surely it is not only *not commendable* but *disallowable* for any Man to refuse the lawful Defence of the meerest Stranger, even tho' he is prosecuted * by our dearest Friends.

BUT, my Lords, a long Intimacy has subsisted betwixt *Murena* and me, an Intimacy that must not be stifled in a capital Impeachment carried on by *Sulpicius*, merely because it gave way when the Struggle betwixt them lay for Preferment. But were this not the Case, yet the very Dignity of his Person, and the Eminence of the Rank he holds, must brand me with the highest Infamy of Pride and Cruelty, had I rejected a Cause which immediately endangered a Man rendered so illustrious by his own Virtues, and the Honours conferred on him by the People of *Rome*. For I am not now at Liberty to refuse my Assistance in relieving the Distresses of Mankind. Because after having been more nobly rewarded than ever any yet was for acting in this Sphere, I must

* *Tho' he is prosecuted.*] All this Passage upon what goes before, has a noble Frankness in it, which is uncommon even with our Author.

must behave like a crafty, like an ungrateful Person, should I, after obtaining the Reward, lay aside the Toils by which I obtained it.

JOYFULLY would I embrace Repose, could I do it by your Advice, without incurring the Scandal of Indolence, the Imputation of Arrogance, and the Reproach of Inhumanity. But if my declining Toil, my refusing the Suppliant, and my neglecting my Friends, should render me liable to the Charge of Supineness, Pride, and Impudence, this surely is a Cause which no Man who has Spirit, Compassion, or Sense of Duty, can abandon. But you, *Sulpicius*, may from your own Practice easily form a Conjecture how you would behave in this Case: For if you think you are bound to give your Opinion, even to the Adversaries of your Friends, should they consult you upon a Point of Law; and if you think it scandalous, were you his Chamber-Counsel in such a Case, that the very Person against whom you *appear* should be cast, be not so partial while the copious Streams of your Advice are open to your Enemies, as to think that the little Rivulets of my Ability should be shut to my Friends.

FOR if your Friendship had prevailed with me from undertaking this Cause, and if that had likewise been the Case with the illustrious *Q. Hortensius*, *M. Crassus*, and others, who I understand have the greatest Regard for your Fa-
vour,

vour; a Consul elect would then have been at a Lois for a Defender in a City, where our Ancestors never suffered even the meanest of the People to be without Counsel upon their Trial. For my own Part, my Lords, had I abandoned a Friend when distressed, and a Consul, I should have looked upon myself as *reprobate*, *barbarous* and *arrogant*. Therefore largely will I pay the Duties I owe to Friendship, by treating you, *Servius*, as if you were my dearest Brother: As to the Duties of my Profession, my Honour and my Obligation, I will act with such Decency, as shall shew that I remember I am acting against the Heat of one Friend, for the Preservation of another.

I apprehend, my Lords, that this whole Charge consists of three Parts; the first, as to the Immorality of Life, the next regards a Competition for Dignity, and the last his Acts of Corruption.

As to those three Charges, the first, which should have been the most weighty, was so weak and trifling, that they were forced to touch upon the Morals of *Murena*, rather because it is the Fashion in all Impeachments,*

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than

* *The Fashion in all Impeachments.*] The Original has it, *Lex quædam Accusatoria*. This Passage has given some ignorant People Occasion to think, that there was a particular Law in Rome, called *Lex accusatoria*. But it is plain

than because they have any real Grounds for Reproach. They throw *Asia* in his Teeth,* a Country which *Murena* did not visit for the Purposes of Pleasure and Luxury, but measured by the Toils of military Duty. If he had not in his Youth served under his Father's Command, it might have seemed as if he had fear'd an Enemy or his Father's Discipline, or as if that Father had rejected him; but if Custom indulges Sons,† especially before they are of Age, to sit in the triumphal Chariots, was *Murena* to decline adorning the Triumph of his Father with military Trophies, since his Actions seemed to give him a Right to an almost equal Glory with his Father in the Triumph.

BUT

plain that *Cicero* can only mean the Manner of prosecuting the Indictment, where the Charge must be swelled by strong Allegations, however destitute they may be of Proof.

* *They throw Asia in his Teeth.*] This Country was so delicious, that one who had been so long in it as *Murena*, was apt to incur some Suspicion of Luxury. *Cicero*, with great Address, clears him of this Charge, which was the more dangerous, in that several of the *Roman* Generals had been but too liable in that Respect before.

† *Custom indulges Sons.*] Among the *Romans* their Generals who entered the City in Triumph, were allowed to have their Children and Relations of both Sexes, who were under Age, along with them in the Chariot; and if they were pretty well grown for their Age, they rode upon the Triumphal Horses; if there was a greater Number of them than could be conveniently accommodated either of those ways, then they were suffered to ride behind the Chariot upon single Horses.

BUT for *Murena*; my Lords, he bore a great Share in encountering the Dangers, relieving the Fatigues, and congratulating the Victories of his gallant Father. And if that Country lies under any Imputation of Luxury, it is the Glory of *Murena*, not that he never saw it; but that he lived in it with Temperance. Therefore the Name of *Asia* ought not to have been any Objection to *Murena*, since from *Asia* the Glory of his Family, the Reputation of his Race, and the Honour and Renown of his own Person are derived. But his Accusers are to prove some scandalous Actions, that he either practised in *Asia*, or has imported from it: But to serve in a War not only the greatest, but the only one then carried on by the People of *Rome*, to serve with Cheerfulness in an Army which his Father commanded, to obtain at the End of his Service the Victory and Triumph of his Father, are Proofs of his Courage, his Piety, and his Felicity. There can be no Room for Reproach in those Transactions, because their whole Extent is filled with his Glory.

CATO calls *L. Murena* a Dancer.* If this Charge is well founded, it is the Charge

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of

* *A Dancer.*] The Reader is not to imagine from this Passage, that the *Romans* condemned all Manner of Dancing; for there were several Sorts of Dances which they thought contributed both to the Gracefulness and Activity

of an eager Accuser. But if without Foundation, it is the Language of slanderous Reproach. Therefore, *M. Cato*, a Man of your great Weight, ought never to snatch a Charge from the Mouths of the Rabble, or the low Malice of Buffoons; nor ought you rashly to call a Consul of *Rome* a Dancer, but to consider what other Vices must necessarily center in that Man who can be guilty of such a Charge. For scarcely any Man who is free from Drink, and has at the same Time the Exercise of Reason, ever dances; it is never practised when People are alone, or at their sober decent Entertainments. Dancing is the utmost Extravagance attending long continued Debauch,* delightful Scenes, and numerous Enchantments of Pleasures. You prematurely snatch at a Charge which necessarily must be the Result of all other Vices, and you omit those Charges without which it is absolutely impossible for this Vice to exist. You have offered no Evidence as to his scandalous Entertainments, as to his Amours, his Debauches, his Lusts, or his Prodigality; and if

none

of the Body in handling their Arms, &c. The Dancing here reproached is the effeminate Dancing used by Stage-Players.

* *Long continued Debauch.*] The Original has it *Tempestivi convivii*; some Commentators want to read *Intempestivi convivii*: *Tempestiva convivio* were those Entertainments that began before the usual Time for Supper among the *Romans*.

none of those Charges can be fix'd, which are accounted Pleasures, and are in reality Vices, do you imagine, that you can find the Shadow of Luxury in the Man upon whom you cannot fix the Substance?

CAN nothing then be objected to the Morals of *Murena*? Nothing at all, my Lords. The Consul elect, for whom I now plead, has no Charge brought against his Morals, no Instance of Fraud, none of Avarice, none of Treachery, none of Cruelty, none of any Indecency of Expression! It is well, the Foundation of my Defence is laid; for I have not yet pleaded in his Defence my own Sense of his Merits, which I shall afterwards do: But I have proved him to be a worthy, virtuous Man, almost by the Confession of his Adversaries. Having done this, it will be more easy for me to enter upon the Dispute with regard to his Dignity, which was the second Part of the Charge.

I CAN perceive, *Servius Sulpicius*, that you have all the Dignity which the highest Quality, Virtue, Application, and all other Accomplishments can bestow, and that these give you an undisputed Title to aspire to the Consulate. I know that *Murena* is your Equal in all those Qualifications, and so much your Equal, that no Man is superior to him, nor is he superior

to you in Dignity. The Blood of *L. Murena* you have despised, your own you have exalted. Upon this Head, if you lay it down as a Principle, that none but a Patrician * is of an honourable Race, you seem again to summon the Commons of *Rome* to the *Aventine* Mount. But if there are Plebeians of illustrious and honourable Families, then the Great Grandfather, and Grandfather of *L. Murena* were Prætors; and his Father, after having had a noble and a glorious Triumph the Year after his Prætorship, by this Means rendered the Accession of his Son to the Consulship more easy, because he only demanded for himself what was due to his Father. As to your Quality, *Servius Sulpicius*, tho' it is the highest, yet it is more known amongst learned Men and Historians, than to the People while assembled together to give their Votes: For your Father was a *Roman* Knight, and your Grandfather was distinguished by no particular Character

* *Patrician*] A Man might be of a Patrician Race, and yet no Senator; but some of his Ancestors must have been Patricians or Senators. *Sulpicius* was of a Patrician Race, and his Father was no Senator, being only a *Roman* Knight. The Irony here upon *Sulpicius* is very strong; because it seems as if none of his Ancestors had been in the Senate for many Years; and at the same Time *Cicero* insinuates, that this obsolete Nobility was not near so valuable as that of some Persons, whose Ancestors, or themselves, had, since the Seccession upon the *Aventine* Mount, done great Service to the State.

acter of Glory. Wherefore the Nobility of your Race does not live upon the Tongues of your Cotemporaries, but must be ranfack'd out of the Antiquity of old Chronicles: Therefore I always use to rank you in my own Class, because, tho' you was but the Son of a *Roman Knight*, you have raised yourself by Virtue and Application, to be esteemed equal to the highest Honours of your Country: Nor did I ever think the brave *Quintus Pompeius*, tho' but a new Man, far short in Virtue to the noble *Marcus Æmilius*, because it shewed the same Soul and Spirit to transmit to his Posterity, as *Q. Pompeius* did, that Renown which he has not received from his Ancestors; as appears in *Scaurus*,* who, by his Virtue, renews the almost extinct Glories of his Race.

YET, my Lords, I imagined that by my Toils I had effectually prevented the Obscurity of Birth† from being an Objection to many brave
 O 4 Men,

* *Scaurus*.] This Gentleman was of a very old *Roman* Family, which for some Ages was so poor as not to possess a Qualification for any public Employment; but afterwards he came to be *Princeps Senatus*, that is, the first Senator upon the Censor's Roll; and consequently had Precedency after the great Officers of State.

† *Prevented the Obscurity of Birth*.] Not one of the Commentators appears to have understood the least of this Passage: *Camerarius* just touches upon it, but does not pretend to explain it; *Sylvius* has pretended to explain it, but has blundered most egregiously, without *Grævius* venturing to set him right; and all the other Commentators, as usual in difficult Passages, have observed a profound

Men, who were before eclipsed, by the vaunted Names not only of the *Curii*, the *Catonés*, the *Pompeii*, all of them old *Romans*, and of the greatest Courage, yet of new Families, but by those too of later Date, the *Marii*, the *Didii*, and the *Celii*: But when I, after such a Distance of Time, had broken through that Barrier of the Nobility,* so as to render for ever after the Access to the Consulate as open to *Virtue* as to *Nobility*, (for so it was in the Days of our Ancestors) I did not
 imagine,

Silence upon it. It may be useful for the Reader to remember, that *Hominés novi* were those who had no Right to have their Ancestors Images in their Houses or Processions, but had a Right to have their own; whereas *Émincs ignobiles* had no Right to have either their own or those of their Ancestors.

* *Barrier of the Nobility.*] It was a noble and a justifiable Struggle which the Commons of *Rome* made against the Monopoly of public Honours in the Body of the Nobility. The first Time they obtained the Privilege of being in a Capacity of having a Consul chosen out of their Body, was about the Year of *Rome* 390. But the *Qualification Acts* that were made afterwards, in a great Measure, reduced the public Honours again to a Monopoly in the Hands of the Nobility, especially upon *Sylla's* Success. This Circumstance is another Proof of what I observed in the Notes, *Page* 5. of this Volume, that the *Roman* Constitution, as altered upon the Expulsion of Kings, was a mere Piece of Patch-work, as indeed all Constitutions must be upon sudden Revolutions of Government. The People perhaps would never have found this out, had they not felt it; but they had good Sense enough, after they felt it, not to be beat out of the Measures they pursued to remedy it, by high sounding Names of Power, Authority, or Laws. They thought it was a Right they were entitled to by the Nature of their Constitution, and by Reason itself; and therefore they insisted upon it.

imagine, that the Prosecutors would bring the *Newness of a Family* in dispute, when a Consul elect, of old and illustrious Descent, was defended by a Consul who is himself the Son of a *Roman Knight*: For I my myself happened to stand in Competition with two Patricians, one the most wicked and audacious, the other the most modest and virtuous of Mankind; yet in Dignity I was superior to *Catiline*, and in Interest to *Galba*; and surely could my Success have been charged upon me as a Crime, because I was a *new Man*, I never should have been spared by those who either opposed or envied me.

BUT to leave this Subject of their Birth, in which both are eminent, let us proceed to the other Points: Says he, *He stood with me for the Quæstorship, and I was first declared.* It is unnecessary to answer every Particular; for all of you, my Lords, are sensible that when many Candidates are equal in Dignity, when only one of them can have the Preference of the other, the Degree of Dignity is no Rule for that of the Declaration; because the *Declaration* gives a Rank,* whereas all of them are oftentimes equally entitled by their Dignity.

* *The Declaration gives a Rank.*] This Passage is extremely perplexing; some Commentators, particularly the accurate *Hottoman*, thinks there is something wanting in the Original. But the Words and Construction are plain,

ty. But the Quæstorship allotted to each was almost of equal Importance. My Client had the Allotment of a Province, easy, and quieted by the *Titian Law*;* whereas you had that of *Ostia*, which generally upon the Quæstor's drawing Lots for the Provinces, is hollowed at, as being attended with more Business and Fatigue than Power and Honour. The Reputations of neither of you made any Progress in your Quæstorship; for your Fortune had given neither of you a Field for exerting and approving your Virtues. Your Conduct, during the rest of your Time, is now to be examined; wherein the one took a quite

plain, the Sense only is puzzling. I have translated it as I believe *Cicero* meant it, but it would swell these Notes too much, were I to give my Reasons why I have translated this, and a vast Number of other Passages in the Manner I do.

* *Titian Law.*] Orig, *Habuit hic lege Titia provinciam tacitam & quietam.* Here indeed the Commentators have Reason to pore, and display their Learning and Skill at conjecturing. For 'tis plain, that the Provinces both of *Murena* and *Sulpicius* were by Allotment, *i. e.* they drew Lots for them, yet we see here that *Murena* had his by the *Titian Law*. I will not trouble the Reader with what has been written with regard to this *Titian Law*, since *Grævius* himself, after all his Pains in canvassing, owns, that all he or any body else has said upon the Head is *mera conjectura*. I have translated it in a Light never considered by the Commentators; and though we don't know to what Effect, or to what Purpose this *Titian Law* was past, yet the Manner I have translated this Passage in, saves at least the Contradiction, that stares full in the Face; by understanding it in the Sense of all Com-

quite different *Consilia* from the *Consilia*. *Servius* here enlisted himself in our *Civ. Service* of giving *Opinions*, drawing up *Rules*, and making out *Securities*, * painful and provoking *Business*! He studied the *Civil Law*; great was his *Vigilance*, great was his *Application*; and many did he assist. He bore the *Impertinence* of *Numbers*; he put up with their *Arrogance*, and devoured all their *Doubts*; he lived so as to please others, and not himself. Great is that *Glory*, and recommending to *Mankind*, when one *Man* toils in the *Science* by which thousands are to profit.

WHAT was *Murena* doing in the mean *Time*? He serv'd as *Lieutenant-General* to the *wife*

* *Giving Opinions, drawing up Rules, and making out Securities.*] *Orig. Urbanam militiam* RESPONDENDI, SCRIBENDI, CAVERENDI, left I have not hit upon the true *Meaning* of these *Words*, in the *Expressions* I have used here, as I imagine I have, I will give the *Reader* an *Account* of the *Sense* which each of them was used in, in the *Civil Law*, of which they are *Terms*. *Respondere* was when one told a *Client*, in a *Case*, what the *Law* said or required, in the following *Form*, *Hoc in lege scriptum est; hoc jus postulat*; if the *Party* was looked upon as a *Man* of *Sense*, this was done in *Words*; but if he was ignorant, the *Lawyer* gave it in *Writing*.

Scribere was not, as appears at first *Sight*, to write out *Opinions*, but to inform the *Client* of the *Rules* and *Forms* that the *Court* required.

Cavere was, I think, properly applied to making out *Securities* in *Contracts*, tho' I know it was used likewise in giving *Opinions* upon *Bargains*, *Sales*, *Law-Suits*, and every *Thing* that could serve a *Client* in his *Affairs* before a *Court* of *Justice*,

wise and accomplish'd Person, and great General, *L. Lucullus*. In this Post he was at the Head of an Army; he join'd Battle, defeated the numerous Troops of the Enemy, and took their Towns; partly by Storm, and partly by Siege; he march'd over the rich and voluptuous Country of *Asia*, without leaving behind him the least Mark either of Avarice or Luxury, and behaved in that great War in such a Manner, as to perform many great and important Services without his General; but his General none without him. Tho' I speak this in Presence of *Lucullus*, yet lest it should seem in Consideration of my Client's Danger, that he had given him the Liberty of transgressing the Bounds of Truth, give me Leave to say, that I have not advanced any Thing that is not warranted by public Letters, in which *L. Lucullus* attributes more Glory to *Murena*, than any General who is bias'd either by Ambition or Envy, will ever allow to another in a Division of Fame.

BOTH Competitors are Men of *strictest Honour*, and *bighest Quality*; and would *Servius* give me Leave, I would put the *Dignity* of both upon the same Level; but he will not. He reproaches his military Capacity; inveighs against all his Service in the Lieutenancy, and thinks that the Consulate is due only to Application,

cation, and ~~the~~ ^{the} ~~same~~ ^{same} ~~daily~~ ^{daily} Exercises of ours. Have you ~~serv'd~~ ^{serv'd} me, * says he, so many Years in the Army, without coming near the Forum? Have you now, tho' at such a Distance of Time, come to dispute a Point of Precedency with those who have dwelt in the Forum? In the first Place, *Strabon*, you are ignorant how much Disgust and Loathing† this constant Appearance of ours sometimes creates. It was indeed extremely convenient for me, that my Popularity was founded upon my daily Appearance in public; yet it was with great Application, that I got the better of this Distaste to my Person: You, perhaps, have done the same, yet our keeping sometimes at a Distance would have been no Dis-service to either of us.

BUT dropping this Reflection, let us return to the Dispute betwixt their different Pursuits and Professions. Will any Man alive make a
Doubt

* *Have you serv'd me.*] Orig. *Apud exercitum mihi fueris.* I have translated this Passage in the same Manner as *Licet* meant it. It is plain that *mihi* has no Manner of Business here; yet it appears that this Pronoun was very often thrown in, to give a Quickness to the Sentence in common Discourse.

† *How much Disgust and Loathing.*] The beautiful String of Antitheses which follow here, was necessary to give a high colouring to a Picture which *Cicero* himself thought, as appears by the constant Train of his own Practice, and Tenor of his Writings, was neither agreeable to Truth nor Nature.

Doubt that military Accomplishments give much more Dignity to a Candidate for the Consulate, than any Excellency in the Civil Law? You get up long before Day-light to give Counsel to your Clients, and he, that he may arrive in good Time with his Army to the End of his March. You are awaked by the crowing of a Cock, and he by the sounding of Trumpets. You draw up a *Process*, and he marshals an Army. You make out Securities for Clients, he for Towns and Camps. He knows how to guard against the Attacks of an Enemy, and you against the Inconveniency of a Drain or Water-Spout. He is employed in enlarging Territory, and you in regulating it. And if I may speak my Sentiments, it is but just that military Glory should have the Preference of any other.

To this, the Renown of the *Roman* People, and the eternal Glory of this City is owing; it was this that forced the World to submit to our Empire; it is military Glory that guards, protects, and covers all these our Domestic Transactions, all these noble Studies of ours, and all this our Pre-eminence, and Application in the *Forum*; for no sooner does the least Whisper of any public Disorder arise, than all those Arts of ours are silenc'd.

BECAUSE

BECAUSE you seem to fondle your favourite Profession of the Civil Law, as if it were the Darling of your Bosom. I will not suffer you to continue any longer in so great a Mistake, as to imagine that there is any Glory in this, (what shall I call it) which you have learned so laboriously. It was from other Virtues, such as Continnence, Decency, Justice, Honour, and every other good Quality, that I always judged you to be most worthy of the Consulship and every Distinction of Honour. By learning the Civil Law, I will not say that you have lost your Labour, but I will venture to say, that there is nothing in that Study which can pave your Way to the Consulship: For all the Arts by which we recommend ourselves to the Affections of the Roman People, ought to be venerable by their Dignity, and endearing by their Utility.

THEY who excel in military Accomplishments, are possessed of the highest Dignity, for all the Civil Polity of this Empire and City are supposed to be protected and established by them. They are likewise of the highest Utility, as it is by their Conduct and Dangers only, that we can enjoy either public Liberty, or private Property; Eloquence likewise * is efficacious,

* *Eloquence likewise.*] I have observed elsewhere, that

efficacious, and full of Dignity, as it has been often prevalent in the Choice of a Consul, by its Address and Language, to touch the Affections of the People, the Senate, and the Judges: The Public requires a Consul whose Eloquence can sometimes compose the Mad-ness of Tribunes, command the Fury of the People, and stop the Current of Corruption. It is therefore, no Wonder, if some who are not Noblemen, have, by this Art, attained to the Consulship; especially, as at the same Time, it procures the strongest Interests, the firmest Friendships, and the warmest Zeal; Advantages, *Suspicius*, of which this Trade of yours is absolutely destitute.

IN the first Place, where can there be any Dignity in so trifling a Science? For the Subjects of it are minute, and consist almost entirely in canvassing single Letters, and the Stops of Sentences. In the next Place, tho' our Forefathers used to stare with Admiration at that Study, now that the whole Mystery is divulged, it is quite despised and disregarded. Very few People knew whether an Action could be brought or not; for Almanacks were very un-
common

Cicero never fails of throwing in some Compliment or other to his own Accomplishments, and favourite Profession. In this Passage he treats the Study of the Civil Law with great Contempt; though in other Places he has given it, and deservedly too, great Encomiums.

common.* Those who were consulted upon this Head, were looked upon as mighty Men, and they were repaired to, as to so many Astrologers, to tell even the proper Terms of Ac-
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* *Almanacks were then very uncommon.*] From this Passage it appears, that the Priests had a great deal to say in the Management of the Civil Polity of *Roma*; for they were the only Persons who knew the *Dies fasti & nefasti*, that is, the Days when a Man could demand Justice (*legere*) of the Prætor. See *De Oratore*, p. 85, of the Translation.

We have an exceeding curious Passage, which clears up the whole of this dark Event, in the Words of *Pomponius*. (See the *Pandects of the Civil Law*, *Tit. de Origine Juris*,) which I will give the Reader.

Deinde ex his legibus eodem fere tempore actiones composite sunt quibus inter se homines disceptarent, quas actiones ne populus ut vellet institueret, certas, sollemnesque esse voluerunt, & appellabatur hæc pars juris legis actiones; & ita pæne eodem tempore tria hæc jura nata sunt; Leges 12. Tabularum; ex his fluere cepit jus civile, ex iisdem legis actiones composite sunt. OMNIUM TAMEN HARUM ET INTERPRETANDI SCIENTIA ET ACTIONES APUD COLLEGIIUM PONTIFICUM ERAT. *Ex quibus constituebatur quis quoque anno præesset privatis: Et populus prope centum Annos hac consuetudine usus est. Postea cum Appius Claudius disposuisset & ad formam redigisset has actiones, Cn. Flavius scriba ejus libertini filius surreptum librum populo tradidit: & adeo gratum munus populo fuit ut Trib. Pleb. feret, & Senator & Ædilis curulis. Hinc liber qui actiones continet appellatur Jus Civile Flavianum.*

“ Then almost at the same Time *Actions* (or *Forms*)
“ were composed out of those Laws, by which Men dis-
“ puted with one another; which *Actions*, lest the Peo-
“ ple should appoint them when they pleased, were re-
“ duced to stated and solemn Terms; and this Part of
“ the Law was called *Legis Actiones*. the *Forms* of the
“ Law. Thus, almost at one Time, these three Kinds
“ of Laws sprung up, The Laws of the XII Tables; from
“ them proceeded the Civil Law, and from the Civil
“ Law.

tions. At last, a Scribe, one *Cn. Flavius*, outwitted the Outwitters of Mankind,* by setting up Almanacks, with the proper Distinctions of Days, to the public View, and pilfering the very Lawyers themselves of all their Knowledge. Therefore in great Wrath (because they were afraid, that if once the Method of knowing the proper Days was published, People might bring Actions without their Help) they contrived a Kind of a Short-Hand,† by which

“ Law, the *Legis Actiones*. But the Knowledge of all
 “ those, with the Actions themselves, was confined to the
 “ Pontifical College, out of which the Judges of private
 “ Property were every Year appointed, and the People
 “ went by this Usage for near 100 Years. Afterwards,
 “ when *Appius Claudius* had digested and modelled these
 “ Actions, *Cn. Flavius*, his *Scriba* (his Amanuensis) the
 “ Son of a Freedman, stole the Book, and published it for
 “ general Use. This Present was so agreeable to the
 “ People, that he was made Tribune of the Commons,
 “ and Senator and *Curule Edile*. Thence the Book con-
 “ taining those *Forms* (*Actions*) is called, *The Flavian*
 “ *Civil Law*.

* *Outwitted the Outwitters of Mankind.*] Orig. *Cornicum oculos confixerit*. Prov.

† *Short-Hand.*] We here see the Antiquity of Short-hand Writing; for the *Notes* here mentioned in the Original, were nothing but a way of expressing a great many Words by a few peculiar Characters. I will not swell these *Notes* with all the Lumber of Learning, and Parade of Quotations, to prove what no body disputes, but will, for my Reader's Instruction, put him in mind, that the *Romans* had two Methods of Abbreviation, the one was by *Sigle*, the other by *Notæ*. The *Sigle* were the initial Letters of so many Words as *S. P. Q. R.*, *Senatus Populus Que Romanus*, *D. O. M.*; *Deo Optimo Maximo*, &c. The *Notæ* were Abbreviations of the very same Nature with our Short-Hand.

which they themselves might be employ'd in all Causes. Yet People might very conveniently have gone to Law in this Manner.—Says one, *That Sabine Estate is mine* ; No, 'tis mine, says another.—*Then give Judgment.* By no Means, this will not do, says the Civilian, THOSE * PREMISES WHICH LIE IN THE SABINE COUNTRY COMMONLY SO CALLED ;—*Verbose* enough of all ' Conscience. Well, what next ? I CLAIM BY VIRTUE' OF THE COMMON LAWS OF THE LAND AS MY PROPERTY. What then ? AND THEREFORE I HEREBY GIVE YOU FAIR^d AND SPECIAL WARNING TO MOVE OIF OF THE PREMISES. The Defendant was then quite at a Loss for an Answer to this Beadroll of Law-terms. And then the same Lawyer goes on like a Country Ballad-Singer in the same Cant, FROM THOSE PREMISES OFF OF WHICH YOU HAVE GIVEN ME FAIR AND SPECIAL WARNING TO MOVE, I HEREBY GIVE YOU WARNING TO MOVE IN LIKE MANNER. In the mean Time, lest the Prætor † should imagine him-

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self

* *Those Premisses*] All the following Cant which *Cicero* here repeats to ridicule the Forms of the Civil Law, might be easily explained from Law-Books, but as I can see very little Use that could be of to an *English*, or indeed any other Reader at this Time, I shall omit any farther Remark upon it.

† *The Prætor.*] This is intended to shew the Cunning and Intolence of those Lawyers, who fell upon a Way to oblige even the Civil Magistrate to con over their Gibberish.

self happy in having nothing to do with this Gibberish, and think himself capable to say something out of his own Head, a Cant was composed for him likewise, both silly and insignificant, THE BODIES OF BOTH PARTIES BEING PRESENT, YOU ARE TO ADVANCE THIS WAY. Now the same Sage who was to instruct them to advance was upon the Spot; says he, RETURN THIS WAY; then they return under the same Guide. Even with those long-bearded Gentlemen, this was thought a ridiculous Farce; that Men who were standing uprightly and conveniently upon a Place, should be ordered to *move* off, in order immediately to return to the same Place.

EVERY Thing was infected with the like Impertinences, WITH FEAR I BEHOLD THEE PERSONALLY PRESENT IN COURT; and as, BUT DO YOU COMPLY WITH THE FORM, TO ELUDE THE JUDGMENT. While these Things were Secrets, it was necessary to have Recourse to those who possessed them, but after they were published, and came to be more nearly examined, and canvassed, they were found quite void of all Meaning, but brim-full of Roguery and Folly. All the noble Institutions of the Law were mostly debauched, and depraved by the Quirks of Lawyers; they required Women of all Denominations

nominations to be under Covert of Guardians, because they were the weaker Vessels; but Lawyers invented a Set of Guardians whose Powers are regulated by *their* Wards.* Our Ancestors were willing to perpetuate religious Rites, but these Gentlemen, the Lawyers, were ingenious enough to find out old Men to destroy those Ordinances, by making imaginary Bargains and Sales. In short, thro' the whole System of the Civil Law, they have abandoned the Equity of the Intention, and stuck to the Letter of the Law. As, for Instance, they concluded that all Women who were married by Contract † had the Name of *Caja*, because that Word was found in some of their Books. And even at this Time, it is surprizing to me, that so many ingenious Men, for so long a Track of Years, have not been able to ascertain, when it is proper to use the Word *third Day*, or the *Day*

P 3

after

* *By their Wards.*] Among the old *Romans*, every Woman had a Guardian, even tho' Adult and a Widow; but the Lawyers fell upon a Way afterwards of giving the Husband a Power in his Will of leaving his Wife at Liberty to chuse what Guardian she pleased.

† *Married by Contract*] The Word *Coemptio*, which *Cicero* twice uses here in a very few Lines, has a very different Signification in the one Place, from what it has in the other. The first *Coemptio* was, when an old Man, in order to elude the Rites that were used when a Succession devolved upon an Heir, was supposed to buy an Estate, and then invest an imaginary Heir with it. As to the *Coemptio* here mentioned, see the Index to *Cic. de Orat.* under the Word *Coemptio*.

after the Morrow, Judge or Arbiter, an Action or a Plea.

THEREFORE, as I have already said, there never was any Consular Dignity, and far less any Beauty, in that Knowledge which consists entirely in Forgery and Imposition. For a Thing must be very disagreeable, that is prostituted to every Person, and equally serviceable to me and my Antagonist. Therefore, you have lost not only all the Hopes of being of Advantage to Society, but even the Forms which you have so long enjoyed, of *Give us leave, Sir, to apply for your Opinion.* No Man can be accounted a Man of Sense for his Skill in a Knowledge which never was useful without the Walls of Rome, and in Vacation-time is useless in Rome itself. No Man can be said to be cunning in a Matter which is so well known to all Mankind, that it is impossible there should be any dispute about it. And a Thing is not thought to be difficult, which is contained in a few, and those plain Writings. Therefore, tho' I have a great deal of Business upon my Hands, if you provoke me, I will take my Degrees as a Civilian in three Days. For there are certain Forms already reduced to Writing, that serve for all the ~~writing~~ Business of this Profession. And ~~there~~ is no Writing can lie in so narrow a Compass, as that I cannot perceive its Drift.

As

As to the consultive Part of the Business, one runs no Risque at all in giving his Opinion; if you give a right Answer, he will think it agrees with that of *Servius*; if not, he will think that you know how to manage the controverted Points of Law.

THEREFORE the military Glory of my Friend is not only preferable to your Forms and Actions, but even the Practice in speaking is far more conducive to the attaining of public Honours, than is the whole Compass of your Profession. So that it would seem to me as that most of those Professors, having first aimed at Eloquence, fail'd as Orators, and then sunk into Civilians; as we say of *Grecian* Players, that an indifferent Harper may make an excellent Piper. Thus we see some People who cannot turn out *Speakers*, fall into the Profession of *Lawyers*. Great are the Toils of Eloquence, their Business is important, their Dignity eminent, but all Popularity is *all commanding*. For you are applied to for *Remedies*, but they, for *Health itself*. Besides, your Opinions and Decisions are often overturned by the Force of Eloquence, and can never be strong but by the Pleading of an Orator. Had I made sufficient Progress in this Art, I should be more sparing in its Praises; but, at present, nothing I say is ap-

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plicable to myself, but to those who either are, or have been eminent for Eloquence.

THERE are two Arts capable of placing Mankind in the highest Degree of Dignity, that of a *good General*, and that of a *good Orator*; for by the last, the Beauties of Peace are preserved, and by the first, the Dangers of War are repelled. Other Virtues are, in their own Nature, of great Prevalence, such as *Justice, Honour, Modesty, Temperance*, Virtues in which you, *Servius*, are universally allowed to excel. But the Dispute now is with regard to those Accomplishments which lead to Pre-eminence, and not upon the intrinsic Merits of particular Persons. All these Studies drop out of our Hands, as soon as any sudden Commotion gives the Alarm to War. For as an ingenious Poet * of great Authority, observes, *That when War is declared, not only that wordy Ape of good Sense, but Wisdom herself, the Mistress of Affairs, is expelled the Field. All Business is the Business of the Sword. The Speaker falls into Contempt.*

NOT only the hateful prating Speaker, but even,

*All beauteous Eloquence resigns her Charms
To the grim Soldier dressed in horrid Arms.*

As

* *An ingenious Poet.]* He means *Ennius*. These Verses are likewise quoted by *Gellius*.

As for your Profession, it is then entirely trampled under Foot: The Poet proceeds;

*'Tis not the Form of Law that fixes Right,
But the bold Hand that knows to dare in
Fight.*

IF this is the Case, *Sulpicius*, in my Opinion, the *Forum* must yield to the *Camp*, *Respose* to *Warfare*, the *Pen* to the *Sword*, and a *shady Retirement* to the *scorching Sun*. To conclude, that Profession must be most eminent in a State, which gives that State the Pre-eminence over all others.

BUT *Cato* tells you, that I have exaggerated all his Atchievements, and have forgot that all the *Mithridatic War* was a War with Women. My Lords, I happen to be of a quite different Opinion. I will take up your Time with but a very few Words with Regard to that War, because the Stress of my Cause does not lie upon that. For if all our Wars with the *Greeks* are despicable, we may laugh at the Triumph of *M. Curius* over King *Pyrrhus*, of *T. Flaminius* over *Philip*; of *M. Fulvius* over the *Ætolians*; of *L. Paulus* over King *Perfes*; of *Q. Metellus* over *Philip the Pretender*; of *L. Mummius* over the *Corinthians*. But if these Wars are Wars of Importance; and if these Victories were very considerable, why do you despise

despise *Asia* as a Nation, and *Mithridates* as an Enemy.

NAY, I perceive in the old Records of our History, that even our most important War was betwixt the People of *Rome* and *Antiochus*. When *L. Scipio* had, with his Brother *Publius*, put a glorious End to that War, he added to his own Name the same Honour from *Asia*, as his Brother, upon his conquering *Africa*, had before added to his. It was in this War that your Great Grandfather, *Marcus Cato*, eminently distinguished himself by his Courage: And if he, as I imagine him to have been, was then such a Person as you are now, he never would have served under *Scipio*, if he had thought he was to fight with Women. Nor, indeed, would the Senate have been at Pains to prevail with *Scipio* to have gone as Lieutenant to his Brother, when he had just driven *Hannibal* from *Italy*, banished him out of *Africa*, demolished *Carthage*, and freed his Country from the most imminent Dangers, had it not been thought a weighty and a bloody War.

AND if you deliberately consider the Power, the Actions, and the noble Qualities of *Mithridates* ;* you will find Reason to prefer this Prince

* *Mithridates*.] The Reader will conceive a great Opinion of this Prince's Power and Abilities, by the many great Stands he made against the *Roman* Generals, and the great

Prince to all the Princes that ever waged War with the People of Rome. He was a Prince whom *Lucius Sylla*, who, to say no greater Things of him, was no raw Commander, while at the Head of a numerous and brave Army, thought fit to suffer to depart in Peace;* tho' he had offered him Battle, and spread the Terrors of War over all *Asia*: A Prince, whom *L. Murena*, my Client's Father, after having harras'd with indefatigable Activity and Diligence, in a great Measure left *check'd*, but not *conquered*: A Prince, who after taking some Years for establishing his Finances, and recruiting his Armies, recovered so much Power and Spirit, as to think of joining the Ocean with the *Pontick* Sea, and the Troops of *Sertorius* † with his own!

Two Consuls ‡ were sent to this War, and such

great Resources he always found out after being overthrown. See the Oration for the *Mamilian* Law.

* *To depart in Peace*] *Plutarch* tells us, that in the Peace *Sylla* made with *Mithridates*, it was stipulated, that he should evacuate *Asia* and *Paphlagonia*; give up *Bithynia* to *Nicomedes*, and *Cappadocia* to *Ariobarzanes*; that he should pay them 2000 Talents, and give them 70 of his Ships of War. For all which *Sylla* engaged,— That *Mithridates* should be left in Possession of his paternal Estates, and be called *The Ally of the Roman People*.

† *Troops of Sertorius*] See the Oration for the *Mamilian* Law, where the historical Facts mentioned here, are more fully explained.

‡ *Two Consuls*.] *Viz. L. Lucullus* and *M. Aurelius Cotta*, the latter of whom received a great Overthrow from *Mithridates*.

such was the Plan of their Operations, that the one was to fall upon *Mitbridates*, and the other to cover *Bythinia*: But the Situation of the latter both by Sea and Land proved so miserable, that it was a great Addition both to the Power and Glory of *Mitbridates*; *Lucius Lucullus*; however, performed so many great Actions, that we have no War upon History more important, or managed with greater Conduct and Courage. For when the whole collected Force of the War stood at the Walls of *Cysicum*; when *Mitbridates* imagin'd, that could he break thro' and demolish this City, which he thought to be the Gate of all *Asia*; the whole Province would be quite laid open, *Lucullus* acted so effectually, that this City of our most faithful Allies was preserv'd, and all the Troops of the King dwindled away by the Length of the Siege. But how! Do you imagine that the Sea-fight at *Tenedos* was a petty Engagement, and an inconsiderable Conflict; when the Enemy's Fleet with full Sail, and under the most fierce Leaders, flush'd with Hopes, and big with Expectations, was making for *Italy*? I will say nothing of the Battles, nor of the Sieges and Storms which happened. After the Monarch was driven from his Kingdom, so prevailing was his Address and Authority, that being joined
by

by the King of *Armenia*, he was reinforced by fresh Power, and other Troops.

WERE I now to touch upon the Actions of our Army, and General, I might enlarge upon many great Battlès; but that is not my Business at present: However, I will venture to say, that if this War, this Enemy, and that Monarch had been despicable, the Senate and People of *Rome* never would have thought it needful to use such Precaution in undertaking it; it never could have lasted so many Years; it never could have been so glorious for *L. Lucullus*; nor would the *Romans* have been so zealous to entrust the finishing it to *Cn. Pompeius*. And, indeed, of all the innumerable Battlès of this General, the most bloody, in my Opinion, was that with *Mithridates*, which was fought on both Sides with the greatest Obstinacy. Escaping from this Battle, that Monarch fled to *Bosphorus*, whither it was impossible for our Army to follow him; yet even in this lowest Ebb of Fortune, nay, while he was flying, he still preserved the Reputation of a *Monarch*. Therefore after *Pompey* himself had seized the Kingdom, after driving his Enemy out of all his Territories, and from all his well known Haunts; such was the Account he made of this one Man's Life, that though he possessed in right of Victory all that *Mithridates* held, attack'd or

assured

aspited to, yet he never concluded the War to be finished, till he had driven *Mithridates* out of the World. Do you, *Cato*, despise as an Enemy, this Man whose Arms for so many Years fought so many Battles, and employed so many of our Generals? Whose Life, even in Expulsion and Exile, was held to be of such Importance, that the War never was thought to be finished, till the News came of his Death? It is in this War, I contend, that *L. Murena* acted as Lieutenant-General with a most undaunted Courage, the most consummate Prudence, the most indefatigable Toil, and that those Qualities have as much Dignity in them to recommend him to the Consulship, as we are entitled to by all our Application in the *Forum*.

AYE, but *Servius* was first declared when he stood for the Prætorship. Will you go on dunning the People, as if you were dunning them upon a Note of their Hand;* That if they once give Precedency to a Man, he has a Right to the same in all his succeeding Offices? Do you think that the Waves of any Sea, or of
Euripus

* *Note of their Hand.*] This is severe upon *Servius's* Profession as a Lawyer: The People, says our Author, in conferring Honours, are determined by their own Pleasure and Generosity, therefore they are not to be dunn'd for them, as you Lawyers would dun a Man upon his Note of Hand.

Euripus itself, is toss'd and agitated with as violent and various Workings, as the Tumults and Tides that happen in a popular Election? One Day intermitted, or one Night intervening, often throws every Thing into Confusion, and the smallest Whisper of a Report frequently alters their whole Inclinations. We often meet with Disappointments without any visible Reason; and the People sometimes stare at what is done, as if they themselves had not done it.

Nothing is more fickle than the Vulgar, nothing more dark than the Breast of Man, and nothing more delusive than all the Business of Elections. Who could have thought that the wise, the diligent, the popular, and the noble *L. Philippus* could have been baffled by *M. Herennius*? or *Q. Catulus*, so eminent for Humanity, Wisdom and Integrity, by *Cn. Manlius*? or *M. Scaurus*, so respectable a Person, so worthy a Patriot, and so brave a Senator, by *Q. Maximus*? People were so far from expecting such a Reverse, that even after the Thing was over, they could not account by what Means it had happened. For though certain Constellations sometimes occasion Tempests; yet they often happen suddenly, without any visible Reason, and from some unaccountable Cause. Thus it happens in the Tempests of popular Elections; you often understand

derstand the Motive by which they rise ; but sometimes they are so obscure, that it seems to be owing to Chance.

BUT if we must give a Reason for it, two Things were exceedingly wanted in *Murena's* Prætorship, which were of great Service to him when he was chosen Consul. The first was, an Exhibition of Shews, the Expectation of which was swell'd by certain Reports, and industriously propagated by his Competitors : The other was, that they who had been Witnesses to all his Liberality and Virtues, while he serv'd as Lieutenant in his Province, had not yet quitted the Province to come to *Rome*. Fortune preserved both these for his Sollicitation of the Consulship. For the Army of *L. Lucullus*, which was assembled for his Triumph, the same Army was then at *Rome*, and assisted *Murena* in his Applications ; and in his Prætorship he gave a most magnificent Exhibition of Shews, which were wanting when he was a Candidate. Were these in your Eyes ineffectual and trifling Helps to a Consulship ; I mean the Favour of the Army, an Army so powerful by their Numbers, so dear to their own Friends, and whose Votes have such decisive Authority with the whole People of *Rome* in declaring a Consul ? For Generals, and not Word-catchers, are the most successful Candidates at a Consular Election.

Election. What prevailing Eloquence is there in a Speech like this? *He relieved me when I was wounded; he enriched me with the Plunder of the Enemy; he was my General when we entered the Camp, and when we fought the Battle: He imposed no more Fatigue upon the meanest Soldier than he took to himself, and he is as brave as he is fortunate.*

How prevailing must this be to win the good Report, and the Good-will of Mankind! for if the religious Observances of those Elections are such, as that a powerful Omen is always drawn from the Prerogative Tribe,* are we to be surpris'd, that the Fame and the Talk of my Client's good Fortune had a decisive Influence upon this Occasion?

BUT if you account all those Considerations, weighty as they are, to be trifling, and prefer the Interest of Citizens to that of Soldiers, you surely will not venture to express any great Contempt for the Elegance of *Murina's* Plays, and the Magnificence of his Scenery,† which did him so much Service. Need I put you in mind, that the People, and the unthinking Vulgar are captivated by those Plays? It is there-

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fore

* *Prerogative Tribe.*] This Tribe was chosen by Lot to preside at the Election, and if favourable to a Candidate was generally an Earnest of his Success.

† *Sic 1073.*] He brought a Scene upon the Stage which was all of beaten Silver. *Vid. Infra.*

fore the less Surprize. But this Observation is enough for my Purpose; for an Election is computed of the collective Body of the People. Therefore if the Magnificence of Plays is the Delight of the People, we are not to wonder that they recommended him to their Voices. But if we ourselves, who are debarr'd from all Pleasure, by the Hurry of our Business, and can have a great many other Amusements, even while we are busied, are however pleas'd and amus'd by Shews, can you be surprized at this in an illiterate Multitude?

My brave Friend, *L. Otbo*, has restored the *Equestrian* Order not only to their Dignity, but to their Diversions; and this makes the Law which regulates Plays the most agreeable of all others; because this most worshipful Order have hereby recovered both their Splendor of Rank, and the Advantage of their Pleasures. Therefore take my Word for it, that not only they who confess, but they who dissemble their being pleas'd with such Amusements, are delighted with them, as I myself experienced when I was a Candidate; for we too met with Opposition from the Stage. Therefore, if I who, when *Ædile* had thrice exhibited Plays, was alarmed by those of *Antonius*; can you who happened to exhibit none, imagine, that this very Silver Scene exhibited by *Murena*, which you so much laugh at, was of no Prejudice to
your

your Cause? But suppose all these Circumstances betwixt you were upon a Level; the Accomplishments of the *Forum* to be equal to those of the Field, the *Election Interest* of the Citizens equal to that of the Soldiers; nay, supposing it were the same Thing to give the most magnificent Shew, and no Shews at all; yet do you imagine that there were no difference betwixt your Allotments in the Exercise of the same Prætorship?

HIS Allotment was that which all of us, your Friends, wished to have been yours; That of deciding Causes; an Allotment in which the Importance of the Charge conciliates Glory, and the Distribution of Equity, Popularity. It is an Allotment which gives a wise Prætor, such as *Murena* was, an Opportunity of avoiding every Thing that is obnoxious, by the Equity of his Decisions, and ingrossing every Thing that is favourable, by the Gentleness of his Demeanor on the Bench. Such a Province was a noble Introduction to the Consulate; a Province in which the Merits of his Equity, Integrity and Affability were crown'd by the engaging Exhibition of public Shews.

..BUT what an Allotment was yours? Melancholy and sour: An Enquiry into Imbezzelements; The one Side filled with Tears and Nastiness, the other with Chains and E-

vidences; Juries press'd into the Service of the Public, and detain'd against their Inclinations; and the Order disobligh'd for the Condemnation of one single Scrivener their Brother; the Bounties of *Sylla* found Fault with; many brave Men, and almost half the City disobligh'd; Costs of Suit severely tax'd; they who are pleas'd *forget*, and they who are vex'd *remember*. At last you refus'd to go to your Province. I cannot blame you for a Conduct which I myself approv'd of, both when Prætor and Consul. But at the same Time the Province of *L. Murena* procur'd him a great deal of useful Popularity, with the fairest of Characters. In his Journey thither, he made a Levy in *Umbria*, and here the Government gave him an Opportunity of displaying his Generosity; by which Means he won over to his Interest a great many Tribes which are compos'd out of the Corporations of *Umbria*. When he arriv'd in Person in *Gaul*, such was his Equity and Application, that he enabled our Collectors to recover a great many desperate Debts. In the mean Time, to do you Justice, you was very serviceable to your Friends at *Rome*: But give me leave to put you in mind, that some People grow very cold in their Friendships towards those who as they understand despise their Provinces.

HAVING

HAVING thus, my Lords, shewn that the Dignity of *Murena* and *Sulpicius*, as Candidates, was equal, but that the Allotment of their Provincial Business was very unequal; now I declare more plainly in what Circumstances my Friend *Servius* was inferior to the other; and now that the Occasion is over, I will tell in your Hearing what I have often told to himself in private, while the Election was depending. I have often told you, *Servius*, that you did not know how to go about a Solicitation for the Consulship, and even when you was managing those Affairs, in which you spoke and acted with a generous and a noble Spirit, I used then to tell you, that, in my Opinion, you made rather a brave Senator, than a wise Candidate. In the first Place, the Terrors and Threats of an Impeachment, which you were every Day throwing out, prove you to be a brave Man; but at the same Time they alienated the Affections of the People from favouring your Hopes of Success; and they weakened the Zeal of your Friends for your Interests. I cannot account how, but this is always the Case; I have now observed it not in one or two Instances, but in many, That as soon as a Candidate discovers any Disposition to become an Impeacher, he is thought to despair of the Honour he aspires to.

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BUT how! Are we to put up with an Injury? Not for the World: But there is one Time for soliciting, and another for prosecuting. I would have a Candidate, especially for the Consulship, to be introduced into the *Forum*, and Field of an Election, with great Hopes, a great Spirit, and a great Party. I don't love that a Candidate should be prying about for Evidence; it is the Fore-runner of a Repulse; I don't love it when he is procuring *Witnesses* instead of *Votes*, when he is *threatening* instead of *flattering*, when he is *making Declamations* instead of *paying Compliments*; especially since it is now lately come into Fashion for the Candidates to run about the Houses of almost all their Electors, who are able to judge, by the Appearance they make, both of their Hopes and their Interests. Don't you see what a sullen and sneaking Air that Fellow has? Why, he is kick'd down; he desponds; he is an arrant Coward. Immediately the Rumour steals round, What don't you know that he is hatching an Impeachment? That he is prying into the Conduct of his Competitors? That he is searching after Evidence? I'll be for another; for this Person has given up his own Cause. The nearest Friends of such Candidates are immediately damp'd. They lose all their Zeal for what they

they had avowedly engaged, and either give up their Interest, or they reserve all their Service and Influence for the Judgment and the Trial that is to ensue.

WE may add to this, that the Candidate himself cannot employ the whole of his Spirit, Care, Pains, and Application upon his Solicitation ; for his Mind runs likewise upon the Impeachment, which far from being a trifling Consideration, is perhaps the most important of all others. For it is a very difficult Matter for you to get such Dispositions, as that you should be able to drive any Man out of his Country, especially a Man who is neither destitute of Money or Interest ; one who is defended by himself, by his Friends, nay, even by Strangers : For we are all ready to run to repel Danger ; and where no declared Enmity subsists, we perform the most friendly Offices and Duties to the meerest Strangers, who are in Danger of a capital Punishment. Therefore, from my own Experience, I will tell you my Sentiments of the Difficulties of a Candidate, a Defender, and a Prosecutor. The Candidate requires indefatigable Application ; the Defender, Attendance ; and the Accuser, Laboriousness. So that, in my Opinion, it is next to impossible for any Man to act the Part of an Accuser, and a Candidate

for the Consulship at the same Time, with tolerable Grace and Ability. Few People can support either of these Characters; but no Man both. When you turn'd aside out of the Career of a Candidate, and transferred your Thoughts to the Business of an Impeacher, did you imagine that you was capable of discharging both Duties? If you did, you was mightily mistaken: For let me ask you, whether, after you had openly professed yourself an Impeacher, you had ever one Day that you did not spend entirely in that Business?

You dunn'd the Public for a Law against Bribery and Corruption, tho' at the same Time you had no Occasion for it: For the *Calphurnian* Law * was very strict upon this Head: A due Deference was shewn to your Desire and Dignity. But the whole of that Law, which perhaps would have strengthened your Accusation, had the Defendant been guilty, disappointed

* *Calphurnian Law.*] The Law against Corruption carried thro' by *C. Calphurnius Piso*, though with great Opposition, was by him thought too mild, and therefore in *Cicero's* Consulship he had the Penalties of that Law increas'd. By this or some other Law he caus'd, it was enacted, that Plebeians offending against it should be subject to a Mulct as well as Banishment; and Senators to Banishment as well as a Mulct. He likewise took away all Pretences of Absence on account of Illness, but this Absence seems only to have been in case the Party excusing himself was impeached. The Commentators are not quite agreed as to that.

pointed your Sollicitation. You applied with great Earnestness for a more severe Punishment upon the Commons; and the poorer Sort were alarmed. A Bill was brought to render our Order liable to Exile; the Senate granted your Request, but it was with Difficulty that you brought them to multiply Pains and Penalties upon those of a middling Fortune. A Punishment was annexed to all Excuses of Illness: This gave great Disgust to many, who were obliged either to consult their Interest at the Expence of their Health, or their Health at the Expence of their abandoning all the future Advantages of their Lives. Give me leave now to ask you, who made the Motion for these Severities? The Man * who was determined to do so by the Authority of the Senate, and by your Commands. In short, the Man who was to reap the least Advantage from them. Do you imagine that you was put under a slight Inconvenience by your Zeal for that Act, which the Senate in a full House rejected to my great Satisfaction? You struggled hard to introduce a Confusion of Votes, a Suspension of the *Manilian Law*, the putting all popular Interest, † Dignity and Election
upon

* *The Man.*] Cicero means himself.

] *Putting all popular Interest.*] I have already taken notice of the great Advantage which the Distribution of the People into Centuries gave to Men of Property in Rome; an Alteration of the Manner of voting seems to have

upon a Level. Men of Consideration and Interest in their own Cities and Corporations were extremely disgusted, that a Person of your Weight should struggle for the abolishing all Degrees of Dignity and Favour. You likewise was for *special Commissions of Inquest*,* that the secret Rancour of Citizens, which is now confined within the Bounds of silent Aversion, should break out against the Fortunes of every worthy Patriot.

ALL those Regulations opened your Way to Success as an Impeacher, but barr'd it up as a Candidate. And I told you again and again, that this was the greatest Blow ever given to your Interests as a Candidate. The ingenious and the eloquent *Hortensius*, has already talk'd to this Point very fully and solidly: Therefore the Province of speaking that falls to my Share is the more difficult, since both *Hortensius* and *Marcus Crassus*, a Person of the greatest Dignity,

have been what *Cicero* speaks of, and that *Sulpicius* got a Law, that the Votes of all the Centuries should be gathered indiscriminately, so as that the Candidate should not know which Century was for, or which against him. It would seem as if there had been a Law of one *Mantus* to this Purpose, and that was abrogated, but now restored by *Sulpicius*.

* *Special Commissions of Inquest.*] *Lat. Editores Judices.* These were such a Jury as the Prosecutor was pleated to impannel, without the Defendant having it in his Power to challenge any of them. See the Oration for *Plancius*, where the whole Affair is canvassed. If this Allegation is true that *Cicero* brings here, it was a very villainous Action of *Sulpicius*.

nity, Application and Eloquence, I have already spoken on this Head; and thus I am left not to plead to any Part of the Merits of the Cause, but to tell my Opinion upon the whole of the Matter. Therefore I must both speak almost to the same Heads with them, and anticipate your Judgment,* which is all, my Lords, I can do.

WHAT a mortal Blow, *Sulpicius*, did you give to your Pretensions, when you gave the Roman People alarming Reasons to apprehend that *Catiline* would be Consul, while you dropt your Sollicitation, and was busied in preparing an Impeachment? They observed you with a thoughtful Air collecting Evidence. They took Notice of the Concern of your Friends, their prying, their Affidavits, their closeting Witnesses, the caballing of Solicitors; all which, no doubt, throw a Gloom upon the Looks of Candidates. In the mean Time, they saw *Catiline* gay and chearful, attended by a Circle of young Gentlemen, encompassed by Informers and Assassins, flush'd with his Hopes in the Soldiery, and, as he pretended, with the Promises of my Colleague, while a whole
Army

* *Anticipate your Judgment.*] There is a double Reading here; *occurro vestrae sapientiae, et occurro vestrae salutati*, which last is *Hottoman's* Reading, and I should prefer it, were it warranted from good Manuscripts. The Translation would then be, *All I can do, my Lords, is to keep your Attention awake.*

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Army of *Arretine* and *Fesulane* Planters were swarming round him: A very motly Crowd! but those who were struck with the Thoughts of the public Calamity in *Sylla's* Time, made the greatest Figure in it. The Countenance of *Catiline* himself was full of Fury, his Eyes of Guilt, and his Language of Arrogance; so that he seem'd to have made himself so sure of the Consulate, as if he had it locked up in his own House. He despis'd *Murena*, and look'd upon *Sulpicius* not as his Competitor but his Prosecutor; he threaten'd Violence to him, and Destruction to his Coun-

I NEED not put you in mind with what a Dread all this struck every Man of Virtue, and how desperate the Condition of the Public appeared. You may recollect this within yourselves: For you have not forgot the Language* which that infamous Gladiator is said to have used in a Meeting at his own House, when he affirmed, “ That it was impossible for the
 “ Wretched to find a faithful Protector, but in
 “ the

* *The Language.*] It is surprizing that this Quotation which our *very candid disinterested Author* gives us from *Catiline's* Speech is not to be found in *Sallust*. I will make no other Remark upon it, than that the Language he uses here was very natural to a Man in *Catiline's* Circumstances; and if the Senate and Nobles had at that Time insolently usurped upon the Liberties, and engross'd the Properties of their Fellow-Citizens, very justifiable.

“ the Person of one as wretched as themselves,
“ and that the Afflicted and Miserable ought
“ never to trust to the Promises of the Sound
“ and the Happy. But, therefore, they who
“ are willing to replenish what they had spent,
“ and recover what they had been robbed of,
“ ought only to consider how much he owed,
“ how much he possessed, and what he dared
“ to do. That the Man who aspired to be a
“ Leader of the Unhappy, ought to have very
“ little Fear, but a great deal of Misery.”

WHEN these Accounts were published, you may remember that upon my Motion a Decree of the Senate was made to adjourn the Elections appointed for next Day, that we might consider in the Senate how we should act upon such an Occasion. Wherefore next Day, in a full Senate, I called upon *Catiline*, and commanded him to make what Defence he could as to those Facts which I had been informed of. As he was always very frank, he did not pretend to deny them, but owned and justified the Charge. He then told us, “ That
“ the State had two Bodies, one sickly, with a
“ weak Head; the other sound, but without
“ any Head at all; and that the latter, while
“ he was alive, should not be without a Head,
“ since he was so much obliged to that Body.”
The Senate fully assembled was heard to groan, but without coming to any Resolutions

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equal to the Severity which his Insolence deserved;* for one half thought it needless to come to any vigorous Resolutions, because they *were not afraid*; the other half *durst not*, because *they were afraid*. He then broke out of the Senate with a triumphant Joy, though it was absolutely improper he should have ever gone out of it alive; especially, since but a few Days before, when the brave *Cato*, in the same Assembly, was threatening and declaring that he should be brought to Justice, he answered, that if any Combustion happened in his Fortunes, he would extinguish it not with Water, but with Ruin.

BEING alarmed by all these Circumstances, and knowing that *Catiline* was bringing down his Conspirators in Arms to the Field of Election, I came to that same Spot, with a very strong Guard of brave Men, cloathed as I was, in that broad remarkable Mail, which I did not wear that it might defend me (for I well knew, that *Catiline* generally struck at the Neck and the Head, not at the Side or the Belly)

* *His Insolence deserved.*] What Insolence? In all the Charges against *Catiline*, in all the Fury of Declamation, which great Men in all Ages have unanimously indulged themselves in, I wish any of them had so much as attempted to prove, that the Nobles and Senate had not by their Attacks and Violations of the very first Principles of the Roman Constitution, given *Catiline's* Followers such Grounds of conspiring against them, as might have entitled them to much softer Epithets than they have met with;—I mean *if they had succeeded*.

Belly) but to alarm all worthy Patriots, that upon seeing the Consternation and Danger of their Consul, they might flock to assist and protect me, which they accordingly did. Therefore, *Servius*, as the Public thought that you was negligent in your Sollicitations as a Candidate, and saw *Catiline* flush'd with Hopes and Ambition, every Man who wish'd to repel that Plague from his Country, immediately resorted to *Murena*.

AT Consular Elections the sudden Turn of popular Favour is very strong, especially as its Biases then leaned towards a worthy Man, and one accomplish'd in many other Merits that could recommend him as a Candidate; a Man with the Advantages of a most reputable Father and Family, who in his Youth behaved with the most amiable Modesty; and was employed in a most illustrious Deputation; one who had discharged his Prætorship with Ability in the Exercise of Judgment, with Popularity in the Exhibition of his Shews, and with Politeness in the Government of his Province, sued for it with great Application, and in such a Manner, that he was daunted by no Menaces, and incapable of using Menaces to others. Is it, I say, a Surprize, that such a Man should be strongly assisted in his Sollicitations, by the sudden Hopes which *Catiline* had of obtaining the Consulate?

Now

Now I must resume the third Head of my Pleading, which relates to the Crimes of Bribery and Corruption, in order to please *Murena*: Although this Charge has been sufficiently cleared up by the Gentlemen who have spoken before me on the same Side. Upon this Head, I will do my best to answer what has been said by my accomplished Friend *Posthumius*, with regard to the Discoveries made of Money deposited and seized in the Hand of Trustees, who were to parcel it out amongst the People; by the ingenious *Servius Sulpicius* with regard to the Equestrian Centuries, and by *M. Cato*, a Man distinguished by every Virtue, concerning his own Accusation, the Decree of the Senate, and the Affairs of the Government. But give me Leave to premise somewhat by way of Complaint, which has made a sudden Impression upon me, arising from the Situation of *L. Murena*: For, my Lords, I have often before this Time, upon reflecting on the Miseries of others and my own daily Toils and Labours, thought those Men happy, who at a Distance from the Pursuits of Ambition, indulged the Repose and Tranquility of Life. But now that *L. Murena* is beset with such, and so many unexpected Dangers, I am so struck with Concern, that I want Words to bewail the common Lot of us all,

all, as well as the Accidents and Misfortunes that have happened to my Client; who upon his very first Attempt to mount one Step above those Honours which had been long uninterruptedly in his Family, and enjoyed by his Ancestors, is now in Danger of losing both what was left him by them, and the Additions made to them by himself. In the next Place, his Pursuit after new Honours has endangered his forfeiting his former Estate.

THE Bitterness of these Miseries, my Lords, are highly aggravated by his Prosecutors not being prompted to this Impeachment by any Motives of personal Resentment, but have fallen into personal Resentment from their Zeal for Impeaching. For not to mention *Servius Sulpicius*, who I understand has no personal Pique at *Murena*, but is prompted by this Dispute about Preference, he is impeached by *Cn. Posthumius* his Father's Friend, and, as he owns himself, his own Neighbour and Acquaintance; this Gentleman hath shewed you many Reasons why he should befriend *Murena*, but was not able to mention one, why he should hate *Murena*. He is accused by *Servius Sulpicius* the Companion of his Son, whose good Qualities ought to be a kind of Protection for the Friends of his Father. He is impeached by *M. Cato*, who, though he never shewed any particular Dislike to *Mu-*

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rena, seems to have been born in this State, with this Condition annexed to his Existence, that his Interest and Abilities should relieve many, even the meerest Strangers, without ruining hardly any one Enemy.

THEREFORE I shall first answer *Posthumius*, who, I know not by what Means, seems to me, though he stands for the Prætorship, to run full against a Consul,* like one who professes to vault on Horseback, yet gets into the Seat of a Chariot. He has yielded to their Dignity, if they have been no way in fault, by dropping his Pretensions; but if any of them has bribed, a Friend is wanted to prosecute a third Person's Wrongs rather than his own.

* * * * *

[*A Chasm here.*†]

I NOW proceed to *M. Cato*, who is the Support and Strength of all this Impeachment; but however weighty and keen he is in his Im-

* *To run full against a Consul.*] Orig. *Pretorius Candidatus in Consularem, quasi de jultariis in quadrigarum curriculum incurrere.* This Metaphor is taken from the Dexterity of those who at Chariot Races could vault off a Horseback into a Chariot with four Horses; *Cicero* compares *Posthumius* to one of those, since he left his Profession as Candidate for the Prætorship, to become the Impeacher of a Consul.

† *Chasm.*] What is wanting here contained probably an Answer to what had been urged by *Posthumius* in Support of the Impeachment.

peachment, I dread the Effect of his Authority much more than the Weight of his Charge: And first, my Lords, as to this Impeacher, let me beg the Court, that neither the Dignity of his Person, his Prospect of the Tribuneship, nor the Lustre and Wisdom of his whole Character may be of any Prejudice to my Client; and in the next Place, that *Murena* may not be a single Instance, that he suffered by these good Qualities with which *Cato* is blest, that it may be in his Power to bless Mankind. *Publius Africanus* had been twice Consul, and had demolished *Carthage* and *Numantia*, those two formidable Rivals of *Rome*, when he accused *L. Cotta*. He was possessed of the greatest Eloquence, Honour, and Integrity, and his Authority was adequate to the Dignity of the *Roman* Empire, supported by his Services. I have often heard old People say, that the exalted Dignity of this Impeacher was of great Service to *L. Cotta*: For as the Judges in that Trial were Men of consummate Wisdom, they were unwilling that the Impeach'd should fall, as if he had been struck down by the overbearing Force of his Antagonist. But how! Did not the *Roman* People rescue *Sergius Galba*, as the Story goes, from *M. Cato*, your brave and eminent Great-Grandfather, who was bent upon his Destruction? In this State, both the Body of

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the People, and those wise Patriots who consulted the Happiness of Posterity, have always discouraged Prosecutions carried on by too powerful an Interest. I am not for an Impacher bringing into the Court too decisive a Power, too overbearing an Interest, too great an Evidence of Authority, or too extensive an Influence of Popularity. Let him employ these great Qualities in saving the Innocent, in succouring the Helpless, in relieving the Wretched, but let them be disregarded when employed to the Danger and Destruction of our Fellow Citizens. For if it should be said that *Cato* never would have stooped to the Character of an *Accuser*, without first examining as a *Judge* into the Legality of the Prosecution, give me leave to say, my Lords, that unjust must be the Sentence, and unhappy the Situation of the Impcach'd, if the Judgment form'd by the Prosecutor should be sustained as a Presumption in Favour of the Prosecution.

So strongly, *Cato*, am I prepossessed with the Opinion of your matchless Virtues, that I dare not disparage your Conduct; in some respect I might wish it a slight polish, and a finishing Touch. Says the great Monitor * to his brave Pupil, *You are not wrong in many Things, but*

* *Says the great Monitor.*] All this Passage is extremely delicate. He either means *Chiron*, who was *Achilles's* Preceptor, or *Phaon* who was his Tutor.

if you were, I could set you right; but I can say with great Truth of you, that you are faultless, and that on all Occasions you require rather a gentle Hint than Reformation: For Nature herself has form'd you great and eminent; she has moulded you to Honour, Wisdom, Temperance, Magnanimity, Justice; in short, to every Virtue. You have added to these Learning, but a Learning that is neither tractable nor good-natured; because it is a little too rough and severe for the Practice of common Life, or the Disposition of human Nature.

AND because I am not now speaking either before an unexperienced Multitude, or an Assembly of Rustics, give me Leave to be a little more explicit upon the Studies of moral Duties, which are well known and dear both to you and me. You are to attribute the eminent and divine Qualities, my Lords, which we discern in *M. Cato*, to Nature, but that he has some slight Defects, is owing, not to Nature, but to Education. For *Zeno* was a Man of great Genius, and his Institutes were adopted by the Stoicks. His Sentiments and Rules are as follow, That a wise Man is never to be influenced by Favour; he is never to pardon a Fault in any Person; That Fools and the Irresolute only have ever any Sentiments of Pity; That a right Man is both inexorable and implacable; That the Wise, let them

have a thousand Deformities, are the only Beauties in the World ; let them be made Beggars, yet they are wealthy ; let them be the meanest of Slaves, yet they are Kings ; but that we who are not endued with Wisdom, are Fugitives, Exiles, Enemies ; in short, *we are all mad.* They tell us, that all Misdemeanors are alike, and that every Slip is a mortal Sin. And that a Man who shall smother a Pullet, when he needs not do it, is as criminal as if a Man should smother his Father. That a wise Man had never any Doubt within his own Breast ; that he never repents what he does ; that he is never fallible, and that he never alters his way of thinking : These are the Principles which the ingenious *M. Cato* has snatched from these learned Authors, not as mere Matters of Argument, as is often the Case, but to serve him as his Rules of living. Our Farmers of the Revenue petition for some Abatements ; Take care that you are not influenced by one Grain of Favour. Behold some People in Distress and Affliction beg in the humblest Manner ; You are a Villain and a Rascal, if you do the least Thing from any Sentiment of Compassion. Another Person comes to own himself in the Wrong, and is sorry for his Fault ; to pardon him would be a Crime of the deepest dye. But the Mistake was but trifling. That won't do, for all Faults

are alike. " Have you dropp'd any Expression ? Let it be firm and irrevocable. You don't give such a Thing as Matter of Fact, but Opinion. Wise Men never entertain Opinions. You are a little mistaken in a Fact ; he thinks that that is a very bad Plea. The Effects of this Doctrine are as follow.—I said in the Senate, that I would impeach a Consular Candidate ; but you was in a Passion when you said so.—No, says he, a wise Man is never in a Passion. But you spoke it to serve a Turn.—Then I should be a Rogue if I made a Lie.—For a Man to alter his Sentiments is shameful, to be exorable is criminal, and to be compassionate is scandalous.

FOR my own Part, *Cato*, I own, when I was young, that I was so distrustful of my own Capacity, that I too sought Assistance from Learning ; for *my* Masters, I mean the cool, moderate Followers of *Plato* and *Aristotle*, tell me, that a wise Man is sometimes influenced by Favour, and that a good Man is susceptible of Compassion ; that Faults differ in their own Nature, and therefore ought to do so in their Punishment ; that a Man of Resolution will still reserve Room for Pardon ; and that the Sage himself, when he is ignorant, is a little distrustful : That he is sometimes put into a Passion, but that he may be calmed and appeased : That he will alter what he has once said, if he shall

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find he can do it for the better; that he sometimes yields a little in his own Resolutions; and that all Virtues are tempered by a certain Mediocrity.

HAD you, *Cato*, with those Excellencies of natural Qualifications, happened to apply to such Masters as those, you would not indeed have been a better nor a braver, nor a more temperate, nor a more just Man, (for all that would have been impossible) but you would have been a little more inclinable to Gentleness. You would not without the least Motive from personal Resentment, or the smallest Provocation from personal Injuries, have accused the most modest Man upon Earth, and one endowed with the highest Dignity and Honour. You would have imagined, as Fortune had made you both Magistrates elect, for the same Year, that you were in some Sort politically related to one another: And as for the Invectives you threw out in the Senate, you would either have suppressed them, or you would have put upon them the most favourable Construction.

BUT so far as I can form any Judgment, Experience will *molify*, Events will *soften*, and Age will *bend* that Impetuosity of Spirit, that elastic Force of Nature, and a Genius now warm from the recent Impression of the Schools. For in my Opinion, your Teachers
and

and your Professors of Morality stretch the moral Duties farther than human Nature can admit. For when we have carried them in Speculation to even the highest Pitch, yet still we ought to be determined by prudential Considerations, where we shall rest. You will pardon *nothing*: I don't think you should *every Thing*. You will do nothing through *Favour*; neither should you, when you are called upon by your Duty and Honour. Don't let Compassion have the least Place in your Mind, no not in losing your Character for Gravity; but still there is some Merit in Sentiments of Humanity. Persevere in your Resolution; Yes, unless that Resolution should give way to a better.

SUCH were the Sentiments of the great *Scipio*, who was not ashamed of doing the same that you do now; he kept in his House a Man of Learning so profound that he approach'd to Divinity, yet *Scipio* was so far from being rendered untractable by his Conversation and Precepts, though they were the same with those that you are now so fond of, that I have been told by old Men, he was Gentleness itself. Who was more affable, or who more agreeable than *C. Lælius*, though he embraced the same Philosophy; at the same Time, was there a Man of more Weight and Wisdom than he? I might extend these Observations
to

to *L. Philippus* and *C. Gallus*, but let me now lead you into your own Family; do you imagine that your Great-Grandfather *Cato* was ever out-done in Politeness, in Affability, in Moderation, or in the Practice of the most extensive Humanity? While you was speaking with great Weight and Truth as to his eminent Virtues, you said that you had a Family-Model for your Conduct; he is indeed a beautiful Model; but though you, you who are descended of him, may be more similar to his Genius than any of us, yet still he is an Object proper for my Imitation as well as yours. But were you to temper your *Gravity* and *Severcity* with his *Politeness* and *Affability*, Virtues which are already perfect could indeed receive no farther Degree of Excellence, yet give me leave to say, they would have a more delightful Relish.

BUT to return to what I proposed; away with the Name of *Cato* from this Dispute; away with all Authority which in a Court of Justice ought to have no other Influence but to save. Join Issue with me upon the Crimes themselves; what is your Charge, *Cato*? What is to be tried? What do you offer Evidence of? Do you impeach Corruption? I do not defend it. Do you blame me for defending by my *Pleading* what I punished by *Law*? I answer, that I punished Corruption and not Innocence;

innocence; as to Corruption, if you please, I will go Hand in Hand with yourself in impeaching it. You have said that a Decree of the Senate was made upon my Motion against the Corrupted who should meet the Candidates; against their paying Money for Attendance on their Persons; against the allotting Seats to the Populace by Tribes at the Shews of Gladiators, and against giving Entertainments to the Mob, and that all these appeared to be against the *Calpurnian Law*; the Senate therefore judged, that if those Things are proved, they are Violations of that Law, and decrees what there is no Occasion for, only to oblige the Candidates. For it is a very strong Question whether the Fact was so or not; if it was, there is no Manner of doubt, that the Law was violated. It is therefore ridiculous to leave that which is doubtful without a thorough Examination, and to try a Point that can admit of no Doubt. But it was at the Instances of all the Candidates that this was decreed, that it might never be understood who were to be Gainers, and who were to be Sufferers by this Decree of the Senate. Therefore you are to prove that *L. Murena* was guilty of these Overt-acts, and then I will admit that they are contrary to the express Meaning of the Law.

You alledged that a great many People met him,

him, when he returned from his Province to stand for the Consulship. This is very common; happens it not to every Man who is on his Return home? Who were those Numbers that met him? In the first Place, if I cannot satisfy you as to that, is there any Wonder that a great many went to meet so distinguished a Person, and a Consular Candidate upon his Approach to the City? It would have been much more surprizing if they had done otherwise: But supposing now I should add what is not unusual, that a great many were invited? Is there any Matter either of Guilt or Surprise, that in a City, where, upon Invitation, we use to introduce, even before Day, and from the most remote Parts of the City, the Sons of our meanest Fellow Citizens, that People should not think it any Trouble to go to the *Campus Martius*, by nine of the Clock,* especially when they were invited in the Name of so illustrious a Person: But what if all the Companies came, and amongst these a great many of the Judges who sit upon this Trial? What if a great many of our right worshipful Order; what if the whole Clan of Candidates,

who

* *Nine of the Clock.*] Orig. *Hora tertia*, which, as near as we can guess, answered to our nine of the Clock in the Morning. It was looked upon as a great Advantage to a Candidate when his Party got first Possession of the Field of Election.

who are such scrupulous Observers of their Duties, that they will suffer no Man to enter the City but in due Form? In short, if even our Prosecutor *Posthumius* came to meet us with a pretty large Retinue of his own, why should this Multitude occasion any Surprize? I shall not mention his Clients, his Neighbours, those of the same Tribe, with the whole Army of *Lucullus*, who was at that Time come to Rome upon Account of his Triumph. I would take it upon me to say, that such an un-influenced Number of Attendants upon such an Occasion was never wanting to a Man of Dignity; nay, to one who requires it. But he had a vast Attendance; then prove them to have been hired, I then shall admit him to be culpable. But if you do not prove *that*, what do you find fault with? But where was the Occasion, says our Adversary, for such an Attendance? Do you ask *me* what Occasion there is for a common Practice, which all of us have used for Time immemorial? Men of little Consideration have no other Method of either deserv'ing or acknowledging the Favour of our Order, but by this Assiduity and Attendance while we are Candidates for public Offices; for it is impossible, nor is it to be required of us, and the *Roman* Knights, that we should follow our Friends who stand for public Offices, for Days together. If they resort to our Houses, if they
 some-

sometimes conduct us to the *Forum*, if they pay their Respects to us for the Length of a Street,* we appear to be sufficiently respected and honoured; all that close Attendance is paid by such of our Friends who have slender Fortunes, and not much Business on their Hands; and Men of Worth and Generosity will never want Plenty of such to attend them.

THEREFORE, *Cato*, do not deprive this low Rank of Mankind of the Benefits of their Services; suffer them, since they hope every Thing from us, to be in a Capacity of paying us somewhat in return: Were this confined to their Votes alone, it would be next to nothing, as they get no Favour by voting.† In short, as they themselves use to tell us, they cannot plead for us, they cannot answer for us in Court, they cannot invite us to their Houses; all these are Services which they expect of us, and they think that their Assiduity is the only Way by which they can repay us for all our Favours: Therefore they opposed both the *Fabian Law* which regulated the Number of Attendants upon a Candidate, and the Decree of the Senate, which was made in the Consulate of *L. Cæsar*;

* *Length of a Street.*] Orig. *Basilicæ spatio*, the Length of a Piazza.

† *As they get no Favour by voting.*] *Si, ut suffragantur nihil valent gratio.* Cicero in many other Passages uses the Particle *si* for *cum*, and not attending to this appears to have led *Manutius* to think that this Passage was superfluous.

Cæſar ; for no Penalty can ever be ſufficient to debar the meaner Rank of People from performing this old System of paying their Duties.

AYE, but Entertainments of Shews were exhibited to the particular Tribes; and the Mob was invited to a Dinner. Though, my Lords, this was not the doing of *Murena*, but of his Friends, and that too with Moderation, and according to Custom, yet I have Reason to remember, *Servius*, how many Votes * we loſt by making ſuch Enquiries in the Senate; for in what Time, either in our own or of our Father's Memories, did not Ambition, or call it Liberality, allot a Place in the *Circus* and the *Forum*, to thoſe who were of the ſame Tribe with ourſelves. This was an Uſage begun by the moſt inconfiderable of the People and continued. * * * * *

There is a Chasm here.

IF the Maſter of the Artizans once allotted a Place for his own Tribe, what Regulations would they make againſt Men of the firſt Quality who hired whole Ranges of Booths in the *Circus* for the Uſe of their own Tribe?
All

* *How many Votes.*] Orig. *Quantum punctorum.* I ſto Number of Voters were prick'd down; hence a Vote is called a *Punctum.* Hor. *Omne tulit punctum,* He has every Man's Vote.

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All these Charges, *Servius*, with regard to Re-
 tinue, Shews, and even Entertainments, are
 attributed by the Populace to your scrupulous
 Exactness in collecting Matter for this Im-
 peachment, and yet *Murena* is defended by
 the Authority of the Senate upon all those
 Heads. To be sure: For give me leave to
 ask, if ever the Senate would think it criminal
 for a Person to be met on his Return home?
 No, unless he hires People for that Purpose;
 but prove this upon my Client. Is it criminal
 for one to be attended by a great Multitude?
 Not unless he hires them. Then prove *Mu-
 rena* did. Is it illegal to give Places at a Shew,
 or to invite People to Dinner? By no Means;
 unless this is done indiscriminately. What do
 you call doing it *indiscriminately*? When it
 comprehends the whole of the People. There-
 fore if *L. Natta*,* a Youth of the greatest
 Quality, and who has given Proofs already, by
 his Capacity, of the great Things the World
 has Reason to expect of him, in order to re-
 commend himself to their Favour upon this
 friendly Occasion, and for the rest of his
 Life, had a Mind to be in the Centuries of the
 Knights, must this be a Prejudice, or charged
 as a Crime upon his Step-father? Or if a Vestal
 Virgin,

* *L. Natta*.] He was Step-Son to *Murena*, and con-
 descended thus low to favour his Step-Father's Sollicita-
 tions.

Virgin, who was his Relation and a Friend, resigned to him her Place at a Show of the Gladiators, she acted as an affectionate Kinswoman and he ought to be free from the least Censure. All these Offices are the Duties of Friends, the Perquisites of Inferiors, and Privileges of Candidates.

BUT *Cato* disputes with me in the Character of an austere Stoick; he tells you it is unjust that Favour should be courted by Meat or Drink, and that Votes at an Election of Magistrates should be influenced by Motives of Pleasure: Therefore if a Man, because he is a Candidate, shall invite another to Supper, he must be condemned. What, says he, do you stand for the highest Command, for supreme Authority, and for the Helm of the State, by pampering the Senses, by soothing the Inclinations, and gratifying the Pleasures of Mankind? One should be in doubt, continues he, whether you aspired to be the Cock-bawd of a delicate Parcel of Youths, or to obtain the Command of the World from the People of *Rome*. This is an awful Speech; but it is condemned by our Practice, by our Lives, and by our Constitution itself. For neither the *Lacædemonians*, the first Institutors of such a way of Living and Talking, Men who every Day dine upon a hard Board; nor the *Cretans*, not one of whom ever indulged himself in a cumbent Posture at his

VOL. II S Meals;

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Meals; I say, neither of these People have been more successful in the Administration of public Affairs, than the *Romans* who have Times set apart for Fatigue, and Times for Pleasure. As to the *Cretans*, they were destroyed by a single Approach of our Army, and it is under the Protection of our Empire, that the *Lacedaemonians* enjoy their ancient Regulations and Constitutions.

THEREFORE, *Cato*, be not too severe upon these Customs of our Ancestors, the Fitness of which is proved by the present State of our Affairs, and the long Continuance of our Empire. *Quintus Tubero*, a Man of Learning in the Days of our Forefathers, and at the same Time a Person of Consideration and Quality, was a Stoick as you are. When *Q. Maximus* was giving an Entertainment to the *Roman* People, on the Account of his Uncle *Africanus*, *Tubero* was desired by him, because he was Son to the Sister of *Africanus*, to furnish out a Dining-Room. What does this learned Stoick do, but cover plain wooden Beds with coarse Goats-Skins, and set out a Side-board of Earthen Dishes; as if they had been commemorating the Death of *Diogenes* the Cynic, and not that of *Africanus*: A Man so divine, that while *Maximus* was pronouncing his Funeral Praises, he thanked the immortal Gods, that such a Hero was a Native of this State, because

because the Empire of the World must have been fixed in whatever Place such a Man existed. But this wrong-headed Wisdom of *Tubero* was extremely disagreeable to the *Roman* People upon that Occasion; therefore that excellent Person, and worthy *Roman*, though he was Grandson to *L. Paulus*, and Son to the Sister of *Africanus*, was tossed in those Goats-Skins out of the *Prætorship*.

THE People of *Rome* are Foes to *private Luxury*, but Friends to *public Magnificence*; they don't love *Profusion*, but far less a *brutish Nastiness in Entertainments*; they know how to make proper Distinctions, both as to Duties and Seasons; they know when to labour, and when to indulge. But if you maintain that our Fellow Citizens ought to have no other Motive for voting a Man into a public Post, but the Dignity of the Candidate himself, you yourself, great as your Dignity is, do not observe this Maxim, else why do you ask any one to favour or to assist you? You yourself requested that I might be directed by, and commit myself to you; what Meaning was there in this? Whether was it more proper that I should be solicited by you, or you by me, to undertake Toil and Dangers for my Welfare?

To what Purpose had you a Promp-

ter * of Citizens Names? *Here*, at least, you deceive and impose upon the Public; for if it was a moral Duty for you to call every Citizen by his Name, it surely is scandalous that your Slave should be better acquainted with their Names than you are; but if you are acquainted with them, is it necessary to apply to them by a Prompter? Why do you solicit before he whispers? Or why, after you are told their Names, do you salute them as if you were already acquainted with them? After you was nominated to your Office, why did you accost them with greater Indifference than before? All these Practices are right, according to the Usages of this City, but they will be found extremely wrong, if examined by the Maxims of your Philosophy. Therefore the *Roman* People are neither to be deprived of the Pleasures of those Plays, Gladiator Shews, and Entertainments, Things which have been provided for us by our Ancestors; nor are the Candidates to be debarred from bestowing those Favours which are rather Marks of *Generosity* than *Corruption*.

BUT, say you, *your* PATRIOTISM *obliged you to impeach*. I believe, *Cato*, that this is
your

* *Prompter*.] This Person was called a Nomenclator, and attended Candidates to Whisper the Names of Citizens to them as they went up to take them by the Hand.

your Motive and Reason for appearing here ; but you are mistaken for want of sufficient Reflection. As for what I do, my Lords, I protest and declare I do it on account of my Friendship for *Murena* and his own Dignity, and likewise for the Peace, Ease, Unanimity, Liberty, Safety ; and, in short, the Preservation of you all. HEAR, my Lords, and ATTEND to your Consul ; and I hope I am not too bold, when I say, that Night and Day I think of my Country ; *Catiline* had not such a Contempt, and so despicable a Notion of our Government, as to imagine that he could destroy the City by the Force which he has carried out with him. The Infection of his Guilt is spread much wider than is commonly imagined : It has tempted many, and the Machine, pregnant with your Ruin, remains within our Walls, but never, my Lords, while I am Consul, shall it surprize you in the Lethargy of Security.

You ask of me what I apprehend from *Catiline* ? Nothing ; and it is through my Means that Nobody has any Thing to apprehend from him. But I say, that we ought to dread his Forces, which I now see in this very Place ; for the Army of *Catiline* is not so much to be feared, as those who are said to be Deserters from his Standard : They have not deserted, but he has left them to lie in Watch,

in Ambush, for an Opportunity to attack our Lives and Liberties. They now want to persuade this Court to pass a Sentence which shall degrade from protecting this City, which shall drive from the Government of this State, a blameless Consul, an excellent General, and one whom Nature and Fortune has attach'd to the Preservation of his Country. I have already, my Lords, dash'd their audacious Attempts in the Field of Election, I have weaken'd them in the *Forum*, and crush'd them even within my own House; but should you make them a Present of another Consul, they will gain more from your Decision than they have ever been able to do by their own Swords. The Point, my Lords, which I have laboured and effected against great Opposition, is of the highest Consequence; I mean that there should be two Consuls in the Government the 1st of *January*. Do not imagine that the unprecedented Destruction * of our Country has been concerted in cool Blood, in an ordinary Method, or by the pernicious Influence of Corruption. Resolutions, my Lords, have been taken to abolish the City, to murder the Citizens, to extinguish the Name of *Rome*. And our Fellow Citizens, our Fellow Citizens, my Lords, if they deserve such Appellation, are laying,
and

* *Unprecedented Destruction.*] *Catiline* was then in Arms, and at the Head of *Manius's* Army.

and have laid, all those Schemes against their Country. I every Day countermine their Projects, I crush their Audaciousness, I oppose their Guilt. But give me leave to put you in mind, my Lords, that my Consulship is now drawing towards its Period, therefore withdraw not from me my Successor in all my Labours; take not from me the Man to whom I wish to deliver over our unviolated Constitution, that he may yet defend it from its threatening Dangers.

BUT, my Lords, are you not sensible of an Addition which these Calamities must receive? I call upon you, *Cato*, upon you; do you not foresee this Storm that threatens the Year of your Magistracy? For in Yesterday's Assembly the Voice of your elected Colleague * thundered *Destruction*. This was what your Wisdom, and all the worthy *Patriots* who invited you to stand for the Tribuneship, strongly suspected: All the Schemes which for these three Years together have been concerted, ever since (as you know) *L. Catiline* and *Cn. Piso* enter'd into a Conspiracy † to murder the Senate, are bursting forth in this Year, in this Month, and at this Time. Has there been a Place, my

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Lords,

* *Your elected Colleague.*] He probably means *Metellus Nepos*, who was a great Enemy to our Author, though some imagine it to have been meant of *Clodius*.

† *A Conspiracy.*] See the Oration against *Catiline* where all this Passage is explained, Vol. II.

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Lords, has there been a Season, has there been a Day, has there been a Night, in which I have not been snatch'd and rescued from the Designs and Swords of those Traitors, less by my own Foresight than divine Providence? Their Quarrel was not at my *Person*, but, by murdering me, they wanted to remove a Consul watchful over the Preservation of your Country. They have, *Cato*, the very same Designs upon you, could they compass them by any Means: Believe me, it is this they are now doing, it is this they are now labouring. They are sensible of your great Spirit, your Capacity, your Authority, and your Abilities to defend the State. But when they shall perceive the Power of the Tribuneship destitute of her Consul's Authority and Assistance, they imagine that it will be more easy for them to overpower you in that defenceless Condition. For they are not apprehensive of any Consul being substituted in the room of *Murena*, because they perceive that such a Substitution is entirely in the Hand of your Collegues in the Tribuneship. They are in hopes that the illustrious *Silanus* * will be exposed without a Collegue, you without a Consul, and the State without a Guardian.

You, *Cato*, who are not born for *me*, or for
your-

* *Silanus*.] He was the other Consul elect with *Mu-*

yourself, but for your Country, it is incumbent upon *you* to provide against those great Events, against those imminent Dangers; to preserve your Assistant, your Defender and your Associate in the Government. Not an ambitious Consul, but such a Consul as this Juncture requires; one whom His Fortune has form'd for cherishing Tranquillity, his Knowledge for managing Wars; and whose Spirit and Experience is equal to every Purpose you can desire. But, my Lords, the whole of this depends upon you, in this Cause you decide upon the Government, and the general Interest of our Country.

HAD *L. Catiline* with his Cabal of Ruffians, whom he has carried along with him, been in a Capacity to judge in this Affair, he would condemn *L. Murena*; if he could, he would kill him. For his Schemes required that this State should be deprived of her Supports, and that the Number of her Generals to oppose his Fury might be lessened; that the Tribunes of the People, after their Antagonist is expelled, should be more at Liberty to blow the Flames of Sedition and Discord. And shall the most worshipful, and the wisest of Mankind, delegated from our noblest Orders, pass the same Judgment as would a most audacious Gladiator, the Enemy of his Country?

266 C I C E R O's O R A T I O N

BELIEVE me, my Lords, the Sentence you are to pass in this Cause, will affect your own Safeties no less than that of *L. Murena*. This is our last Struggle; if we are defeated here, we have no Resource left; if we fall here, we are lost to all the Means of our Recovery. We ought to be so far from weakening our present Supports, that, if possible, we ought to add to them. For our Enemy is not now upon the *Ænio*, which was our greatest Terror in the Punic War, but within the City, within the *Forum*. Immortal Gods! Can I say this without a Sigh? We have an Enemy in that very Sanctuary of our State, in that very Assembly of our Senate. May the Gods grant, that my brave Colleague may in Arms be able to suppress the unnatural Rebellion of *Catiline*! And I, in my Robes of Peace, to dissipate and crush by your, and every good *Patriot's* Assistance, the Dangers with which this State is teeming.

BUT what will be the Event, if these Dangers, after baffling our Endeavours, should recoil in the ensuing Year? There will then be but one Consul who will be less employed in the Management of War, than in the Means of associating to himself a Colleague; his Enemies have prepared their Obstacles, and the barbarous, the dismal Pestilence of *Catiline's* Rebellion, will take every Opportunity

nity of breaking out: It now threatens the *Roman* People, it will speedily stretch to the Fields near the Walls of our City; Fury will take up her Abode in our Camps, Fear in our Senate, Conspiracy in our *Forum*, an Army in our Field, and Desolation in our Lands; while the Terrors of Fire and Sword shall haunt every Place even of our domestic Retirements. As to these Mischiefs they have been long a hatching, all these may be easily crush'd by the State having the full Compliment of her Guardians, by the Wisdom of her Magistrates, and the Zeal of her Subjects.

HAVING said thus much, my Lords, in the first Place, Love for my Country, which ought to be the ruling Passion of every Man, gives me a Right to advise you according to my unwearied, and, by you, experienced Zeal for the State, to admonish you by my Consular Authority, to conjure you by the Greatness of the Danger, that you would have a Regard to the Public Repose, Tranquillity and Welfare; that you would have a Regard to your own Lives, and those of your Fellow Citizens. In the next Place, as I am directed by the Honour of a Defender, and the Duty of a Friend, I earnestly entreat it of your Justice, not to drown the late Applauses of *L. Murena* in a Flood of unlook'd-for Tears; as he is now wretched
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and spent by the Distemper of his Body, and the Anguish of his Soul. It was but a little while ago, when he seemed happy in the greatest Favour with which the People of *Rome* could grace him, as being the first of an old Family, and an ancient Corporation, who had ever been elected to the Consulship: But now, my Lords, that you see him disfigured in the Meanness of Attire, emaciated by the Malignity of Disease, and sinking under the Weight of Sorrow, he approaches your Knees, he attests your Justice, he implores your Compassion, and he throws himself wholly upon your Power and your Interest.

I beseech you, my Lords, by the Immortal Gods, do not by those Means, which he thought would be an Addition to all his former Honours, strip him of those, and of all his Dignity and Fortune. My Lords, my Client most earnestly and humbly beseeches you, if he has done Injury to no Man, if he has hurt no Man either in Word or Intention; if, to say the least, he has incurred the Hatred of no Man, either at home or abroad, that you will have some Regard to the Temperate; that you will afford Shelter to the Humble, and Relief to the Modest. Great, my Lords, is the Compassion that is due to the Man who is deprived of the Consulship; if he is strip'd of that, he is strip'd
of

of his ALL. But surely, in these Days the Possession of the Consulship can be attended with no Envy, since it is exposed to the Cabals of the Seditious, to the Treasons of Conspiracy, and the Sword of *Catiline*: In short, it is the only Mark of all Danger, and all Obloquy. Therefore, my Lords, I cannot see what Envy *Murena*, or any of us, ought now to incur in this honoured Office. As to the Compassion due to us, that is even now familiar to my Eyes, and if you please may be plain and perspicuous to you.

It, may Heaven avert the Omen, you should condemn him by your Decision, whether shall the unhappy *Murena* turn him? Homewards? There must he see the Statue of his illustrious Father, which but a few Days before was laurel'd in Compliment to his Honour, now disfigur'd with the Marks of mournful Ignominy. Shall he turn him unto his unhappy Mother? She has but just embraced her Son a Consul, but is now in Agonies at his doubtful Fate, and fearful that she next shall see him divested of all his Dignity.

BUT why do I mention the Mother and Family of a Man, whom a new Penalty of the Law banishes from his Family and his Parents, and from the Company and Conversation of all his Friends. Shall the wretched *Murena* then
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be banished? But whither? To the *East*, where he for many Years acted at Lieutenant, where he had Armies, and where he perform'd many glorious Actions? Alas! hard is the Lot of that Man who returns with Ignominy to a Place which he left with Honour. Shall he hide his Head in the opposite Part of the World? In the *Transalpine Gaul*, which lately with Pleasure beheld him cloath'd with supreme Command, and shall she now behold him a mournful and a wretched Exile? With what Eyes can he look upon his Brother *C. Murena* in that Province! How must the one be struck with Anguish, the other with Sorrow, and both with Consternation! What a Reverse of Fortune and Discourse! that in the very Place in which all Accounts a few Days before concurred that *Murena* was rais'd to the Consulship, the Place from which his Friends and Acquaintance flock'd to pay him their Compliments at *Rome*; that he himself should be the Messenger to carry to that Place the first News of his Disgrace!

If these, my Lords, are bitter; if they are miserable; if they are mournful Circumstances; if they are shocking to your Humanity and Compassion, preserve the Favour which the *Roman* People have bestowed, restore her Consul to the State; do this in Consideration of
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the Purity of *Murena's* Manners, of his dead Father, of his Quality, and of his Family, and likewise of *Lanuvium*, that most honourable Corporation, and whose melancholy Citizens you see here full assembled during this whole Trial. Tear not from the paternal Rites of *Juno Sospita*,* which all Consuls are obliged to celebrate, a Consul in whom she has so peculiar a Right. He is a Consul, my Lords, if my Recommendation has any Weight, if my Assurances have any Authority; as a Consul, my Lords, I recommend him to the same Character, as one who is zealous for your Tranquillity, indefatigable for your Interests, keen in opposing Sedition, brave in commanding an Army, and a sworn Enemy of the Conspiracy that is now shaking the Pillars of this Constitution; such a Consul I promise and engage *Murena* will prove.

* *Juno Sospita*.] She was worshipped in a peculiar Manner at *Lanuvium*, where *Murena* was born.

The End of the Oration for Murena.



A R G U M E N T
O F T H E
O R A T I O N
F O R
P. Q U I N T I U S.

THE following Oration entirely relates to a private Cause, and was the first that Cicero ever pleaded at the Bar: The Occasion of it was as follows. A Company Trade had been entered into betwixt one C. Quintius and Sextus Nævius: Upon the Death of the former, all his Effects fell to his Brother Pub. Quintius, who was his Heir at Law; this brought on, as might be naturally imagined, a Dispute betwixt him and Nævius about dividing the Effects. After several Altercations and Contests, Quintius, either through Indolence, or the Circumventions of Nævius, suffered his Recognizances, which, by the Roman Law, every Man, who was Party in an Action, was obliged to give in, to be forfeited: By this Means the Nature of the Cause came to be quite altered; and from defending the Merits of it, both Parties were obliged to plead to the Points
of

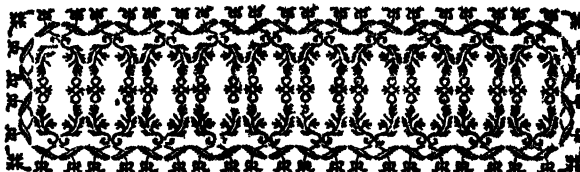
of Form that were to be observed in it. For when one of the Parties, by not appearing, suffered his Recognizances to be forfeited, the other had a Right to demand of the Prætor Possession of his Effects. Nævius insisted, that he had both obtained an Edict of the Prætor for this Purpose, and was in Possession of the Effects; by this Means Quintius could not bring any fresh Action, or proceed upon the Merits of his own Cause, (which was what he wanted to do) without giving Bail of some Kind or other to stand the Judgment of the Court, and pay Costs of Suit. This was enacted, because a Person whose Goods had been seized, was not presum'd to have Property of his own to satisfy the Judgment of the Court, and therefore he might again deceive them. The Prætor offered to enter upon the Consideration of the Merits of the Cause afresh, provided Quintius would either put in Bail alone, or deposite a Sum of Money (called Sponsio) to be forfeited if he did not make good his Charge upon Nævius. Quintius was under a great Disadvantage from both these Circumstances. On the one Hand, if he gave in Bail, it was a tacit Concession that his Recognizances had been forfeited; by which he must have been render'd infamous. On the other Hand, if he made the Deposite, he became Plaintiff, and lost a great Advantage of being Defendant, as he was originally. However, he chose the latter.

By this the Merits of the Cause came to be considered, and they depended upon this single Point, viz. Whether Nævius had got legal Possession


of the Effects of *Quintius* by the Prætor's Edict. *The Affirmative of this was maintained by Hortensius, and the Negative by our Author. Some think that L. Philippus was likewise Council in this Cause; but it is plain, he was only interested as a Friend of Nævius, and very serviceable to him, by the great Interest and Authority he had in Rome, both from what our Author says, and does not say; for he would not have failed of bringing this as a Proof of his own Abilities, that when he was so young a Man he made head against two so great Orators.*

The Judge appointed by the Prætor was C. Aquilius, or Aquillius (as some spell Quintius, Quinctius.) This Gentleman was a very able Lawyer, and his Assistants on the Bench were P. Quinctilius, M. Marcellus, and L. Lucilius (not Lucullus who was a Soldier) a Lawyer, as appears from our Author.

The Cause was pleaded in the Comitium, where all private Causes were heard, under the Consulate of M. Tullius Decula, and Cn. Cornelius Dolabella, in the 672d Year of Rome, and the 26th of our Author's Age, according to Gellius, tho' many place it a Year later.



M. T. C I C E R O'S
 O R A T I O N
 F O R
 Q U I N T I U S.


 HE greatest Interest and Elo-
 quence,* Circumstances, Sir, that
 carry along with them an almost
 decisive Influence in *this* State, are on this Oc-
 casion, *both of them*, on the Side of our Adver-
 sary. I have some Apprehensions from the one,
 T 2 and

* *The greatest Interest and Eloquence.*] The Original has it, *Summa gratia & eloquentia*, which I had once Thoughts of translating *the greatest Popularity and Eloquence*; but when I considered, that in a Republic, or indeed in any State, *Popularity* is perhaps the strongest Proof of Virtue, I found that this could not be the Meaning of *Tully*, so I have translated it in the Sense of *Africanus*, who defines

and I dread the other.* I am under a Concern lest the Eloquence of *Hortensius* should embarrass me in Pleading; but the great Credit of *Nævius* exceedingly alarms me for the Interest of my Client.

YET these Advantages, tho' possess'd in the highest Degree by our Antagonists, would not be near so formidable, did we possess but a moderate Share of *either*. But this Cause is so circumstantiated, that I who have but small Experience,† and less Capacity, am to encounter a most eloquent Pleader; and my Client, whose Credit is but slender, whose Interest none, and whose Friends but a few, is to cope with an Adversary in the highest Favour.

AT the same Time we are under this Disadvantage, that *Marcus Junius*‡, who hath
several

defines *Gratia* to be *Copia plurimorum amicorum*, which answers to *Aristotle's* Definition of *Πολυφιλία*; which, according to him, renders Men confident of Success. *Rhet. L. 2. T. 159.*

* *And I dread the other.*] The Original is *Quarum alteram vereor, alteram, metuo* *Vereor*, imports Reverence arising from Esteem; *metuo*, Dread under the Apprehension of Loss or Punishment. *Senec. c. 11. Metuebant cum servi, verebantur liberi.*

† *Experience.*] *Cicero* had been scarcely a Year at the Bar when he delivered this Oration.

‡ *Hottoman* is here guilty of an egregious Blunder, which has passed unobserved by any of the Commentators in *Grævius's* Edition, and which is surprizing in a Man so accurate and so learned in the Civil Law as *Hottoman*

several Times pleaded this Cause before you, Sir, a Man of great Practice at the Bar, and frequently consulted upon this very Point, is now absent upon an unexpected Commission,

T 3

and

tsman was. I shall transcribe his Words upon this Passage.

*Apparet, says he, aliquoties hanc causam ampliatam fuisse quod etiam infra significat. "Nec illud, inquit, mihi ar-
"rogabo me posse causam commodius demonstrare quam
"antea demonstrata sit; Item"* et ab illo, *inquit, qui ante dixit informata jam causa est.*

*Manutius led Hottoman into this Error, Freigius took it from Hottoman, and Grævius from Freigius. But it is plain from what Cuiero says, cap. 10. Jusstat Hortensius ut eas (viz. C. Aquili & Assessores tui) in concilium; a me postulat ne dicendo tempus absumam; queritur PRIORE PATRONO (viz. M. Junio) causam defendente, nunquam perorare potuisse; non patiar istam manere suspicionem; nos rem judicare nolle; I say, it is plain from these Words, that this Cause never was amphata or adjourned; for the Ampliatio was a Judgment of the Court after the Cause had been thoroughly debated, and the Judges *visissent in concilium*, neither of which in this Case had ever been done, as appears by our Orator's saying, that the Cause never had been *perorata*, nor the Judges *visissent in concilium*. The Reader will be convinced of this, by consulting the learned Sigonius, *De Jud. L. 2. ch. 22.* and from the express Words of *Aponius in Verrem*.*

The Form of the *Ampliatio* was, that when the Pleading was on both Sides over, the Judges wrote upon the Tablets by which they were to give their Suffrages *N. L. i. e. Non liquet*. Hence they pronounced *Causam esse amplius cognoscendam*. After what I have observed above, the Reader will observe, that the two Instances brought by *Hottoman*, are nothing to the Purpose; they prove indeed that the Cause had been spoke to before, but not that it had been *adjourned*.

But *Hottoman*, by his Fondness for this Observation, fell into a more capital Blunder, which I shall afterwards point out.

278 C'ICERO'S O'RATION

and it falls to me, who, tho' I were well qualified, yet am I straiten'd in Time sufficient for making myself Master of an Affair so important, and so intricate.

Thus, Application, which on other Occasions supplied my want of Capacity, has on this failed me; as I have had neither Time nor Leisure, the only Means by which the Strength of Application can be discern'd. But the greater, Sir, the Advantages of which I have been thus deprived are, the greater must be the Indulgence and Candour of you and your Associates, while I am speaking; that Truth, under many Difficulties and Discouragements, may be cherished by the Equity of this Bench. If while you sit on that Seat, Sir, Want and Weakness shall meet with no Protection against Credit and Power; if, in this Court, Interest instead of Justice shall determine the Event of a Cause; there is an End of whatever is sacred, whatever is sincere in *Rome*; and no longer shall the condescending Virtue and Dignity of the Judge cheer the dejected Client; but with you, Sir, and your Associates,* Truth will prevail, or if banished from these Walls by Interest and Violence,

* *Your Associates.*] *Aquilus*, being appointed Arbitrator in this Cause by the *Praetor*, chose three Assessors, viz. *Lucilius*, *Quinctilius*, and *Marcellus*.

lence, no other Place will afford her a Retreat.

I SPEAK not this, Sir, as having the least Doubt of your Integrity and Firmness, or as if *Quintius* had Reason to entertain the most sanguine Hopes from those very worthy Citizens whom you have selected as your Associates. What then have we to fear? In the first Place, a Man must be under the strongest Apprehensions when his *All in Life* depends on one decisive Sentence. When *Quintius* reflects on this important Circumstance, the Idea of your Power presents to his Mind at the same Moment with that of your Justice; it being natural for every Man, whose Life is in the Hand of another, to reflect more frequently upon what the Person, who has an absolute Power over him, *may do*, than what *he ought to do*.

IN the next Place, Sir, my Client has for his Antagonist *Sextus Nævius* only in Appearance, but in reality, Citizens the first of this Age in Eloquence, and the most distinguished in *Rome* for Courage and Politeness, who defend *Sextus Nævius* with a joint Zeal, and with

T 4

their

* The Original is *Quid ergo?* I have often observed, that the little Forms of Speech where the Meaning is supplied by the Action, are very difficult to translate. This is an Interrogation upon a former Suggestion beginning at the Words, 'If in this Court, &c.

their utmost Interest; if it can be called to defend a Man, when *indeed it is no other than a mean Compliance with his Will in assisting him to ruin, by an iniquitous Proceeding, any other Person whom he has in his Eye.*

FOR what, Sir, can be more unjust or scandalous, than that I, who appear in Defence of whatever ought to be dear * to Man, in Defence of his Reputation and Interest, should be

* *Whatever ought to be dear*] I was obliged to be cautious in translating this Expression; in the Original it is *Qui Caput alterius defendam*. But the Word *Caput* here does not mean the natural Life; neither did the Expression *Capitalis Causa* import a capital Cause in our Sense of the Words. CAPITALIS (says *Modestinus*) *Latine loquentibus omnis causa exislimationis videtur*. That is, Whatever Cause could in its Event affect the Honour and Reputation of a Person, such Cause was *Capitalis*. Of this Kind was the Action of *Nævius* against *Quintius*, for the deserting of a Man's Bail for his Appearance was accounted *infamous*, and therefore every Action on that Account was capital.

Our Author here uses a good deal of Art: For *Quintius*, by laying the *Deposit*, (*Sponsione facta*) becoming the Prosecutor, was obliged to plead first; and indeed Judgment having been given against him already for *Default*, it seems to have been no unfavourable Alternative, that was offered him by the Prætor, by putting it in his Option to *solis satisficere*, that is, alone to give Security for the *Costs of Suit*, should he be cast; or *Sponsionem facere*, that is, deposit a certain Sum which was to be forfeited to the Public, in case he did not prove that his Goods had come into the Possession of the Adversary by the Prætor's Edict. But *Quintius* represented that the first was *dishonourable*, as it was owning the deserting his *Sureties*, which was infamous; and the other disadvantageous, as it obliged him to speak first.

be obliged to be the first to plead; especially as *Quintus Hortensius*,* a Man endowed by Nature with a happy and copious Eloquence, is to answer me, and has undertaken to make good the Charge of the Prosecutor. Thus it happens, that I who ought to repel their Weapons, or to heal the Wounds, am obliged to give Proofs of my Dexterity before my Antagonist has aimed his Dart: While they have Leisure to carry on the Attack, at the Time that we are deprived of the Means to avoid its Fury; and if, as they are prepared to do, they shall throw out a false Charge by way of a poisoned Arrow, no Room is left for us to apply an Antidote to its Venom.

SUCH, Sir, are the Effects of Partiality and Injustice in the Prator, who, contrary to all Precedents, chose to give Judgment upon a Default,† rather than upon the *Point in Issue*, and in consequence of this Judgment, *the Defendant* ‡ is obliged to plead before he has heard

* *Quintus Hortensius*.] This celebrated Orator will be often mentioned in the Progress of this Work; we shall only observe here, that our Author could not have set out in his first Pleading with a greater *Eclat*, nor a greater *Disadvantage*, than to encounter the best Speaker at the Bar; but this he affects several Times to have done, and by extolling the Abilities of *Hortensius* passes a just and delicate Compliment upon his own.

† *A Default*] See the Augument.

‡ *The Defendant*.] Orig. *Reus*.

heard the Charge of the *Plaintiff*.* This Judgment was obtained by the Power and Credit of those who truckle to the Humour and Avarice of *Nævius*, with as much Obsequiousness as if their own Fortunes and Characters were at stake, and labour with all their Interest upon Affairs in which the greater the Influence is, which their Virtue and Quality give them, the more tender they ought to be in trying the Extent of their Power.

Publius Quintius, Sir, afflicted and oppress'd with so many, and such discouraging Difficulties, throws himself upon your Integrity, Equity, and Compassion, since he has hitherto, thro' the Injustice of his Antagonists, laboured under all the *Disadvantages* † of wrested Law, unequal Interest, and a partial Judge; since from barefaced Iniquity, every *Circumstance* has been unfavourable, every Step prejudicial to his Interest, he earnestly begs you, Sir, and this Court, that you would suffer the Equity of his Cause, harrass'd and oppress'd by many wrongful Proceedings, to find here *Shelter* and *Support*. That you may do this with the greater Pleasure, I shall endeavour to make you comprehend

* *The Plaintiff*. Orig. *Accusatoris*.

† *Disadvantageous*.] Because the Letter of the Law was taken Advantage of, without any Regard to Equity and Justice; *Nævius* had a great Superiority of Interest, and the *Prætor* was a Friend to him.

prehend the Rise, the Progress, and the Management of this Transaction.

Caius Quintius,* the Brother of *Publius Quintius* my Client, was, in general, a discreet, industrious House-keeper,† tho' overseen in one Particular, by entering into Partnership with *Sextus Nævius*, a good Man indeed, but educated in such a Manner as to have no Opportunity of knowing what belonged to the Duty of a reputable Citizen; || yet to do this same *Sextus Nævius Justice*, he has never been reckon'd either a dull Buffoon, or a stupid Auctioneer.‡ What then, it may be said, was the Matter? Why, as his Voice is the most valuable Qualification he has from Nature, and his Liberty the only Inheritance he has by his Father, he let the one out for Money, and used the other

* *Caius Quintius*.] The Substantive Verb here in the Original, ought to be placed not before *Frater*, &c. but *Pater Familias*, &c.

† *House-keeper*] *Pater Familias* in this Place signifies a House-keeper, or one who kept a Family of Servants, and not as is generally supposed, the Father of a Family of Children; for it appears that *Caius Quintius* had none.

|| *Reputable Citizen*.] In the Original, *Certi Patris Familias*, which at *Rome* signified as I have translated it, and is a severe Cut upon the Birth and Education of

‡ *Stupid Auctioneer*.] *Apuleius* tells us a great many Pieces of Humour in these Fellows, and we have several Instances of them in other Passages of our Author.

as a Privilege of being *impertinent and pert.**

THEREFORE † there was nothing for which you could take him into Partnership, but that he might taste in your Money what the Advantages of Money are. Yet *Quintius*, bias'd by his Acquaintance and Intimacy with this Person, admitted him into a Partnership in the Commerce then carried on in *Gaul*. He had a large Estate in Cattle, and a Farm pretty well improved, and, it must be allowed, fertile. *Nævius* is carried from the *Licinian Porticoes*,|| and the Company of *Public Cryers* into *Gaul*, and transported beyond the *Alps*. Great indeed was the Change of his Climate, but in his Nature there was none: For that Person, who used to get Money without disbursing any, after he had disbursed ‡ I don't know what, and

* *Impertinent and pert.*] This is a fine Sneer upon the Abuse of Liberty in a free State; but it is surprizing that among a People of so strong Passions as the *Romans*, the Liberty of Speech, tho' we find from their History it had proceeded to very anwarrantable Excesses both in publick or private, never produced an Instance of any personal Resentment, either from the Government, or among private Persons.

† There is somewhat dark in the Original, I don't know if I have hit upon *Tully's* Meaning.

|| *Licinian Porticoes.*] Where the Auctioneers and Public Cryers plied.

‡ *Ne aliquid hic Obsceni lateat cum Passeratio magno pere*

and toft it in the common Stock, he could not be contented with a moderate Profit.

AND no Wonder, if a Man, who had hir'd out his Voice, ſhould imagine, that what he purchafed at the Expence of his Voice, ſhould bring him an immense Profit. Thus he purloin'd into his private Pocket as much of the joint Stock as he poſſibly could, and that was no ſmall Sum.* In this he was as induſtrious

as

* This Paſſage is very perplex'd, and I am apt to think that none of the Commentators have rightly underſtood it; The Original has, *Qua in re ita diligens erat quaſi ii qui magna fide Societatem gererent, arbitrium pro ſocio, condemnare ſolerent.* *Hottoman* reads *arbitrio*, *Grævius* takes away that Word entirely, *Budeus* reads *arbitrii*, *Manutius*, *ad arbitrium*. It is needleſs to give their ſeveral Reaſons and Authorities, the Reader may come at the Senſe by obſerving the following Particulars. There was an evident Difference betwixt a *Judicium* and an *Arbitrium*. In the former, the Prætor gave the Judge in Charge by what Law, or to what manner he was to pronounce Sentence. But in an *arbitrium*, which was the common Proceeding at Law in all Affairs of Copartnerſhip, all the Prætor's Charge to the Judge was, that he ſhould decide *ex fide bona*. Hence an *Arbitrium* or a *Judicium pro ſocio*, is called by Civilians, a *Judicium ex fide bona*, becauſe not Law, but Equity, was the Rule of the Judges Proceeding. .

Therefore I ſhould be inclined to *Hottoman's* reading *arbitrio*, and in that Senſe I have tranſlated it; but I am not ſatisfied that it is *Tully's* Meaning, becauſe it would ſignifie that one Partner is not liable for any Lots, or any Debts incur'd by another in Partnerſhip, which is againſt Fact; and if *Nævius* was a Rogue, he had all the Encouragement in the World from the unſerried Confidence with which *Quintius* treated him to purloin in that Man-

as if they who carry on a Partnership with unreserved Confidence, used to be punished for their Partners in Arbitrations. But there is no Necessity, that I should, in the Manner that *Quintius* would have me, explain myself upon this Head; and yet from the Nature of the Cause, such an Explanation is expedient; but as *Expediency* only, and not *Necessity* calls for it, I will pass it in Silence.

WHEN this Partnership had subsisted for many Years, and *Nævius* had been often suspected by *Quintius*, as not being able to give any satisfactory Account for his arbitrary unreasonable Conduct; *Quintius* dies in *Gaul*, while *Nævius* was there, and his Death was sudden. He made *Publius Quintius* my Client, his Heir by his Will, that the Person who was most sensibly grieved, might be most remarkably honoured by his Death.*

P. Quintius soon after his Death, went to *Gaul*, where he liv'd familiarly with this Fellow *Nævius* for almost a Year; during which Time they often talked over all the Affair of the

Manner, because the Loss fell upon the Partnership. Therefore, I would be inclinable to admit a very simple Correction here, which, in my Opinion, would make the Sense much better, and that is by reading *quia* instead of *quasi*.

* *Honoured by his Death.*] The Romans accounted it an Honour to be enroll'd in a Will.

the Copartnership, of their Accounts, and their Stock in *Gaul*. Yet *Nævius* never drop'd the least Hint, that either the Partnership, or *Quintius* upon his own private Account, was in the least indebted to him. As some Debt was left (by *Quintius*) and the Creditors were to be paid at *Rome*, *Quintius* (my Client) then in *Gaul*, advertises,* that he would make a Sale of his private Effects at *Narbonne*.

THERE it was that this very worthy Gentleman, *Sextus Nævius*, took the greatest Pains to dissuade my Friend from making this Sale. He told him, that it must be inconvenient for him to sell those Goods at that Juncture; that he could raise Money at *Rome*, and that *Quintius*, from the Regard that he (*Nævius*) had for his Brother, and his Relation with himself, might, if he was wise, use it as his own. (For *Nævius* married the Cousin of *P. Quintius*, and has Children by her.) As *Nævius* made Profession of what an honest Man ought to do, *Quintius* believed that a Person whose Language was so much the Language of Honesty, would in his Actions keep up to the same Character. For this Reason, he gives over the Thoughts of making any Sale; he sets out
for

* *Advertises.*] In the Original *proscribere*, which was actually to advertise in this Case. The Advertisement was by Placarts, which described the Quality and the Quantity, &c. of the Goods that were to be put up to Sale.

for *Rome*, and *Nævius* sets out from *Gaul* to the same Place, at the same Time. As *C. Quintius* owed Money to *P. Scapula*, he submitted to your Determination, the liquidate Sum,* that he was to pay to his Children. In this he employed you, because, by reason of the Difference in Exchange, it was not sufficient for him to know by his Books how much was owing, unless he knew at the Temple of *Castor*, how much he was to pay in *Roman Money*. You settled the whole, and from your Friendship to the Family of the *Scapula* took the Pains to liquidate the Sum in *Roman Money* that was to be paid to them.

ALL this was done by the Advice and Persuasion of *Nævius*; and indeed it was not at all surprizing, that one should take the Advice of a Man who he thought was ready to give him
him

* *The liquidate Sum.*] The Critics and Commentators have puzzled themselves about this Passage, which, but for the Dust they have raised, would be very clear. *Caius Quintius* contracted a Debt to *Scapula* in *Gaul*: When *P. Quintius*, the Heir and Executor of the Contractor, came to pay the Debt to the Executors of *Scapula*, there happened to be some Difficulty in settling the Difference or Exchange between *Gaul* and *Rome*, and the Condition of the Bond was, that the Money should be paid at *Rome*, not in *Gaul*. *Quintius* submitted to *Aquilius*, and so went to the Temple of *Castor*, which was a Kind of public Exchange, where all Money-Matters were transacted and settled, and upon looking at the Books there he knew how to liquidate the Debt in *Roman Money*. *Gronovius* and *Volusius Mæxi-*
us have given great Light into the Method of settling the Exchange in *Rome*.

for QUINTIUS. 289

him his Assistance. For he not only had promised him in *Gaul*, but every Day in *Rome*, that as soon as he (*Quintius*) should give but a Hint, he would pay down the Money. Besides, *Quintius* was sensible, that the other was in a Condition to do as he had promised; he likewise knew, that it was no more † than he ought to do; he did not think he deceived him, because there was no Temptation for a Deceit. Therefore he appointed the Payment of a *Scapula* with the same Assurance, as if he had had the Money at home. He apprizes *Nævius* beforehand, and begs that he would take care to perform what he had promised.

THEN this most worthy Gentleman, I ask his Pardon lest he should think that I intend to play upon him when I again call him *worthy*, thinking my Client was reduced to the utmost Necessity, that he might hit the very critical Hour for binding him down to his own Terms, refuses to advance *one Shilling* for him, unless he would first settle all Affairs, and Accounts of the Partnership; that thus he might be sure never to be called to an Account. Said *Quintius*, afterwards we will settle all those

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Matters,

† *Knew that it was no more* } This he had Reason to think on two Accounts, first, as he was convinced that *Nævius* had sunk a good deal of the Stock in Partnership into his own Pocket; Secondly, As he lay under strong Ties of Gratitude and Affinity to do him that Piece of Service.

Matters, but at present I beg of you that you would be as good as your Word. *Nævius* refuses to comply upon any other Terms, and appeared to regard his Promise no more than he used to regard those Promises,* which he made at Sales by Order of his Master.

Quintius being quite struck with this Disappointment, obtains a few Days of Delay from the *Scapulae*, and sends to *Gaul* to have those Goods sold, which he had advertised, which were sold by Auction in his Absence, and at a disadvantageous Time. He pays off the *Scapulae* upon Terms more disadvantageous to himself. Then, so far from being call'd upon for a Debt, he even dunn'd *Nævius*; because he suspected that some Difference or other would happen, that he would take care to make up every thing betwixt them, as soon, and with as little Difficulty, as was possible.

Nævius offers as Arbitrator † on his Part, *M. Trebellius*, with our Neighbour *Sextus Alphenus*, a Friend to both, one educated in his House, and whom he very often conversed with. The Affair could by no means be made up, because
my

* *Promises.*] *Nævius* had been an Auctioneer; a Sort of Men, who, while they are in the way of their Business, are very lavish of their Promises and Assurances.

† *Arbitrator.*] *Amicum*, Orig. It was the Custom in *Rome*, before they went to Law, to endeavour to make Things up by two or more Friends, and the Party who stood out was generally looked upon as a very litigious, troublesome Person.

my Client desired to take up with but a moderate Loss, and *Nævius* insisted upon an extravagant Plunder.

THE Affair then began to be litigated;* after the Recognizances were delayed from Time to Time, and when some Days had been spent without any Effect, *Nævius* at last entered into a Recognizance.

I BEG, *Caius Aquilius*, and you who are his Assistants in his Cause, your earnest Attention, that you may fully make yourselves Masters of an unprecedented kind of Villainy, and an unheard-of Method of tricking. *Nævius* pretends that he had made a Sale in *Gaul*; that he had sold off what he intended; that he had taken care the Partnership should not be indebted to him; that he would neither any more

U 2

act

* *The Affair then began to be litigated*] Orig. *Res in vadimonium esse*. When the Romans entred upon an Action at Law, both Parties were obliged to give Bail to appear either by their Attornies, or in Person, before the Prætor by such a Day, commonly the third Day after. If either of the Parties failed, his Recognizance was forfeited, his personal Estate was, by the Edict of the Prætor, seized upon by the other Party, and himself held infamous. Hence *in vadimonium esse* is to go to Law. And *vadari* is to summon one to appear.

Manutius upon this Head falls into a Mistake. He supposes that the Parties were obliged to enter their Recognizances when the Affair was before the Arbiters; whereas it is otherwise, as appears from this Passage. What led him into this Mistake, might be the *Judicium per arbitrum*, *Vid. ut supra, in the Notes*; but then the Arbitrer was a civil Magistrate cloath'd with a delegated Power from the Prætor.

act either as Plaintiff or Defendant, but that if *Quintius* had any Business with him, he was willing to transact it. As *Quintius* wanted to go to his Estate in *Gaul*, he did not upon that Occasion demand any Bail of him; and they parted without it; tho' *Quintius* stayed behind for almost thirty Days, to withdraw his Recognizances upon what Business he had with other People, that he might be in Readiness to set out for *Gaul*.

HE actually set out, and left *Rome* on the last Day of *January*, under the Consulate of *Scipio* and *Norbanus*. I beg that the Court would take particular Notice of the Day. *L. Albius* the Son of *Sextus* of the *Quirinian* Tribe, a Man of great Virtue and Honour, set out with him. When they were come to the Fords of *Volaterra*, they met with an intimate Friend of *Nævius*, one *Lucius Publicius*, who was carrying some Slaves from *Gaul* for the Market on this Fellow's Account. When *Publicius* came to *Rome*, he informs *Nævius* in what Place he had met with *Quintius*, which if he had not done, the Affair had not so soon come before a Court of Justice.

Nævius * then in Person. disposed of the
Slaves

* This is a sly Insinuation not attended to by Commentators. *Cicero* hints here that these Slaves were Presents which he made to his great Friends, that they might support him in this Action.

Slaves among his Friends; in Person he summon'd his Relations from the *Licinian* Porticoes, and the Passage into the Market, to attend him at the Booth of *Sextius*, † betwixt the Hours of Six and Nine the next Day, where they attended in great Numbers, and where this Fellow entered a Protest, that *Quintius* had not appeared to his Bail, but that himself had. The engross'd Protest was sign'd by the Seals of honourable Gentlemen; away *Nævius* marches, and demands of the Prætor *Burrienus*, that he might have an Edict for possessing the Goods of *Quintius*. He orders the Goods of the Man who was formerly his intimate Friend, and still his Partner, and, while his Children liv'd, his Relation by an indissoluble Tie, to be proscribed.

FROM this Instance we may easily conclude, that * there is no Duty so sacred, no Obligation so binding, as not to be infring'd and violated by Avarice; for if Friendship is cultivated by Truth, Society by Integrity, and Kindred by Affection, hollow, deceitful, and unnatural must that Man confess himself, who shall attempt to deprive his Friend, his Partner, and his Kinsman of his Fortune and Character.

Sextus Alphenus, Attorney to *P. Quintius*, and

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the

† A Money-Broker.

* I have translated the Word *Officium* in two Senses. which it bears in *Latin*.

the Friend and Neighbour of *Sextus Nævius*, tore down the Bills, carried off one little Slave, whom *Nævius* had laid hold of, declares himself to be Attorney for *Quintius*, and insists upon the Reasonableness of his providing, that the Reputation and Interest of *Quintius* should not suffer, and that he ought to wait for his Return to *Rome*. But that if *Nævius* would not comply, and fancy'd that by such Courses he should be able to force *Quintius* into his Terms, he would ask no Favour, but defend his Friend against any Action the other should bring.

WHILE this pass'd at *Rome*, *Quintius* against all Law and Precedent was driven by the Edict of the Prætor, which was executed by his own and *Nævius*'s Slaves, from their common Estate.

I will submit, Sir, that you^s should think every thing acted by *Nævius* at *Rome* to have been agreeable to Law and Equity, if what he did in *Gaul*, by his Letters, was either right or regular. *Quintius* expell'd, and driven from his Estate by such flagrant Injustice, has Recourse to *C. Flaccus*, the General, who was then in that Province, a Person whom I name on this Occasion, to do him that Honour which his Dignity requires. You may perceive by his Decrees how severely he thought this Proceeding ought to be punished.

IN the mean time, *Alphenus* was daily skirmishing with this batter'd Gladiator at *Rome*; it is true, he was possessed of the * Advantage of the People's Favour, because his Adversary aimed every Blow at his Head. *Nævius* demands that the Attorney should give Bail for Payment upon Judgment being given. *Alphenus* denies that it was just an Attorney should give Bail; since the Principal himself would not be obliged to give it, had he been present. The Tribunes are appealed to, from whom a peremptory Decision was demanded; but they so made up Matters, that *Sextus Alphenus* promised to present *P. Quintius* by the 13th of *September*.

Quintius comes to *Rome*, and appears to his Bail. This violent Fellow, this Possessor, this Invader, this Robber of another's Property, for eighteen Months sued for nothing, was quite easy, and amused my Client as long as he could with his Proposals: At last he peti-

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tions

* The printed Copies all read *Utebatur populo sane suo*, and all the Commentators have told us the Meaning is, that *Alphenus* made use of his Interest with the People to combat his Adversary. The Commentary of *Manutius* upon this Passage is, *Suo* (says he) *sui studiose, qui cuperet cum vincere uti populus in Gladiatorum pugna uni potius quam alteri favere solebat*. Speaking of the next Sentence, *Petero* *trivis enim pugna populo non placebat, itaque oderat eos qui nimium eripiendæ vitæ cupidi, caput in pugna petebant*. *Hottoman* very justly observes, that there is a Pun in the Words.

tions *Cn. Dolabella*, the Prætor, that *Quintius* should put in Bail for the Action, according to the Rule by which he required of him, "The Goods of the Person which he had possessed for thirty Days, by virtue of an Edict of a Roman Prætor." *Quintius* did not refuse to submit to put in Bail, if it was found that the Goods were possess'd by Edict. A Rule was made for that Purpose; with what Justice I shall not pretend to say; only I will venture to say it was unprecedented; and even this I should have chosen to conceal, because both will be sufficiently understood by every Person. He orders *P. Quintius* either to put in Bail or to lodge a Deposite along with *Sextus Nævius*, in case it should be found that his Goods had been possess'd for thirty Days by the Edict of the Prætor *Burrienus*. They who appeared then for *Quintius* demurr'd to this; they shew, That Judgment ought first to be given upon the Fact; that either both or neither of them ought to put in Bail; and that there was no Necessity the Reputation and Credit of one Party only should be put to the Trial.

Quintius himself besides insisted very loudly that he would not put in Bail, lest it should seem as if Judgment had gone against him, or that his Goods had been possess'd by an Edict; and, on the other Hand, should he lodge the Deposite,

site, that he would be obliged to do the very Thing now in question, that is, be the first to speak to a Matter that affects himself capitally. As Men in a high Sphere of Life, after they have once set out, whether it be upon a right or wrong Principle, persevere in either to a Degree which one of our humble Station cannot attain to; so *Dolabella* persists most manfully in the Wrong he had done. He orders Bail either to be given, or a Deposite to be lodged, and our Advocates, who were all this While demurring, to be chased away with great Roughness.

It must be owned, that *Quintius* went away in a great deal of Disorder, and no Wonder, since he was left to so wretched, so unjust an Alternative, as to own himself capitally guilty by giving Bail, or be obliged to speak in the first Instance* by lodging the Deposite. As in the one Case, there was no Manner of Reason why he should pass Sentence against himself, which is of itself the severest Kind of Judgment; and in the other, he had a Chance of coming before a Judge, who, the more he was unsupported would indulge him with the greater Favour, he chose to lodge the Deposite. He did so; he took you, *Aquilius*, for his Judge; he pleads to his Deposite; and in this consists the whole of this Cause and Trial.

You

You perceive, Sir, that this is a Trial not of a Matter of Money, but a Trial that affects the Fame and Fortune of *P. Quintius*. Tho' our Ancestors provided that the Man who spoke for himself in a capital Trial should have the Advantage of speaking last; yet we, by an unprecedented Malice of our Prosecutors, as you see, are obliged to speak first. Besides, you see those * who before used always to act in the Character of Defendants, now turn Accusers; and those Abilities which were formerly employed in preserving and assisting, now exercised for the Ruin of Mankind. There remain'd but one Thing which they put in Execution yesterday, and that was to summon you before the Prætor, † that you would limit the Time for making our Defence. This they certainly would easily have carried, had not you taken Care ‡ to instruct him in what your Character and Duty required. Nor was there any other Judge besides yourself by whom we could have made our Plea good against the Prosecution; nor were they ever satisfied with obtaining

* *Those*] Meaning *Hortensius*, who had seldom till then appeared in the Character of an Accuser.

† *Summon you before the Prætor.*] Tho' *Aquilius* was as it were President of the Court, or rather, Foreman of the Jury, in this Case, yet it appears that the Prætor had a Power to regulate the Forms of their Proceeding.

‡ *To instruct him.*] This is a Sneer upon *Dolabella's* Ignorance.

taining what they might justify to all the World: So weak, so mean do they think all Power to be, that is not Oppressive.†

BUT as *Hortensius* presses you to pronounce Sentence; and requires of me, that I would not consume the Time in talking; complaining, that while the last Counsel spoke in this Cause it never could come to a Point; I will no longer suffer that Suspicion to lie against us, as if we were unwilling that the Matter should be finally determined. I shall neither be so vain as to pretend that I can lay out the Cause to more Advantage than it has hitherto been, nor shall I use a great many Words; both because it has been already opened by the Gentlemen who spoke to it before, and because I, whose State both of Body and Mind * is such as that I can neither think nor speak long, am required to be very brief, a Circumstance extremely favourable to myself.

I WILL do, *Hortensius*, † what I have often observed you do; I will throw my whole Pleading into certain Divisions. This you always do, because you always can do it; I will do it upon this Occasion, because upon this Occasion I think I am able to do it. I have for
once

* *Body and Mind.*] Our Author, as he tells us in his *Brutus*, was then in a very weak State of Health.

† *I will do, Hortensius.*] Our Author here takes Notice of the affected Regularity for which *Hortensius* was famous in his Pleading. *Vid. Quintilian. Inf. l. 4. c. 5.*

once the same Assistance from the Nature of my Cause that you always have from the Excellency of your Parts. I will lay out certain Bounds and Limits to myself beyond which I cannot go, tho' I were ever so willing. Thus I shall have a regular Plan to speak upon, and *Hortensius* will have digested Matter enough to answer. And you, Sir, can already form some Conjecture as to the Matters that are to be laid before you.

WE deny, *Sextus Nævius*, that you possess'd the Goods of *Publius Quintius*, by virtue of any Edict from the Prætor; the Deposit was laid upon this Point. I will prove, in the first Place, that you had no Grounds for requiring the Prætor to put you in Possession of *Quintius's* Effects; Then, that you could not possess them by virtue of any such Edict; Lastly, that you did not possess them. I beg, Sir, that you and this Court of Assistants will be careful to remember what I have undertaken to prove; for you will thereby have a more clear Comprehension of the whole Matter; and it will be easy to check me by your Correction, should I attempt to transgress the Limits which I myself have fixed. I deny there was any Ground for his Petition; I deny that he could have possessed by the Prætor's Edict; and I deny that he did possess. When I have shewn these Points I shall finish my Pleading.

He had no Ground for a Petition! How can that be proved? Because *Quintius* never owed any Thing to *Sextus Navius* either upon a Company Account, or upon a separate Concern. Who is Evidence for this? Why our keen Antagonist. I say, *Navius*, I will produce you yourself as an Evidence for us upon this Point. My Client lived with you for a Year or more in *Gaul*, after the Death of his Brother. Prove that you ever required him to pay that *unaccountable*, monstrous Debt: Prove that you ever mentioned it: Prove you ever said it was due, and I will admit it to have been a fair Debt.

My Client's Brother dies, who you say ow'd you a large Sum upon the Balance of a vouch'd Account. My Client, who was his Heir, comes to yourself at *Gaul*, upon your common Estate, where not only the Effects lay, but all the Books and Papers relating to your joint Trade. Can we ever suppose a Man so heedless of his private Affairs, so unlike yourself, *Sextus*, as when the Effects were gone out of your Partner's Hands, and had fallen to his Heir, not to give the latter Notice; not to take the very first Occasion to summon him to make Payment, and balance Accounts: And if any Thing had been disputed, either to have made it amicably up, or tried the utmost Stretch of Law? Is it thus? Even what the best

best of Men act when they deal with their nearest and dearest Relations, whom they wish to live with Reputation in the World, shall *Sextus Nævius* refuse to do? He who is so stung with Avarice, so much a Slave to Money, as that he refuses to part with the smallest Share of his Advantages, lest he should leave some of them to do Credit to his own Kinsman.

AND shall such a Man not ask for his Money? One who, because he is not paid what never was owing to him, endeavours to deprive his Kinsman not only of his Property, but of his Blood and Life. Is it likely that you scrupled being troublesome to that Man, to whom you now grudge the common Air? You was once so shamefaced that you would not summon the Man whom you now unnaturally seek to murder. * Belike you was unwilling or afraid to summon your Kinsman, one devoted to you, a Man of Worth, of Modesty, and of more Years than yourself. But, as usually happens, after you had reason'd yourself into Resolution, after you was determined to mention the Money, when you were come prepared and ready, like a bashful Creature as you was, your Virgin Modesty checked you all of a sudden; your Speech failed you, and when you wanted to ask him for the Debt, you durst not, for fear he should hear
some-

* The Reader will easily see, that this is Irony, and of the strongest kind.

somewhat that should not please him. This to be sure was the Truth of the Matter.

LET us then suppose that *Sextus Nævius* was tender of shocking the Ears of the Man whose Head he is now seeking. Had he ow'd you any thing, *Sextus*, you would have made an immediate Demand, if not immediately, at least soon after; if not soon after, yet some time or other; supposing half a Year; in a whole Year you certainly would; but eighteen Months past, during which you had daily Opportunities of mentioning the Thing to your Friend; yet not a Word of it: And now that two Years are almost out, shall you sue him! Is there a young Heir, even before his Estate is dissipated, and while he is flush of Money, so heedless as *Sextus Nævius* then was? The very mention of the Man seems sufficient for my Purpose.

C. Quintius was in your Debt; you never asked him; he died, his Estate came to his Heir; and tho' you was with him every Day, for almost two Years, you then sue him at Law. Will it admit of a Doubt, whether it is more probable that *Sextus Nævius* would have sued him immediately, had any thing been owing to him; or that he would not even have asked for it in two Years? Had not you Time for demanding it? Yes, he lived more than a Year with you. Could not the Action have been carried

carried on in *Gaul*? Yes, there were both proper Courts in the Province, and the Law was open at *Rome*. So that in short, you must have been prevented either by the most inexcusable *Negligence* or unparalleled *Generosity*. If you plead *Negligence*, we shall wonder; if *Generosity*, we shall laugh: But I can't find any other Motive you could have.

THERE needs no other Argument to prove that nothing was owing to *Nævius*, than his being so long without asking for it. But supposing that I should bring his present Proceeding as a positive Evidence, that nothing was owing to him? For what is *Sextus Nævius* a doing now? What is the Subject of Dispute? What have we been trying for these two Years? What is the mighty Affair that has fatigued so many and such worthy Men? He demands his Money; what! never till now? That is not to the Purpose! Let us hear what he has to offer,

HE wants that the Accounts and Differences of the joint Trade should be settled. It is a little with the latest; however, better late than never. Be it so. But, Sir, says he, that is not my Business at present; that is not what I now aim at. *P. Quintius* has had the Use of my Money for so many Years: I am contented; let him use it. Then what do you contend for? Is it, as you have own'd in many Places,
that

that he may be banished this State? That he may not obtain that Rank which he has hitherto reputably maintained? That he may be numbered among the Dead? That he may be obliged to fight for his Life and all his Honours? Is it that he may be the first to plead his own Cause before the Judge, and when his Pleading is over that he should then, and not till then, attend to the Charge of the Prosecutor? But how! What Purpose will this serve? Will it enable you to come more speedily to your Right? But if this was all your End, you might have obtained it long ago.

WAS it that you might dispute the Matter by a more honourable Form of Proceeding? But it is impossible even for you, without an Imputation of the deepest Dye, to commit Murder upon the Person of *P. Quintius*, your Kinsman. Was it to facilitate the Trial? But *Caius Aquilius* takes no Pleasure in capital Trials; nor is *Q. Hortensius* accustomed to plead upon capital Indictments. But what do we answer, Sir? He demands his Money; We deny that we owe him any. Then we shall join Issue directly: With all our Hearts. Any thing besides? If he is afraid, that after Judgment is given, the Effects will not be forth-coming, then let him take the Security which we now offer him:

And let him put in Bail in the very same Terms, for my *Claim* that I put in for *his*. This, Sir, would bring the Affair to a short Issue, and you might now be at Liberty to go out of the Court released, I had almost said, from as great Perplexity as is that of *Quintius*. What are we doing, *Hortensius*? Why do we plead upon these Terms? Shall we never be able to ground our Arms, and, without risking our Fortunes, dispute about a Money-Matter? May we not pursue our Interests so as not to affect the Life of an innocent Relation? May we not support the Character of a *Plaintiff*, and lay aside that of an *Impeacher*? No, says he, I will have Bail from you, but will put in none myself.

BUT give me Leave to ask, who has made this fair Allotment of the Terms upon which we are to proceed? Who has laid it down, that the same thing should be equitable as to *Quintius* and unjust as to *Nævius*? The Estate of *Quintius*, says he, is seized by the Prætor's Order. So you beg a Question, that we may in our Plea admit a thing to have happened, tho' we are now contending that it never did happen. Can no Rule, Sir, be laid down by which a Man may come to his own without branding, disgracing, or ruining another? If any thing had been due to *Quintius*, he should have sued for it, and not have chosen that all the Forms of
Law

Law should be gone through rather than * the single one that has given Rise to all this Prosecution. *Nævius* for Years together never called upon *Quintius* for Payment, tho' he had daily Opportunities of doing it. Ever since he began † this unreasonable Suit he has trifled away the whole Time in putting off the giving Bail. After he had withdrawn his Recognizances he fell upon Tricks to drive my Client from the joint Estate. When nobody opposed his endeavouring to recover his own Right by a civil Action, he chose to put in Recognizances, and to enter an Action of Fraudulency. After he is called upon to abide by that Court, which gives Rise to all the present Proceedings, he rejects that most equitable Proposal, and thereby owns that it is not *Money* he wants, but *Blood*. Does not a Man who acts in this Manner avow publicly, *Had any thing been due to me I would have sued for it, and would have carried it off long enough ago. I never would have carried on so troublesome an Action, nor have entered into so invidious a Suit, nor have brought down so numerous an Appearance of Friends, had I been barely a Plaintiff. An unjust Debt must be extorted by Force and with Ill-will: It must be wrested, it must be*

X 2

squeezed

* *The single one.*] He means the *Judicium pro socio*, which, had it been determined in favour of *Nævius*, would have brought him to what was due to him without any farther Trouble on either Side.

† *This unreasonable suit.*] Orig. *Malè agere cœpit.*

squeezed out of him: P. Quintius must be stripped of all his Fortunes: All my powerful, my eloquent, my noble Friends must be engaged to appear in Court: The Law must be tortured into my Purpose: Menaces must fly, Dangers must be threatened, and Terrors must be contrived, that he may be daunted and frighten'd, and of himself give up his Fortune.

AND indeed all these Consequences seem present, imminent and inevitable, when I see who are my Client's Antagonists, and consider the Appearance upon those Benches. But when I recal my Eyes, and Attention to you, Sir, I conclude that all these Circumstances will have the less Weight and Strength with you, in Proportion to the Eagerness and Zeal with which they are managed. You yourself *Nævius* own that *Quintius* owed you nothing: But what if he had owed you? Would that have been any Reason for your instantly suing for the Possession of his Estate before the Prætor? I take it, that such a Proceeding is both against Law, and even against his own Advantage. What then are his Allegations? *His Recognizances*, he says, *are forfeited by his Non-Appearance.*

BEFORE I shall prove that this is not the Case; give me Leave, Sir, to consider the Matter itself, and the Proceeding of *Sextus Nævius* at the same time, upon the Principles of common

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mon Humanity, and the Practice of Society. You say,* that he has not appeared to his Recognizance; *Who has not?* The Man with whom you are connected by all the Ties of Affinity and Partnership; in short, by all the social Duties, and by a long subsisting Relation. Was it proper that such a Man should instantly apply to the Prætor? Was it equitable to make an immediate Demand to have Leave to possess his Goods by an Edict? Did you hurry to these last and most violent Measures on Purpose to exhaust all the Severity and Cruelty which you could employ afterwards? For what could happen more disgraceful, more wretched, or more bitter to any Man? Was it possible for any greater Disgrace to be devised, or any so affecting Calamity invented? If Fortune † or Violence subjects any Man to the Loss of Money, provided his Character remains unstained, his Character will easily prove a Consolation to him in his Affliction. Again, a Man who is either *disgraced with Infamy*, or *convicted upon an Impeachment of Scandal*, may subsist upon his own Means, without being

X 3

obliged

* *You say.*] I don't know what *Grævius* meant here by reading for *ut, ait*.

† *If Fortune.*] There is a fine Gradation here; A Man may be poor, and yet have the homefelt Satisfaction of Mind that he stands fair to the Eye of the World; a Man may be infamous, and yet he may be rich, and live comfortably upon what he has; but *Quintius* in this Case is in hazard to be both *poor* and *infamous*.

obliged to have Recourse to that mortifying Circumstance of being relieved by another, and still his Calamity is lightened by this Support and Reflection. But the Man whose Estate is sold, whose rich Possessions, nay, even whose Apparel and common Necessaries of Life are put up, with every Circumstance of Ignominy, by the Voice of a Cryer, such a Man is not only expelled from the Number of the Living, but, if possible, is condemned to a Condition even below that of the Dead. For a generous Death * often sets off a scandalous Life; but a Life so disgraceful as this, leaves no Room even for a generous Death. Give me Leave to say then, that if a Man's Estate is seized by an Edict, all his Reputation and Character goes at the same Time with his Estate.

* *A generous Death.*] All the Commentators and Editors of Cicero's Works have read this Passage in the following Manner. *Mors honesta sæpe vitam quoque turpem exornat, vita turpis ne morti quidem honestæ locum relinquit;* and the greatest Friends of our Author have blushed for the Ridiculousness of the Sentiment. But by admitting a very simple Correction, it may be reconciled not only to Sense, but it becomes a very pathetic Reflection. The Mistake of the Reading here has probably been occasioned by an Alteration or Repetition of the three Letters, *i, t, a*, which the Transcribers thinking to be a Mistake, wrote *Vita*, instead of *Vita ita*. In this Sense I have translated it, and it is thereby of a Piece with all the Reasoning of our Author upon this Passage, in which he supposes a Person under such unfortunate Circumstances to be worse than dead; *Huic enim, says he, acerbissimum vivo videntique funus ducitur.*

Estate. The Man who is publicly advertised in the most frequented Places, has not even the poor Privilege of dying in Silence and Obscurity. Such a Man has Directors and Commissioners appointed, who are to prescribe to him the Conditions, and the Terms of his Doom. The Man who is published and appraised by the Voice of a Cryer, lives to see his own untimely and melancholy Funeral pass along; If we can call that a *Funeral*, where, instead of Friends meeting to pay their last Duties, the *Brokers* of Estates alone meet like Executioners to *draw* and *quarter* the wretched Remains of his Life.

OUR Ancestors therefore, willing that this should seldom be the Case, have provided that the Prætors should proceed with great Deliberation. Men of Worth, when a Debt is positively denied, or when they have no Opportunity of trying it at Law, fall into this Expedient cautiously, and Step by Step; They are dragg'd into it by Force and Necessity, and not till many Recognizances have been forfeited, and themselves abused by repeated Tricks and Evasions. For they consider what an important, what an heavy Thing the Proscription of another Man's Goods is. There is no Man of Virtue who would chuse to cut the Throat of his Fellow Citizen, tho' he could do it by Law. He will chuse that it should be talked

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of, that he *spared* where he could *destroy*, rather than that he *destroyed* when it was in his Power to *spare*. Such is the Conduct of Men of Virtue, towards even the meerest Strangers; nay, to their greatest Enemies, both that they may consult the Fairness of their own Character amongst Men, and the Sentiments of common Humanity; with this View, that as they have not *knowingly* distressed any of their Fellow-Creatures, such Distress may never be retaliated upon themselves.

He did not appear to his Recognizance: Who? Your Kinsman. Supposing that this in its own Nature was an Affair of very great Weight and Importance, yet the Duty of that Relation which subsists betwixt you, ought to alleviate the Charge. He did not appear to his Recognizance; Who? Your Partner. You ought to make greater Allowances than even this to a Man with whom you had been either connected by Choice, or joined by Fortune. He did not appear to his Recognizance; Who? The Man who never was out of your Company: For this Reason, you have levell'd at the Man who has once fallen into the Mistake of not being in your Company, all those Weapons that were intended against those who have been guilty of notorious and frequent Bankruptcies.

SUPPOSING, *Sextus Nævius*, a Question should arise upon your Poundage,* supposing that you were suspicious of being tricked † in some Trifle or other, would you not instantly have Recourse to *Caius Aquilius*, or some other noted Council? But when the Duties of Friendship, Society, and Relation were in Question; when the Practice of your Duties as a Man of Character and Reputation were to be consulted, at such a time, so far was you from consulting *C. Aquilius* or *L. Lucullus*, that you did not even consult yourself; you made not even a Reflection: You did not say to yourself, ‡ *The two Hours are past, and Quintius has not appeared*

* Poundage] Orig. *Dupondius*, which signifies the Money which a Broker has for disposing of another's Property; so much *per Cent.* or *per Pound.*

† *Being trick'd.*] Orig. *Captio* is *aliquid verere*. *Captio*, in the Civil Law, is a Fraud by which Loss arises to another. There is somewhat like this Expression among the Vulgar in England, when they say a Man is *taken in*, or *a Take in*.

‡ *The two Hours are past.*] The Commentators have an excellent Knack when they don't understand the Reasoning of our Author, to throw it all upon ORATORIAL LICENCE, *Oratoris Dictum*; which they apply in classical Learning, in the same Manner as our Schoolmen did their *Occult Qualities* in Natural Philosophy. *Grævius* agrees with *Manutius* in explaining this Passage, and the latter says, that our Author *spoke oratorially*; that is, *made a Lie in the Face of the Court*, because, says he, *the Recognizances must have been forfeited four Days at least, which Cicero contracts into two Hours or less.* But in Reality, our Author in this Place does not speak that the Recognizances

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peared to his Recognizance; How shall I proceed? By Heavens! had you only but dropt those two Words in debate with yourself, *How shall I proceed?* your Covetousness and Avarice would have relented a little. You would have made some Allowances to *Decency* and *Prudence*; you would have recollected yourself and not have behaved so scandalously, as to make an open Confession before those honourable Persons, that you took your Measures the very Hour your Adversary did not appear, how you might utterly ruin the Fortunes of your Kinsman.

I NOW, in an Affair which is over and foreign to me, enter into those Considerations for you, which, while they were seasonable, you forgot to enter into yourself. Give me Leave to put the Question to you, *Cuius Aquilius,*
L. Lu-

nizances had been forfeited for a longer or a shorter Time; the *two Hours* he mentions here, are the two Hours in which the Prætor sat in Judgment, during which Time *Quintius* did not appear. The Question here is not whether *Nævius* had waited four Days, or two Hours, before he proceeded to Extremities; for our Author does not put it at all upon that Footing. He says, soon after, that *Nævius* had fallen into a palpable Falshood, because it was impossible for *Quintius* to have entered into any such Recognizance at all; for he went from *Rome* for *Gaul* the last of *January*, and *Nævius* said the Recognizances for their Appearance were drawn up the 5th of *February*, and *Cicero* accordingly reasons from this *Nonis Feb.* (that is, the 5th of *February*) *Romæ si fuit causæ nihil dicimus quin tibi vadimonium promiserit.*

for **QUINTILIUS** 815

L. Lucullus, P. Quinctilius, and M. Marcellus. A Partner, and a Relation of my own, with whom I had liv'd long in Intimacy, has not appeared to his Recognizance; and a fresh Dispute happens upon a Matter of Money, am I to petition the Prætor for Leave to seize his Goods; am I not rather to * give him Notice at his own House, as he has a Family, a Wife and Children in Town? In what Light does this Matter appear to you? I will venture to say, that if I am not very much mistaken in the Opinion I have of your Good-nature and Conduct, I am not much at a Loss to find out what your Answer would be, if you were asked. In the first Place, *to wait a little*; and then if the Debtor should abscond, or seem to trifle with you, to have a Meeting of Friends, to ask who is his Attorney, to leave Notice for him at his House: It can scarce be express'd how many Answers ought to be given, before you should proceed to this last and unavoidable Step.

WHAT does *Nævius* say to all this? Why, he laughs at our Folly, for expecting from his Morals the Practice of the highest Duty, or the Maxims of good-natured Men. *What have I*
to

* Give him Notice.] Orig. *Denunciare*, which was a Technical Term in the Roman Law, exactly corresponding to our Lawyer's Expression of giving Notice.

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to do, says he, with these scrupulous Qualms of Conscience, and with all this cautious Conduct? Let the Men of Virtue look to these Duties, but they should look upon me in another Light; they should enquire not into my Wealth, but into the Means I took to amass it; I remember the Circumstances of my Birth, and the Principles of my Education. It is an old Saying, "That it is much easier to make a rich Man, than an honest Man, of a Buffoon."

SUCH are his Declarations, in effect, tho' he is afraid to own them in express Terms. For if he desires to live in the Character of a Man of Worth, he has a great deal to learn, and to unlearn, both which are extremely difficult at his Years.

I did not boggle, says he, when the Recognizance was forfeited, to proscribè the Goods. Unconscionable Rogue! we admit it, since you arrogate this to yourself, and make it a fundamental Principle of Conduct. But what if he never did forsake his Bail? What if all this Plea is a most knavish Forgery of your own? What if no Recognizances ever subsisted betwixt you and P. Quintius? What Epithets shall I then find to fit you? An unconscionable Fellow? But you proved yourself the most eminent of all Rogues, even supposing Quintius had not appeared to his Re-
cogni-

cognizance, by that Petition of yours, and by the Proscription of his Estate. Shall I call you a *crafty Villain*? That you don't deny. A *Trickster*? That is a Character you claim and glory in. Shall I call you *audacious, avaricious and perfidious*? These Terms are all of them *old and obsolete*; whereas this Matter is *new and unprecedented*.

WHAT Term then shall I use? By Heavens, I'm afraid that they will be either too harsh for my Nature, or too gentle for this Cause. You say, that the Recognizances were forfeited.* As soon as *Quintius* returned to *Rome*, he asked of you to tell him for what Day the Recognizances were made; you instantly answered, on the fifth Day of *February*. When *Quintius* was gone, he began to recollect the Day on which he set out from *Rome* to *Gaul*: He immediately goes to his Journal, and finds the Day, in which he set out, to be the last Day of *January*. If on the fifth of *February* he was at *Rome*, we shall admit that he entered into this Recognizance with you.

But how can this be found out? *Lucius Albius*, a Man of the strictest Honesty, set out along with him in his Journey. He will give his Evidence: Some Friends to both *Albius* and *Quintius* followed them. They too shall be
exa-

* See Note, Page 313 and 314.

examined as to this. The Letters of *Publius Quintius*, and so many Witnesses, who had all the strongest Reason to be informed as to this Fact, and against whom there lies no Grounds of Suspicion of their prevaricating, shall be confronted with your Friend, who was your Voucher at the Contract.

AND shall *Publius Quintius* be under any Difficulties in a Cause of this Nature? Shall he any longer pass his wretched Time in so much Fear and Danger? Shall he be under a stronger Dread from the Interest of his Antagonist, than he has well-grounded Confidence in the Integrity of his Judge. For he has always lived in a rude unpolished Manner; his Temper was melancholy and dark; he never frequented the *Forum*, the Field or Feastings: His main View has been to preserve his Friends by his respectful Behaviour, and his Estate by a frugal Oeconomy. He lov'd the good old-fashioned Way of living, tho' all its Beauty is now obscured by our new-fangled Modes. Even suppose in a Cause wherein the Merits are much alike, if he seem'd to come to the worst, that would be Matter of Complaint. Now that he has superior Merits on his Side, he does not contend to be even on a Level; he submits to come to the worst, only with this Provision, that he be not given up to the Passion and Cruelty of

Sextus

Sextus Nævius, together with his Estate, his Reputation, and all his Fortune.

HAVING proved, Sir, what I first undertook, that there was no Manner of Ground for this Petition, both 'because no Money was owing, and tho' it had been owing ever so justly, nothing had been done by my Client, that could serve as a Foundation for proceeding in this Manner; give me now Leave, to call for your Attention, while I prove that the Estate of *P. Quintius* could by no Means be seized by the Prætor's Edict. Read the Words of the Edict.* THE MAN WHO SHALL ABSCOND OUT OF A FRAUDULENT INTENTION. *Quintius* does not fall under this Description, unless they be said to abscond who set out on a Journey on their own Affairs, after having appointed their Attorney. THE MAN WHO HAS NO HEIR. Neither is that *Quintius*. WHO IS BANISHED FROM HIS COUNTRY.
* * * * *

A Chasm.

TELL me, *Nævius*, at what Time, or in what Manner do you think *Quintius* ought to have

* *The Words of the Edict.*] There is some Difference here among Commentators about these Words of the Edict; all that is material for an *English* Reader to know, is, that it was understood by the *Roman* Law, that a Man might abscond, but that it was the *Fraudationis Causa*, only that inferred the Penalty and the Infamy.

have been defended in his Absence? At the Time when you put in a Petition to seize the Goods? Nobody was there, for Nobody could guess that you was to present any such Petition, nor could it serve any Purpose to oppose a Thing which the Prætor had not commanded *absolutely to be done*, but that it *should be done according to the Tenor of his Edict*.

WELL then, what was the first Opportunity the Attorney had of defending his absent Client? At the Time when you were proscribing him? Why, *Sextus Alphenus* was there for that very Purpose. He did not suffer you to go on: He pulled down the Bills.* The first Step which it was the Duty of an Attorney to take, was observed with the greatest Exactness. Let us see what happened afterwards. You seized a Servant belonging to *Publius Quintius* in public; you endeavoured to carry him off. *Alphenus* would not suffer you, he retakes him from you by Force, and sees him conveyed back to his Master's House. Here is another Step taken which precisely belongs to the Duty of an exact Attorney. You say, that *Quintius* owes you Money; his Attorney denies he does. You want him to put in his Recognizance; he agrees to do it. You call him

* *This Bill* } Meaning the Bills that were put up to denote the Proscription, somewhat like our advertising Bankrupts in the *Gazette*.

for QUINTUS

him into Court; he follows you. You crave Judgment; with all his Heart. If this be not defending a Man in his Absence, I am ignorant what is. But who was this Attorney? Will you pretend that he was a vagabond, beggarly, litigious, trickling Fellow, one who could every Day be the standing Jest of some rich Buffoon. So far from it, that he is a wealthy Roman Knight, a Man of great Oeconomy in his own Affairs; in short, he is the Person whom *Nævius* always, when he went to *Gaul*, left as his own Attorney at *Rome*.

AND dare you, *Sextus Nævius*, deny that *Quintius* was defended in his Absence, when the very Person who defended him used to defend you? When the very Person who stood Judgment for *Quintius* was he, to whom, when you went from *Rome*, you used to recommend and entrust your Estate and Reputation? Shall you then pretend to say that nobody appeared to defend *Quintius* in Court? *I required him*, says he, *to put in Bail*. The Request was unjust; * it appear'd so to *Alphenus*, and therefore he refused it. *Nay, but the Prætor ordered it*. Why, this

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Y

was

* *It appeared so.*] The Commentators have been very much puzzled about this Passage. In the Edition of *Grævius*, the whole of it stands as follows.

Postulabam, inquit, ut satisfaceret Insuperia postulabas, Jubebare: Recusabat Alphenus. Ita: verum Prætor decernebat: Tribuni igitur appellabantur.

Instead

was the very Reason that the Tribunes were appealed to. Now, says he, I have you: *When you have Recourse to the Assistance of the Tribunes, you, in effect, refuse to stand to Judgment, or to put in your Defence in Court.* When I consider this Argument, I cannot imagine that a Person of so good Sense as *Hortensius* has, will make use of it. Yet when I hear that he has already advanced it; and when I consider, the Nature of the Cause itself, I cannot think of any thing else

Instead of *Jubebare*, *Minutius* reads *Jubebat Prætor*; *Hottoman*, *Lambinus*, *Grævius*, and the *Dauphin's* Commentator, approve of *Jubebare*, *Fregius* of *Jubebatur*; all of them being under the Mistake that our Author supposes these Words to be in the Mouth of *Nævius*. I must however take notice, that the common Copies read *ita videbare*; in which there can be no manner of Meaning: And, as to the Alteration to *Jubebare*, it is too bold. I should be therefore of the Opinion with the learned *Facciolati*, to read *ita videbat*. The Mistake of *videbare* for *videbat* might very readily happen, by the Transcribers joining the first Syllable of the succeeding Word to *videbat*: But that the Reader may see the Sense of our Author according to this Alteration, I will give him the whole Passage in a kind of Dialogue.

Nævius. Postulabam ut satisfaret.

Cicero. Injuria postulabas, ita videbat, recusabat Alphenus.

Nævius. Ita verum Prætor decernebat.

Cicero. Tribuni igitur appellabantur.

Nævius. Te tenco: non est istud, judicium pati, neque jus defendere, cum auxilium a Tribunis petas.

This very simple Alteration, by rendering the Sense clear and consistent, prevents both the Nonsense of the common Reading *videbare*, and our having Recourse to the too bold and unwarranted *jubebare*.

he can say. For he admits that *Albanus* pull'd down the Bills, that he offer'd his Recognizance, and that he did not refuse to abide by Judgment in those very Terms that had been preferr'd by *Nævius*; provided, nevertheless, that according to Usage and Practice it was to come from the Magistrate, to whom he is by Law directed to appeal. Either you must say these things are not Facts, or that such a Man as *Aquilius* shall upon his Oath lay it down in this City as Law, That the Man, whose Attorney shall not abide by *all* Judgments, in whatever Terms they are drawn up for his Opponent's Interest; That the Man whose Attorney shall dare to appeal to the Tribunes of the People, that such a Man is not defended; That his Goods may be legally seized; and that it is lawful to strip such a Person in this forlorn State, in his Absence, and ignorant of what concerns himself of all his Fortunes, of all the Ornaments of Life, in the most disgraceful, ignominious Manner: If this can be proved to nobody's Satisfaction, then surely it must be proved to the Satisfaction of all the World, That *Quinti*us in his Absence was defended in Court. And this being so, then the Goods were not seized by an Edict. But, say you, the Tribunes of the People did not so much as hear the Cause. If this was the Case, I admit that the Attorney ought to have submitted to the

Decree of the Prætor. What if *M. Brutus* openly said, that he would interpose, unless Matters were made up betwixt *Alphenus* and *Nævius*, will it then appear that the Appeal to the Tribunes was brought not in a regular Manner, but in order to favour *Quintius*?*

WHAT happened next? *Alphenus*, that all the World might see that *Quintius* was defended in Court, and that not the least Suspicion might lie to the Prejudice either of his own Duty as an Attorney, or of *Quintius*'s Character as a Citizen, calls in a great many Men of Credit. He desires them to bear Witness in the Hearing of *Nævius*, that, in the first place, according to the common Friendship subsisting betwixt them, he begs there should be no Attempts to carry on any severe groundless Proceedings against *Publius Quintius* in his Absence: But if he should most spitefully and maliciously persevere in the Prosecution, that he was ready to maintain, by all honest and honourable Means, that the Money sued for was not

* *To favour Quintius.*] Because *Nævius* said, that the Appeal to the Tribunes was a Trick of *Quintius*; in order to elude the Execution of Judgment, in the Manner I have translated it. *Cicero* by this Interrogation exposes the Reasoning of *Nævius*. *Lambinus* and *Grævius* read *Mora* in the Original, instead of *Mors*. If this Alteration is admitted, then *Cicero* means the Interrogation as enforcing his own Reasoning; and the Sense will be, Will it then appear that this Appeal was a mere Chicane to put off Time, and not a regular Step to serve my Client? The Reader may take which Sense he pleases.

not due, and that he would abide by the Judgment which the other had craved. A great many Men of Credit sign'd an Instrument in these Terms and Conditions. It was impossible the Thing could be doubted. The Fact is, That *Alphenus* promises *Nævius*, that *Quintius* should be forthcoming while all Matters were yet entire, and before the Goods were either proscribed or seized. *Quintius* appears to his Recognizance. The Thing lies over for two Years, by the trifling Delays of *Nævius*, till such Time as he found by what Means the Affair must get out of the common Track of Business, and the whole Matter be confined to this single Point. What Part of an Attorney's Duty is it possible to mention, that appears to have been omitted by *Alphenus*? What Reason is assigned for denying, that *Publius Quintius* was defended in his Absence? The same, to be sure, that I imagine *Hortensius* will advance, because he has thrown it in lately, and because *Nævius* is perpetually harping upon it, that *Nævius*, at such a Juncture, and under such a Government, stood a very poor Chance for Justice against *Alphenus*. Supposing that I should admit this: Then I conceive they must allow, that *Quintius* was not without an Attorney, only, that this Attorney happened to be in Favour. It is enough for my Purpose, that there was an Attorney, with whom he could

have tried the Matter at Law. In my Judgment, it is nothing to the present Case, what the Character of this Attorney was, provided he defended his Client according to Law, and by a Magistrate. Nay but, says he, he was of that Party. To be sure he was, the Man who was educated in *your* House; the Man whom *you* had so trained up from a Boy, as not to yield even to a Gladiator of Quality.* *Alphenus* pleaded for the same Thing which you have always most earnestly desired; he has been equally zealous with you in that Matter. But, says he, he was intimate with *Brutus*, therefore *Brutus* interposed. You, on the other hand, was intimate with *Burrienus* who gave this iniquitous Decree. In short, with all those who at that time could do every thing by Strength and Violence, † and who da'ed to do all

* *Gladiator of Quality.*] Orig. *quem tu a puero sic instituisse ut nobili ne Gladiatorum quidem cederet.*

There is here a Play upon the Word *Nobilis*, and likewise an Allusion to the Person and the Manners of *Burrienus*, which very much resembled those of a Gladiator. So that *Nobilis Gladiator*, is either a Gladiator among the Nobles, who were generally of *Sylla's* Party, or a Gladiator of the first Rank in his own Profession, as our Author hints *Burrienus* to have been.

† *All those who at that Time could do every thing by Strength and Violence.*] All the Commentators who have touched upon this Passage, imagine, That our Author here means the Party of *Sylla*; because, say they, *Burrienus* was of that Party, and *Nævius* of that of *Marius*. But this Interpretation is subject to unsurmountable Difficulties;

all that was in their Power to do. But you wished those to conquer who now labour so much that you should be Conqueror. Don't venture to say this publicly, but to those Gentlemen whom you have brought into Court upon this Occasion. But I am unwilling to renew the Mention of a Thing, which, in my Opinion, ought to be absolutely rooted up and erased.

I will venture to say one Thing; If *Alphenus* was powerful by his Attachment to his Party, *Nævius* was a great deal more so. If *Alphenus*, upon the Strength of his Interest, requested what was a little unjust, *Nævius* obtained Things that were much more so. For,

Y 4

in

difficulties; because at that Time, it is plain from History, the *Marians* had the Upper-hand. *Hottoman*, to reconcile the Difficulty that is here, reads the next Period thus, *An omnes tu istos vincere volebas, qui nunc tu ut vincas tantopere laborant.* Thus, says he, it becomes a Figure of Speech, called *Antanaclassis*; that is, where the Meaning is different from the Expression, but there is no Occasion for all this Refinement; the *Omnium denique illorum*, in the Original, refers evidently to the *Marians*, of which Party *Nævius* was, tho' afterwards he shamefully went over to those of *Sylla's* Party.

Our Author's Reproach here, therefore, is very strong; "You are, says he, a Friend to the insolent *Marians*; but you say, 'I still in my Heart wish those of *Sylla's* Party to have the better.' Hush! that Evasion will do very well among your Friends who appear here, but if you shall own such a Thing publicly, we could soon convict you of the contrary." This renders the Sense plain and consistent: I have only ventured a small Alteration of *At* for *An*; both because it is much more agreeable to *Cicero's* Manner of speaking, and more consistent with his Reasoning.

in my Conception, there was no Difference in your Zeal, tho' you outdid him in Capacity, Experience and Craft. In short, it is sufficient to say, that *Alphenus* was destroyed with and for the Man he loved; but after your Friends could not get the better; you took care to make Friends of those who did. But if at that Time you thought you had not an equal Chance with *Alphenus*, because it was in his Power to appeal to a certain Magistrate * against you, because a certain Magistrate was found who would give the Plea of *Alphenus* a fair Hearing, what Measures is *Quintius*' to pursue on this Occasion? He who as yet has neither found an equitable Judge, nor has obtained the ordinary Verdict, who has neither had the Advantage of any Terms, any Bail, or any Petition; I don't mean a *just* one, but that ever had been heard mentioned before this Time. I desire to try an Affair of Money; *You are not at Liberty*: But that is the Point in Question. *I don't mind that, you must plead to a capital Prosecution.* We'l, since it must be so, lay your Charge: *That I won't*, says he, *unless you, contrary to all Precedent, first make your Defence.* *You must plead, the Time must be fix'd*
to

* *Certain Magistrate.*] In the Original, *Quia tamen aliquem contra te advocare poterat.* *Tamen* here seems to be an Expletive, as he says above, *Bonus fuis utitur, hoc tamen in miseris solatio subl.*

to our Contentment? the Judge himself shall be summoned? What then? shall you be able to find any Counsel so disinterestedly honourable, as to despise our pompous Appearance, and great Interest? Lucius Philippus,* a Man in the highest Esteem for his Eloquence, his Weight, and for his Rank in the State, will not strenuously for me. Hortensius, so eminent for his Abilities and Character, will plead for me. Men of the noblest Birth, and most powerful Interest, will appear for me: Men whose Numbers and Appearance will not only make Quintus tremble, who pleads to a capital Prosecution, but every Man who is even out of Danger. This, and not that in which you wrangled with Alphenus, is the unequal Struggle. You did not leave him a Place where he could appear to Judgment. You must therefore either make it appear, that Alphenus denied himself to be the Attorney, that he did not pull down the Bills, that he refused to abide by Judgment; or, if you admit all these, you admit that you did

* Luc'us Phi'ppus.] Our Author gives this Lawyer the following Character in his *Brutus*.

Sed tamen erant ea in Philippo, quæ qui sine comparatione illorum spectaret, satis magna diceret, summa libertas in Oratione, multæ facetiæ; satis creber in reperendis, solutus in explicandis sententiis; erat etiam in primis, ut temporibus illis, Græcis doctrinis institutus; in altercando cum aliquo aculeo & maledicèto facetus He likewise probably was the same Philippus, of whom Horace says,

Strenuus & fortis, causisque Philippus agendis
Clarus——

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did not seize the Effects of *P. Quintius* by any Edict.

FOR if you seized them by an Edict, give me Leave to ask you why the Goods were not sold? Why did not others, who were his Bail and Creditors, have a Meeting? Was there no body else to whom *Quintius* was indebted? Believe me a great many; because his Brother *Caius* had left some Debt when he died. What then was the Reason? All of them were entirely Strangers to him, and he owed them Money, and yet there was not a Man among them not so eminent a Scoundrel, as to dare to wound the Reputation of *Quintius* in his Absence. There was one Person indeed, *Sextus Nævius*, his Kinsman, his Partner, his Friend, one who was even indebted to him, who most eagerly contended as if he had been to win a mighty Prize of Infamy, that he might deprive his Kinsman, sunk and ruined by his means, not only of those Effects which he had honestly come by, but of that Light which is common to all Mankind. Where were the other Creditors at that Time? Nay, where are they now? Where is the Man who says that *Quintius* absconded to defraud his Creditors, or that he was not defended in his Absence? None. On the other hand, every Man who either had then, or has now an Account with him,

him, appears in Court in his Defence, and takes all the Pains he can, that his universally established Credit may receive no Diminution from the Treachery of *Sentus Novius*. In a Trial of this Nature, Witnesses ought to have been brought from amongst them, and each of them to have said, He has not appeared to his Recognizance with me; he has cheated me; * he begg'd a Day of me for the Payment of a Debt, says another, which he had denied. I could never have him summon'd, says a fourth, for he kept out of the Way, without leaving any Attorney. But we don't hear a Word of all this, they are preparing Witnesses to affirm it.

BUT we shall consider of that, when they have given in their Evidence. Give me Leave, however, to recommend one Thing to their Consideration, that the Weight that is due to their Evidences, can only be preserved by their preserving a Regard to Truth; but if they should neglect Truth, their Evidence would become

* *He begg'd*] In the Original, *Vandimonium mihi deseruit, me fraudavit; a me nomis ejus, quod inficiatus esset, d. em pet. vit.* This Passage may be understood in two Senses, the first is *Hottoman's*, who thinks the Sense to be, that after I proved a Debt which he denied, and was ready to obtain Judgment in my Favour, he begged that I would stop Proceeding, and allow him a farther Term of Payment. *Gravus* agrees to this Sense. The other is, that he begged that I would put off my obliging him to appear in Court for some Days. Either of the Senses will do.

become so slight, as to be a Proof to all the World, that a Friend's Character can be effectual only for proving the Truth, and not for supporting a Lie.

I will take the Liberty to put only these two Questions. In the first Place, By what means did it happen, that *Nævius* did not compleat his Business? I mean, why he did not sell those Goods that he had seized by an Edict? Secondly, Why not one out of all my Client's other numerous Creditors, not a single Man, came on that Account? So that you must necessarily admit, that there was not a Man among them so rash, and that you yourself was unable to carry thro' and compleat * the dirty Affair you had taken in hand.

BUT, *Sextus Nævius*, what if from your own Determination it should appear, that the Effects of *Publius Quintius* were not seized by an
an

* To carry thro' and compleat.] In the Original, *Neque eorum tam temerarium quemquam fuisse, neque teipsum id, quod turpissimum suscepisses, preservare, & transigere potuisse.* It is surprizing, that so learned a Man as *Grævius* should endeavour to persuade his Readers, upon the Authority of two Writers, who lived and wrote when the Purity of the Roman Diction was gone, that *Cuero* would use *perseverare* as an active Verb governing the Pronoun *id*. *Id perseverare*, he tells us, is the same Thing with what we commonly say, *In eo perseverare.* *Facciolati* very rightly thinks, that our Author makes use here of the Figure of Speech called *Zeugma*, by which the Verb *perseverare* is understood absolutely, and the Pronoun *id* is governed by the Verb *transigere*.

an Edict? I must conceive, that tho' your Evidence would have but little Weight in a Matter indifferent to you, yet that same Evidence has the greatest in an Affair of your own, because it makes against yourself. You bought the Estate of *Stetus Alphenas* of the Dictator, *L. Sylla*; you entered *Quintius* in your Books as your Partner of this Estate. I say no more. Can we imagine that you entered into a voluntary Partnership with the Man, who had defrauded you in an hereditary Partnership? Did you in your private Judgment approve, as unexceptionable, the Person whom you thought stript of his Reputation, and all his Fortune? By Heavens, Sir, I was under a Doubt, that I could not have Resolution and Courage enough to stand my Ground in this Cause. I was apprehensive, that as *Hortensius* was to plead against me, and *Philippus* was to sit attentively by, that Fear might make me fault in abundance of Circumstances. I used to say the same to *Quintus Roscius*, whose Sister is the Wife of *Publius Quintius*, when he begg'd with the greatest Earnestness, that I would defend his Kinsman; that it was exceeding difficult for me to plead so great a Cause, nay, so much as to open my Mouth against such Orators. When he insisted still more earnestly, I opened my Mind to him with greater Freedom, as he was my Friend,

and

and told him that a Man must be a very impudent Fellow indeed, who should make any Attempt to act when he was by. But that they who presume to rival him, lost all the Skill and Gracefulness they seem'd to possess before, and that I was afraid something like that might be my own Case, as I was to speak against so great an Artist: Then *Roscius* threw in a great many Arguments to persuade me; and, by Heavens, tho' he had not spoke a Word, yet the silent Expression of his Duty and Zeal towards his Kinsman, was sufficient to have moved a *Barbarian*: For tho' his Skill is such,* that

* *For tho' his Skill is such*] This is a Part of that fine manner of speaking, which has distinguished our Author from all other Writers either ancient or modern. Tho' I am far from thinking, that Figures of Speech, and fine Language are alone sufficient to form a good Orator; yet we may say of this, as our Author says of Education, in his Oration for *Archias*, See *Vol. 1. P. 141.* That when they were join'd to good Sense and noble Sentiments, then somewhat inexpressibly beautiful, something inimitably excellent is ever the Consequence.

As our Author seems to be particularly fond of this Figure, I will for the sake of my young Readers, and to prevent a Multiplicity of Notes upon this Subject, give him two or three Instances, in which he uses the same Figure, the right Study of which Passages will be of more use to him, than the most elaborate Rules of Grammarians.

In *B. 3d*, against *Verres*, speaking of one *Chilo* an Evidence, he says, *Qui isti ita amicus, et necessarius est, ut, etiamsi vir bonus non esset, tamen quod contra istum diceret, grave videretur; ita vir bonus est, ut etiamsi inimicissimus isti esset, tamen ejus testimonio credi deberet.*

In

that he seems the only Man worthy to tread the Stage, yet his Life is so amiable, that he alone appears worthy to be exempted from that Profession. But then, says he, supposing you had a Cause, in which you were to make it appear plainly, that no Man is able to walk seven hundred Miles in two or three Days; Would you be afraid to maintain such a Point against *Hortensius*? By no Means, answered L. But what is this to your Purpose? Why, says he, the whole Affair turns upon that, How? He then informs me of a plain Fact of that Kind, and of such a Proceeding of *Sextus Nævius* as ought to be sufficient, were there no other Proofs produced. Therefore, Sir, I beg of you and your worthy Associates, an earnest Attention to this Matter. Give me Leave to say, you will be convinced, that from the very Beginning of this Affair, Passion and Audaciousness has combated on the one Side, and Truth

In his Oration for *Cæcina*, speaking of *Aquilus* the Lawyer, he has the following Words, *Qui ita justus, & bonus vir est, ut natura, non disciplina, consultus esse videatur; Ita peritus, ac prudens, ut ex jure civili non sententia solum quadam, verum etiam bonitas nata esse videatur.*

In his Epistle to his Brother *Quintus*, Epist. 1. Book 1. *Cujus Natura talis est, ut etiam sine doctrina videatur moderata esse potuisse, ea autem adhibita doctrina est quæ utiosissimam naturam excolere possit.*

In one of his Epistles to *M. Brutus*, speaking of *Valerius Messala*. *Tanta industria est tantumque epigilet in studio, ut non maxima ingenti quod in eo summum est, gratia habenda videatur.*

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Truth and Modesty have to the utmost of their Power resisted on the other.

You petition to have Leave to seize the Goods by Edict. On what Day? I want to hear yourself speak, *Nævius*; I want it to be proved by the Mouth of the very Man who has acted in such an unprecedented Piece of Villany. Say, *Nævius*, mention the Day. The 9th of *February*. That's right. How far is your *Gallick* Estate from hence? I ask yourself, Sir, Seven hundred Miles. Right again. *Quintius* was ejected out of the Estate! Upon what Day? Pray, Sir, favour us with an Answer to that too. What, mute! I say, name the Day. The Man's ashamed to do it. I understand you. But his Modesty at present is both unseasonable and unprofitable. He was ejected, Sir, out of the Estate on the 12th of *February*. Two Days after, when supposing any one had instantly run from the Court, it had been impossible to have reached seven hundred Miles in three Days. How miraculous was this Dispatch! How blindfold this Passion, and how nimble-footed this Messenger! The Servants and Attendants of *Sextus Nævius* can run from *Rome*, over the *Alps*, and reach *Lions* in three Days. What a happy Man is he to have such Messengers, or rather such flying Horses at his Command? Here supposing that all the *Crassi*
and

and *Antonius*, whoever they be, come to start up; supposing that you & *Plautus* are to be down withed along with them, were it about the Cause, together with *Honorus*; yet here you are the better. For you are mistaken, if you think that every thing is to be done as you please. There are certain Frisks, or plainly concerning, that they can be invalidated by nothing. Give me Leave to ask you, whether before you petitioned for Leave to seize the Goods, you sent People beforehand, to take Care that the Proprietor should be forcibly ejected from his own Estate, and by his own Family? Take your Choice: The one Case is contrary to Credibility, the other to Honesty; and both hitherto unprecedented. Will you maintain that a Man could run seven hundred Miles in two Days? Speak out, You say, No. Then you sent beforehand. So much the better for me. For if you should insist upon the former, you must appear an impudent Liar. But when you admit of the latter, you make a Concession that you have done what cannot be palliated even by a Lie. Will so passionate, so rash, so audacious a Step, meet with Countenance from *Agricus* and his worthy Associates? What does this Rage, this Hurry, this Presumption, intimate? Does it not denote Violence, Villany, and Robbery? In short, every thing, rather than Law, Duty and Moderation.

You II

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out the Prætor's Order: With what View was that? Did you know he would order it? How! Could you not have sent off after obtaining the Order? You was to have moved for Possession; but when? Thirty Days after. Yes, provided nothing should hinder you, provided you remained in the same Thought, if you was in Health; in short, if you was alive. * But the Prætor would have given his Order. But I humbly conceive,

* But the Prætor would have given his Order: But I humbly conceive that was only if he pleased, if he was in Health, and upon the Bench, if nobody should demur by giving Surety in Terms of his Decree, and offer to stand to Judgment.

Orig. *Prætor jussisset; opinor, si vellet, si valeat, si jus diceret, si nemo recusaret, qui ex ipsius dicto et satisfact & judicium accipere vellet.*

Lambinus, Puffertius, and Grævius have followed one another contrary to all Manuscripts and Copies, by reading, *Si nemo recusaret QUIN.* But this is absolutely contrary to our Author's Sense, because it would make him say, *The Prætor ordered if any body was willing to put in Bail and stand to Judgment, &c.* whereas the true Case was this. The Prætor had ordered that *Quintius's* Goods should be attached, if there was nobody found to oppose this Decree by putting in Bail, and offering to stand Judgment. This being the true State of the Case, *Lambinus's* Reading must appear very ridiculous, and indeed neither agreeable to Sense or Language; because by reading *Quin* instead of *Qui*, the Sentence must stand thus, *Si nemo recusaret quin satisfacere vellet*; whereas the Usage of the Latin Tongue requires, *si nemo recusaret, quin satisfacere.* And *Lambinus* himself seems to have been sensible of this, by sinking the Word *vellet*. The Reader will please to observe, that the Word *recusare* was a Civil Law Term, which removes the Objection of *Lambinus* as to the Propriety of Language.

conceive, that was only if he pleased, if he was in Health, and 'upon the Bench, if nobody should demur, by giving Surety in Terms of the Decree, and offer to stand to Judgment. For, ye Immortal Gods! if *Alphenus*, the Attorney of *Publius Quintius*, had then offered you Security, and been willing to stand to Judgment; in short, if he had done every thing that you required, how could you have proceeded? Would you have recalled the Person whom you had dispatched to *Gaul*? But *Quintius* was by this Time driven from his Estate. By this Time he was driven headlong from his own domestic Deities; by this Time he had the cruel Indignity offered him, of being violated by the Hands of his own Slaves, by your Messige and your Order. To be sure you could have set all to Rights afterwards! And shall you presume to attack the Life of any Man? You who are first forced to admit, that you was so blinded by Passion and Avarice, as to found your Hopes of a present bad Action upon an uncertain future Event, tho' you was entirely ignorant of what might happen; and a great many Things might have happened. But all this I speak upon a Supposition,* that

Z 2

at

* But all this I speak upon a Supposition, that at the very Time, after the Prætor had ordered you by his Edict to seize the Goods; if you had seized them, that you either

at the very Time after the Prætor had ordered you, by his Edict, to seize the Goods, if you had seized them, that you either should or could have ejected *Publius Quintius* from his Possession.

THE whole Circumstances, Sir, of this Case are such, that any Man may easily see a knavish Interest contending with indigent Truth. In what manner did the Prætor order Possession? By his Edict, to be sure. What are the Conditions of the Deposite? UNLESS BY THE PRÆTOR'S EDICT THE EFFECTS OF *Publius*

either should or could have ejected *Publius Quintius* from his Possession.

Orig. Atque hæc perinde loquor, quasi illo ipso tempore cum te Prætor jussisset ex edicto possidere, si in possessionem mississes, debueris, aut potueris, P. Quintium de possessione deturbare.

This is a very difficult Passage, and none of the Interpreters but *Hottoman*, have cared to meddle with it; but I don't approve (however unwilling I am to differ from him, especially in any thing relating to Law) of his Interpretation.

In Cases of this Sort, there was a first and second Decree of the Prætor; by the first, he put the Party in a Power to possess, and by the other he gave him Leave actually to possess; which two Forms are used promiscuously by Orators. The first Decree was granted with a Power to detain the Goods, as appears both from the very Words of the Decree cited by *Cicero*, and likewise from *l. 12. D. quibus ex causis.*

Cum bona possidere Prætor permittit, non possidemus, sed magis custodiam rerum et observantiam nobis concedit; that is,

“ When the Prætor gives Leave to seize the Goods, we
do

lius Quintius ARE NOT SEIZED. Let us now see the Edict. In what manner does this order Possession? Can it be disputed, Sir, if this Person seized in Terms far different from those prescribed by the Prætor, that he did not then possess according to the Edict, and that I have cast him in this Trial? I will venture to say it cannot. Let us consider the Words of the Edict. THEY WHO BY VIRTUE OF MY EDICT SHALL COME INTO POSSESSION. He speaks of you, *Nævius*, in your own Opinion: For you say, that you came into Possession by virtue of an Edict. He points out what you are

Z 3

to

“ do not seize them; for he rather puts them into our
“ Custody and Keeping.

The second Decree was granted with a Power of actually possessing and selling the Goods; and he who entered into Possession, in consequence of this last, was called the *Possessor by Law*, as he who entered upon them by virtue of the first was termed the *Possessor in Fact*, as *L. 3. Sect. ult. de acquir. Poss.* *Nævius* therefore, as he had only obtained the first Decree, could not eject *Quintius*; but was only to be put in joint Possession with him to secure and detain the Effects, till having for thirty Days successively published Bills or Writs of Attachment, and no Security for Redemption being given, he might claim the second Decree, to empower him to enter upon the actual Possession of *Quintius's* Effects, and sell them.

Now let us hear *Hottoman* upon this: *In such Cases as this*, says he, *wherrin a Power was granted to take Possession upon the Defendants absconding, it was usual to pass out Decrees, according to Ulpian in L. Falcinius,*

Therefore, continues he, *these Words of Cicero, QUI FRAUDANDI CAUSA LATITET, are to be understood, not as founded upon Civil Law, but only an Artifice of*

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to do; he instructs, he directs you. IT IS ORDERED THAT THEY OUGHT TO BE PUT INTO POSSESSION THUS. HOW? WHAT THEY CAN EASILY SECURE UPON THE PREMISES, LET THEM SECURE ACCORDINGLY; WHAT THEY CANNOT, IT SHALL BE LAWFUL FOR THEM TO CARRY OFF AND LEAD AWAY. What follows? IT IS NOT OUR PLEASURE, says he, THAT THE PROPRIETOR SHOULD BE TURNED OUT AGAINST HIS

of the Orator; since it is a Contradiction to suppose that it might be allowable by Law to put a Man's Goods to Sale, when at the same time they had not a Right to eject him Thus he has Recourse to the never-failing *Salvo* of *Artificium Rhetoricum*, which I have already taken Notice of.

But indeed it would be carrying the Matter too far, to suppose, that Cicero would take the Liberty as an Orator, to urge an Argument so forcibly and plainly in Contradiction to Truth, against the express Tenor of the Law, and against the very Words of the Decree, *before such a Judge*, and when engaged with such Adversaries; for at that Rate there could be nothing so *extravagant*, but they might find a *Salvo* for *Oratorial Licence*.

But if *Hottoman* grounds his Supposition only upon the *Fulcinian Law*, and that in such Cases of *absconding*, the first Decree is sufficient for granting Possession, with a Power of Sale, and that consequently the second Decree was not necessary; our Author's Friends need not have Recourse to that Subterfuge; he is clear and consistent: For *Bruneman* in his Explication of this Law says, in Sect. 1. *The Lawyer begins to treat of the SECOND DECREE, to which all the following Clauses in this Law are to be referred, only we must except the last Clause upon which Bartolus says, The Prætor may decree, that in Cases where the Party is contumacious, he that obtains the first Detree may act, as if he had obtained the second.* *Bruneman* understands the Party being

HIS WILL: Meaning that not even the Possessor * who absconds out of a fraudulent Intention; the Possessor whom nobody defends in the Trial, the Possessor who deals knavishly with all his Creditors; it is not lawful to eject even such a Possessor against his Will. The Prætor himself, *Sextus Nævius*, told you plainly as you was going to attach the Goods, you may attach them, but so as that *Quintius* may have Possession of them along with you; You
Z 4
may

being contumacious to mean, when the Proprietor refuses to appear upon being cited.

What becomes now of *Hottoman's* Support from the *Fulciman* Law; Is it because there is no mention made of the first and second Decree, but only of Possession and Sale together? The Words of *Amadeus Echoltius* come in here very opportunely; upon the Pandect, l. 39, l. 2.

This Distinction, says he, of the first and second Decree, obtains even in other Cases in our Law, besides in that of a *Damnum intectum*. For tho' there be no Mention of a second Decree; in other Causes, it is evident that the Force of it is always implied.

But what if we should even find *Hottoman* contradicting himself? as in his Commentary, *Ad Tit. c. de Jud. l. 11.* where he has these Words. *The first Decree was that by which the Creditors were granted Possession of the Effects for thirty Days, as Cicero shows in his Oration for Quintus, but gave them no further Power, but to attach them.* After this he speaks of the second Decree; and, which is very strange, adds even a third, contrary to the received Opin on among Lawyers. But this we have nothing to do with; so it be only granted us, that the Words of *Cicero* are not repugnant to Civil Law.

* *The Possessor who absconds*] *Hottoman* tells us here, that *Cicero* speaks this not from the Civil Law, but, says he, *ex artificio Rhetorico*; but in Answer to that, see the last Note.

may attach them, but you are not to deprive *Quintius* of his Right. But how have you observed this Injunction? I won't urge that *Quintius* was a Person who had never absconded; one who had a House, a Wife, Children, and an Attorney at *Rome*: That he was one who had not forfeited his Recognizances by Non-appearance; I will only affirm that the Possessor was ejected out of his Estate; that the Possessor had violent Hands laid upon him before the Altars of his own Family by his own Slaves: This I affirm. * * * * *

* * * * *

A Chasm here.

THAT *Nævius* never summoned *Quintius* tho' he was every Day in his Company, and had daily Opportunities of suing him: I say, that he chose to go thro' all the most troublesome Proceedings, to the great Disreputation of his own Person, and the great Danger of *P. Quintius*, rather than join Issue upon that pecuniary Action, which might have been determined in one Day; and an Action too from which he admits all this Process to have sprung and proceeded: On that Occasion I offered, if he was determined to sue for his Money, that *P. Quintius* should put in Bail to stand Judgment; provided if *Quintius* had any Demands upon *Nævius*, the latter would come into the same

same Measures. I have shewn how many previous Steps ought to be taken, before one sues for an Attachment against the Effects of a Kinsman; especially as he has a House, a Wife, and a Family at *Rome*, and an Attorney who is alike the Friend of both Parties. I have shewn you, that at the Time he says the Recognizances were forfeited, no Recognizances had been entered into; that on the Day on which he says my Client promised to him, my Client was not at *Rome*. I have engaged to make it appear by Witnesses, who both had a Reason for being informed of the Fact, and could be under no Influence to falsify their Evidence. As to his possessing the Goods by Edict, I have demonstrated there could be no such Thing, because my Client had neither absconded from a fraudulent Intention, nor was he reported to have fled his Country.

I COME next to speak to the Allegation of his not being defended in Court. In Answer to this, I insisted that he had been most strenuously defended, and that not by a Stranger, nor by any scoundrel, sneaking Fellow, but by a *Roman Knight*, his Friend and Relation, and one whom *Sextus Nævius* himself used to appoint as his Attorney in his Absence; that if he appealed to the
Tribunes,

Tribunes, it was no Proof, that therefore he was not ready to stand to the Judgment of the Court; or that *Nævius* had been deprived of his Right, thro' the powerful Interest of my Client's Attorney, that on the other Hand, the Interest of him, *Nævius*, prevailed so much, that he scarce gives us now the Liberty of breathing.

I ASKED him the Reason why the Goods were not sold, when they were seized by Edict? I then put a second Question to him, by what Means it happened, that from among such a Number of Creditors, not a single Man amongst them acted as he had done, nor even to this Day sues *Quintius*? Nay all of them strive to serve him to the best of their Power. This was remarkable, since in an Action of this Nature, the Evidence of Creditors is thought extremely material. I afterwards urged the Testimony of our Antagonist himself, who but very lately took into Partnership the Person, who, according to the Manner he now proceeds in, he demonstrates was not then among the Number of the Living. I then instanced that incredible Celerity, or rather Audaciousness; I proved to him, that they must either of Necessity have travelled seven hundred Miles in two Days, or that *Sextus Nævius* had entered into Possession several Days before he had petitioned for Leave to attach the Effects.

I THEN

I THEN repeated the Edict, which in express Terms disapproves of ejecting the Possessor from the Estate: By which it appeared, that *Nævius* had not entered into Possession, in Terms of that Edict, because he confesses that *Quintius* was forcibly driven out of his Estate. At to the Effects, I laid it absolutely down, as a Principle that they had not been seized, because the seizing of Goods has Regard not to a * partial seizure of them, but to a total Seizure of all, of all that the Party either holds, or possesses at the Time. I said that my Client had a House in *Rome*, and which he, *Nævius*, had not so much as come near; several Slaves of whom he had not seized, or so much as touched one; that one indeed he had attempted to lay hold of, but that he was hindered, and that he has never meddled with them since.

You know, that in *Gaul* itself, *Sextus Nævius* has not entered into the personal Estates of *Quintius*, and that the private Slaves of *Quintius* had not all of them been ejected out of that very Estate which *Nævius* now possesses by the violent Expulsion of his Partner.

From

* *Partial Seizure.*] This appears to have been a Case of Bankruptcy among the *Romans*, in which the whole Estate was seized upon by him who took out the Statue; and then all the other Creditors were summoned to be present at the Auction, and receive their Dividend upon the Sale.

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From this, and from the other Words, Actions, Expressions, and Intentions of *Sextus Nævius*, any one may easily see that he has no other View in all that he has done, and in all that is doing now, than thro' Violence, Injury, and the Perversion of Equity, to appropriate to himself all the Estate which belongs in common to both.

HAVING finished my Pleading,* Sir, upon the Merits of this Cause, the Nature of the Thing itself, and the Greatness of the Danger, makes it indispensable for *Publius Quintius* to implore and beseech you and your Associates on that Bench by his destitute old Age, that you will only follow the Bias of your own Inclinations and Clemency; That as he has Truth on his Side, his Wants may be more powerful Motives to incline you to Compassion than his Adversary's Interest to lead you into Cruelty. And the Day we appear'd before you as our Judge, on that Day we begun to despise those Threatnings,
at

* *Having finished my Pleading.*] Orig. *Causa perorata*. This Passage is very well worth observing, for it is plain from hence, that *Cicero* looks upon this Cause as being now *perorata*, and that the Recapitulation immediately preceding is in effect the *Peroration*. He had said in the End of this Partition or Division of Heads, See Page 302, *Hæc a cum docuero perorabo*. So that here he closes the Oration with another Member which is called *Amplificatio*. As to our Author's Opinion of this, See *De Oratore*, B. 2. c. 19.

at which we trembled before. Had the only Struggle been betwixt the Merits of the two Causes, we thought we could easily have made our Point good, before any indifferent Judge; but as the Contention regarded their different Characters in Life, we, for that Reason, thought we had the greater Occasion to have you for our Judge. For the Thing now in Dispute is, whether this clownish, uncouth, mean Appearance can defend itself against Luxury and Licentiousness, or whether homely, strip'd and naked as you see it is of all Ornaments, it is to fall a Sacrifice to Revenge and Infolence.

Sextus Nævius, my Client does not vie with you in Interest, in Power, or Abilities; he yields to you in all your own Arts, of which you are so consummate a Master. He acknowledges, that he has not the Gifts of Elocution, nor can he insinuate himself by Adulation; that he cannot desert a Friend when borne down, nor perch upon the blossoming Fortunes of another; that he cannot live in the Profusion of Expence, nor set out a Board magnificently and elegantly furnished; that he has not a House shut to the Purity and Sanctity of Manners, but *inviting* and *open* to Lust and Debauch. On the contrary, Respect, Honesty and Industry, with a Life that has been always unfashionable and unpleasing, has been all his

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his Enjoyment. He is sensible that the other Recommendations are superior to these, and far more prevalent in this Age, than all his Morals.

BUT prevalent as to what? Not to that Degree, as that they who abandon the Practice of the Virtuous, and chose to follow the Profits and Expences of a *Gallonius*,* should domineer over the Lives and Fortunes of the best of Mankind; tho' they have even lived with an Impudence and Treachery not to be found in the Character of *Gallonius* himself. If the Man may live, whom *Sextus Nævius* has doomed to Destruction; if there is Room, in this City, for one whom *Sextus Nævius* prosecutes; if it is lawful for *Publius Quintius* to breath, in Contradiction to the Power and Nod of *Nævius*; if, under your Protection, he can make good his Right, against Insolence, to those Ornaments which he has acquired by Modesty; there are still Hopes, that wretched and unhappy as he is, he may yet

* *Gallonius*.] This *Gallonius* was a famous Cryer, the same Profession with *Nævius*, and remarkable for his Profusion and Luxury. He is mentioned by *Horace*. *Sat* 22.

Galloni præconis erat acpensere mensa Infamis. And by our Author in his Book *De Fidibus*, in a Quotation from *Lucilius*.

We are told by the Dauphin's Commentator, that *Gellius* says *Quintius* was acquitted, and that *Cicero* gained the End of his Pleading. But after the strictest Enquiry, I can find no such Passage in *Gellius*.

yet live in quiet: but if *Nævius* has it both in his Power to compass what he lusts, and if he lusts after what is not lawful, what shall he do? To what immortal Power shall he appeal? To what human Assistance shall he implore? In short, what Complaint, what Affliction, can be found adequate to such Calamity?

It is woeful for a Man to be driven from all his Fortunes, but the Woe is increas'd, if by Wrong. It is galling to be circumvented by any Man, but more galling, if by a Kinsman. It is cruel for a Man to be strip'd of his Estate, but more cruel, if with Disgrace. It is horrible to be killed by the brave and virtuous, but the Horror is enhanced if by one whose Voice has been prostituted to the Employment of a Cryer: It is mortifying to fall by our Equal or Superior, but more mortifying, if by one inferior to, or one meaner than one's self. It is mournful to have one's Person and Estate delivered over to another, but more mournful, if to a Foe. To plead for one's Life is an *awful* Circumstance, but to plead before one hears the Charge is *terrible*.

Quintius, Sir, has surveyed, he has attempted every Thing; he was not only unable to find a Prætor to order him a Hearing, far less to be heard upon his own Terms, but

but he could not even prevail with the Friends of *Sextus Nævius*, before whose Feet he often and long prostrated himself, conjuring them by the immortal Gods, that they would either deal with him according to Law, or that they would suffer him to undergo the Loss, without the Ignominy.

AT Length he presented himself before the haughty Eyes of his Enemy *Sextus Nævius* himself; with Tears did he seize his Hand; that Hand practised in proscribing the Estates of his Kinsman; he implored him by the Ashes of his dead Brother, by his Wife and his Children, whose nearest Relation *Publius Quintius* is, that he would at Length suffer Compassion to touch his Breast; That he would have some Regard, if not to his Relation, at least to his Age; That if he felt no Sentiments of Compassion for his Person, he would at least indulge some Sense of common Humanity, and that he would put an End to the Matter upon Terms, at least, somewhat tolerable, without impairing his Reputation.

BEING rejected by him, unrelieved by his Friends, harraſ'd and brow-beat by every Magistrate, whom to apply to besides yourself, he has none. To you he commits himself, all his Estate, and all his Fortunes; with you he entrusts all the future Reputation and Hopes of his

his Life: Oppress'd with many Indignities, harrassed with many Losses, he flies to you, not in *Meanness*, but in *Misery*; and though driven from a wealthy Estate, and persecuted by Infamy of every Kind, yet while he saw *Nævius* the Master of all his paternal Estate, and himself unable to give a Fortune to his Daughter who is marriageable, he has stooped to nothing that might reflect Dishonour upon his past Life.

THEREFORE he implores you, *Aquilius*, that the Reputation and Credit he has brought into your Court in an Age which has almost reached the Goal of Life, the same he may be suffered to carry away out of this Place: That he, who has hitherto borne an universally undoubted Character, may not in his Sixtieth Year be branded by an ignominious, an infamous, and an indelible Stain: That *Nævius* may not disgrace all his Ornaments, by wearing them as Spoils; and that it may not be owing to you, if that Reputation which *Publius Quintius* has preserved to his old Age, does not attend him to his Funeral Pile.

The End of the ORATION for Quintius.



A R G U M E N T

O F T H E

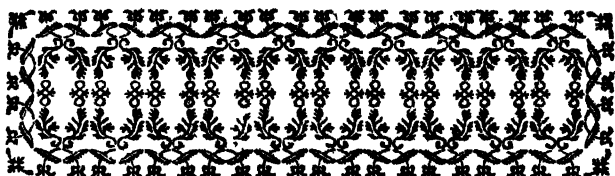
O R A T I O N

A G A I N S T


C. P I S O.

CICERO entertained very strong Re-
sentments against Piso, and his Colleague
Gabinus, who were Consuls at the Time of his
Expulsion from Rome, for their Behaviour du-
ring that Period. Accordingly, by his Oration
De Provinciis Consularibus, he prevailed with
the Senate to recall Piso from Macedonia, and
Gabinus from Syria. After Piso came to
Rome, he made a bitter Inveective against Ci-
cero in the Senate, to which the following Ora-
tion is the Reply. It was delivered in the Consu-
late of Pompey, and Marcus Licinius Crassus,
in the Year of Rome 698, and of our Author's
Age the 52d.

M. T.



M. T. C I C E R O's
O R A T I O N
A G A I N S T
C. P I S O.

OST thou not now see, thou Brute,*
and canst thou not perceive the Com-
plaints which Mankind has against
thy Impudence? Nobody complains that an
obscure *Syrian* from among a Herd of Slaves
is made Consul: For his dusky Complexion,
A a 2 his

* *Thou Brute.*] The Beginning of this Oration is lost,
only *Asconius* has preserved a few Fragments of it, which
we shall give in their proper Place. The *English* Read-
er

his shaggy Skin, and his rotten Teeth, would not suffer him to impose upon us; but here Mankind have been misled by those Eyes, by those Brows, that Forehead, and by that Look which speaks the silent Language of the Mind. By these he deceived, bubbled, and abused such as did not know him. Only a few of us knew thy groveling Vices, the Dulness of thy Capacity, and the feeble Stupidity of thy Tongue. Never was thy Voice heard in the *Forum*; never did you venture to give your Opinion; never were you illustrious, or so much as known, for any Action either at Home or Abroad. You stole into Honours by the Mistake of Mankind, by the Recommendation of those sooty Statues,* which you resemble in nothing but their Colour.

AND shall he boast even to *me*, that he rose to all his Preferments in the Government without Repulse? Well may I do that noble Justice to myself, as to declare, that the People of *Rome* raised *me*, tho' but a new Man, to all their Honours.

WHEN

er will, no Doubt, be surprized at the Coarseness of Expression thro' this Oration, especially against a Man of so great Quality and Distinction as *Piso* was, but the Manners of our Author's Age, as well as of *Homer's*, allowed of such Expressions even among their greatest Men and Princes.

* *Sooty Statues.*] See *Juvenal*, Sat. 8.

WHEN you was made Quæstor, even they who had not seen you made a Compliment of that Honour to your Name. You was made Ædile, but it was a *Piso*, and not *that there Fellow*, who was then dignified by the Roman People. The Prætorship too was conferred upon your Ancestors; for they were known tho' dead; but you were quite unknown, tho' alive. But when the People of Rome returned *me* one of their first Quæstors, the elder Ædile, and preceding Prætor, by their unanimous Suffrages, they bestowed those Honours upon *my Person*, and not upon *my Family*; upon *my Manners*, and not upon *my Forefathers*; upon the *Virtues* themselves had *approved*, and not upon the *Nobility* they had *heard of*.

BUT what shall I say of my Consulship? Shall I speak in the Manner in which I got it, or that in which I exercised it? Am I now reduced to that dismal Pass, as to compare myself with that Stain, that Plague of his Country. But tho' I will speak nothing by Way of Comparison, yet will I unite in my Discourse Circumstances very widely different from one another. Thou wast declared Consul, that I may not aggravate a Matter beyond what is universally acknowledged, while the Affairs of the Commonwealth were embarrassed; while the Consuls *Cæsar* and

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Bibulus were at Variance; nor can you deny that they who declared you Consul, would have thought you unworthy of the Light, had you not excelled *Gabinus* in Wickedness. Whereas all *Italy*, all Ranks and the whole State, declared *me* the first Consul, with an equal Readiness of Suffrages and Acclamations.

BUT not to mention the Manner in which both of us were elected, supposing that every Thing which then passed in the Field of Election happened by mere Chance, yet surely it is more glorious to speak of our Conduct as Consuls, than of our Success as Candidates. I, on the first of *January*, delivered the Senate and every worthy Patriot from the Dread of the *Agrarian Law* * and *extravagant Corruption*. If it was unadvisable that the *Campanian* Lands should be divided, their Preservation was owing to me; if advisable, I reserved them for more worthy Directors. In my Pleading for *C. Rabirius*, accused of Treason, I supported and defended against the Attacks of Envy, the Authority of the Senate, which was interrupted forty Years before I was Consul. By my Opposition, but without incurring any Disfavour from the Senate,

* *Agrarian Law.*] This Law was made in the Consulate of *Cassius* and *Proculus*, and restored by *Rullus*, the Tribune of the People, but abrogated by the Opposition of *Cicero*. See his Oration upon the *Agrarian L*

nate, I disqualified * several young Men, from standing as Candidates, who, tho' worthy and brave, yet were placed in such a Situation by Fortune, that had they obtained Preferments in the Government, they must have thrown the State into Convulsions. By my Patience and Compliance, I sooth'd my Collegue *Antonius*,† who was ambitious for a Province, and had his Head full of many dangerous Designs against his Country. In an Assembly of the People, who all opposed it, I dropped the Province of *Gaul*, which I exchanged with *Antonius*, after, by the Senate's Order, it had been nobly furnished with Troops and Money, because I thought the Exigencies of the State

A a 4 de-

* *I disqualified*] This I am apt to think, was both a very impolitic and very unjust Action of *Cicero's*. The Persons thus disqualified were of the best Families of *Rome*, and the Sons of those who had been proscribed by the Tyranny of *Sylla*, and who were all of them disabled by his Laws for standing for any public Offices. The Commentators here shew themselves as wretched Politicians as our Author. They tell us, that *Cuero* did right, because the Safety of the People required this Step. But neither *Cicero*, nor all the Senate had a right to take from the meanest of the People the Privileges of *Romans*. This was more destructive to the Safety of the People, and afterwards proved more so, than all the temporary Inconveniencies that could possibly have happened from doing a Piece of bare Justice. In short, this Proceeding was a Conspiracy of the Government against the Constitution of *Rome*, and not to be palliated by the sneaking Apology our Author here makes for his own Conduct.

† *Sooth'd my Collegue Antonius.*] This, if true, was indeed a noble Proceeding on the Part of *Cicero*.

demanded such a Proceeding on my Part. I commanded *L. Catiline* to leave the City, while he was not darkly, but avowedly contriving the Murder of the Senate, and the Destruction of *Rome*, that our Walls might protect us, when our Laws could not. In the last Month of my Consulate, I wrested out of the Hands of conspiring Ruffians, the Sword which they pointed to the Throat of their Country: I seized, exposed, and extinguished the Torches which were lighted up to burn the City.

Q. Catulus, the Father of this House, and the Guide of public Councils, in a full assembled Senate, named me the *Parent of my Country*; the illustrious *L. Gellius*, who sits near you, said, in the Hearing of this Assembly, that a *Civic Crown was due to me* from the Republick; the Senate, by an unprecedented kind of Supplication, opened the Temples of the Immortal Gods to me in my Robes of Peace; not, as had often been the Case, because I had done my Country Service, but (which never had before happened) because I had saved her from Destruction. When a Tribune of the People * hindred me from speaking what I intended before an Assembly, as I was taking
Leave

* *A Tribune of the People*] This was *Metellus*. See *Ep. 11. B. 5.* of his *Familiar Epist. & Pictarch.*

Leave of my Consulate, and when he would suffer me only to make an Oath, I swore without the least Hesitation, that this Commonwealth, and this City, were preserved from Ruin by my Cares alone.

THE full assembled Body of the *Roman* People upon that Occasion bestowed on me, not the short-lived Acclamations of a Day, but Eternity and Immortality; when they looked upon my Oath to be so just, and so important, that they themselves with another Oath confirmed it, as if they had but one Voice and one Heart: Then it was, that when I returned home from the *Forum*, the Man who was not attending *me* did not seem to be a *Roman*. And such was my Conduct thro' all my Consulate, that I did nothing without the Advice of the Senate, and the Approbation of the *Roman* People: From their *Restra* I always defended the Cause of the Senate, and in the Senate-house that of the People. Our Commons I united to our leading Men, and the Equestrian to the Senatorian Order. Thus in few Words, I have laid open my Consulship; Speak of thine, thou Fury! if thou darest. Thine was introduced by Plays in the Streets, * which were then first exhibited

* *Plays in the Streets.*] Orig. *Ludi compitalitii*; for a farther Account of those Plays, see *Festus Pompeius* upon the Word *Pila*, and *Dionysius*, B. 4. It is sufficient to say

ed since the Consulship of *L. Metellus* and *Q. Marcius* against the Authority of this Order. These are Plays, which *Q. Metellus*, whom I wrong for mentioning at the same Time with this detestable Brute, for he had but few Equals in this State ; But *Metellus*, I say, being Consul elect, as a private Man forbad them to be held, even after a Tribune of the People, in Contradiction to a Decree of the Senate, took upon himself to order their being celebrated. Thus *Metellus*, by his *Authority*, effected what he was, as yet, not able to effect by *his Power*. When the Day of these Plays happened on the thirtieth of *December*, you suffered *Sextus Clodius*, who never before had worn the broad Border on his Robe, to celebrate them, and to flutter about dressed as Master of the Diversions, tho' a Fellow of impure Life, and worthy not only of your Countenance, but your Imitation.

THESE Foundations of your Consulship being thus laid, three Days after, *Publius Clodius*, that Monster fatal to his Country, while you looked tamely and silently on, abolished the
Ælian

say here, that they were Games, where Sacrifices in Effigy were made of Statues of the Dead, made up with Wool, placed in the Streets by way of Victims to the infernal Gods, that they would spare the Life of the Living.

Ælian and *Fufian* Laws,* those Bulwarks and Guardians of the publick Peace and Tranquillity. Not only the Cabals which had been abolished by the Senate, but numberless new ones were raised from among the Dregs and Slaves of *Rome*. The Person so conversant in every Impurity, in every unheard-of Wickedness, abolished the Severity of Censors, that venerable Directory of Manners and of Modesty, while you, *the Grave* of that Constitution, of which you at that time named yourself the *Consul*, never so much as, even by your Words, gave the least Intimation of your Sentiments, while your Country was thus going to Wreck.

As yet I have only touched upon what you suffered to be done, and not on what you did. And indeed, in a Consul especially, there is no great Difference, whether he himself harrasses the State by destructive Laws, and infamous Cabals, or suffers others to do it. Can there be the least Room for a Consul, I won't say for Disaffection, but for lolling away, for trifling, and for sleeping in this strong Convulsion of the

* *Ælian and Fufian Laws.*] The *Ælian* Law was past by *Quintus Ælius* the Consul, in the Year of *Rome* 586, and was a very ridiculous one, because it gave a Magistrate a Power of obstructing the whole Proceedings of the *Comitia*, under a Pretence of observing the Auspices. By the *Fufian* Law, certain Holidays were appointed, during which no Buſinels could be transacted with the People.

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the State? For almost an hundred Years we had been in Possession of the *Ælian* and *Fujian* Laws, and the Power and Reverence of Censors had subsisted for four hundred; nor had the greatest Ruffian ever dared to shake them, tho' that indeed had been impossible for any Man: Not even the most audaciously abandoned have ever attempted so far to diminish that Power, as to prevent the Morals of *Roman* Citizens from being inspected every fifth Year.

ALL these, thou Blood-hound, were buried in the Bosom of thy Consulate. Go on with the Detail of what happened immediately after those dismal Ruins of the State. Before the Tribunal of *Aurelius*,* a Levy of Slaves was made by a Man who never thought any thing too scandalous for him either to do, or to suffer, while you did not barely acquiesce in the Villainy that was transacting, but you beheld it with unusual Pleasure in your Eyes. Thou Traytor to all Temples; the Temple of *Castor* † was, in thy seeing, made a Place of Arms by that Robber, who, in your Consulship, used it as the Fortrefs of desperate Citizens, the Harbour of *Catiline's* Veterans, the Stronghold

* *The Tribunal of Aurelius.*] See the Oration for *Sextius*.

† *The Temple of Castor*] See the Oration for *Milo*, Vol. I.

hold of Civil Robbery, and the Grave of all Laws human and divine : But that I may pass over Transactions of a more private Nature, and which may therefore be denied, I will only mention what were notorious and public. Not my House alone, but the whole *Palatium* was filled with the Senate, with *Roman* Knights, with the whole Body of *Roman* Citizens, and Inhabitants of *Italy* ; yet you was so far from taking the least Concern in Favour of that *Cicero*, to whom, at your Election, you gave the leading Suffrage, and, in the Senate, was the third whose Opinion you demanded, that you was present ; nay, the inhuman president, at all the Plots contrived for my Destruction.

BUT what had you the Presumption to say to myself before my Son-in-law, your Kinsman? That *Gabinus* was abroad, and in Want ; that he could not hold it out without a Province ; that if he and you were to join your Interests, he might have some Hopes from the Tribune of the People, but that he absolutely despaired of any Thing from the Senate. That you was as pliable to him, as I had been to my Colleague ; that it signified nothing to have Recourse to the Protection of the Consuls ; that every Man ought to *consult* his own Safety. And here I am in some Doubt, whether I shou'd mention some Circumstances, lest any

Person

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Person should not yet perceive the eminent Villainy that lurks in the Folds of that Fellow's Forehead: Yet I will mention it; he surely will own it, and reflect upon his Crimes with some kind of Remorse.

Dost thou not remember, thou Dunghill, when I came to you almost at Mid-day with *C. Piso*, how you sneaked out of a pitiful Cabin, with Sandals on your Feet, and your Head wrapt up? And when that fœtid Breath of thine gave us all the Exhalations of the rankest Stew, how you excused yourself for want of Health, and pretended that you used some Compositions of Wine as Medicines? When we admitted of this Apology; for what could we do else, we remained for some Time exposed to all the Corruption and Stench of thy Maw, from whence you entertained us with *ill-manner'd Answers*, as well as *scandalous Belchings*. About two Days after, when the Man with whom you had shar'd your Consular Power, had brought you into an Assembly, where you was asked your Opinion of my Consulship, you answered like a grave Dictator, like some Disciple of *Callatinus* or *Africanus*, or *Maximus*, and not like a Mungrel *Placentian*, spawned from *Cæsonius* and *Calmentius*, with one Eye screwed up to your Forehead, and the other dropp'd as low as your Chops,

Chops, that you could not approve of my Cruelty. Here you was praised by the worthy Nerald of your Glory. Thou Scoundrel, shalt thou, a Consul, dare, in an Assembly, to impeach the Senate of Cruelty; for I acted only by Order of the Senate. It was my Duty, as Consul, to give them salutary and punctual Information; but theirs, as a Senate, to order the Trial and Judgment. Your very blaming this amounts to a Proof in what Manner you would have behaved, had you been Consul at that Time. I doubt not but you would have given your Opinion, that *Catiline* should be supplied with Money and Provision: For where was the Difference betwixt *Catiline*, and the Man to whom, for the mercenary Consideration of a Province, you sold the Authority of the Senate, the Safety of *Rome*, and the whole Power of our Constitution. For the Consuls assisted *P. Clodius* in doing the only Things in which I, as a Consul, checked the Endeavours of *Catiline*. You have abolished that Senate which he wanted to murder; you have repealed those Laws which he wanted to burn: He wanted to destroy his Country, and you have seconded his Endeavours. While you were Consuls, what was there done without Violence? That Band of Conspirators aimed at burning the City, and you the House of the

the Man who prevented them. But had I been such a Consul as you, even they would not have thought of burning the City, For they would not have cared to destroy their own Dwellings. But while the Senate was supported, they thought they could have no Shelter for their Crimes. They aimed at *murdering*, but you at *enslaving* their Countrymen. In this you were more cruel than they were, because before your Consulship, the Love of Liberty was so rooted in the very Souls of the *Romans*, that they would have preferred *Death* to *Slavery*.

IN one Circumstance your Conduct was of a Piece with that of *Catiline* and *Lentulus* : You drove me from *my* House, you confined *Pompey* to *his* ; for they imagined that they could never compass the entire Ruin of this City, while I remained on my Post, as its Watchman, or while *Pompey*, the Conqueror of all Nations, opposed their Attempts. From my Blood you required an Expiation to the Shades of the Conspirators ; upon me you poured forth all the Rancour which had been stifled within the lawless Breasts of those Criminals, to whose Fury, if I had not yielded, I had, at your Instigation, been sacrificed upon the Tomb of *Catiline*.

BUT what stronger Proof can you require of the exact Similarity betwixt you and *Catiline*,
than

than your reviving the very same Band from the expiring Remains of his Confederates, and your collecting a'l manner of Ruffians from all Quarters? Than your emptying the very Goals against me? Than your putting Arms into the Hands of Conspirators? Than your wanting to expose my Person, and the Life of every virtuous *Roman*, to their Swords and their Fury?

BUT I now return to that illustrious Harangue of yours. Are you the Man who are shock'd at Cruelties? *You*, my good compassionate Dear, What did *you* do, when the Senate came to a Resolution of signifying their Affliction and Grief, by changing their Habit, when you saw the Sorrows of your Country expressed in the mourning of the noblest Rank of her Sons? Why, you acted more *barbarously* than the most *barbarous* Tyrant ever did: not to mention that, as a Consul, you prohibited the Senate from acting in consequence of its own Decree; a Proceeding the most execrable that can be held or conceived. I now return to the tender-hearted Pity of the Man, who thought the Senate exceeded in Cruelty, when they saved their Country.

HE had the Presumption, in Conjunction with his Compeer, whom yet he endeavours to out-do in all manner of Iniquity, to enjoin the Senate, that they should resume their ordinary

Dress, as they had changed it contrary to his Sentiment. What *Scythian* Tyrant ever refused to the *Grief* himself had inflicted, the Privilege of Mourning? You leave them in Sorrow, yet deprive them of the Tokens of Woe; you dry up their Tears, not by Consolation, but by Terror.

BUT supposing that the Fathers Conscrip^t had not changed their Habits by public Decree, but from a Motive of private Duty and Affection; even in that case, it would have expressed insufferable Tyranny, had you interposed your barbarous Edict to have hindered them; but after the Senate, in a full assembled House, came to this Resolution, after the other Orders had already put the same in Execution, it was then, that you, tho' a Consul, being dragged out of a blind Tavern, along with that sleek Dancress,* prohibited the *Roman* People from mourning the Fall and Ruin of their Republic.

YET some Time before that, he asked me what Service he could do me, and why I did not oppose my Interest to that of my Enemies? as if I, forsooth, I, who have been often serviceable to others; nay, as if the most destitute Wretch who ever lived, would think himself more safe when defended by him, or even more ready for his Trial, should he be his Advocate and

* *Sleek Dancress.*] Meaning *Piso's* Colleague, *Gabinus*.

and joint Security. Should I rest my Interests upon the Councils and the Patronage of that rotten Lump of Flesh? Should I require either Assistance or Countenance from that Carcase which stinks above Ground? I wanted then the Assistance of a Consul, I won't say such a Consul as I could not have found in that Hog of a Fellow, one who by his Authority and Wisdom was capable of supporting the weighty Interest of his Country; but a Consul, who tho' he had stood like a Stock, or a Stump, yet was capable to have borne at least the Title of the Consulate. For as my Cause was entirely Consular and Senatorial, I required the Assistance both of a Consul and of a Senate. The Power of the Consulate was pointed in your Persons at my Destruction; and the Authority of the other was abolished out of the Government: But if you desire to know the Reason of my Conduct, know that I never would have yielded, and that my Country should have held me clasped to her Bosom, had that funereal Gladiator,* yourself, and your Collegue, been the only Foes I had to encounter.

THE excellent *Quintus Metellus*, who, as a Citizen, in my Judgment, vies with the Glory of immortal Beings, had a different Reason for his Conduct; when he thought it advisable to yield to *Marius*, the bravest of Men,

B b 2

who

* *Funereal Gladiator.*] Clodius.

who was then Consul, as he had been five Times before in order to avoid a Dispute with his invincible Legions. What Confusion of that Kind had I to undergo? Was I to encounter a *Marius*, or one equal to him, or a bristled *Epicurean* coupled with one of *Catiline's* Revelers? Believe me, I never fled from such, nor from *your* bullying, nor from the Pipes and Tabors of your Collegue; nor was I, who, after steering the Vessel of Government in the most dreadful Storms of State had laid it safe up in Harbour, such a Coward to be afraid of the little Cloud that hangs on thy Brow, or the Puff of stinking Breath that breaks from thy Collegue. But I foresaw other-guess Winds, my Mind prognosticated other Storms. To the Tempests that had already lowr'd I did not yield, but exposed my single Person to them for the common Safety.

THE Consequence of this was, that when I retired, every lawless Sword dropped from every bloody Hand: 'Twas then, thou frantic Wretch, while all our worthy Men were grieving in secret Retirements, while our Temples seemed to mourn, and the very Dwellings of the City to languish, that you embraced that bloody Monster,* that Complication of lawless Lusts, of intestine Murders, of all Sorts of execrable Crimes, and the Impunity of detestable
Wicked-

* *Monst.*] Clodius.

Wickedness, and in that very Temple, upon the same Spot of Ground, and in the same Instant of Time, you acted as Executors not only to me, but to my Country. Why should I publish the Feasts of those Days, your Gambols, your Carousings, and your excessive Debauches, amidst the scandalous Herd of your Companions? In those Days, was there a Man who could say he ever saw you in your Senses, that he ever saw you doing any thing that was becoming a Gentleman? In short, that he ever saw you appear in public? At a Time when your *Colligue's House* resounded with Songs and *Cymbals*, while he himself in the Entertainment danced naked to their Music, without learning to apprehend the Changes of Fortune's Wheel, from the Mazes of those wheeling Dances † he then led up. But this Fellow here, a less clever, a less musical Glutton, was

B b 3

then

† *The Mazes of those wheeling Dances*] Orig. *Cum illum suum saltatorium versaret orbem.* There is a Dispute among the Commentators, whether our Author here alludes to the Form of the Dance, which might have been somewhat like our Country Dances, or if it alludes to the Postures, and the distorted Gestures made use of in Dancing. The Dispute is very pedantic. I am apt to be of the former Opinion, and that the *Romans* had this Manner of Dancing from the *Greeks*, among whom it still continues. *Homer* has described it very well in the 18th Book of his *Iliad*.

Now, all at once they rise, at once descend,
With well-taught Feet: Now shape in oblique Ways,
Confusedly regular, the moving Maze:

Now

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then wallowing in the undigested Impurity of his own *Greeks*. An Entertainment of this Sort, at a Time of such public Distress, was talked of as if the *Lapithæ* and the *Centaur's* had been the Guests; and it is hard to say in that Debauch, whether *Piso* here drank and vomited up, or wasted the greater Quantity of Wine.

WILL you then presume to make Mention of your Consulship? Will you have the Impudence to own that you was a Consul at *Rome*? How! Do you imagine that the Consulate consists in the Lictors, or in the Robes of State? Yet while you was Consul, you indulged *Sextus Clodius* * in wearing those very Badges of Distinction; and do you think, that a Consulship is express'd by Ornaments which bedecked this Dog of a *Clodius*? † A Consul ought to have Spirit,

Now forth, at once, too swift for Sight they spring,
And undistinguish'd blend the flying Ring:
So whirls a Wheel, in giddy Circle tost,
And rapid as it runs, the single Spokes are lost,
The gazing Multitudes admire around;
Two active Tumblers in the Center bound;
Now high, now low, their phant Limbs they bend,
And general Songs the sprightly Revel end.

Mr. POPE.

* You indulged *Sextus Clodius*] This *Sextus Clodius* is probably the same that is mentioned in the Oration for *Milo*.

† This Dog of a *Clodius*.] Orig. *Clodiani Canis*. It may likewise signify *Clodius's Dog*, from his famous Obsequiousness to *Pub. Clodius*, and from his snarling at every Body who attacked him.

Spirit, Wisdom, Vigilance, Honour, Weight, Circumspection ; in short, he ought to perform the whole Duties of a *Consul*, by *protecting*, and above all, by *consulting* (as the Name of the Office implies) the Good of his Country. And can I look upon a Man as a *Consul*, whose Conduct was such, as if he did not think that there was a Senate in this Commonwealth ? Can I number among the *Consuls* a Man who separates himself from an Assembly, without which, even Kings could not maintain themselves at *Rome**. I shall not at this Time touch upon the Levies of Slaves which were made in the *Forum* ; upon the Arms, which in broad Day were publickly carried into the Temple of *Castor* ; a Temple which was forcibly possess'd, its Entrance barricaded, and the Steps up to it torn away by the Remains of the Conspiracy, and the *formerly* sham Accuser † of *Catiline's* Practices, but then the Avenger of his Blood. When *Roman* Knights were banished, when Patriots were stoned out of the *Forum*, and when the Senate was denied the Liberty of assisting, nay, of mourning over their Coun-

B b 4

try :

* *Kings could not maintain themselves at Rome*] It appears from this Passage, our Author was of Opinion, that the original Institution of the *Roman* Government was not an absolute Monarchy, since we find that the Senate was appointed to be a Check upon the Conduct of their Kings.

† *Sham Accuser.*] *Clodius* accused *Catiline* of Bribery, when the latter returned from his Province.

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try: When a Citizen,* whom this Assembly, with the unanimous Consent of *Italy*, and of all Nations, had declared the Saviour of his Country, was expelled by Slaves, and an armed Force; I will not say, (tho' I might do it, with Truth) by your Assistance, but surely with your tacit Connivance, without any Trial, without any Law, without any Precedent; will any Man imagine there were any Consuls in *Rome*?

If you are Consuls, I should be glad to know what it is to be a *Ruffian*? Who are they whom we term Robbers, Enemies, Traytors, and Tyrants? Great is the Authority, awful is the Appearance, exalted is the Dignity, and powerful the Majesty of a Consul: That narrow Heart of thine cannot receive, the Vileness, the Poorneſs of thy Spirit is not capable of admitting, nor thy crazy Capacity, joined with thy Insolence in Prosperity, able to sustain a Character so great, so important, and so awful. By Heavens! I have been inform'd, that the very Perfumer's Ward in *Capua*, as soon as they saw you, rejected you even for a *Campanian* Consul. They had heard of the *Decii*,† the *Magii*, and had some Inkling of *Taureas Jubellius*; who if they did not possess that Purity of Virtue which used to be in
our

* *A Citizen*] Our Author means himself.

† *Decii*.] These were all *Campanians*.

our Consuls, yet they had *Pomp, Appearance,* and a *portly Manner*, which at least did Credit to the *Perfumer's Ward*, and the City of *Capua*. In short, if these Musk-cats of yours had seen *Gabinus* one of their two Magistrates, they would have sooner wished *him* Joy. For *his* Hair was dress'd; *his* curling Locks dropped the Dew of Ointments, *his* Cheeks were be-smear'd with Paint; an Appearance worthy of *Capua*, I mean the old *Capua*:† For the modern *Capua* is full of the most illustrious Personages, the bravest Heroes, the best Patriots, and all my very good Friends. Not a Man among these ever saw *you* in your Robes at *Capua*, who did not bemoan the Loss of *me*, by whose Councils they remembered this whole Empire, but, in a more special Manner, that City was preserv'd; || to *me* they had erected a gilded Statue; they had attach'd themselves to *me* as their sole Patron; to *me* they thought they owed the Enjoyment of their Lives, their Fortunes, and their Families. When I was present, they defended me, by their Deputations against your Robbery; and when absent, they recall'd me at the Motion of *Cn. Pompeius*, who drew out from the Body of this Republic the Weapons of thy Wickedness.

WAS

† *Old Capua*] This City had been formerly famous for its Luxury and dissolute Manners.

|| *That City was preserv'd.*] See the Orations against *Catiline*, Vol. II.

WAS you Consul or not, when my House on the *Palatium* was in a Blaze, not by Accident, but by Fire-brands tost into it at your Instigation? Was there ever so great a Conflagration in this City, and the Consul not run to extinguish it? But *you*, at that very Instant, was sitting near my House, at your Mother-in-law's, whose Doors you threw open, for receiving the Plunder pillaged from me; and there you sat, not to extinguish the Flames, but to encourage the Incendiaries; and you, though a Consul, in a manner furnished the raging Ministers of *Clo-dian* Fury with burning Torches.

AND indeed, did any one during the rest of your Year look upon you as Consul? Was there a Man who obeyed you? Was there one Senator who rose up to salute you when you came into the Senate? Was there one who deigned to give his Opinion when you asked it? In short, Is that Year to be reckoned in the Annals of this State, in which the Senate was mute, the Courts of Justice silent, good Men in Affliction, the Violence of your Robbery raging all over the City; and when not one Citizen only left *Rome*, but the City itself shrunk from the Wickedness and the Guilt of you and your Colleague *Gabinus*? Yet, thou wallowing *Cæsonian*, thou didst not emerge from the dirty Puddle of thy Nature, even when

when the Courage of a most eminent *Roman*,* being at length roused, recalled his sincere Friend, and a deserving Citizen, and resumed all his former Spirit of Patriotism. Nor would that great Man suffer the Pestilence of your Crimes any longer to taint that State, which he himself had enlarged; yet, at that Time, *Gabinus*, who is inferior to *you* alone in Impudence, bad as he is, with some Difficulty recovered his Reason: (He did however recover it :) And at first in Appearance only, afterwards without any Spirit, but, at last, both with Heart and Vigour he acted in Favour of *Pompey*, against his *Dear Clodius*. Wonderful was the Impartiality which the People of *Rome* discovered at the Exhibition of this Encounter; for like an expert Master, seeing the Match so equal, they thought themselves sure of gaining on the Fall of either; but that if *both* fell, why then they were both made for ever.

BUT still *Gabinus* was useful in his Way; for he defended the Authority of a very great Man. He was indeed a *Ruffian*; he was a *Gladiator*; but he was matched with one as much a *Ruffian*, as much a *Gladiator* as himself. While *you* forsooth had so much scrupulous Sanctity about *you*, as to refuse to break

* *A most eminent Roman*] Our Author means *Pompey*, who by all Accounts ne'er was his hearty Friend, and did him this Service only to make a Tool of him.

380. CICERO'S ORATION

break that League, which, in bargaining for the Provinces, you had struck with my Blood: For *Clodius*, that incestuous Adulterer, had stipulated for himself, that if *he* bestowed on you a Province, an Army, and Money, pluck'd from the Bowels of his Country, *you* should always stand his Partner and Support in all his Guilt. Hence it was that the Rods of his Office were broken, and himself wounded in the Tumult that ensued; Weapons, Stones, and Uproar flew every Day about; and, at length, one was seized in Arms near this House, and it appeared he was placed there to murder *Pompey*.

DURING all this Time, who ever heard you (I will not say) act or remonstrate, but so much as speak or complain? Can you imagine yourself to have been a Consul, when under your Government, the Man who had saved his Country, who had saved the Majesty of the Senate, when the Man * who had led in Triumph into *Italy*, at three several Times, the Inhabitants of every Quarter of the World, declared that he could not safely appear in public. Were ye Consuls at the Time, when as soon as ye began to open your Mouths upon any Affair, or to make any Motion in the Senate, the whole Assembly called out, and gave you to understand, that you was not to proceed to Business, before

* *The Man*] Meaning *Pompey*.

before you had put the Question for my Return ; when, tho' fettered by the Convention you had made, yet you told them, you wished it with all your Heart, were you not bound up by Law. A Law which did not appear to be binding upon private Subjects ; a Law branded upon this Constitution by the Hand of Slaves, engraved by Violence, imposed by Ruffians, while the Senate was abolished, all our Patriots driven out of the *Forum*, the Republic in Captivity ; a Law contradictory to all other Laws, and passed without any of the usual Forms : The Consuls, who could pretend they were afraid of such a Law as this, can the Spirit of Mankind brook ? Can even the public Annals endure such Consuls ? For if you thought a Law to be void, when it contradicted all other Laws, being neither more nor less than a Tribunal Proscription of the Person and Effects of a *Roman* Citizen, uncondemned and unattainted, yet, if after this your Hands were tied up by this Contract, can any one think you were Consuls ? nay, can they think you were free Men, when Lucre had fetter'd your Souls, and Corruption sealed up your Lips ? But if you were the only *Romans* who thought this was a Law, what *Roman* can think that you were then *Consuls*, or that you are now *Consular*, when you were ignorant of the Laws, the Institutions and the Rights of that very State in
 which

which you pretend to a Share of the Government.

IN your military Robes, * when you were setting out for those Provinces, which you either bought or seized, was there a Man who looked upon you as Consuls? No doubt, if your Retinue was not numerous, at least they attended you with good Wishes, as usual to Consuls, and not with the Curses commonly bestowed on Enemies and Traytors.

AND shalt thou, thou Monster of Barbarity and Impurity, dare to rail at, dare to reproach me for my Departure, that Evidence of thy Guilt and Cruelty? Then it was, Fathers Conscript, that I received from you the immortal Proofs of your Love and Esteem for me, when you quell'd the Fury and the Petulance of a despicable half-dead Wretch, † not by Murmurs, but by loud Remonstrances and Out-cries. Do you reproach *me* with the Grief of the Senate, with the Affliction of the Equestrian Order, with the Despondency of all *Italy*, with a whole Year's Taciturnity of the Senate, with the

* *In your military Robes.*] Orig. *Paulati*. The Roman Magistrates, immediately before their setting out for their Provinces, went first, and paid their Devotions in the Capitol, and then left *Rome* dress'd in their military Habits. *Varro* expresses that Custom in the following Manner.

Paludamenta sunt Ornamenta & insignia militaria. Idcirco ad Bellum cum exit Imperator, ac Liétiores mutant vestem, & signa minuerunt; paludatus dicitur proficisse

† *Half-dead Wretch.*] Meaning *Clodius*.

the perpetual Silence of our Courts and *Forum*, and all the other Wounds which my Departure inflicted upon this State? Supposing it to have been calamitous, yet surely it was more worthy of Compassion than Reproach, and may be deemed to be accompanied with Glory rather than Disgrace: Granting it was Affliction to *me*, it at least reflected Guilt and Infamy upon *you*.

WHAT I am now to say, perhaps may give Surprize, but I shall never be afraid of speaking what I think: Give me Leave then to say, Fathers Conscript, favoured and honoured as I am by you, I am so far from thinking my Departure a Calamity, that I think it was a Fortune to be wished for, to be desired by me, for increasing my own *private* Glory, if it is possible, as it scarcely is, that I can have any *Glory* separate from that of my Country.

BUT now to compare the Day of your greatest Joy with that of my bitterest Woe, Whether do you think it preferable in the Eyes of a virtuous and wise Man, to leave his Country, so as that all his Countrymen shall pray for his Welfare, his Safety and his Return, which was my Case; or, as happened to you when you set out, to be cursed, to be execrated by all your Countrymen, that the Journey you was going might be your only, and your last. By Heavens! had I been so much hated by all
Man-

384 C I C E R O ' S O R A T I O N

Mankind, especially, if hated with Justice and with Reason, I would have preferred Flight at any Rate to a Province with every Advantage. But to proceed: If that Period of my Departure, the most uneasy of any in my Life, is preferable to the calmest of yours; What Comparison will the Remainder admit of, which to you was as full of Infamy, as to me, of Dignity?

ON the first of *January*, the first Day that shone upon the State, after I was eclipsed and set, all *Italy* flock'd together; the eminent and brave *Publius Lentulus* put the Question, the People of *Rome* assented, and the Senate in a full assembled Body unanimously demanded my Return. The same Senate recommended me to foreign Nations, to our Lieutenants and Governors, by its own Authority, in Consular Letters, as a Citizen who had saved the State; for this was the Expression at that Time, and not like one banished from his Country, as you, thou *Insubrian*,* used to express yourself. The Senate thought proper, for the Preservation of my single Person, to implore, by the Voice and the Letters of a Consul, the Assistance of our Fellow Citizens throughout all *Italy*, who wished well to their Country, to preserve my *Life*; all *Italy*, at one and the same Time,
met

* *Thou Insubrian.*] This was a Term of Reproach upon *Piso's* Parentage,

met at *Rome*, as if upon an appointed Signal, for my Safety; frequent and weighty were the Harangues of that most worthy Man, and excellent Consul *Publius Lentulus*, of *Pompey*, that eminent and invincible *Roman*, and of the other leading Men in the State. In my Favour the Senate resolved, *Pompey* being the first * who laid it down as a Maxim, *that whoever obstructed my Return, was an Enemy to his Country*, and in such Words was the Authority of the Senate in my Favour expressed, that a Triumph never was declared to any Man in more honourable Terms, than those in which my Preservation and Restoration were conceived. After all our Magistrates had published the Bill in my Favour, excepting one Prætor, who being Brother to my Enemy, it was not to be expected he would comply; and two Tribunes of the People, who were bought at common Auction. The Consul *Publius Lentulus*, with the Consent of his Collegue, *Quintus Metellus*, proposed the Law with Regard to me, at the *Centuriated Comitia*; so that the Interests of our Country, by Means of the Courage and good Sense of that excellent Person, made us Friends in his

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* *Pompey being the first.*] - Orig. *Cn. Pompeio auctore & ejus sententiæ princeps.* The Meaning of this is not, as is commonly apprehended, *That Pompey made the Motion*, but as every Senator had a Right to speak to the Question, they might make what Amendments they pleased. This appears to have been an Amendment of *Pompey's* to the main Question, and agreed to by the Senate.

Consulship, tho' we had been at Variance during his Tribuneship.

NLED I to mention the Manner, in which this Law was received? I understand from yourselves, that no Pretext was sufficient to excuse any Citizen from appearing there; that never was there so great, or so splendid an Appearance of *Romans* seen together at any *Comitia*. One Thing I can be Judge of from mine own Eyes, because I have it from the public Registers; That you were the Solicitors, that you were the Distributors, that you were the Guardians of the collected Votes; and that, of your own Accord, without any Entreaty, you did for my Preservation what your Ages and Rank exempts you from doing, even when your Kinsmen stand for public Honours.

THOU *Epicurus*, not brought from the School, but from the Sty, compare, if thou darest, the Circumstances of thy Absence with mine: You obtained a Consular Province, bounded not by the Regulations prescribed by thy Son-in-law, but by those of thy own Ambition; for by that equitable, that excellent Law of *Cæsar*, the People were free in the most obvious and literal Sense. But by that Law, which besides thee and thy Collegue, nobody ever imagined to be a Law, all *Achaia*, *Thessaly*, *Athens*, and, in a Word, all *Greece*, was given up to thee; you had an Army greater than was given
you

you by the Senate and People of *Rome*, great as your own Ambition could raise. The public Treasury was exhausted;—What did you do in this Command, with this Army, and this Consular Province? Am I asking what he did? He who no sooner arrived—But I am not yet come to the Mention of his Rapines, nor of the Monies he extorted, robbed, or exacted, nor the Executions of our Allies, nor the Murder of those who entertained him, nor his Treachery, Barbarity, and Wickedness. By and by, if you will give me Leave, I will dispute with him as guilty of Theft, of Sacrilege and Murder. At present I will compare my Fortunes, when stripped bare, with his, when in all the Glory of Imperial Command.

DID ever one obtain a Province, with an Army, and yet send no Letters to the Senate? And a Province too so large, an Army so numerous, especially such a Province as *Macedon*, which borders upon so many barbarous Nations, that our *Macedonian* Governors had no other Barrier to their Dominions, than the Points of Swords and Javelins. A Province from which few vested with Prætorian, but none with Consular Power ever returned, if with unattainted Honour,* without a Triumph. If this be unusual, then it is much more so, that this Vulture

C c 2

ture

* *With unattainted Honour.*] Orig. *Incolumis*, which *Grævius* (and he is in the Right) calls *Nihil aliud quam Dignitate illæsa.*

ture of this Province should be honoured, forthwith, with the Title of (no less than) Emperor.

WELL then, my *Paulus*,† did you then presume to send any Dispatches wrapt in Laurel to *Rome*? He says he did. Then who read them? Who moved that they should be read? For it is not to my Purpose, whether stung by Reinorse for your Crimes, you never presumed to write to that Body, which you had despised, which you had distressed, which you had abolished; or whether your Friends concealed your Letters, and thus, by their Silence, passed a Censure upon your Rashness and Presumption. And indeed I cannot say, whether I would chuse, that you should seem abandoned to all Sense of Shame in sending Letters, and that your Friends should be Men of more Modesty and Judgment, or that you should appear as expressing a Modesty foreign to your Character, and your Conduct stand uncondemned by your Friends.

BUT tho' by your execrable Affronts upon this Order, you had not eternally precluded yourself from all Favour with the Senate, give me Leave to ask you what was done or acted in that Province, upon which you could write with any Manner of Congratulation to the Senate. The harrassing of *Macedon*? or this scandalous Loss of Towns? The Plunder of our Allies?

The

† *My Paulus*.] This is an Ironical Allusion to the Name of the great *Paulus Æmilius*, who sent Letters wrapt up in Laurel from his Provinces to the Senate.

The Devastation of their Lands? The fortifying the Citadel of *Theſſalonica*?* The Blockade of our military Cauſeway? The Ruin of our Army, by the Sword, by Cold, by Famine and Peſtilence? As for your writing nothing to the Senate, you thereby proved, that as in *Rome* you was found more profligate than *Gabinius*, ſo in your Province you expreſs'd a little more Modeſty than he did.

FOR that Gulph of Gluttony, whoſe Belly is his God, without Regard to Honour or Glory, after he had ſtripped the *Roman* Knights in his Province, and the public Officers, who are connected to us in Affection, and neareſt to us in Dignity, all of them of their Fortunes, and many of them of Life and Reputation; after he had effected nothing with his Army but the Plunder of Towns, the Devaſtation of Lands, and pillaging of Houſes, he durſt (for what dares he not?) petition the Senate, by his Letters, for a Thankſgiving.† Immortal Gods!

C c 3 Shall

* *Citadel of Theſſalonica*] Our Author explains, in his Oration *De Priv. Conſ.* both thoſe Circumſtances. *Theſſaloniceſe poſiti in gremio imperii noſtri relinquere opidum & arcem munere coacti ſunt.*

Via illa noſtra, quæ per Macedoniam eſt uſque ad Helleſpontum militaris, non ſolum excuſſionibus barbararum infeſta fuit, ſed etiam Caſtris Utracue diſtincta ac notata.

† *A Thankſgiving.*] This was an inferior Kind of a Triumph, by which the Senate decreed public Prayers to be put up for ſuch a Number of Days by Way of Thankſgiving for the Succeſs of a General. But, after all the Sarcaſms thrown out by our Author againſt *Gabinius*,
Joſephus

Shall you, shall you, ye twin Whirlpools and Rocks on which the State has been wreck'd, shall ye decy *my* Fortunes? Shall ye extol your own? I, in whose Favour, tho' absent, such Decrees of the Senate were pass'd, such Assemblies were held, such Stirs happened among all our municipal Cities and Colonies, such Resolutions were made by the Officers of our Revenue, by the Colleges; in short, by all Ranks and Conditions of Men, as I never durst have wish'd for, and could not have conceiv'd; whereas you have undergone the indelible Brands of the most scandalous Infamy. Were I, *Piso*, to see thee and thy Collegue *Gabinus* fastened to a Cross, could I conceive more Joy from your mangled Limbs, than I now feel from your mangled Reputation? No; nothing can be thought Punishment which some Accident or other may make the Lot of the Brave and the Virtuous. Even your Men of Pleasure among the *Greeks* * teach this: I wish you had heard them as they ought to be heard, you then would not have been whirl'd down in the Gulph of so many Crimes. But you hear them in your Sinks,

you

Josephus the *Jewish* Historian is very lavish in his Praise for the great Application he gave to restore the Affairs of the Provinces to a flourishing State; and gives several Instances of his Prudence and Munificence to Cities.

* *Your Men of Pleasure among the Greeks.*] Our Author does not here absolutely condemn the *Epicurean* Philosophy, only intimates that it is misunderstood.

you hear them in your Stews, you hear them in your Feasts, and over your Cups; yet even they who define Evil by Pain, and Good by Pleasure, teach that a wise Man, even tho' he were shut up within, and broil'd with Flames applied to, the Bull of *Pbalaris*, would maintain that even *that* Condition was pleasing, and that he would not be a Jot moved. So much Power do they ascribe to Virtue, that they will not allow it ever possible for a good Man not to be happy.

WHAT then is Punishment? What is Execution? In my Opinion it is that which can happen to none but *to the Guilty*: A wicked *Intention*, a Mind hamper'd and oppress'd by *one's own Conscience*; the *Hatred* of the Worthy; an *inde- lible Brand* inflicted by the *Senate*; the *Loss of Dignity*. To me neither *Marcus Regulus*,* whom the *Carthaginians* shut up in a Machine, where he lay bound, cutting off his Eye-lids, and killed him by keeping him from Sleep, seems to have undergone any Torture; nor C.

C c 4

Marius,*

* *Marcus Regulus*.] This was the famous Roman Consul who was made Prisoner by the *Carthaginians*, who put him to a cruel Death, and the Truth of whose Story is so much doubted of. We have an elegant Description of his Punishment, in *Silius Italicus*, Book vi. ver. 339.

*Præfixo patibus ligno Mucronibus omnes
Arma tur late um crates, densisque per artem
Textur erceti stantisque ex ordine ferri
Infelix stimulus, somnisque hac fraude negatis
Quocunque inflexum producto tempore tortor
Incūnavit incens, fodiunt ad viscera corpus.*

Marius,* whom *Italy*, which he had preserved, beheld sunk in the *Minturnian Bogs*, and *Afric*, which he had subdued, saw expelled and shipwreck'd. For these Arrows of Affliction are not directed by Guilt, but by Fortune; but *Torture* is the Punishment of *Offences*. And were I to imprecate Misfortunes upon you, as I have often done, when the Gods have heard my Prayers, I wou'd not pray that you should be subjected to *Disease*, to *Death*, or to the *Rack*. The Imprecation of *Thyestes* † is an Imprecation penn'd by the Poet, to touch the Minds of the stupid.

May you be Shipwreck'd; may you feel the Sharpness of the cutting Flints; may you hang by the Side, with your Bowels dropping out, besmearing the Rocks with your Gore and Blood.

WERE this to happen you, I should by no means be concerned at it; but then it is what may happen to any Man. *M. Marcellus*, ‡ who
in

* *C. Marius*.] This was the famous Antagonist of *Sylla*, who had conquer'd the *Cimbrians* and the *Teutones*, after they had broke into *Italy*, and threatened the Destruction of *Rome*. The Story of his skulking in the Bogs, and of his Shipwreck in *Afric*, may be found in *Appian* and *Plutarch*.

† *Thyestes*.] This Passage appears to have been a Quotation from *Ennius*, who wrote a Tragedy under this Title.

‡ *M. Marcellus*.] *Africanus* tells us, that this was not the famous *Marcellus* who conquer'd *Saracuse*, and cut out such Work for *Hannibal*; but his Grandson, who was Shipwrecked in *Afric*, soon after the Beginning of the third Punic War. The same Scholiast gives us an Anecdote of this Gentleman, which I shall transcribe, as it may give the
Reader

in his third Consulate, a Man of the greatest Virtue, Piety, and military Accomplishments, perished on the Sea : Yet his Virtue still keeps him alive in Fame and Glory. A Death like that is to be looked upon as an *Accident*, and not as a *Penalty* : What then is the *Penalty* ? What is extreme Torment ? Where are the *pointed Flints*, and where the *torturing Racks* ? Behold two Commanders at the Head of an Army, in the Provinces of the *Roman* People with the Title of *Emperors*, yet one of them was so dismayed by the Consciousness of his own Wickedness and Villany, as not to dare to send so much as a Letter to the Senate from that very Province, which, of all others, afforded
 : most frequent Subjects of Triumph. A Province from which *L. Torquatus*, a Man accomplished in every Excellence, was lately, at my Instance, saluted *Emperor*, for his noble Exploits. A Province from which, within these few Years, we have seen the well-won Triumphs of *Cn. Decabella*, *C. Curio*, and *M. Lucullus* ; yet while you commanded in this Province,
 you

Reader an Insight into the private Character of those great *Romans*. It seems he erected Statues to his Grandfather, his Father, and himself ; among other Monuments of his Grandfather, which stood near the Temple of Honour and Virtue, with the following Inscription, III. *Marcelli Novius Coss.* which tho' it imposes upon the Reader, is yet a handsome Apology for his Father, who was but once Consul, whereas his Grandfather was five Times, and himself thrice, making up nine Times in the whole.

you did not so much as send a Dispatch from it to the Senate: From your Collegue, Letters were brought, they were read, and a Motion upon them was made in the Senate.

Immortal Gods! Could I have been so bold as to wish that my Enemy should be branded with an Ignominy which no Man ever suffered besides himself! That the very Senate who are come into such a Habit of Generosity, that they distinguish all who serve their Country by new Honours, both as to the Number of their Thank-giving Days, and the Terms of Respect in their Decree; that this Senate should single this Fellow out, as being unworthy of having any Regard paid to his Letters? as to refuse the Request they contained? These are Circumstances which give me P^rood, give me Pleasure, give me Enjoyment. That this Order should entertain the same Sentiments of you as of their most mortal Enemies. That you are hated by the *Roman* Knights, by the other Orders, and by all the State: That there is no worthy Man; no Man who is a Citizen, if he remembers himself to be a *Roman*, whose Eyes do not avoid, whose Ears do not abhor, whose Soul does not detest your Persons, and who does not shrink from the very Remembrance of your Consulate.

THIS is a Vengeance upon you, which I always desired, I always wish'd, I always pray'd for: Nay, it was more compleat than even my
Wishes

Wishes arose to; for, by Heavens! I never wish'd that you might lose your Army. This did happen besides my Wish, tho' very much according to my Inclination: For it had not come into my Mind to wish that you should fall into the Frenzy and Distraction you did fall into; yet it was what I should have wish'd for. But it had escaped me, that those Punishments of the Immortal Gods are irrevocably and inevitably decreed against the Wicked and the Guilty. For you are not, Fathers Conscript,* to imagine that, as you see in a Play, the Wicked are haunted by the blazing Torches of Furies, sent as the Ministers of Divine Vengeance. It is private Villany, it is conscious Guilt, it is personal Presumption, that drives every Man from the Enjoyment of the Soundness of Understanding: These are the Furies; these are the Flames, these are the Torches of the Wicked.

AM I not to look upon you as a Madman, as a Lunatick, as more frantic than *Orestes* or *Athamas* † in the Play, for first presuming (for that is the capital Point) to leave *Macedonia*, a Province into which you had transported
so

* For you are not, Fathers Conscript, to imagine.] This is exactly the same Sentiment which our Author had delivered in his Oration for *Rojcius* of *Ameria*, p 49.

† *Orestes* or *Athamas*.] For the Story of *Orestes*, see Vol. I. in the Notes on the Oration for *Milo*. This *Athamas* was a *Theban* Prince, who barbarously put to Death his two Sons, after he had been struck with a Frenzy by *Juno*. Both these Princes were the Subjects of Tragedies, which

so great an Army, without a single Soldier to guard it, and some time ago to confess this, at the earnest Instance of *Torquatus*, a Man of the greatest Weight and Sanctity? I will omit your losing the greatest Part of your Army, and attribute that to your bad Luck: But how can you account for dismissing your Army? * What Commission, what Law, what Decree of the Senate, what Precedent can you shew for that Conduct? Does this discover any thing but Fury, Ignorance of Men, Ignorance of Laws, of the Senate, of the Constitution? You talk of Madmen's mangling their own Bodies, but this mangling of Life, Reputation and Safety, is a Degree of Madness far superior to that. Should you send your Family a packing, which belongs solely to yourself, your Friends would think you deserved a *dark Room*; and had you been in your Senses, would you have dismissed the Security of the *Roman* People, and the Guards of the Province, without Authority from the Senate and the People.

But what did *your Counterpart*? after he had dissipated all the great Plunder which he had squeezed from the Officers of the Revenue, and from the Lands and Cities of our Allies, when

• he

which appear to have been very often exhibited to the People.

* *Dismissing your Army.*] The *Roman* Constitution did not admit of either levying or disbanding Forces without Consent of the Senate or People, who gave the Consuls alone a Commission for that Purpose.

he had buried a Part of that Plunder in the fathomless Abyss of his Lusts, another Part of it in new and unheard-of Luxuries, and Part of it in the Purchases and Alterations * which he

* *Purchases and Alterations.*] It is always with great Diligence that I offer any Conjecture of my own, as to the Sense or Reading of my Author; but this Passage seems to have been so palpably misunderstood by all the Interpreters and Commentators upon it, that there is very little Merit in the Conjecture I am now to offer, even supposing it to be the plain and obvious Sense of my Author.

The Original runs thus: *Partim (scil. Prædæ) etiam in illis locis ubi omnia DIRIPUIT, emptiones, partim permutaciones, ad hunc Tusculani montem extruendum (scil. læcrassent.)* The learned *Hottoman* says, that he believes a Negation is here wanting, else, says he, why is the Word *Emptiones* introduced? *Abramius* confesses the Passage is exceeding obscure, and after puzzling a long Time about it, particularly on *Permutaciones*, he leaves it much the same as he found it. *Hottoman* takes the Word *Permutaciones* to signify the Course of Exchange, or something to that Purpose. *Faernus* gives us an old Reading, which alters and destroys the whole Sense. *Manutius* understands it in the same Sense with *Hottoman*, and *Grævius* is silent as to the whole. The Order of Words from which I have translated it, supposing the common Reading to stand, is as follows, *Cum emptiones devorassent partim (pro partem prædæ) permutaciones devorassent partim prædæ in illis locis, ubi diripuit omnia ad extruendum hunc Tusculanum Montem.* So that what our Author says is no more, than that *Gabinus* had bought an Estate upon which he had resolved to build an immense House, and as some Buildings had been already erected there, which belonged to other Proprietors, he bought those in, and either demolished them, or kept them standing, by altering them so as to agree with the favourite Plan of his great *Villa*.

This is a Case that happens every Day here, and appears to have been very common in *Rome*: For *Horace* uses the Word *mutare* in the very same Sense, and upon a similar Occasion with that which I have adopted as the Meaning of my Author, viz. *Dirui.*

he made in those Places, where he pulled down every Thing in order to rear this *Tusculan* Mount; when he fell into Poverty; when that prodigious and unsufferable Fabrick was at a Stop, he sold to the *Egyptian* King, * his own Person, the Badges of his Office, the Army of the People of *Rome*, the holy Interdiction of the Immortal Gods, the Answer of their Priests, the Authority of the Senate, the Commands of the People, with the Renown and Majesty of their Empire.

THO' the Bounds of his Province were extended equal to his Desires, equal to his Wishes, equal to the Price, equal to the Danger, at which he had set my Head, yet could he not confine himself to these. He brought the Army out of *Syria*. How was he justified in bringing

Diruit, ædificat, mutat quadrata rotundis.

The only Difficulty now lies in the Word *diripuit*, but I think there can be none, when we consider that *diripere* signifies *diverse & in varias partes rapere*, in its original Meaning, which is a Character extremely well applied to a wrong-headed Fellow who has the Rage of building upon him.

* *Egyptian King.*] The Story is as follows; *Ptolemy Auletes* was driven out of his Kingdom by his Subjects, for his Tyranny. He came to *Rome*, and petitioned the Senate to restore him. The *Sibylline* Books were inspected, and these absolutely prohibited the *Romans* from restoring an *Egyptian* Prince by Force of Arms. *Ptolemy* being disappointed at *Rome*, applied to *Gabinus*, who was then Proconsul of *Syria*, and by giving him a large Sum of Money, prevailed with him to march his Army into *Egypt*, where he beat the *Egyptians*, took *Alexandria*, and restored the King.

bringing them out of their own Province? He enlisted himself as a Mercenary to attend the *Alexandrian* King. Could any thing be more scandalous than this? He came into *Egypt*: He fought against the *Alexandrians*. When did either this Order, or the People of *Rome* undertake that War? He took *Alexandria*. What could we further expect from his Madness, but that he should send Letters to the Senate upon the Glory of his Exploits.

HAD he, upon this Occasion, possess'd his Reason, had not his Fury and his Madness inflicted upon him that severest Vengeance which his Country and the Immortal Gods exacted of him; would he have presumed, I will not say to leave his Province, but to draw out his Army, to enter into a War of his own Head, to advance into a Kingdom, † without Leave from the People and the Senate? All which are expressly forbid by many ancient Laws, as well as the *Cornelian* Law upon Treason, and the *Ju-
lian*

† *Advance into a Kingdom*] This was penal among the *Romans*, and no doubt was an excellent Piece of Policy, both to prevent the contagious Communication betwixt the Courts of Tyrants, and the Magistrates of a free People, and any Tampering betwixt them in Prejudice of the *Roman* Government. There is a very pathetic Application of a Passage out of *Sophocles* to this Purpose, which we are told *Pompey* made use of, when he was going to the Court of this *Ptolemy's* Son, by whom he was murdered.

Οσις γὰρ ὡς τυραννὸν ἐμφορεύσει,
Κτῆρσι δὲ λυγρὰ καὶ ἐλευθέρῳ μολῆ.

That is, *Whoever enters into the Court of a Tyrant becomes a Slave, tho' he went into it a free Man.*

lian Law upon Extortion. But I pass over all this. Had he not arrived at the Height of Madness, would he have presumed to have arrogated to himself that Commission, * which *Publius Lentulus*, one of the best Friends of this Order, without any Hesitation, resigned from a Motive of Religion, after he had received it both by the Authority of the Senate, and a fair Allotment; a Proceeding that even tho' *Religion* had not prohibited, yet was forbid by the Practice of *our Ancestors*, by the Examples of *our Government*, and the severest Penalties of *our Laws*?

BUT as we have entered upon the Comparison of our different Fortunes, I shall omit mentioning the Figure *Gabinus* must make at his Return, which tho' he himself has cut off, yet so strongly am I convinced of his Impudence, that I expect he will return. If you please, let me compare *your* Return with *mine*. Such was mine, that from *Brundisium*, all the Way to *Rome*, I beheld all *Italy* drawn out in one continued Body; nor was there a Country, a Corporation, a Prefecture, or a Colony, from which I was not publickly congratulated? Shall I mention my Approaches? The Crowds of People

* *Arrogated to himself a Commission.* The Senate once decreed, that *Publius Lentulus*, and *Q. Metellus* should draw Lots for Provinces, and that he to whom *Cilicia* fell, should restore *Ptolemy*, which was, no doubt, looked upon to be a very advantageous Job. The Allotment of *Cilicia* fell upon *Lentulus*, who declined it from a Principle of Religion.

ple that poured from their Towns? The Con-
course of substantial Inhabitants with their
Wives and Children flocking together from their
several Possessions? And the Days which, on
my Approach and Restoration, were celebrated
as if they had been the Festivals and Solemnities
of the immortal Gods? One Day alone
was like Immortality to me, the Day on which
I returned to my Country, when I saw the Se-
nate, and the whole *Roman* People come forth
to meet me, when *Rome* herself * seemed almost
to start from her Foundations, that she might
advance to embrace her Preserver. And such
was the Reception she gave me, that not only
Men and Women of all Kinds, Ages, and
Ranks, of every Fortune, and of every Place,
but even the Walls, the Dwellings, and the
Temples of the City, seemed to wear an Ex-
pression of Joy. In the following Days, the
Priests, the Consuls, the Fathers Conscrip-
t placed me in Possession of that very House
from which you had driven me, which you
had plunder'd, which you had fir'd; and what
never had been the Case before, † they came

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to

* *When Rome herself*] Tho' our Author, as a professed Poet, succeeded but very indifferently, yet we find very noble Strokes of Poetry in his Oration, especially when inspir'd by the Remembrance of his own Honours in the State.

† *And what never had been the Case before.*] *Asconius* is a little severe upon our Author, as if he had advanced something as not Fact, and gives us several Instances of *Romans*, whose

to a Resolution of rebuilding my House at the public Cost.

SUCH were the Circumstances of my Return. Now in your Turn compare it with yours; when after losing your Army, you brought nothing Home in the same Plight you carried it abroad, except your old Familiar, your Impudence. In the first Place, does any one know by what Road you came with your laurel'd Victors? What Turnings and Windings, and round-about Ways did you pursue, while you searched out every forlorn Haunt? What Corporation beheld; What Friend invited; What Host saluted you? Did you not prefer the Night to Day? Solitude to Company? An Inn to a City? So that you did not seem to return as a glorious General, but you were carried back as an obscene Carcase out of *Macedonia*! As to your Arrival, it polluted *Rome* itself. Out! thou Disgrace,* not to the *Calpurnian*, but even to the *Calventian* Race! Not to this City, but to the Corporation of *Placentia*! Not to your Father's Quality, but to your trowzer'd † Alliance! In what an Equipage did you come? Was there a Man, I will
not

whose Houses had been built at the public Expence. But I think the very Apology that Scholiast afterwards makes, reconciles this Passage to Fact: For *Cicero* was the only Person, whose House, after being demolished, burn'd and consecrated, was ever rebuilt at the public Charge.

* *Out! thou Disgrace.*] *Piso*, by the Father's Side, was of a noble Family, but it had been allied very meanly. *Cicero* says that he was a Stain to all he was sprung from even the meanest of his Name.

† *Trowzer'd.*] Orig. *Braccatæ*, alluding to the Dress of the *Gauls*, of whom *Piso* was descended by the Mother.

not say of these, and our other Citizens, but of your own Deputies who came out to meet you?

FOR *L. Flaccus*, a Man deserving a far better Commission than yours, and more fitted for preserving the State, by those Councils in which he was joined with me in my Consulship, was with me when somebody came and told us, that you was seen not far from the Gate, strolling about with your Licitors. I likewise know that my Friend *Quintius Martius*, one of the bravest Men alive, and compleatly Master of military Discipline, one of those Lieutenants, by whose Courage in Battle you was saluted Emperor, when you was not far from *Rome*, was loitering away his Time at his own House, upon that Approach of yours to the City. But to what Purpose am I counting up those who did *not* come out to meet you? I can say that scarce one, even of the most courteous Tribe of Candidates, met you, tho' they had been all of them generally apprized and invited that very Day, and several Days before.

SHORT Gowns were provided for the Licitors ready at the Gate, which exchanging for their military Coats, they gave a new Face to their General's Cavalcade. Thus a Governor of *Macedonia*, at the Head of so great an Army, and possessed of such a Province, after three Years, conveyed himself into the City, in such a Manner, that no Pedlar's Return ever was so private. Yet this Gentleman, who is so very well provided for his Defence, reproaches me upon this Head. After I had said, that he entered by the *Cælimontane* Gate, like a Man of Mettle, he offered

ferred to lay a Wager with me, that he entered by the *Esquiline* Gate. As if this was what I was either bound to know, as if it had been a Thing that you had ever heard of, or as if it had the least Relation to the Affair in hand, thro' what Gate you entered, while you admit it was not the triumphal One, which before you was always open to *Macedonian* Proconsuls. You was found to be the Man, the only Exception of one vested with Consular Command, who did not Triumph upon his Return from *Macedonia*.

BUT you hear, Fathers Conscript, the Voice of a Philosopher. He denies that he was ever ambitious of a Triumph. Thou Excretion, thou Plague, thou spotted Plague! While you was abolishing the Senate, selling the Authority of this Oraer, hiring out your Consulate to a Tribune of the Commons, overturning the Constitution, and betraying my Life and Welfare, all for the single * mercenary Consideration of a Province: If you was not ambitious for a Triumph, with what Object of Ambition can you say you was fir'd? For I have often seen Men, whom both I and others thought too ambitious of a Province, cloak and excuse their Ambition, under the Pretext of a Triumph.

T H I S

* *Single.*] Orig. *Una*, which the Commentators want to strike out. *Grævius* is indeed for keeping it in, but does not give the true Reason why it ought to stand. *UNA*, *hoc sola Mercede*, says he, & *nulla alia*, whereas the *Una* is here put in Opposition to all the several Particulars of *Piso's* Guilt, which he recounts in the same Sentence, and thereby gives it a prodigious Beauty. Therefore in the common Reading, a *Comma* ought to be put after (*meam.*)

THIS was the Manner in which *D. Sillanus*, when Consul, and my Collegue, used to talk in this-Assembly; and indeed no Man can justify his Ambition to be at the Head of an Army, and his avowedly soliciting such a Command, but by covering it with the Earnestness of his Desire to triumph. Supposing the Senate and the People of *Rome* had forced you to put yourself at the Head of an Army, tho' you was not ambitious of taking the Command, tho' you even declined undertaking the War, yet it would discover the Narrowness, the Meanness of thy Spirit, shouldst thou despise the Honour and Dignity of a full Triumph.

FOR as it shews Lightness to catch at every Rumour, or to pursue all the Bubbles of Glory, so it discovers an empty Mind, shunning the Light and Lustre of Life, to refuse true Glory, which is the noblest Harvest of real Virtue. But when, the Senate not only did *not* require or force, but were forced into it themselves against their Inclination; when not only without all Manner of Solicitation from the Zeal of the *Roman* People, but without one free Suffrage being given in your Favour, that Province was made the Earnest-Money, not for the un-
hinging, but for the utter Ruin of your Country: And when it was stipulated as the Reward of all your Crimes, if you would deliver up the whole Constitution into the Hands of profligate Ruffians, that in Consideration of this, *Maccaria* should be adjudged to you, with what Bound. to it yourself should prescribe While you was draining the Treasury; while
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you

you was robbing *Italy* of her Youth ;* while you was passing a wide Extent of Sea † in the Winter : if all this 'Time you was looking with Contempt upon a Triumph, thou desperate Ruffian, what Lust could be so blind as to hurry thee on thro' all these Scenes, other than that of Plunder and Rapine ?

Cn. Pompeius is not now ‡ at Freedom to follow your Advice ; for he has en'd ; he has not relished your Philosophy ; like a Fool he has already thrice triumph'd. *Crassus*, || I blush for you. After you had finish'd a most formidable War, how could you shew so much Earnestness to have that laurel Crown decreed you by the Senate ? *P. Servilius*, § *Q. Metellus*,*

* *While you was robbing Italy of her Youth*] Our Author touches upon the same Circumstance in his Oration for the Consular Province. *Exercitus ille noster, says he, Superbissimo delictu & durissima conquestione collectus*

† *While you was passing a wide Extent of Sea*] Orig. *Cum Mare vastissimum hieme transibas*. A common Reader would be apt to imagine, from this Expression, that the Sea must be as large as the *Atlantic Ocean*, whereas it appears to have been no more than the common Passage betwixt *Brundisium* to *Apulia*, and *Durazo* or *Dyrbachium*, which may be about 30 Leagues over.

‡ *Cn Pompeius is not now.*] All that follows here, the Reader will easily perceive to be Irony. Our Author tells us, in his Oration for *Cornelius*, that *Pomp.* had had as many Triumphs as the World was divided into Parts.

|| *Crassus.*] He had just then finished the War against *Spartacus*, who had raised a Rebellion at the Head of Slaves and Fugitives. *Crassus* on that Account declined a Triumph and had an Ovation, but by a Decree of the Senate, instead of a Myrtle Crown he was permitted to wear a Laurel one.

§ *Servilius.*] He triumph'd over the *Isauri*, from thence he had the Appellation of *Isauricus*.

lus,* C. Curio,† P. Africanus,‡ why did ye not listen to this learned, this philosophical Gentleman, before you were led into such a Mistake? My Friend, C. Pontinus || himself, is not now at Liberty to recede, for he is tied down by the holy Rites § already commenced. Ye foolish Camilli, Curii, Fabricii, Calatini, Scipiones, Marcelli, Maximi! Distracted Paulus! Stupid Marius! And what thoughtless Men were the Fathers of both these our Consuls for triumphing!

But as what is pass'd cannot be recalled; why does not my Epicurean Poppet, my Composition of Loam and Clay,** instruct his Son-in-Law,††, that illustrious and excellent General, in those noble Precepts of his Philosophy? That Gentleman, believe me, is influenc'd by mere Glory; he is warm'd, he burns with Ambition for a compleat and a noble Triumph. He has not been taught the same Doctrine with you.

D d 4

Send

* Q. Metellus] He triumph'd over the Cretans, and was therefore call'd Creticus.

† C. Curio] He had a Triumph over Macedonia.

‡ Pub. Africanus] This probably ought to be L. Afranius, who was Father-in-Law to Pompey, and was Consul in the Year of Rome 693.

|| C. Pontinus] He triumphed over the Allobroges.

§ The holy Rites.] Several religious Ceremonies were gone thro' by those who had the Honour of a Triumph, before they could enter the City.

** My Composition of Loam and Clay.] Orig. Ex Arilla & Luto fictus. This is oppos'd to an Expression the Romans had for a dapper neat Gentleman, such a Man they call'd, *à cera fictus*. Hence Somebody call'd Tiberius a Piece of Clay temper'd with Blood.

†† His Son-in-Law.] Meaning Cæsar, who was afterwards the famous Dictator.

Send your Treatise to him. But at present, in case you should be able to meet with him, be-
think yourself what Terms you are to use for
repressing and extinguishing the Flame of Am-
bition, that is now lighted up in his Soul.
You, who are a Man of Moderation and Wis-
dom, will surely prevail over one who is trans-
ported with a Passion for Glory. Your Learn-
ing will get the better of his Ignorance ; the Fa-
ther-in-Law will prevail over his Son-in-Law.
For as you are perfectly well versed in the Arts
of Persuasion, a Man of Humour, and just
come well-polish'd from the Lecture, you will
tell him, "*Prithee Cæsar what makes thee so*
"*much in Love with Thanksgivings so often de-*
"*creed, and for so many Days ? Mankind are*
"*very much mistaken in this Point, these are*
"*Things that the Gods neglect ; for the Gods,*
"*as our divine Epicurus tells us, never take*
"*the least Concern either in Favour or in Pre-*
"*judice of any Man."* You may cavil on this
Head, but take my Word you'll never convince:
For you shall see that the Gods both have been
and are offended at yourself.

BUT now turn to the other Lecture. Let
us have a Dissertation upon a Triumph. " And
" after all, what is there in that Chariot ? Why
" are those Captive Princes led before it ? What
" is the Meaning of those Representations of
" Towns ? That Gold ? That Silver ? Those
" Lieutenant-Generals and Colonels on Horse-
" back ? Those Shouts of the Soldiers ? That
" Cava'cade ? Take my Word for it, all is Va-
" nity and empty Shew, scarce fit to amuse a
" School-

“ School-Boy ; all that catching at Applause,
 “ being carried thro’ the Streets, and exposing
 “ one’s self to be gazed on by the Mob. There
 “ is no solid Satisfaction in all these Amuse-
 “ ments ; there is nothing that can contribute
 “ to the Gratification of the Senses.

“ *T. Flamminius, L. Paulus, T. Didius,* and
 “ a great many more, tickled with this empty
 “ Conceit, triumph’d upon their Return from
 “ this very Province, which you see I have left
 “ so heroically, that I spurned away the *Mace-*
 “ *donian* Laurel at the *Esquiline* Gate. With
 “ fifteen tatter’d Companions, I came, very
 “ dry indeed I was,* to the *Cælimontane*-Gate,
 “ where my Freeman had two Days before
 “ hired my illustrious Excellency a House ;
 “ and if that House had not chanced to be
 “ empty, I should have even pitched my Tent
 “ in the Field of *Mars*. In the mean Time,
 “ *Cæsar*, I have and shall have Money lying
 “ for me at Home, after neglecting all the
 “ Pageantry of those triumphal Toys. Imme-
 “ diately, in Obedience to your Law,† I re-
 “ turned my Accounts to the Treasury ; but
 “ this was the only Thing in which I did obey
 “ that Law : Which Accounts, if you shall
 “ audit, you will be sensible that nobody has
 “ profited more than myself by Letters : For
 “ they are wrote so cleverly, and in so Clerk-
 “ like

* *Very dry indeed I was.*] This is a very humorous Incident, with what follows, and throws *Piso* into a very ridiculous Light.

† *In Obedience to your Law.*] This was the *Lex Julia de pecuniis repetundis*.

“ like a Manner, that the Accomptant who
 “ returned them to the Treasury, having wrote
 “ them fairly out, scratching his Head, with
 “ his Left-Hand; HERE, † says he, mutter-
 “ ing to himself, *is the Account sure enough,*
 “ *but where the Plague is the Cash?*” If you
 make but this Speech, I will engage for it,
 you will be able to stop *Cæsar*, even tho’ he is
 putting his Foot into his Triumphal Car.

THOU sneaking, dirty, nasty Scoundrel, ab-
 solutely forgetting thy Father’s Quality, scarce-
 ly remembering thy Mother’s. Thou some-
 what, I don’t know what, so grovelling, so
 mean, so rascally, so sordid, that you disgrace
 even your Grandfather, who was a *Milanese*
 Beadle. *L. Crassus*,* the wisest Man in our
 State, measured almost every Inch of the *Alps*
 with his Spears, that where he was not able to
 find

† *Here is the Account.*] This is a Verse from the *Tri-
 nummus* of *Plautus*.

* *L. Crassus.*] We have an Explanation of the Cir-
 cumstance here mentioned in our Author’s Treatise, *De
 Inventione*, L. ii. c. 37. *L. Licinius Crassus Consul quosdam in
 citeriore Gallia, nullo illustri, neque certo duce, neque eo nomine,
 neque numero præditos, ut digni essent qui hostes populi Romani
 dicerentur; quod tamen excursionibus & latrocinis infestam
 Provinciam redderent, consecutus est & consecuit. Romam re-
 dit triumphum ab Senatu postulat.*

We have an Account of what our Author says here of
Crassus and *Cotta* from *Asconius*, who tells us, that after
 the Senate had decreed a Triumph to *Cotta*, he died the Day
 before it was to be celebrated, of the breaking out of a
 Wound which he had received several Years before. That
S. Sævolus, the Collegue of *Crassus*, observing the great
 Credit the latter was in, and that it had prevailed with the
 Senate to decree him a Triumph, interposed a *Senatus Con-
 sultum* which deprived him of it.

find an Enemy, he might at least find a Subject for Triumph. *C. Cotta*, a Man of the greatest Abilities, was fir'd with the same Ambition, tho' without any declar'd Enemy to employ his Arms. Neither of those Generals triumph'd, because the one was deprived of that Honour by his Collegue, the other by Death. Some time ago, you made yourself merry with *M. Piso's** Ambition for a Triumph, which you said was very distant from your way of thinking. Tho' the War he had managed had been far less considerable than you have represented it, yet he did not think that Honour was to be despised. You who have more Learning than *Piso*, more Knowledge than *Cotta*, greater Abilities, Genius, and Wisdom than *Crassus*, despise all those Circumstances which those *Dunces*, as you call them, accounted glorious.

BUT tho' you blame them for being ambitious for Laurels, tho' they had been at the Head either of no Wars, or such as were very inconsiderable; yet you, who have subdued such mighty Nations, and performed such glorious Exploits, ought not to have slighted the Badges of your Valour, those Fruits of your Labours, and Rewards of your Dangers. Nor indeed, tho' wiser than *Themista*,† did you slight them; no, you did not chuse that the Reproaches of the Senate should knock against that

* *M. Piso.*] This was the *Piso*, who, being adopted into the *Puppian* Family, was called *Puppius Piso*. He triumph'd over the *Spaniards*.

† *Themista.*] This *Themista* was a learned Lady who is mentioned by *Arnobius* to have taught Philosophy.

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that brazen Skull of yours. Since I have done myself the Discredit to compare myself with you, you may now perceive my Departure, my Absence, and my Return, were so infinitely preferable to yours, that they crown'd me with immortal Glory, and branded you with indelible Infamy.

AND now, as to this our daily and ordinary Employments in the Town; will you presume to prefer your Figure, your Popularity, the Number of your Dependents, your Practice at the Bar, your Advice, your Assistance, your Authority, your Abilities in the Senate, to mine, or, to speak more properly, to those of the most *despicable*, the most *desperate* Man alive. To begin: The Senate hates you, which you yourself own it has Reason to do, as you was the Demolisher and the Destroyer of its Dignity and Authority; nay, of its very Order and Name. The *Roman* Knights cannot bear to see you, since under your Consulate * *L. Ælius*, the most accomplish'd Man of that Order, was banished. The Commons of *Rome* with for your Damnation, for you threw Infamy upon them † for what you did by means of Robbers and Slaves against me: All *Italy* curses you,

* *L. Ælius.*] This was *L. Ælius Lamia*, to one of which Family *Horace* address'es an Ode: And was ordered by *Cicero* and his Party not to come within a Mile of *Rome*.

† *You threw Infamy upon them.*] *Clodius* and his Friends obtained a *Plébiscitum* against *Cicero* in his Exile; which he very artfully insinuates here to have been only obtained by means of Rogues and Rapparees, and that the honest People of *Rome* knew nothing of the Matter, tho' it had passed in their Name and by their Authority.

you, who so haughtily rejected their Decrees and their Prayers.

Now, make the Experiment if you dare, and stand the Proof of so violent and universal a Hatred. Very speedily will be exhibited, * the most pompous and magnificent Shews that ever yet were seen; and I firmly believe that ever will be seen hereafter. Show away before the People; Trust yourself in the Theatre. Do you fear to be his'd? Where then is your Philosophy? Are you afraid of being shouted at? But a Philosopher is above minding that too. You are afraid they should lay Hands upon you, for your Philosophy tells you that *Pain is Evil*; but *Reputation, Disgrace, Infamy, Turpitude* are only *impertinent Words*. But I don't dispute this. He will not dare to come to the Plays. He will not be present at a public Entertainment, to share in the Dignity attending it, but merely for his own Diversion, unless perhaps when he sups with *P. Clodius*, I mean with his own dearly beloved Companions.

He will leave the Plays to us who are *Dunces*.† For he uses in his Disputation to prefer the Pleasures of his Belly to all the delightful Sensations of the Eyes and the Ears. For though formerly you only thought him
a roguish,

* *The most pompous Shews.*] These were the Shews exhibited by *Pompey* when his Theatre was consecrated; and which, if we may believe what is said of them by *Roman* Authors, were answerable to what *Cicero* here says of them.

† *Dunces.*] Orig. *Idiotæ*. A Word to signify one not read in Philosophy.

a roguish, malicious Pickpocket; yet now he appears rapacious, mean, stubborn, proud, falacious, treacherous, impudent, and presumptuous; but you are to know besides, there is not a more luxurious, a more lustful, a more sensual, a more detestable Thing in the World than himself. Yet there is a Luxury of which you are never to suspect him.

FOR tho' all Luxury is vicious and scandalous, yet there is a certain Species of it more becoming a Man of Sense and a Gentleman. There is nothing about him that is genteel, nothing that is elegant, nothing that shews Taste: And let me do Justice to my Enemy, he is extravagant upon no Article but his Lufts. He has not a Piece of embossed Plate * in his Cupboard; he has indeed swinging Dishes, and those, that he may not seem to despise his Countrymen, are *Placentine* Ware. His Table is furnished not with Lobsters and Fishes, but with Plenty of Salt, stinking Meat. You are waited upon with slovenly Servants; some of them old Fellows. The same Person serves in the double Capacity of his Cook and Porter: He keeps no Baker, nor any Cellar. He buys his Bread and Wine from a Stall
and

* *He has not a Piece of embossed Plate.*] The whole of this Description is extremely humorous, and with a very little Alteration would make a very good Figure even in *English* Comedy.

and a Booth.* His Guests are Greeks; five, and sometimes more in one of his little Beds,† while he has one all to himself. They drink as long as it is furnished from the Upper Couch.‡ When he hears the Cock crow,§ he

* *He buys his Bread and Wine from a Stall and a Booth.*] If some over-nice Readers did not look upon it as too low an Expression for *Cicero*, the Expression in the Original here might be translated, He buys his Bread and drinks out of a Chandler's Shop.

† *Five, and sometimes more in one of his little Beds.*] This was very inclegant, the usual Number in a Bed was but three, and the Number at one Table with People of Fashion and Taste seldom exceeded nine, or fell short of three. We have a curious Passage to that Purpose in *Aulus Gellius*, 13. 11. from the *Menippæan Satires* of *Varro*.

Nescis quid vesper serus vehat.

“ Dicit Convivarum numerum incipere oportere a
“ Gratiarum numero, & progredi ad Musarum, idest, pro-
“ ficisci a tribus, & consistere in novem; ut, cum pau-
“ cissimi convivæ sunt, non pauciores sint quam tres;
“ Cum plurimi, non plures quam novem. Nam multos,
“ inquit, esse non convenit, quod turba plerumque est tur-
“ bulenta: Ut Romæ quidem constat, sed & Athenis nul-
“ quam plures cubant.”

From this Passage probably arose the famous Saying of a *British Prince*, “ That he would never chuse to have his
“ Company more in number than the Muses, nor fewer
“ than the Graces.”

‡ *The Upper Couch*] The Landlord's Place was at the Head of the Table; and Commentators think that *Cicero* mentions this Circumstance, as if *Piso* had distributed all the Wine to his Guests with his own Hand. But I think this is too bald a Meaning for the rest of the Humour in this Description. Therefore I should be inclined to believe, if the Words could be brought to bear it, that *Piso* and his Guests drank, till he was so over-loaded that he discharged it from the Upper Couch.

§ *When he hears the Cock crow.*] This is a Pun upon the Word *Gallus*; but a very pardonable Pun, *Piso's* Grandfather being a *Gaul*.

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he imagines his Grandfather is risen from the Dead, and then he orders the Board to be removed.

IT may be asked me, how come you to know all this? Upon my Honour I will paint nobody out merely for the Sake of Abuse, especially a Man of Wit and Learning. (And such Men I cannot hate, even tho' I would.) There is a certain *Greek* * who lives with this Fellow *Piso*, who, to tell the Truth, is an ingenious Man, for I know him to be such, but it is when he is with other People than him, or by himself. This Person when he saw *Piso*, then a young Man, wearing that boding discontented Physiognomy, did not decline his Friendship, especially as he was courted to it. He entered into an Intimacy with him, in such a Manner that they lived with one another, and were almost inseparable. I am not now speaking to the Illiterate; for I know this Assembly to be composed of Men of the deepest Learning, and the most polite Knowledge. You surely have heard, the *Epicurean* Philosophers maintain, that every thing which Mankind ought to wish for is to be valued according to the Degree of Pleasure it affords.

WHETHER this Doctrine is right or wrong, it is nothing to us, or if to us, it is nothing to
our

* *There is a certain Greek.*] We have here a Picture of the melancholy Condition of the most learned and ingenious Foreigners in *Rome*. This *Greek's* Name, as we understand from *Aconius*, was *Philodemus*, a Man of great Capacity and Genius.

not part with it, he took Witnesses and sealed up their Depositions, that *Epicurus* was expressly of Opinion no such thing as Pleasure can be understood without bodily Sensations, and I grant it is so.* In short, our polite *Greek*, with his very good Breeding, did not chuse to battle it too much against a *Roman Senator*.

But the Person I speak of has not only Philosophy to recommend him, but even Learning, which most other *Epicureans* are said to neglect. Besides, he has made a Poem, which was so humorous, so pretty, so elegant, that nothing could be smarter. Were one to take this Poem to Pieces, it would do him but very little Discredit, and that not as a *scandalous profligate, presumptuous Wretch*, but as a *Greeklings*,† as a *Flatterer*, and as a *Poet*. Being but a *Greek* and a *Stranger*, he came, or rather he fell into the Hands of this Fellow, by mistaking that Look which has deceived this great, this mighty State. He could not disengage himself when once he was inveigled in. so close a Familiarity, and, at the same time he was afraid of being reproached as fickle.

* *I grant it is so.*] There is an Obscurity here in the Original, which makes it very suspicious that the Place is mutilated.

† *As a Greeklings.*] This proves what I have taken notice of elsewhere, that the Professors of the fine Arts were under great Disadvantages, when not *Roman Citizens*. And that no Merit, no Learning, no Genius in his Way, tho' ever so great, could relieve the Professor from Contempt, unless he was in a Capacity to apply his Talents to the Service of the Publick.

fickle. Being intreated, invited, forced to it, he wrote so much to this Fellow upon the Subject of himself, that he painted all his Lusts, all his Intrigues, all the kinds of his Suppers and Entertainments, in the most delicate Verses.

If any one should chuse to read those Verses, he may view the Life of *Piso* as it were in a Mirrour; I would now rehearse some of them that are very much read and repeated, did I not fear, that the Nature of the Strain, in which I am now speaking, would be very inconsistent with such a Manner. At the same time, I am unwilling to detract the least from the Merits of their Author, who, if Fortune had directed him to a better Pupil, would perhaps have been more reserved and modest. But *Necessity* has forced him into this manner of Writing, which is extremely unworthy a Philosopher: For Philosophy is said to contain the whole System of Virtue, of social Duties, and of Moral Living. A Doctrine, which, whoever professes, seems to me to support a most awful Character. But the same *Necessity* defiled him with the Filth, and the Stains of that impure and intemperate Brute, while he did not know what he meant when he gave himself out for a Philosopher. For when he had praised the Conduct of my Consulate, * I thought such Praises disgraced me.

E e 2 as

* *The Conduct of my Consulate*. Though the Author shew'd by the Verses he intreated I see, that he was no very

as they came from to *disgraceful* an Author. *It is not Envy*, says he, *that has hurt you, but your Verses*. But the Punishment which was decreed under y ur Consulate was too severe either for a wretched Poet or a free Citizen. *But you wrote* LET TO THE GOWN THE SWORD GIVE WAY. And what if I did? *Why this raised all the Persecution against you*. But I do not think it ever was inserted into that Epitaph which under your Consulate was engraved upon the Tomb of this Constitution, BE IT THEREFORE DECEIVED AND ENACTED * THAT SINCE M. CICERO HAS MADE VERSIS : NO, it is, SINCE M. CICERO HAS BROUGHT TO JUSTICE——

BUT as you are a Grammarian, not in the Stile of *Aristarchus*, † but of *Pbalaris*, ‡ and

as

good Poet; yet this Passage is a Proof that he had a great deal of Wit; and if we are to believe him, *Piso* prov'd himself to be a worse Critic than he was a Poet.

* *Be it therefore deceived and enacted.*] Orig. *Veitis, jubentis et quod M. Cicero*. I am intirely of Opinion, that this was the Form in which the People's Sentences of Banishment began, and if so, it adds a great deal of Strength to our Author's Ridicule upon *Piso*.

† *Aristarchus*] This was a Grammarian, who when he did not like a Verse of *Homer*, marked it with an Asterisk as spurious. We are told by *Suidas* of an incredible Number of Treatises composed by this Grammarian, whom *Vitruvius* calls the Chief of his Profession. *Cicero* mentions him in his familiar *Epist B. III 9. Ut enim Aristarchus Homeri versum negat, quem non probat, si tu (libet enim mihi jocari) quod disertum non erit, ne putaris incum.*

‡ *Pbalaris*] This was the famous Tyrant, who was himself a Man of great Wit and Learning. Our Author here alludes a little to his Difference with the Poet *Stesichorus*.

bling white-liver'd Coward, with those most plundering Hands, had thrown away at the *Esquiline* Gate, the Laurel which was plucked from the bloody Badges of thy Distinction, you shewed *that the Laurel had yielded*, not only to the most *sublime*, but to the most *trifling* Merit in Eloquence. And yet, thou Ruffian,* you want that this should be understood in such a Manner, as if *Pompey* was become my Enemy by that Line; that if the Line has been of Prejudice to me, I may seem to have courted my Ruin from the Person to whom it gave the Umbrage.

I SHALL not here undertake to shew, that this Verse had no Relation to that great Man: Nor that it never could have been my Intention to abuse, in a single Line, the Person, whom, as far as I was capable, I had celebrated in many Speeches and in many Writings. But supposing him to be offended, will he not counter-balance one little Line with the many Volumes I have wrote in his Praise? Supposing he was piqu'd, will so small a Trifle as a Verse make him wreak so dreadful a Resentment against the Life, I will not say of one who loves him dearly, nor of one who has been so devoted to his Person, nor of one who has ever been so devoted to the Public, nor of a Consular, nor of a Senator, nor of a Citizen, nor of a Gentleman, but *of a Man?*

DOST

* *And yet thou Ruffian.*] *Abramius* here very sensibly observes, that our Author's Manner always leads him to rise into somewhat that is very severe, and very serious after he has jok'd a little.

Dost thou understand *what, before whom, or of whom*, you talk; you link those noble Personages to thy Villanies, or to those of *Gabinus*, and you do it publickly too. For, a little while ago, you said *that I was engaged against those whom I despised; that I had not touch'd upon those who have more Power, and with whom I had more Reason to be offended,** These are indeed Personages, for every Body sees whom you point at, who tho' they have not all of them the same Views, yet all their Views are agreeable to me.

Cn. Pompeius always had the tenderest Regard for me, tho' many oppos'd the Zeal and the Love he shew'd me, he always esteem'd me most worthy of his Intimacy, and always promoted not only my *Safety*, but even my *Dignity* and my *Honours*. Your Rogueries, † your Villainy, your calumnious Reports of my Treachery, and his Dangers so infamously forged by you, and by those, who abusing their Familiarity with him, fill'd his Ears, at

E c 4

your

* *And with whom I had more Reason to be offended*] Meaning *Cesar* and *Pompey*, and perhaps *Crassus* too. 'T would appear by this Passage, and what immediately follows, that there had been some Differences about this Time among those great Men.

† *Your Rogueries*] We have a full Explanation of the Passage hinted at here in our Author's Oration for *Sextus*. " *Pompeium domi meæ certî homines ad eam rem*
 " *compositi monuerunt, ut esset cautior: Ejusque vitæ a*
 " *me insidias apud me domi positas esse dixerunt: Atque*
 " *hanc suspicionem alii literis interceptis, alii Nuntius, alii*
 " *coram ipse excitaverunt, ut illæ, eum a me certe nihil*
 " *tumeret, ab illis, ne quid meo nomine malirentur, sibi*
 " *cavendum putaret.*

your Instigation, with the most scandalous Reports. Your Eagerness for Provinces occasioned * me to be excluded, and all those who wished well either to his Glory, or to the Safety of his Country, to be debarred of all Access or Conversation with him.

ALL these Circumstances concurring, prevented him from acting according to his own declared Judgment, while a Set of People, tho' they never were able to alienate his Affections from me, retarded him from giving me his Assistance. Did not the then Prætor *L. Lentulus*; did not *Q. Sanga*; did not *L. Torquatus* the elder; † did not *M. Lucullus* come to you?

* *Occasioned me to be excluded.*] If we believe *Plutarch*, *Pompey* acted a very sneaking Part on this Occasion; for he retired to his Estate at *Aba*, and was so much ashamed, and afraid of seeing the Man to whom he lay under so great Obligations, that he could not face him, but slipped out at the Back-door when he heard *Cicero* was coming thither.

† *L. Torquatus.*] *Sallust* hints at two Conspiracies in which *Catiline* was engaged, and *Suetonius* mentions the same in his Life of *Julius Cæsar*. “ *Piso*, *Catiline*, and
“ *Antonius* had concerted to invade the Consul *L. Cotta*,
“ and *L. Torquatus* on the first of *January*, and then that
“ *Piso* should be sent as Prætor to *Spain*, with an Army
“ to take Possession of both the *Spains*, but the Plot being
“ discovered, the Execution of it was put off.

“ *Cn. Piso*, *Catilina*, & *Antonius*, circiter nonas Decembris, says *Sallust*, Consilio communicato parabant
“ in Capitolio Kalendis Jan. *L. Cottam* & *L. Tor-*
“ *quatium* Consules interficere, ipse falsibus correptis *Pi-*
“ *sonem* cum exercitu ad obtinendas duas *Hispania* mittere.
“ *E*re cognita rufus in nonas *Februarias* consilium cædis
“ distulerunt.

I cannot leave this Note without explaining the Reason why our Author so particularly characterizes *Torquatus*.

This

you? After they had all together, with many others, gone to *Pompey's Alban Seat*, to beg and entreat him not to abandon my Fortunes, which were so inseparably connected with the Safety of the Republic, he sent back the very same Persons to you and your Colleague; with a View that you should undertake the public Cause, and lay it before the Senate; declaring at the same Time, that he was unwilling to encounter an armed Tribune of the Commons, without public Authority. But if the Consuls would undertake the Cause of their Country by a Resolution of the Senate, that he would take up Arms.

DOST thou remember, thou Wretch, what your Answer was? An Answer so disrespectful,

This Gentleman seems by Nature to have been very passionate and testy, so that it is no Wonder if he was sooner fired than any of the others. We have a remarkable Instance of this in *Gellius*, *Lib. i. 5.* who tells us, that in a Pleading against *Hortensius*, he said he would no longer, as usual, call him an Actor, but an *Actress*, and then called him a *Dancers*, and by the Name of *Dionysia*, a celebrated Female Performer of that Kind. The Reader is to remark, that *Hortensius* was of a quite different Character, being a very neat, spruce, airy Gentleman, perhaps a little approaching the finical. However, hearing himself so railed at, *Dionysia!* said he, (but so low that *Torquatus* could not hear him) why, says he, I had rather be called *Dionysia*, than such a slovenly, ill mannered, untractable Brute as you *Torquatus* are. I will give the whole Passage in *Gellius's* own Words. “Sed quum de causa Sullæ quæreretur, non jam histrionem eum esse diceret, sed gesticulariam eam Dionysiamque eum notissimæ saltatriculæ nomine, appellaret: Tum voce molli atque demissa, Hortensius, Dionysia inquit, Dionysia malo equidem esse, quam tu. Torquate, Ἀμείβεις. Ἀμειβρόδιδιτος, κὶ Ἀπιοσδίδι

ful, that it put all those Persons, but especially *Torquatus*, into a Rage; That you was not so well supported in your Consulship as *Torquatus* and I were in ours. But there was no Occasion for Arms, nor for a Struggle; that it was again in my Power to save my Country if I yielded; that if I opposed, a prodigious Slaughter must ensue. In short, that if it came to the Push, neither you nor your Son-in-law, nor your Collegue, would abandon the Tribune of the Commons. And shalt thou, thou avowed Traytor, say, that I ought to have a greater Enmity with others than with you?

I KNOW that *C. Cæsar's* * Sentiments and mine differed as to public Measures: But yet, as I have often said in this Assembly of him, he wished, he proposed, he invited and requested me to share in his Consulship, and in those Honours which he communicated to his nearest Relations; but I, from a Principle of a perhaps too stubborn Constancy, was not brought over to his Party; I was not fond of entering into the strictest Familiarity with a Man, whose even good Offices could not prevail with me to think in the same Manner with himself. It came to be tried under your Consulship, and it was debated, whether his Acts of the Year before should be ratified or repealed. What need I say more? If he imagined there was so much Courage and Vigour

* *C. Cæsar's Sentiments and mine differ'd.*] That they
at Times; particularly with regard to divid-
ing the *Campanian Lands*, and the Punishment of *Catiline's*
Conspirators.

gour in my single Person, that his Acts would fall to the Ground if I had opposed them; why should I not pardon him for preferring his own Safety to mine?

BUT I omit what is past, as *Cn. Pompeius* undertook my Defence with all his Zeal, all his Labour, at the Danger of his Life, as he made a Tour round the municipal Cities in my Favour, implored the Friendship of *Italy*, held frequent Consultations with *Pub. Lentulus*, the first Mover of my Return, shewed his declar'd determined Sense in the Senate, and in Assemblies professed himself not only a *Champion* for my *Safety*, but a *Petitioner* for my *Person*, as he understood that *C. Cæsar* had great Interest, as he knew him to be no Enemy of mine, he join'd him as the Associate and the Assistant in all the Services he did me.

YOU now see, I had Reason not only to be a *Foe*, but an *Enemy* to thee, and not only to retain no *Resentment*, but to have a *Friendship* with those Personages whom you pointed out. One of them I shall never forget, to have been a Friend equally to me and to himself; the other, I shall soon forget, to have been more a Friend to *himself* than to *me*. In short, the Case is such, that brave Men,* tho' they fight
Hand

* *Brave Men.*] There is a Sentiment very like this in the Seventh Book of the *Iliad*, which is put into the Mouth of *Hector*.

Now Martial Law commands us to forbear;
Hereafter we shall meet in glorious War.

Some

Had to Hand; yet they lay aside the Rancour of Enmity with their Encounter and their Arms. But it was not in *Cæsar's* Power to hate me, even while we were at Variance together. *True Courage* has this *Quality*, with even the Shadow of which you are unacquainted; That its very Appearance and Beauty shining, tho' in an Enemy, give Pleasure to the Brave.

AND indeed, Fathers Conscript, from my Soul I will tell you what I think, and what I have often declared in your Hearing. Tho' *C. Cæsar* had never been my Friend; tho' he had always been exasperated against me; tho' he had despised my Friendship; tho' he had declared himself my implacable, my unrelenting Enemy; yet after the glorious Actions he has performed, and continues daily to perform, I could not help being his Friend. I am not for throwing in or opposing * the Rampart

Some future Day shall lengthen out the Strife;
 And let the Gods decide of Death or Life!
 Since then the Night extends her gloomy Shade,
 And Heaven enjoins it, be the Night obey'd.
 Return, brave *Ajax*, to thy *Græcian* Friends,
 And joy the Nation whom thy Arm defends;
 As I shall glad each Chief, and *Trojan* Wife,
 Who wearies Heaven with Vows for *Hector's* Life.
 But let us, on this memorable Day,
 Exchange some Gift, that *Greece* and *Troy* may say,
 "Not Hate, but Glory, made these Chiefs contend,
 "And each brave Foe was in his Soul a Friend.

* *I neither throw in nor oppose.*] I will set down all the Original of the whole of this Passage, and will intirely leave it with my Reader, whether I have hit upon the Sense,

part of the *Alps*, to the Invasions and to the Incursions of the *Gauls*, nor the Ditch of the *Rhine*, so full of Whirlpools; to the barbarous *German Nations*; for his Command supplies all those Fences: It is owing to him, that were the Mountains level, and the Rivers dried up, *Italy*, though left defenceless by Nature, would in his Victories and Exploits, have an invincible Barrier. But as he wishes me well, as he loves me, as he honours me with his highest Esteem; shall you divert the Force of my Quarrels with you, into Enmity with him? Shall you thus by your criminal Intrigues make the Wounds of your Country bleed a-new? As you well knew the Connection betwixt *Cæsar* and me, you made that your Screen, when you asked me, tho' with trembling Lips, why I did not accuse you? As for my Part, *never shall I rid you * of that Anxiety, by denying it to you*; yet I am to consider † what a Load of Solitude I, who am
a most

Sense, after acquainting him, that the Commentators seem to have given it up. “ Cujus ego imperio non Alpium vallum contra adscensum transgressionemque Gallorum, non Rheni Fossam Gurgitibus illis redundantem, Germanorum immanissimis gentibus objicio & oppono.

* *Never shall I rid you.*] We are told by *Asconius*, that this is a Verse of *Accius* the Poet. Our Author seems to have been particularly fond of it, having quoted it upon another Occasion.

† *I am to consider.*] It is very surprizing, if *Piso* was guilty of the fourth Part of what is alledged against him by our Author, that he was not impeached. I am therefore very apt to believe, that there is a great deal of Exaggeration in the whole; especially when we consider the noble Part, which, by our Author's Confession, this very *Piso* acted after *Cæsar's* Death. See *Vol. II. p. 183, 184.*

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a most tender Friend, must thereby impose upon one who is encumber'd with such weighty Affairs of State, and so important a War. Yet do I not despair, notwithstanding the Indolence of our young Gentlemen,* notwithstanding their Remissness in the noble Pursuit of public Honours; that there are some amongst them, who will not be averse from stripping the despicable Carcase of these Consular Spoils, especially as the Criminal is so fallen, so feeble, and so enervate a Wretch: *I mean you*, whose Conduct was such as discovered that you was afraid of appearing unworthy the Favour you got, if you did not copy exactly after your Constituent.

WELL, do you imagine that I have but slightly traced the Stains of your Government, and the Ravages of your Province? No; It is not a cold Scent † upon the Track of your Footsteps; for I have followed you warm thro' all your Doublings into your very Haunts and Wallowing-Places. I mark'd your earliest Villainies after your Arrival, when, after receiving a Sum of Money from the *Dyrrhachians*, ‡ for murder-

* *The Indolence of our young Gentlemen.*] I have, on other Occasions, taken Notice, that the Impeachment of eminent Offenders, and bringing them to the Bar of their Country's Justice, was one of the surest Steps in *Rome* by which young Gentlemen could rise to the highest Honours.

† *It is not a cold Scent.*] This Passage is a Metaphor ~~taken~~ from Boar-hunting, inimitably beautiful in the Original.

‡ *Receiving a Sum of Money from the Dyrrhachians.*] It is surprising, that a civilized State, such as that of *Rome*

murdering *Plator*, who entertained you, you demolished the House of the very Man, whose Blood you had set to Sale: And all this, after receiving from him some musical Slaves, and other Presents, and after you had encouraged him while under great Terrors and Perplexities; nay, had ordered him by the Faith you plighted, to come to *Theſſalonica*:† Nor did you put him to the Death that is preſcribed by our Uſages,* while the unhappy Victim begg'd to yield his Neck to the Axes of his Gueſt; for you ordered the Phyſician, whom you carried along with you, to open the Veins of your wretched Entertainer. This Murder of *Plator* introduced you to that of his Companion *Pleu-*

Rome was, ſhould have no expreſs Law till near 700 Years after its Inſtitution, againſt the Crime here mentioned. It is true, that it was propoſed immediately after the barbarous Proſecution ſet on foot by *Sylla*; but even in the intermediate Time, one is apt to wonder what had become of all the great Virtues of the *Romans*, who were ſo much praiſed by our Author, that they did not ſooner put a Stop to this Proceeding. The Law I ſpeak of is the *Lex Julia* paſſed by *Cæſar*, which with a few Alterations was afterwards enacted by *Auguſtus*.

† *Theſſalonica*.] This was a City of *Macedonia*, and formerly the Reſidence of the Proconſuls.

* *Death preſcribed by our Uſages*.] I don't know from whom the *Romans* got that Method of putting People to Death, which was ſo much practiſed after the Days of the Republic, I mean that of opening the Veins in a warm Bath, and which is probably the ſame that is mentioned here; but the uſual Way of putting State Criminals to Death, was firſt by ſcourging them with Rods, and then cutting off their Heads. I will only take Notice, the *Venarum incifo*, the opening of the Veins, was of two Sorts: The one was immediately mortal, *Extremum-Supplicium*; the other was only ignominious.

ratus, whom, tho' bending to the Grave with Years, you scourged to Death. You likewise cut off the Head of *Rabocentus*, a leading Man among the *Bessians*, † after you had sold yourself to King *Cotus* * for 60,000*l.* and this you did after *Rabocentus* came as an Ambassâdor to your Camp, and had promis'd you large Reinforcements of Auxiliaries, both of Horse and Foot; nor did you sell *him* only to this King *Cotus*, but with *him* the other Deputies who accompanied him. You waged an unjust and a cruel War against the *Denseletæ*, a Nation which was always submissive to our Government, and protected the Prætor *C. Sentius*, in that universal Rebellion of all the Barbarians in *Macedonia*; and when you might have employed them as most faithful Allies, you choie to have them imbittered Enemies. By this Means, you rendered those who had always before been the Protectors of *Macedonia*, its Plunderers and Destroyers. They interrupted the Collection of the Revenues; they seized upon our Cities; they laid waste our Lands; they forced our Allies into Slavery; they carried off their Slaves; they drove away their Cattle; they obliged the *Thessalonians* when they found the City no longer tenable, to fortify themselves in the Citadel.

BY

† *The Bessians.*] This People lived in the Province to which *Piso* was sent, as did the *Denseletæ*.

* *King Cotus.*] *Cotus* or *Cotys*, seems to have been a Family Name belonging to the Kings of *Thrace*; in the same Manner as *Arjaces* to the *Persians*; *Ptolemy* to the *Egyptians*.

By you, the Temple of *Jupiter Urius*,* the most ancient and holiest Temple among the Barbarians, was plundered; the Gods exacted the Atonement of your Crimes upon the Persons of our Soldiers; these were all visited with one Kind of Disease, † which was fatal to every one tainted: Therefore nobody doubted but that the violated Rites of Hospitality, the Murder of Ambassadors, the harrassing our peaceful Allies by an unjust War, and the plundering of Temples had produced this terrible Calamity. In this small sample of thy Villainies and Cruelty, you display the Whole.

SHALL I now explain at large thy Avarice, which is complicated with numberless Crimes? I will succinctly touch upon those Instances,

VOL. II. F f which

* *The Temple of Jupiter Urius.*] This Temple made a great Noise in Antiquity. There are a great many Readings and Conjectures about it amongst the Commentators. We are told by *Arrian*, that the Temple *Oupis* lay betwixt the *Thracian Bosphorus*, and the City of *Trabizond*. The Reader will observe, that this *Jupiter Urius* was not the *Jupiter Umbriciter* of the Ancients, who presided over Showers, but the Deity who sent favourable Winds to Sailors. The *Romans* called him *Jupiter Imperator*, without any Regard to any *Greek Name*, and is the same who is mentioned in the fourth Book against *Verres*. “ Quid? “ Signum *Pæanis* ex æde *Æsculapii* præclare factum, sacrum & religionem, non sustulisti? Quid? Ex æde *Liberi* simulacrum *Aulicæ*, non tuo imperio palam ablatum est? Quid? Ex æde *Jovis* religiosissimum simulacrum *Jovis Imperatoris*, quem *Græci* *Urion* nominant, pulcherrime factum, nonne abstulisti?

† *These were all visited with one Kind of Disease.*] This is perfectly agreeable to the Heathen Mythology, and is an Article in Religion which has always a very good Effect both in Oratory and Poetry, and has been very much employed in both.

which are most notorious: Did you not leave at Interest in *Rome* 25,000*l.* you received from the Treasury on the Article of Plate,* at which you valued my Head? When the People of *Apollonia* had given you 40,000*l.* at *Rome*, to excuse them from paying their Arrears, did you not even deliver up † *Fufidius* a Roman Knight, a Man of the greatest Accomplishments, into the Hands of the Debtors? When you sent your Troops into Winter-Quarters with your Lieutenant-General, did you not entirely ruin those wretched Cities into which they went, and which were not only plundered of their Effects, but even suffered the most infamous Treatment from lustful Abuse? What Rule did you observe in the Valuation, ‡
of

* *On the Article of Plate.*] Orig *Vasarii nomine.* Tho' I have translated this Passage according to the common received Notion; yet from the Connexion I am not quite satisfied but that *Muretus* may be in the right, who thinks that the *Vasarii nomen* was no other than a Deposite to be paid in case of performing such and such Articles. It is therefore but just to give the Reader the Words. "Quasi promissum a vade P. Clodio si meam illi Salutem tradidisses. Vas est qui vadimonium pro altero promittit; inde vasarium pato communiter ad omnia, quæ promitterenter esse deductum."

† *Did you not even deliver up.*] *Addice debitorem* was a common Saying among the *Romans*, to signify the Person of a Debtor being delivered up to his Creditor for the Payment of his Debts. Our Author here with a great deal of Wit and Judgment inverts the Expression. The Dauphin's Commentator, with his usual Sagacity, tells us, that *Cicero* says this; because that when he sent his Soldiers into Quarters, he quarter'd some of them in *Fufidius's* House.

‡ *The Valuation of Corn.*] The *Roman* Magistrates in their several Provinces had a Power of converting at a certain Valuation,

of the *free Gift*, if that can be called a *free Gift*, which was extorted by Violences and Menaces. This was what most of them equally felt, but the *Bœotians*,* the *Byzantians*,† those of the *Chersonesus* ‡ and *Theſſalonica*, in a more signal Manner. You was the sole Proprietor, the Valuer, and the Retailer; in ſhort, you kept in your own Hands a Monopoly of all the Corn in the Province for three Years.

NEED I to open your Proceeding in criminal Trials; your Compromiſes and Bargains with
 F f 2 the

luation, the Corn, which their ſeveral Provinces were taxed with, into Money. Our Author, in another Paſſage or two, tells us, that this Conversion was not at firſt deſigned for the Advantage of the Government, but for the Eaſe of the Farmers; but that it became at laſt ſo much abuſed by covetous Governors, that they exacted intolerably upon the Huſbandmen, who were obliged to deliver it into the public Granaries, by eſtabliſhing thoſe Granaries in Places where it was very difficult for the latter to transport it; therefore it became a Source of Oppreſſion in the Provinces. “*Hæc æſtimatio,* “*ſays he, nata eſt, Judicēs, non ex Prætorum aut Conſu-* “*lum, ſed ex Aratorum atque Civitatum commodo. Nemo* “*enim fuit initio tam impudens, qui, cum frumentum de-* “*beretur, pecuniam poſceret, certe hoc ab Aratore pri-* “*mum eſt proſectum, aut ab ea civitate cui imperabatur,* “*cum aut frumentum vendiſſet, aut ſervare vellet, aut in* “*eum locum, quo imperator, portare nollet, petivit in* “*beneficii loco, & gratiæ, ut ſibi pro frumento, quanti* “*frumentum eſſet, dare liceret. Secuti ſunt avariores Ma-* “*giſtratus, &c. Inſtituerunt ſemper ad ultima ac difficilli-* “*ma loca apportandum frumentum imperare, ut vecturæ* “*difficultate, ad quam vellēt æſtimationem, pervenirent.”*

* *The Bœotians.*] Theſe were a People of Greece, their Capital was *Thebes*.

† *The Byzantians.*] The City of *Bizantium* lay in *Thrace*, and is the modern *Conſtantinople*.

‡ *Chersonesus.*] This was the *Thracian Chersonesus* which lay near the *Euxine Sea*.

the Accused ;|| your heavy Penalties, and your arbitrary Acquittals ? † I will give you Leave, when you shall perceive I am acquainted with any of those Heads, to recollect how many and how various your Crimes are in each Kind. How ! do you remember any Thing of that Magazine of Arms, when driving together all the Flocks of a whole Province, under the Article of Skins * you renewed all your Family Trade ? For you had, while an over-grown, lubberly Boy, perceived in the *Italian War* ‡ your House filled with the Profit of that Trade, while your Father was Overseer of the Manufacture of Arms. How ! Do you remember that you render'd a whole Province tributary to
your

[*And bargains with the Accused.*] This was a most heinous Offence amongst the Antients ; and that too very justly. We are told by *Plutarch*, that at *Thebes* their Judges were painted as having no Hands, and therefore not to be prevail'd with to condemn or absolve from mercenary Views.

† *Your arbitrary Acquittals.*] *Libidinosissimas Liberationes.* I don't understand what *Grævius* means here by saying, that *Abramius* does not understand this Expression. I think his Explanation of it is pretty much the same with that of *Grævius*, only it seems to be more probable and more agreeable to the common Practice of Mankind.

* *Under the Article of Skins.*] *Turnebus* tells us here, that these Skins were not designed for the Manufacture of Arms, but for covering the Booths and Shops, in which that Manufacture was carried on. I am apt to think, that by the *Armorum Officina* here is meant no more than a Trade or Traffick in Arms, which *Piso* drove to his own private Advantage, when he forced the People to furnish him with those Skins. It seems *Piso's* Father had been Overseer of the Manufacture of Arms.

‡ *The Italian War.*] This was the War which the People of *Italy* rais'd after the Death of *Livius Drusus*, that they might be entitl'd to the Freedom of Suffrages in *Rome*.

your Slaves, who acted as Officers of the Revenue, by imposing a certain Tax † upon the Exportation of all vendible Commodities.

How! Do you remember how you openly set to Sale *Military Commissions*? || How Posts of Honour in the Army were disposed of by the most pitiful of your Slaves? How, every Year of your Government, the Soldiers Arrears* were paid by the Cities, in public Offices erected for that very Purpose? What shall I say of your March towards an Attempt upon *Pontus*? † Of the abject, poor Spirit you discovered, when, upon your hearing that *Macedon* was declared a Prætorian Province, § you fell down motionless

F f 3

and

† *A certain Tax.*] This Tax was called *Portorium*, and must have been extremely heavy upon the poor People of Provinces, as it was a Discouragement to all Industry and Manufactures. It seems to have been levied much in the same Manner as our Excise; as they were obliged to pay for Permits for transporting the Commodity from one Place to another.

|| *Set to Sale Military Commissions.*] We here see the Sale of Commissions charged as a Crime upon a *Roman* Governor, because the *Roman* Officers rose by their Merit in the Army.

* *The Soldiers Arrears*] This if true was another very infamous Practice of *Piso*. The Money for that Purpose was issued out of the Treasury, which *Piso*, no doubt, put in his own Pocket, and levied upon the People of his Province.

† *Your March towards an Attempt upon Pontus.*] This is a very obscure Passage, and we have nothing in History to warrant the Fact. I am therefore apt to take it for an oratorical Exaggeration of an improbable Charge. For had it been founded on Fact our Author would, no doubt, have taken care to have enforced it at large.

§ *That Macedon was declared a Prætorian Province.*] This was done before the Year of *Piso's* Government was out, and the Prætors for the Year were sent thither.

and lifeless, not only because you had got a Successor, but because *Gabinus* had got none? Of your rejecting a Quæstor, || who had served as Ædile? The ablest and the first § among your Lieutenant-Generals all of them wronged? The brave *M. Bæbius* put to Death by your Orders? Of your giving yourself again and again up to loathsome, melancholy, mournful Despondency, in reflecting upon the doubtful, desperate, State of your Affairs? Of your sending six hundred of our Friends and Allies, for the Use of that * *lay Priest* in his Shews of wild Beasts? †

COME

|| *Of your rejecting a Quæstor.*] This was no Crime, because if the Quæstors were not agreeable to their Proconsuls, the latter had a Power of rejecting them. As to the Relation betwixt the Duty of a Quæstor and that of a Prætor or Proconsul, See the Oration against *Cæcilius*, Vol. I.

§ *The ablest and the first.*] I do not know by what means the Word *Turpissimum* has here crept into the Original, and thereby misled *Hottoman* to suppose that he preferred a very worthless Fellow, one of his own Lieutenants, to the Post of Quæstor. The Dauphin's Commentator, with great Judgment, has left out *Hottoman's* Reading in the Text, but given us his Meaning in the Notes.

* *Lay Priest.*] I hope this Translation will not be thought ludicrous after informing my Reader that it is literal. Orig. *Popularis Sacerdos*. He means *Clodius*, and alludes to the well known Story of his profaning the holy Mysteries of the Goddess *Bona*. He uses the same Expression in his Oration for *Sextus*.

† *Shews of wild Beasts.*] These were the Shews *Clodius* exhibited when he was Cural Ædile.

Gravius here gives us a very sensible and accurate Remark which may be of great Use to the Reader. There was, says he, a Difference betwixt *Amici* and *Socii*. *Amici* were the People who were governed by their own Laws, and had only a Fœdèral Union with the *Romans*. Their *Socii*, on the other hand, were real Slaves; so that *Manu-*
tius

COME on; do you remember, while you were almost quite sunk under the Weight of your Grief and Affliction at your Removal, how you first retired to *Samothracia*,* and flew to *Thasus*, with those delicate Dancers of yours, and with those beautiful lovely Brothers, *Autobulus*, *Athamas* and *Timocles*? How, after you withdrew from thence, you lay in Affliction for some Days at the Country-Seat of *Eucadia*, the Wife of *Exegistus*: And in what a sneaking, pitiful Manner you stole from thence to *Thessalonica* in the Night, without any Body's Knowledge? How, when unable to bear the Showers of Tears and the Thunder of Reproaches which met you, you fled to *Beræa*, a remote Town, when after your Mind was swell'd with the Report and the Imagination, that *Q. Ancharius* was not to succeed you, in what Manner, you Rufian, did you renew all your former Insolence and Debauches?

I OMIT the Money for the Triumphal Crown,† which tortur'd you so long while you sometimes wanted to take, and sometimes not to take it. For your Son-in-Law's Statute had forbid any such Crown to be either decreed or

F f 4

accepted,

tius is mistaken in saying, that there was a Difference betwixt the *Stipendiarii* and the *Vestigales*, because they both paid Tribute. But I find no such Distinction in *Manutius*. He makes indeed a Difference, and perhaps a wrong one, betwixt the *Stipendiarii* and *Socii*: For, he says, the *Socii* paid Tribute and the *Stipendiarii* none.

* *Samothracia* and *Thasus*.] Were Islands in the *Ægean* Sea.

† *The Money for the Triumphal Crown*.] This had used to be a Prerequisite of the *Roman* Governors, but was cut off by the *Julian* Law. It seems by this Time the Laurel Crowns had worn out of Fashion at *Rome*.

accepted, but in Cases where a Triumph is voted. Having however swallow'd down that Money, and being no more able to disgorge it than you was able to disgorge the Hundred Talents belonging to the *Achæans* ;* you only changed the Denomination of the Purpose to which that Money used to be appropriated. I omit the Letters Patent dispersed all over the Province. I omit the Number of Privateer Vessels and the Amount of their Prizes. I omit the Account of Corn that was exacted and extorted. I omit the People's and every Individual's being deprived of their Liberty, tho' they had been expressly entitled to Privileges ; all which Oppressions were positively provided against by the *Julian Law*.

THOU Scourge, thou Fiend of our Allies, at your Departure you ruined unhappy *Ætolia*, † which, far removed from the *Barbarians*, seem'd to be embosom'd in Peace, being seated almost in the very Heart of *Greece*. You confess'd, by what you said a while ago, that the noble and opulent Cities of *Arfinoe*, ‡ *Stratum*, || and *Naupactum*, § were taken by the Enemies. But who were those Enemies ? Why the very Persons whom, upon your first Arrival, while you loitered at *Ambracia*, * from the Towns of the

* *The hundred Talents belonging to the Achæans.*] This Page in the Original is very dark if not unintelligible.

† *Ætolia.*] This was a small Country in *Achaia*.

‡ *Arfinoe.*] A Town of *Ætolia*.

|| *Stratum.*] A City of *Acanania* in *Thrace*.

§ *Naupactum.*] A City of *Achaia*.

* *Ambracia*] A City of *Epirus* now *Larto*.

Agræans, and the *Doloceans*,|| you forced to abandon their paternal Altars and to relinquish their native Homes. Upon this Event, after the sudden Ruin of *Ætolia* crown'd all your former destructive Exploits, your most illustrious Excellency dismiss'd your Army; and chose to undergo the severest Censure due to so detestable an Action, rather than take an Account of the remaining Number of your Troops.

BUT that you may clearly view the Similarity of two *Epicureans* † in their military Capacity; *Albucius*, after triumphing in *Sicily*, was condemn'd at *Rome*. *Piso* here, in hourly Expectation of a like Judgment, had rear'd Trophies in *Macedon*. Thus this Burlesque upon all Generals,‡ to the eternal Disgrace of his Family and Name, rais'd those Monuments which all Nations design'd as the Badges, and the Evidences of warlike Glory and military Success, to remain as the fatal Proofs of our lost Cities, of our slaughter'd Legions, and of our Provinces stript of their Defence, and the Remnants of our military Force; And, as if he had rais'd an Inscription to be engraved upon the base of his Trophies, when he came to *Dyrrbachium* * on his Retreat, he was besieged by those very Soldiers whom he told *Torquatus*, a little time ago, he had generously dismiss'd from his Sense of their Services. After he had sworn

|| *Agræans* and *Doloceans*.] The former were Inhabitants of *Ætolia*, the latter of *Acarnania*.

† Two *Epicureans*.] *Albucius* and *Piso*.

‡ This Burlesque upon all Generals.] Orig. *Preposterus Imperator*.

* *Dyrrbachium*.] Now *Durazzo* in *Macedon*.

sworn to them that he would pay to them next Day all their Arrears, he shut himself up at Home. From thence, in the dead of Night, with Sandals on his Feet,† and the Dress of a Slave on his Back, he went on board a Ship, stood off from *Brundisium*, and steer'd for the remotest Coast of the *Adriatic Sea*.

MEAN while the Soldiers at *Dyrrhachium* imagining he was still in the House, beset it, and thinking that the Fellow was concealing himself, set Fire to all its Quarters. The Inhabitants of *Dyrrhachium*, terrified at this, informed them that their Emperor was run away by Night in his Sandals. But the Soldiers overthrew, knocked down, beat in pieces, and scatter'd about, that Statue, which was so very like him, and which it was his Pleasure should stand in their most public Place, lest the Memory of so sweet a Gentleman should be extinguished. Thus they wreak'd upon his Image and Effigies that Vengeance which he had drawn upon his Person.

HAVING said thus much, I make no doubt, but when you perceive I am acquainted with those flagrant Facts, that you will imagine I have not heard of your infamous Villanies, which are lost in the Multitude of your Crimes. You need not to exhort me; you need not provoke me; it is sufficient if I have the Hint: But in this I shall observe no other Directions but what are prescribed to publik Conve-
niency,

† Sandals on his Feet.] This was thought very opprobrious among the *Romans*, the Sandals being a *Greek* Wear.

niency, which to me seems now nearer at Hand than ever you imagined. Can't thou see, can't thou perceive what Kind of Judges we shall have after passing the Law for the Qualifications of Judges * for Trials? It will not then be in the Power of every Man, who has a Mind, to be call'd to the Bench; or to be excused, if he so pleases: That is an Order on which no Man can intrude, and from which no Man shall be arbitrarily exempted: Ambition shall not there procure Interest, nor Hypocrisy cloak Guilt: Judges shall then be chosen such as the Law itself, and not such as the Villainy of Mankind, shall chuse. When Matters shall be upon this Footing, believe me, you shall have then no need to cloak your Dread of an Impeachment under the Shew of provoking it. The Nature of the Accusation itself, and public Conveniency shall invite or dissuade either myself, who am backward to such a Business, or somebody else.

AND give me Leave to repeat it; I am not of Opinion with most Men, that the same Punishments equally serve for all Mankind, such as Condemnation, Banishment, and Death: In short, that which may happen to the innocent, the brave, the wise, the good Man, or a worthy Patriot, in my Eyes, deserves not the Name of Punishment. The
Censure

* *The Law for the Qualification of Judges.*] This was a Law promulgated by *Pompey*, by which the Judges were chosen out of all the three Orders of the People of *Rome*, but were obliged to have a certain Qualification in Point of Property: And likewise were obliged to serve when summoned.

Censure which you have incurred, was the Lot of *Pub. Rutilius*,* a Man whom *Rome* regarded as the Mirror of Innocence; but to me the Punishment decreed to *Rutilius* seem'd to fall rather upon the Judges and his Country than upon him. *L. Opimius*, who, when Prætor and Consul, had delivered the State from most imminent Dangers, was driven from his Country; but the Penalty of Guilt and the Stings of Conscience did not fall upon him who suffer'd, but upon those who inflicted, the Injury. On the other Hand, *Catiline* was twice acquitted: Even the Wretch who gave you your Province escaped, tho' with his Lust he had defiled the Shrines of the deified *Bona*. Was there a Man in this great City who thought that this clear'd him of his incestuous Crime, or that they who pronounced the Verdict were not equally guilty.

AM I to wait till seventy-five Tablets † are distributed in your Cause, while all Ranks, Ages, and Conditions have long ago pronounced you guilty? For is there a Man who thinks that you deserve the least Regard, the smallest Honour, or even common Civility? All Mankind pray to avert the Memory of your Consulship, your Actions, your Manners, your Looks, and, in short, your Name, from this State. The Lieutenant

* *Pub. Rutilius*.] This is the same Gentleman upon whom our Author bestows so fine Encomiums in other Parts of his Writings, particularly see Page 105, 106, and 107 of the Translation *de Oratore*.

† *Seventy-five Tablets*.] This was the Number of Judges appointed by *Pompey's* Law.

tenant Generals who accompany'd you avoid you; The Military Tribunes are your Foes; The Centurions, and the Remains, if any yet remain, of your great Army, whom you did not dismiss but turn adrift, hate you, and pray for Plagues and Curses on your Head. *Achaia* exhausted, *Thessaly* harraisd, *Athens* torn to Pieces, *Dyrrbachium* and *Apolonia* demolished, *Ambracia* pillaged, the *Partheni* and the *Bulliensis* abuted, *Epirus* exterminated, the *Locrians*, the *Phocians*, and the *Bæotians* burned out of their Dwellings, the *Acarnanians*, *Amphibolobians*, the *Perrhebian*s and the *Athamanians* sold: *Macedon* given up to the Barbarians; *Ætolia* lost; the *Doloceans* and the Inhabitants of the neighbouring Mountains stript of their Cities and Lands, together with the *Roman* Citizens, who were trafficking in those Parts, are all sensible that in your single Person they were visited with a Plunderer, an Oppressor, a Robber, and an Enemy,

YOUR Self-Conviction swells your Judiciary-Condernnation, and adds Weight to those numerous, heavy Sentiments: Your stolen Approach, your clandestine Journey through *Italy*, your Entry into this City without a Friend to attend you, without sending any Letters to the Senate from your Province: No Congratulation upon your three Summer Campaigns: Your not being so much as mention'd for a Triumph: Your not daring to disclose your Actions, nor even to name in what Places you have been. When you brought back your withered Laurels from that Source and Seminary of Triumphs,

when

when you tore these off and left them at the Gate, Then it was that you yourself pronounced your own formal Sentence of Condemnation.

BUT tho' you have performed nothing worthy of Honour, where is your Army? where have you lavished your Money? what is become of your Command? what of your Province? that most fruitful Source of Thanksgivings and Triumphs. But if you had any Glimmerings of Hope; if you entertained those Thoughts; which it's plain you did, from that Appellation of Emperor, from your laurel'd Fasces, and from those disgraceful ridiculous Trophies; who is more wretched, who is more miserable than you? since when absent you did not write to the Senate, nor when present, dare maintain that you have served your Country. Shall you presume to tell me, whose Opinion it has always been, that no Man's Fortune is weighed by *Events*, but by *Actions*; that the Fate of our Glory does not depend upon the Tablets of a few Judges, but upon the Sentiments of all our Fellow-Citizens? Do *you* imagine, that *you* appear uncondemned, *you*; whom our Allies, whom our Confederates, whom free Nations, whom Tributaries, whom Traders, whom the Officers of the Revenue, whom the whole State, whom Lieutenant-Generals, whom military Tribunes, whom those Remains of our Army who have escaped from the Sword, from Pestilence, and from Famine, think richly deserving of every Torture? You who never can meet with the least Forgiveness for your execrable Crimes from the Senate,

from

from the *Roman* Knights in the City, or in *Italy*! The Man who hates himself, who is afraid of every Body else, who dare trust his Cause to no Man, and stands condemned by his own Judgment. Never did I thirst for your Blood, never did I solícite against you, the Execution awarded by the Nature, and by the Forms of our Laws, which may be equally the Lot of the Virtuous and the Wicked; but I wish'd to see what I have seen, I wish'd to see you abject, contemptible, despicable in the Eyes of others, desperate and abandoned in your own, staring ghastly round you, starting at every Breath of Noise, distrustful of your Circumstances, without a Voice; without Freedom, without Authority, without any Marks of Consular Dignity, in Horror, in Agonies, and fawning upon all you met. Therefore, if what you dread should be your Fate, I will not be displeas'd at what may happen; but if Vengeance should be slow, yet will I enjoy your present Infamy. With equal Pleasure will I see you trembling at the Dread of an Impeachment, as I would to see you at the Bar of Justice; nor could I more rejoice to see a little external Defilement staining your Dress,* than to perceive indelible Infamy attending your Person.

* *A little Defilement staining your Dress.*] This alludes to the *Romans*, when impeach'd, wearing very mean, dirty Habits.

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